



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Joseph P. Flynn
National Secretary-Treasurer

J. David Cox, Sr.
National President

Augusta Y. Thomas
NVP for Women & Fair Practices

377894

April 4, 2018

Dear Representative:

I am writing on behalf of nearly 700,000 federal and District of Columbia employees represented by the American Federation of Government Employees, AFL-CIO to ask you to strengthen your commitment to full funding and staffing of the VA health care system and to oppose any House proposal similar to S.2193 because that bill allows the next VA secretary to proceed with substantial, if not total, privatization of VA healthcare.

We understand that the current version of S.2193 was aimed at giving the VA Secretary broad latitude to supplement VA healthcare with private sector care. It was not meant to serve as a means of dismantling and privatizing VA altogether. However, the circumstances surrounding the dismissal of Dr. David Shulkin as Secretary raise questions about how that latitude might be misused by his successor.

While we have learned that Dr. Shulkin did not intend to use the authorities granted in the bill to dismantle the system, we are asking you to oppose provisions of legislation like S.2193 that pose a grave risk to an excellent healthcare system that veterans rely upon and cherish, and which provides good union jobs in communities across the nation.

Upon his dismissal, Dr. Shulkin wrote in the New York Times:

...I am convinced that privatization is a political issue aimed at rewarding select people and companies with profits, even if it undermines care for veterans...The private sector, already struggling to provide adequate access to care in many communities, is ill-prepared to handle the number and complexity of patients that would come from closing or downsizing V.A. hospitals and clinics, particularly when it involves the mental health needs of people scarred by the horrors of war. Working with community providers to adequately ensure that veterans' needs are met is a good practice. But privatization leading to the dismantling of the department's extensive health care system is a terrible idea. The department's understanding of service-related health problems, its groundbreaking research and its special ability to work with military veterans cannot be easily replicated in the private sector.

It is clear that the administration wants the VA's healthcare system to be privatized. To that end, they want a compliant Secretary and legislation that allows a privatization agenda to move forward with haste. Without serious amendment, S. 2193 and any similar House bill would be more than adequate to the task.

The heart of S. 2193 is contained in proposed Sec. 101, which amends 38 U.S.C. § 1703, to create a new Veterans Community Care Program. Subsections (d) – (f) of this section provide vague criteria (essentially discretionary Secretarial decision-making authority) to determine when medical services are to be furnished to veterans through non-VA providers. These subsections even permit a veteran's "primary care provider" to be a private, non-VA provider. The legislation goes so far as to establish a system for private, non-VA providers to refer veterans to other private, non-VA providers. In other words, contractors will be outsourcing VA care to other contractors.

In addition, subsection (g) and (h) contain "remediation" provisions that "authorize," i.e., require, the Secretary to outsource to the private sector care for up to 36 service lines nationally, and up to three service lines per VA facility. This is simply a quota for medical care privatization to ensure that the Koch brothers' agenda is fulfilled.

To further ensure that the private sector is fully in control of all aspects of providing care to veterans with only nominal oversight by the VA, subsection (j) contains an unusual provision that requires the Secretary to notify the House and Senate VA Committees if the Secretary determines to terminate a non-VA care provider for contractual breach. This provision serves no other purpose than to "lean on" the Secretary to make sure that he takes no action against a contractor without considering the political implications.

It is an unprecedented attack on the authority of the VA to terminate poorly performing contractors. Coupled with contractor-friendly contracting provisions contained in Sec. 102 of the bill, which exempt Veterans Community Care Program "agreements" from normal oversight and mandatory audit provisions, and even labor law (Service Contract Act) applicable to other federal agreements, S. 2193 represents a new low in unaccountable contracting.

We no longer have the luxury of viewing VA privatization as a distant threat. Over one-third of all VA health care is now delivered by the private sector. In an interview on April 2 on the National Public Radio show "1-A", Dr. Shulkin responded to a question about the cost of expanding the use of private care vs. investing in the VA by saying that expanding private care would cost \$50 billion more. This confirms what the Choice program's steady drain on the VA budget has already shown: Privatization costs a great deal more, not less, than in-house VA care.

The Choice program was supposed to be a temporary answer to the VA's inability to meet veterans' demand for care due to lack of adequate staff and resources. Choice continues with funding patch after funding patch despite a myriad of serious flaws that have left veterans with fragmented and delayed care. As Dr. Shulkin has described, Choice drains funds desperately needed to keep primary care doctors in VA clinics, build and repair clinic space so veterans can access care, and purchase medical equipment needed to provide veterans with safe and state of the art medical services.

Dr. Eugene Gu of the Vanderbilt University Medical Center recently described his experiences working at the Nashville VA Medical Center:

...Now, what I've seen with that choice system is that it actually degrades the level of care we have at our VA. For example, at the Nashville VA, the sterilizers were broken for quite some time, the sterilizer we use to autoclave and sterilize

the surgical instruments. So, the operating rooms were actually at very limited capacity, because we didn't have clean surgical tools to operate on our veterans, which is a travesty. But because of this, quote-unquote, "choice" system, which allows us to send veterans to other hospitals, it was almost like a crutch that we used to say, "OK, we don't have to really have that much of an impetus to fix these broken sterilizers that are not cleaning the surgical tools we need. We can just choose these veterans out to other local private hospitals, and they can still get their surgeries... Well, I had one patient come in in the middle of the night who needed emergency surgery. But because our sterilizers weren't working, we didn't have clean tools to operate on him. We had to choose him out, or send him to another hospital. And, that delayed his care. And I think that that's just one example of what can happen with privatization of the VA."¹

Dr. Shulkin's firing also highlights the need to repeal the 2017 Accountability Act, another piece of legislation that advanced the Koch agenda of politicizing the civil service and destroying labor union's ability to protect its members from unjustified adverse actions, including terminations. It should now be clear to everyone that at least one purpose of this legislation was to silence employees who question the Koch brothers' privatization agenda and speak up for patients. Dr. Shulkin stood up to this agenda, but so do scheduling clerks, nurses, claims processors and other employees on the front lines of the VA who are getting fired every day for little or no cause without an adequate chance to defend themselves or improve their performance.

We must strongly oppose bills like S. 2193 and any similar House proposal that may seem like "privatization lite" but which privatize many parts of VA health care in the name of Choice and give VA secretaries the discretion to shift more resources to the private sector and away from the VA. We must put an end to high-cost VA BRAC hospital closing bills that masquerade as cost saving asset reform. We must stop providing multibillion dollar Choice patches when veterans continue to call for more VA doctors and nurses to care for them within the beloved VAs *in their own communities*.

Dr. Shulkin has blown the whistle on the administration and its Koch brothers' privatization agenda for VA. We ask that you listen to Dr. Shulkin and Dr. Gu. They are telling us that expanded Choice undermines veterans' healthcare. We must not ignore their pleas. Instead, I ask you to honor their courage in speaking up and oppose legislation that allows privatization, provide funding for full staffing, and funding for unmet infrastructure needs and workplace protections for VA employees who are now unable to speak up against mismanagement and waste.

Sincerely,



J. David Cox, Sr.
National President

¹ https://www.democracynow.org/2018/3/30/meet_the_doctor_suing_trump_dr



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Joseph P. Flynn
National Secretary-Treasurer

J. David Cox, Sr.
National President

Augusta Y. Thomas
NVP for Women & Fair Practices

377889

April 4, 2018

Dear Senator:

I am writing on behalf of nearly 700,000 federal and District of Columbia employees represented by the American Federation of Government Employees, AFL-CIO to ask you to strengthen your commitment to full funding and staffing of the VA health care system and to oppose the current version of S.2193 because it allows the next VA secretary to proceed with substantial, if not total, privatization of VA healthcare.

We understand that the current version of S.2193 was aimed at giving the VA Secretary broad latitude to supplement VA healthcare with private sector care. It was not meant to serve as a means of dismantling and privatizing VA altogether. However, the circumstances surrounding the dismissal of Dr. David Shulkin as Secretary raise questions about how that latitude might be misused by his successor.

While we have learned that Dr. Shulkin did not intend to use the authorities granted in the bill to dismantle the system, we are asking you to reconsider provisions of S.2193 that pose a grave risk to an excellent healthcare system that veterans rely upon and cherish, and which provides good union jobs in communities across the nation.

Upon his dismissal, Dr. Shulkin wrote in the New York Times:

...I am convinced that privatization is a political issue aimed at rewarding select people and companies with profits, even if it undermines care for veterans...The private sector, already struggling to provide adequate access to care in many communities, is ill-prepared to handle the number and complexity of patients that would come from closing or downsizing V.A. hospitals and clinics, particularly when it involves the mental health needs of people scarred by the horrors of war. Working with community providers to adequately ensure that veterans' needs are met is a good practice. But privatization leading to the dismantling of the department's extensive health care system is a terrible idea. The department's understanding of service-related health problems, its groundbreaking research and its special ability to work with military veterans cannot be easily replicated in the private sector.

It is clear that the administration wants the VA's healthcare system to be privatized. To that end, they want a compliant Secretary and legislation that allows a privatization agenda to move forward with haste. Without serious amendment, S. 2193 would be more than adequate to the task.



The heart of S. 2193 is contained in proposed Sec. 101, which amends 38 U.S.C. § 1703, to create a new Veterans Community Care Program. Subsections (d) – (f) of this section provide vague criteria (essentially discretionary Secretarial decision-making authority) to determine when medical services are to be furnished to veterans through non-VA providers. These subsections even permit a veteran's "primary care provider" to be a private, non-VA provider. The legislation goes so far as to establish a system for private, non-VA providers to refer veterans to other private, non-VA providers. In other words, contractors will be outsourcing VA care to other contractors.

In addition, subsection (g) and (h) contain "remediation" provisions that "authorize," i.e., require, the Secretary to outsource to the private sector care for up to 36 service lines nationally, and up to three service lines per VA facility. This is simply a quota for medical care privatization to ensure that the Koch brothers' agenda is fulfilled.

To further ensure that the private sector is fully in control of all aspects of providing care to veterans with only nominal oversight by the VA, subsection (j) contains an unusual provision that requires the Secretary to notify the House and Senate VA Committees if the Secretary determines to terminate a non-VA care provider for contractual breach. This provision serves no other purpose than to "lean on" the Secretary to make sure that he takes no action against a contractor without considering the political implications.

It is an unprecedented attack on the authority of the VA to terminate poorly performing contractors. Coupled with contractor-friendly contracting provisions contained in Sec. 102 of the bill, which exempt Veterans Community Care Program "agreements" from normal oversight and mandatory audit provisions, and even labor law (Service Contract Act) applicable to other federal agreements, S. 2193 represents a new low in unaccountable contracting.

We no longer have the luxury of viewing VA privatization as a distant threat. Over one-third of all VA health care is now delivered by the private sector. In an interview on April 2 on the National Public Radio show "1-A", Dr. Shulkin responded to a question about the cost of expanding the use of private care vs. investing in the VA by saying that expanding private care would cost \$50 billion more. This confirms what the Choice Program's steady drain on the VA budget has already shown: Privatization costs a great deal more, not less, than in-house VA care.

The Choice program was supposed to be a temporary answer to the VA's inability to meet veterans' demand for care due to lack of adequate staff and resources. Choice continues with funding patch after funding patch despite a myriad of serious flaws that have left veterans with fragmented and delayed care. As Dr. Shulkin has described, Choice drains funds desperately needed to keep primary care doctors in VA clinics, build and repair clinic space so veterans can access care, and purchase medical equipment needed to provide veterans with safe and state of the art medical services.

Dr. Eugene Gu of the Vanderbilt University Medical Center recently described his experiences working at the Nashville VA Medical Center:

...Now, what I've seen with that choice system is that it actually degrades the level of care we have at our VA. For example, at the Nashville VA, the sterilizers were broken for quite some time, the sterilizer we use to autoclave and sterilize


the surgical instruments. So, the operating rooms were actually at very limited capacity, because we didn't have clean surgical tools to operate on our veterans, which is a travesty. But because of this, quote-unquote, "choice" system, which allows us to send veterans to other hospitals, it was almost like a crutch that we used to say, "OK, we don't have to really have that much of an impetus to fix these broken sterilizers that are not cleaning the surgical tools we need. We can just choice these veterans out to other local private hospitals, and they can still get their surgeries... Well, I had one patient come in in the middle of the night who needed emergency surgery. But because our sterilizers weren't working, we didn't have clean tools to operate on him. We had to choose him out, or send him to another hospital. And, that delayed his care. And I think that that's just one example of what can happen with privatization of the VA.¹

Dr. Shulkin's firing also highlights the need to repeal the 2017 Accountability Act, another piece of legislation that advanced the Koch agenda of politicizing the civil service and destroying labor union's ability to protect its members from unjustified adverse actions, including terminations. It should now be clear to everyone that at least one purpose of this legislation was to silence employees who question the Koch brothers' privatization agenda and speak up for patients. Dr. Shulkin stood up to this agenda, but so do scheduling clerks, nurses, claims processors and other employees on the front lines of the VA who are getting fired every day for little or no cause without an adequate chance to defend themselves or improve their performance.

We must strongly oppose bills like S. 2193 that may seem like "privatization lite" but which privatize many parts of VA health care in the name of Choice and give VA secretaries the discretion to shift more resources to the private sector and away from the VA. We must put an end to high-cost VA BRAC hospital closing bills that masquerade as cost saving asset reform. We must stop providing multibillion dollar Choice patches when veterans continue to call for more VA doctors and nurses to care for them within the beloved VAs *in their own communities*.

Dr. Shulkin has blown the whistle on the administration and its Koch brothers' privatization agenda for VA. We ask that you listen to Dr. Shulkin and Dr. Gu. They are telling us that expanded Choice undermines veterans' healthcare. We must not ignore their pleas. Instead, I ask you to honor their courage in speaking up and oppose legislation that allows privatization, provide funding for full staffing, and funding for unmet infrastructure needs and workplace protections for VA employees who are now unable to speak up against mismanagement and waste.

Sincerely,


J. David Cox, Sr.
National President

¹ https://www.democracynow.org/2018/3/30/meet_the_doctor_suing_trump_dr