STATEMENT FOR THE RECORD BY
THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
BEFORE THE HEALTH SUBCOMMITTEE OF THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON VA'S ABILITY TO RECRUIT, BOARD AND RETAIN QUALIFIED MEDICAL PROFESIONALS

MAY 15, 2015

The American Federation of Government Employees, AFL-CIO and its National Veterans Affairs Council (AFGE), which represents over 220,000 employees of the Department of Veterans Affairs (VA) thanks the Subcommittee on Health for the opportunity to submit this statement regarding recruitment, boarding and retention of VA medical professionals.

AFGE's representation of health care professionals at the vast majority of VA medical facilities and our participation in national level VA policy setting groups allows us to offer recommendations for national policy changes, and provide reports of issues that need to be addressed at specific facilities (Appendix A).

MONITORING PERSONNEL PRACTICES AT EACH FACILITY

AFGE appreciates the willingness of Members of this Subcommittee and other Committee members to maintain direct lines of communication with AFGE local officials and the front line employees they represent during site visits. Front line employees are reluctant to speak freely about their concerns at town halls and other management sponsored local meetings. **AFGE urges lawmakers to hold separate meetings and conference calls with employees and their representatives;** this is the only way for

lawmakers to gain full information from employees who interface with veterans on a daily basis about what is working and what is not working at each facility.

HIRING AND RECRUITMENT

Hiring of new providers under the Choice Act is slow to nonexistent at many medical centers, despite chronic staffing gaps, particularly in primary care and behavioral health. The perspective of most front line providers is that management continues to address access problems caused by staffing shortages and increased demand for services by requiring current employees to take on more patients without hiring additional clinical staff or support staff, regardless of its impact on work hours, morale, patient care or retention. Space needs are typically handled in an equally short sighted manner, i.e. reassign scarce space already in use for patient care to meet other patient needs, and converting clinic space to office space.

Medical professionals exchange information all the time. Providers contemplating employment with the VA are well aware of the working conditions, work culture and pay problems faced by current employees (discussed in more detail below). They hear about the frequent "bait and switch" that occurs during the hiring process including broken promises of permanent status, pay incentives, assistance with student loans and continuing education, and family friendly schedules. They also hear from colleagues who discovered that they had little or no recourse to require the VA to make good on those promises, even after uprooting their lives to relocate to a rural area. **AFGE urges the Subcommittee to investigate bait and switch hiring practices and increase HR accountability for its hiring commitments**.

VHA's excessive use of temporary and part-time appointments hurts recruitment and retention, deprives providers of civil service protections, job stability and career opportunities, and adversely impacts coordination and continuity of care. AFGE has heard that almost half of physician appointments may currently be temporary. **AFGE urges the Subcommittee to investigate the extent on non-permanent appointments among front line health care personnel.**

When hiring does occur, the VetPro credentialing process is so slow (up to six months) that good applicants are unable to wait any longer and take jobs elsewhere. A credentialing process that includes evening and weekend hours will speed up the process and work better for applicants who are currently employed elsewhere. Human resources personnel have too much paperwork to process and they also need additional training. Many providers question whether VetPro can even be fixed.

*C*ronyism and nepotism in the hiring process are rampant at most facilities. **AFGE urges the Subcommittee to investigate this widespread violation of merit-based hiring and promotion processes** that is depriving facilities of its best clinicians and hurting morale among the current workforce who are regularly passed over by outsiders with no VA experience for transfers and promotions.

RETENTION

Insufficient workforce data: Today's recruitment success is tomorrow's recruitment problem. Medical professionals continue to leave the VA at alarming rates during the first five years of employment. VHA is not collecting sufficient data to fully understand and address the reasons why VA providers quit or early retire from the VA. Even the limited data that was provided in the *2014 VHA Interim Workforce and*

Succession Strategic Plan reveals that 31.5% of new hires in critical shortage occupations quit in the first five years, and that nearly half of them quit within the first year. The VA physician quit rate was the highest of all the top occupations. This VHA document devoted *one paragraph* to the reasons why physicians leave the VA, and only listed three reasons: advancement, normal retirement and relocation with spouse. All the quits and early retirements due to pay, workload, schedules, lack of professional support, hostile workplace culture, discrimination, and the like can never be fully addressed if VHA data continues to mask the most significant barriers to recruitment and retention. **AFGE urges the Subcommittee to overhaul VA's recruitment/retention data collection in consultation with front line employees and their representatives** who are in the best position to know why their peers choose to come to or leave the VA.

Growing pay disparities**:** Pay disparities are currently one of the largest barriers to VA provider retention. The increased pay ranges for physicians and dentists instituted by Secretary McDonald are still only being used for new hires in most instances, despite promises made at the national and local levels to make equivalent adjustments to the pay of current providers. It is extremely demoralizing to a physician who has devoted 15 or more years to the VA to see job postings and new hire pay offers that are $20,000 higher than his or her own salary. **Market pay panels must be convened promptly at all facilities to fix this tremendous pay inequity**. **In addition, we urge the Subcommittee to investigate the widespread noncompliance with requirement in the law (5 USC 7431(c)) to convene market pay panels every two years.** Performance pay requirements in 5 USC 7431 are also widely violated and

ignored, which further hurts morale and deprives the VA of a valuable opportunity to reward and incentivize good performance.

Workload and work hours are also significant contributors to retention and morale problems, and most important, the ability of providers to adequately care for veterans. Official panel sizes continue to exceed VA's own limits in policy and too often, the VA's solution is to raise the official limit instead of taking steps to reduce excessive workloads. For example, the VA is currently proposing to increase the 900 panel size for nurse practitioners by 25% without additional compensation, a proposal that AFGE has opposed.

In addition, all our providers are expected to take on unassigned patients and walk-ins on a regular basis including new patients from providers who have left (and they are only given only 30 minute established patients slots instead of new patient full hour slots they actually need); consequently, providers have too little face to face time with their patients and too little time to handle post-appointment duties such as computer alerts, lab reports, medication monitoring, aid and attendance reports, and outside medical records. AFGE field reports indicate that on average, VA physicians spend 60 hours a week doing work remotely at home to handle these additional duties. Our member survey on computer alerts indicated that our providers handle on average over 100 daily computer view alerts, some of which are not critical to patient care. **AFGE recommends (in addition to adequate provider staffing): (1) official allocation of non-appointment time to handle these additional duties; (2)** a**dditional support from nursing personnel and administrative staff to handle**

some non-appointment duties; (2) VA Central Office analysis and guidance on ways to manage and reduce computer alerts.

Perhaps the most demoralizing work hour issue for physicians and dentists is management's widespread violation of a new VA policy curbing the widely abused "24/7 rule" that sets a 40-hour work week, requires advance notice of schedule changes and limits 24/7 coverage to on call duty (*October 21, 2014 changes to VA Handbook 5011/27*). After fighting for decades for this commonsense fix, many of our providers have learned that their managers have been advised to disregard the new policy. **The VA should provide clarification and training on the new policy to ensure uniform compliance with this extremely valuable new tool for improving patient care and recruitment/retention.**

UNEQUAL WORKPLACE RIGHTS

Sadly, for a select group of VA providers (physicians, dentists, RNs, PAs, podiatrists, optometrists, and chiropractors), there is virtually no recourse to address *any* VA policy violation through the collective bargaining process. This is a process used every day by other VA employees (over 90,000 Hybrid Title 38s) and Department of Defense (DoD) and Bureau of Prisons (BOP) clinicians to resolve routine labor management disputes such as schedules, assignments and training in a quick, low cost manner. How can a VA psychiatrist have fewer bargaining rights than a VA psychologist or a DOD psychiatrist? How can a VA registered nurse have fewer rights than a VA licensed practical nurse or Bureau of Prisons registered nurse? The answer lies in the Title 38 bargaining rights law, "Section 7422". Health care professionals in other VA positions and in DoD and BOP have full Title 5 bargaining rights that allow them to

efficiently resolve labor management disputes, whereas VA physicians and others covered by Section 7422 are not able to grieve management actions. Managers also use Title 38 bargaining rights to silence providers who report mismanagement, by using Section 7422 to refuse to bargain over retaliatory actions such as the sham peer reviews and trumped up charges of patient neglect and HIPAA violations that have been the subject of testimony at many recent hearings.

VA labor relations has claimed for the past five years that it has fixed this problem with a new "7422" policy but nothing has actually changed since this loophole in the law was first exploited on a massive scale over a decade ago. **Therefore, AFGE urges lawmakers to support H.R. 2193, the VA Employee Fairness Act of 2015, introduced by Rep. Takano (D-CA) to amend Title 38 bargaining rights law and restore an equal voice to VA physicians and other covered providers.**

Recent whistleblower hearings have highlighted the vulnerability of VA health care professionals who question management practices and then risk loss of employment, patient contact and privileges that can destroy their careers. To ensure that current and future VA professionals view the VA as a good professional choice, it is crucial that they receive *more*, *not fewer*, workplace rights. Therefore, **AFGE strongly urges lawmakers to reject H.R. 1994,** a bill that would apply the expedited SES firing procedures to *everyone* in VA, including the housekeeper cleaning the operating room, the ICU nurse, the PTSD treating psychologist and every physician the VA is currently trying to recruit and retain. These front line, non-management employees have no control over mismanagement; rather, like patients, they also pay a heavy price for mismanagement. Passage of the due process cuts in H.R 1994 will devastate VA's

ongoing efforts to recruit and retain a strong front line, non-management health care workforce, and accelerate more cronyism among managers who are already abusing their Title 38 discretion.

The real path to greater VA accountability is ensuring that every VA employee – regardless of whether he or she is permanent or probationary, part time or full time, Title 38 or Title 5 - has equal OSC and MSPB whistleblower protections, as well as equal bargaining rights.

Recent testimony also highlighted the particular vulnerability of the many newly hired veterans in the VA workforce; it is surprising for many to learn that *VA's own health care system* can pass over preference eligibles in the hiring process because the Veterans Employment Opportunities Act (VEA) does not apply to Title 38 appointees. **AFGE urges reintroduction of legislation championed by Rep. Walz (D-MN) to extend full veterans' preference appeal rights to VA Title 38 health care personnel** so it is no longer up to each facility HR office to choose whether to recognize veterans' preference or pass over a veteran applying for a new or different health care position with the VA.

A VA medical center is a community, not just a place to work. Another group that deserves fair treatment are VHA's lowest paid customer service representatives, the VA Canteen Service employees who serve warm meals and coffee to worried families and tired providers every day. A workplace culture that currently tolerates abusive at-will employment of its lowest paid employees is detrimental to the entire workforce. **Therefore AFGE urges lawmakers to enact legislation to amend 38 USC 7802 to**

provide canteen employees with the right to appeal their terminations through the grievance process.

PROFESSIONAL DIGNITY AND RESPECT

VA providers are not treated with the same professionalism and respect that they can expect from many other health care employers. Too often, direct supervisors are nonclinical and lack an understanding of patient care delivery. VA managers with or without medical skills are equally uninterested in the input of front line clinicians. Front line providers have no control over the scheduling of their patients because schedulers also report to nonclinical supervisors.

In addition, provider needs for continuing education are frequently ignored. Only physicians and dentists have a statutory right to a fixed amount of reimbursement for critical outside courses they need to maintains skills and credentials, and that amount has not been increased *for 24 years*! In addition, managers routinely deny requests for time to attend outside courses even when similar courses are not offered within the VA. **AFGE urges the Subcommittee to amend 38 USC 7411 to offer updated, competitive levels of reimbursement and extend this recruitment and retention incentive to other VA health care professionals.**

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To address complaints that managers pay lip service at best to the input of front line providers, **AFGE urges the Subcommittee to conduct regular Congressional roundtables to receive reports and recommendations from front line providers and their employee representatives.**

RURAL CHALLENGES

Rural facilities are not consistently offering additional recruitment and retention incentives to attract providers to hard to serve rural areas. Despite new tools for rural recruitment in law and VA policy, in practice, management is reluctant to make these expenditures, despite the adverse impact on rural access to care and the increased cost of diverting and contracting out this care.

AFGE is also very concerned about the growing number of field reports from our members about reduced inpatient services, especially in rural areas, such as the closings of emergency rooms, intensive care units and other inpatient services and beds. Patients are diverted to facilities that are very far away from their rural communities and families. This also harms recruitment and retention by driving away providers who lose the ability to maintain their skills. **AFGE urges the Subcommittee to investigate this dangerous form of backdoor facility closures.**

Thank you for the opportunity to share AFGE's views on these critical VA health care issues.

APPENDIX: SAMPLE REPORTS BY FACILITY

IRON MOUNTAIN: Our Director is closing the ICU and downgrading the ER to urgent care. We will not be able to accept severely ill patients anymore and they will have to be diverted hours away from their communities and families for care. We just hired a new anesthesiologist who will not have any major surgeries to perform. This is devastating to veterans as well as to our medical professionals who will leave because they will not be able to maintain their skills. Even when veterans are diverted from Iron Mountain to Milwaukee or Madison, it is difficult to secure beds for them there so they still have to stay at Iron Mountain regardless of whether we can currently handle their severe conditions. Other retention problems include higher pay for new hires than for very experienced clinicians, and cronyism in the hiring process that has deprived dedicated long term health care personnel of the opportunity to transfer from closed units to active units and promotions; almost every nurse manager was hired from the outside. Hiring practices are too inflexible, barring valuable experienced employees of certain positions. *Recommendation*: If the VA will not allow non-manager RNs to be Nurse IIIs, they should create more Nurse II steps to increase retention. Management at Iron Mountain also discriminates against older employees and those filing EEO claims.

NASHVILLE: HR will not pay retention bonuses or recognize serious staffing shortages. They need to count everyone who leaves the unit as a loss, including retirements, resignation and transfers. Our chief nurse stated that they only look at terminations. We had over 50 vacancies in the inpatient area due to internal transfers. Physicians making less than new hires should have their pay adjusted immediately, not when the next scheduled market pay panel is convened. Physicians with 20 years of VA experience are demoralized by much higher pay offers made to new hires. Managers who make decisions about promotions do not actually understand the work. The primary care panels are being increased to 1,400 patients. The boarding process is flawed and slowed down by VetPro; it takes up to two months to get people hired. HR needs more training and more staff to expedite hiring. Currently, hiring decisions have to go through many layers (committees, resource boards, governing council, VISN). Managers need more training on assembling and conducting the boarding process; we lose a lot of good applicants due to low ball offers.

MOUNTAIN HOME: HR waits until a physician leaves (after a month of advance notice) to being the process of hiring a replacement. That physician's patients are transferred to others already handling large panel sizes (and are only allotted 30 minute established

patient slots); this is especially bad in primary care. The Business Office instructs schedulers to overbook; providers have no say. Managers do not want any front line physician input; it's my way or get out even though together, we could figure out solutions. All the money being spent on new office space should go to staff and beds. Promises to new hires for bonuses, good tours of duty, loads and reasonable schedules are not kept; some new hires leave right away because they see what the truth is on the very first day.

WILMINGTON, DE: We were told indirectly about a hiring freeze here and we cannot fill vacancies but managers will not cancel clinics. HR does not maintain a pool of applicants so they are ready when an opening occurs when people leave. There are no backup staffing plans. They are not internally posting all Title 38 positions.

COLORADO: The hiring process is too slow. Human Resources paperwork slows it down. We keep losing good applicants who sometimes have to wait up to six months and usually at least three months to be boarded.

PALO ALTO:

- Many full time physicians and dentists are hired on a temporary basis with yearly or once every two year renewals (NTE appointments). We have several physicians who have been here 10+ years who are still temporary. The facility uses this to remove physicians who are whistleblowers or folks who disagree with the management way. All part -time physicians are temporary with NTE appointments. The facility states that the law or national regulations do not allow converting part-time employees to be permanent employees.
- Even though we have lost several physicians in this VA, they are not replaced by new VA physician hires. PAVA hires many contractors, fee-basis and university contract to replace VA physicians and commonly uses the reason that there are no available doctors who would work for the VA. If that's the case, how is the University hiring them to provide the contract and how is Kaiser hiring these physicians?
- Physicians and dentists are not appropriately labor-mapped and individual mapping is not readily available. So, it often appears that the services are appropriately covered when in fact there is physician shortage leading to access issues.
- Here are some examples of physicians we have lost in the recent past:

    - Young female physician who found the VA environment very stressful and non-family friendly. [No paid maternity leave, day care on campus has a year or more wait time for infants, non-flexible work hours and no option for telemedicine even part-time when possible]
    - Young male physician, researcher who left the VA because another employer offered him $50k more per year that he needed to buy a home in this expensive area.

- A mid-career female physician left because her opinions to improve patient care were disregarded, and she was subject to sexual harassment from a manager. She was afraid of retaliation and felt that it was just easier to leave than to lodge a complaint.
- We are touted as the "crown-jewel" of the VA, but with this history of fear, retaliation, intimidation etc. NO young person wants to come to the PAVA to practice medicine if they become aware of it.
- As in any other VA, there is a glass ceiling here for women (unless you are willing to acquiesce to management), pay is not transparent, and there is cronyism.

LOS ANGELES:

- Staffing shortages for doctors and mid-level providers are getting worse In primary care; patients are waiting longer some up to 6 months;
- We have vacancies due to providers on maternity leave, retirement and sick leave and vacancies cannot be filled in a timely manner.
- Even with the new pay ceilings approved by the Secretary, facilities are not taking advantage of this for existing employees.

ARIZONA

The Phoenix VA can't recruit and retain enough physicians to meet patient needs. In general employee morale is at an all-time low. Recent pay increases for some physicians has resulted in major pay inequities in the field where a physician that is board certified with 14 years' experience makes the same monetary compensation as a non-board certified new physician in the same field.