CONGRESSIONAL TESTIMONY

STATEMENT OF

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

LEGISLATIVE HEARING

OCTOBER 24, 2017

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
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Mr. Chairman and Members of the Committee:

The American Federation of Government Employees (AFGE) appreciates the opportunity to submit a statement for the record on pending legislation under consideration today. AFGE represents nearly 700,000 federal employees across the nation, including 250,000 employees at the Department of Veterans Affairs on the front lines providing health care and other critical services for veterans.

Draft legislation to amend title 38, United States Code, to establish a permanent Veterans Choice Program, and for other purposes

AFGE strongly opposes this draft legislation. It would establish a permanent Choice program that would continue to divert funding away from VA's internal capacity to pay for a costlier non-VA care services even when private sector wait times are higher and quality is lower. The bill is also likely to result in unsustainable costs by elimination of all wait time and distance eligibility restrictions. Increased use of non-VA primary care providers will deprive veterans of critical screenings for wounds of war and essential integrated care.

This bill lacks provisions for strengthening the VA's own capacity or for sending veterans back to the VA even when private sector primary care or specialty care is no longer necessary or adequate. It imposes new case manager duties on VHA staff without additional resources; Choice has already diverted staff away from direct care of veterans to handle overwhelming numbers of consults for non-VA care and to "clean up" after Choice clinical and bureaucratic problems.

Proposed market assessments lack transparency and rely too heavily on a private sector health care model and do not require an adequate focus on staffing and infrastructure needs.

Choice providers would continue to receive less scrutiny than VA's own providers under this bill. It does not require the same transparency about wait times for non-VA care as is required for VA care. It also makes it too easy for non-VA providers to receive certifications that allow them to participate in networks regardless of whether their skills and training are equivalent to those of VA's own providers.

In short, this bill would serve the agenda of privatizers but ignore the needs and preferences of veterans to receive the vast majority of their care from a fully-funded, fully-staffed, world-class integrated VA health care system. Rather than continue to expand a broken non-VA care program, we urge the Committee to provide the mandate and funding needed to fill the nearly 50,000 vacancies reported by Secretary Shulkin and finally address the modernization and infrastructure needs of the VA that have been neglected for too long.

Draft legislation to modify the authority of the Secretary of Veterans Affairs to enter into agreements with state homes to provide nursing home care to veterans, to direct the Secretary to carry out a program to increase the number of VA graduate medical education residency positions, and other purposes

AFGE has no specific position on this legislation.

H.R. 1133

AFGE has no specific position on this legislation.

H.R. 2123

This bill would extend federal preemption of state licensing requirements to all licensed VHA personnel using telemedicine to provide treatment. Last year, the Department amended its provider regulations to apply federal preemption to certain advanced practice registered nurses (APRN), relying on the federal supremacy clause of the Constitution.

AFGE opposes H.R. 2123. This bill could have unintended consequences, including an adverse impact on recruitment and retention of licensed medical personnel who are already in critical shortage occupations. The licensed health care personnel we represent have expressed serious concerns about the risks to their state licenses (and therefore their entire livelihoods) if management is allowed to mandate the performance of duties outside their scope of practice. These clinicians have received no assurances that the Department will assist them when their licensing boards pursue disciplinary actions against them for violating state licensing requirements.

This proposed change is premature. The new APRN rule has only been in effect for less than a year.

Therefore, AFGE urges the Committee to delay possible changes to current law until completion of a study of the workforce implications of a broader application of federal preemption. Current bill provisions for a telemedicine study fail to address any workforce issues. We recommend a study that focuses on the impact of federal preemption on the state licenses of APRNs and other licensed personnel, and the Department's ability to remain competitive with other health care employers who do not operate under federal preemption.

H.R. 2601

AFGE has no specific position on this legislation.

H.R. 3642

This bill would establish a three-year private sector pilot program for the treatment of military sexual trauma (MST). At the completion of the three-year period, the Secretary would have permanent authority to approve non-VA treatment of MST on a case-by-case basis.

AFGE strongly opposes H.R. 3642. In fact, it is hard to contemplate a more inappropriate combat-related condition to outsource to the private sector than MST. This proposed pilot project is unnecessary and represents another back-door attempt to dismantle the VA's comprehensive, integrated health care system, like almost every other VHA private sector pilot project previously implemented.

VHA is a world leader in the screening and treatment of MST and provider training and research in this area. VHA requires that every veteran receive screening for MST and screening also plays a critical role in data collection on the treatment of this widespread condition. All VA mental health and primary care providers are required to complete initial and continuing MST training. MST specialists are available at every medical center and many outpatient clinics. The VA's National Center for PTSD plays an integral role in the VA's treatment of MST.

Rather than proceed with another wasteful pilot project that sends MST sufferers out into a broken, fragmented private health care system that does not understand their unique needs, AFGE urges the Committee to review existing direct care resources and telemedicine capacity within the VA to identify ways to increase access for treatment in hard-to-serve areas.

VA Legislative Proposal – Veteran Coordinated Access & Rewarding Experiences (CARE) Act

AFGE strongly opposes the non-VA care provisions in Titles I and II and has concerns about some of the personnel provisions in Title III.

Non-VA Care

The VA's proposal to replace the Choice program would greatly accelerate privatization of its health care system through virtually open-ended access to non-VA care and the absence of any mandates to address short staffing and deteriorating infrastructure. It is absurd that non-VA programs would continue to rely on mandatory funds while VA's own funding would remain discretionary and therefore continue to have to close funding gaps on the backs of veterans through such proposals as COLA round-downs.

The bill's non-VA provisions are as problematic for what they say as for what they don't say. The lack of specificity through the bill will allow the VA to continue to engage in stealth privatization as illustrated by recent agency initiatives to convert specific purpose allocations to general purpose allocations and creation of pilot projects that send veterans out to CVS Minute Clinics without Congressional authorization.

AFGE strongly opposes the proposed replacement of the 30-day/40-mile restrictions with a vague patient-provider veteran's "best interest" evaluation process and criteria such as "clinically acceptable" wait times (Section 201).

We also strongly object to the expanded use of non-VA urgent care facilities already undertaken through pilot projects in numerous locations. This seems totally unnecessary considering Secretary Shulkin's recent announcements that the VA is providing same-day service at every medical center and significant increases in access to urgent care provided directly by the VA.

Personnel Practices

Section 301:

AFGE objects to the proposed expansion of "federal supremacy" that would extend federal preemption of state licensing requirements to all licensed VHA personnel. (In contrast to Chairman Roe's proposal, the VA's draft does not limit federal preemption to telemedicine.)

As already noted with regard to Chairman Roe's draft bill, this provision could have unintended consequences, including an adverse impact on recruitment and retention of licensed medical personnel who are already in critical shortage occupations. AFGE believes that this proposed change is premature as the new APRN rule has only been in effect for less than a year.

Therefore, AFGE urges the Committee to delay possible changes to current law until completion of a study of the workforce implications of a broader application of federal preemption.

Section 302:

This section repeals VA's longstanding statutory authority to contract for "scarce medical specialist services".

AFGE opposes this proposed change because it appears to broaden VA's authority to contract out medical services even when VA's own health care system can provide the care (and there is no scarcity). This will further erode VA's critical capacity to provide comprehensive, integrated, specialized care to veterans that has already been weakened by the Choice program.

Section 304
This section repeals the annual caps on VA bonuses across the entire VA workforce that were imposed by the Choice Act in 2014 and later modified downward through subsequent legislation.

AFGE supports elimination of annual dollar caps. AFGE appreciated the Sense of Congress language in the Choice Act that required fair allocation of bonuses to lower wage employees under the caps. AFGE urges Congress to continue to address the issue of lower wage employees' bonuses through a study of how bonus dollars have been allocated over the last five years and whether bonuses are used properly to incentivize high-performing non-management employees.

Section 305:

This section extends the statutory reimbursement right for continuing education from doctors and dentists to Advanced Practice Registered Nurses.

While AFGE supports the expansion of this critical medical professional benefit to other professions, we object to this provision as currently drafted. Reimbursement for continuing medical education is a critical recruitment and retention tool but AFGE opposes setting this benefit (for any professional group) at $1000 per year. This amount has not been updated since the legislation was first enacted *almost twenty years ago.* With each new year, VA becomes less competitive with private sector employees who adjust their reimbursement rates to match actual costs of attending these courses.

AFGE also objects to limiting this benefit to APRNs. It should also be available to physician assistants as they too are independent providers in the VA. Finally, AFGE urges a study of the reimbursement needs of all other VHA licensed professionals.

Thank you.