



CONGRESSIONAL TESTIMONY

STATEMENT OF

**AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO AND**

THE AFGE NATIONAL VA COUNCIL

BEFORE

**SENATE COMMITTEE ON
VETERANS' AFFAIRS**

ON

**THE FUTURE OF THE VA: EXAMINING THE COMMISSION ON CARE
REPORT AND VA'S RESPONSE**

SEPTEMBER 14, 2016

The American Federation of Government Employees, AFL-CIO and its National VA Council (AFGE) thank the Committee for the opportunity to share our views regarding the final recommendations of the Commission on Care. AFGE represents nearly 700,000 federal employees including more than 230,000 employees of the Department of Veterans Affairs (VA). Within the Veterans Health Administration (VHA), AFGE represents employees at nearly every medical center and is by far the largest representative of medical and mental health professionals and support personnel.

Overview

Although the Commission did not formally adopt the controversial “strawman” proposal, the impact would be very similar. Both would dismantle our veterans’ only specialized integrated health care system and incur unsustainable costs that will inevitably lead to lower quality care and fewer health care services for fewer veterans.

Both would also destroy veterans’ true source of “community care”: care provided within the Veterans Health Administration (VHA) that is closely coordinated with VA vet centers and Veterans Benefits Administration (VBA) benefits and employment services. The Commission’s description of non-VA care as “community care” is a misnomer. Veterans strongly prefer to receive their care from the VA over the private sector according the Vet Voice Foundation poll and other recent polls.

The Commission recommendation (#15) to eliminate all civil service protections under Title 5 would increase retaliation against employees who report mismanagement and take veterans’ preference rights away from thousands of veterans who choose VHA careers. The loss of seniority-based pay under the Commission’s proposed new Title 38 personnel system would severely weaken the VA’s ability to retain experienced providers. The proposed elimination of Title 5 due process protections and Merit Systems Protection Board appeal rights would allow managers to hire and promote based on favoritism and political affiliation instead of merit.

As the Committee contemplates the future of the VA health care system, AFGE also strongly urges the Committee to save our treasured health care system from “death by a thousand cuts.” VA health care is already being dismantled “brick by brick” through the closures of many emergency rooms, intensive care units and other essential

medical units. AFGE is also very concerned about the impact of VHA's overreliance on contractor-run outpatient clinics on quality of care, care coordination and costs and the secretive process for issuing and renewing these contracts. The most recent stealth attack on VHA is the imminent replacement of nearly all VHA compensation and pension (C&P) disability exams with contractor exams without any apparent analysis of the impact on veterans' disability ratings, access to integrated VHA care or costs.

Recommendations #1 and #9: AFGE vehemently opposes Commission recommendations that would result in a massive shift of VA care to the private sector through unrestricted access to non-VA primary and specialty care and the transfer of primary control over veterans' care from the Secretary to an unelected corporate-style board running a new VHA Care System. AFGE concurs with Commissioner Michael Blecker that these drastic changes would result in "the degradation or atrophy" of critical veterans' health services. VA would also lose the critical core capacity that has enabled it to be the nation's leading source of medical training and cutting edge research. Our nation would also lose the critical assistance that the VA provides through its "fourth mission" during national emergencies and natural disasters, from Hurricane Katrina to the Orlando mass shooting.

VHA must remain the primary source of veterans' care, the exclusive provider of primary care and the exclusive care coordinator. VHA must retain control over the design and oversight of local, integrated care networks. AFGE fully supports the proposal for local integrated care networks developed by the Independent Budget veterans' service organizations and the similar proposal included in the VA's Plan to Consolidate Community Care.

Putting a private governance board at the helm would also vastly reduce the ability of Congress and veterans to hold wrongdoers accountable for mismanagement, corruption and patient harm. The Commission acknowledged that the board would not have to comply with the open government requirements of the Federal Advisory Committee Act and most likely would not be subject to the Freedom of Information Act.

Recommendation #2: The Commission's proposal to relieve the Secretary of the requirement under the Millennium Act to report annually to Congress on the number of beds closed the previous year constitutes another unjustified assault on accountability. AFGE agrees that current bed count data is inadequate but the solution is not less

data. We have repeatedly sought Congressional oversight of “bed count gaming” where managers manipulate bed count data to hide the number of actual beds available to veterans. When beds are closed (primarily due to management’s unwillingness to hire sufficient nurses), veterans are sent to non-VA hospitals that are less equipped to treat their unique conditions, often imposing greater costs on veterans and taxpayers.

If the bed count reporting requirement is eliminated, thousands of veterans’ beds will be lost forever, staff will be laid off, and smaller facilities may not survive. VA beds have also played a critical role in our national disaster response plan; during Hurricane Katrina, patients were moved to VA medical centers in Houston and other locations. Therefore, we urge the Committee to reject this recommendation and instead, conduct oversight of ways to improve bed count data collection with the input of veterans’ groups and representatives of front line employees.

Recommendation #6: AFGE strongly opposes the use of a BRAC-like process to address VHA’s facility and capital asset needs. We are equally opposed to giving a governance board any role in determining VHA’s infrastructure needs. It is likely that any board-run process would be plagued by the same self-interest that impaired the decision making process of a Commission filled with health care executives.

AFGE concurs with the Independent Budget veterans service organizations that a far more urgent need is to address current infrastructure gaps that threaten safety and interfere with care delivery. Clearly, a BRAC is not the answer. The RAND Corporation recently reported that through at least 2019, demand for veterans’ health care services is likely to exceed supply.

Recommendation #15: In its report, the Commission portrays civil service protections afforded to Title 5 employees as the enemy of innovation and quality improvement (“a relic of a bygone era”, “an island disconnected from the larger talent market for knowledge-based professional and administrative occupations that are mission-critical”). The Commission then reveals its true agenda for eliminating Title 5 rights: it wants to make it easier to fire employees it doesn’t like and hire through cronyism.

What the report does not tell us is that the Department of Defense federal agencies operate health care systems effectively with Title 5 workforces that have full due process and collective bargaining rights that they use to speak up against mismanagement and negotiate with management over working conditions to the benefit of their patients.

This recommendation would eliminate all Title 5 rights currently afforded to the majority of VHA employees. These include full Title 5 employees, most of whom are service-connected disabled veterans (e.g. police, housekeepers, food service workers) and Hybrid Title 38 employee (e.g. Medical Support Assistants, nursing assistants, pharmacists, psychologists and social workers). Both groups would lose their right to third party review of removals and demotions by the Merit System Protection Board.

Both groups would also lose most of their collective bargaining rights that allow them to negotiate over working conditions such as scheduling, assignments and training.

Veterans who choose to work in VA health care after saving lives on the battlefield would also be greatly harmed by this Commission recommendation. Federal case law has made it clear that employees appointed under Title 38 (Hybrids and full Title 38 employees) are not covered by the Veterans Employment Opportunities Act (VEOA) and therefore lack veterans' preference protections against being passed over for a non-veteran in hiring. AFGC concurs with the Independent Budget that Congress should enact legislation to extend the VEOA to all VHA employees.

The proposed new Title 38 personnel system would ignore seniority when setting pay, at a time when VHA is facing low morale and increased attrition among providers with valuable experience because many new hires are being paid more than their senior counterparts.

Other recommendations

AFGC generally supports recommendations #3 (appealing clinical decisions), #5 (health care disparities), #14 (diversity and cultural competence), #16 (human capital management) and #17 (eligibility for those with other-than-honorable discharges).

AFGE supports modernized information technology (IT) (#7) but urges Congress to mandate greater involvement of front-line employees using new IT systems to ensure successful implementation.

AFGE does not take a position on recommendation #4 (VHA transformation) because further investigation of the cost-effectiveness and lack of transparency of the Veterans Engineering Resource Centers is needed. We also take no position on #8 (supply chain) or #12 (VISNs) at this time.

We object to #10 (leadership) if it involves a governance board. AFGE also opposes # 11 (leadership succession) because direct hire authority will increase cronyism and discrimination against veterans. AFGE also opposes #13 (performance standards) because of its overreliance on private sector standards that are not applicable to VHA's mission or its unique patient population. AFGE is opposed to recommendation #18 (expert body to address eligibility) as unnecessary.

In closing, AFGE urges the Committee to reject all proposals to dismantle the VA health care system and shut the doors of its medical centers, either through unrestricted access to non-VA care under a governance board-run system or legislation to extend the broken temporary Choice program. Lawmakers should also investigate the growing number of incremental attacks on VA health care including outsourcing of C&P exams, contractor-run outpatient clinics and elimination of VA-provided emergency care and ICU services. AFGE urges the Committee to serve the best interests of veterans and the nation by investing in VA's own high performing integrated, veteran-centric health care system. We welcome the opportunity to work with the Committee and VSOs to ensure continuous improvement in our nation's treasured health care system for veterans.