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STATEMENT FOR THE RECORD

OF

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FOR THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS,

SUBCOMMITTEE

ON

HEALTH

U.S. HOUSE OF REPRESENTATIVES

***ONE HUNDRED FOURTEENTH CONGRESS
SECOND SESSION***

CONCERNING:

**LEGISLATIVE HEARING ON: HR 2460; HR 3956; HR 3974; HR 3989; DRAFT
LEGISLATION REGARDING INFORMED CONSENT; & DRAFT LEGISLATION
REGARDING SCHEDULING OF VETERAN APPOINTMENTS & TO IMPROVE THE
UNIFORM APPLICATION OF VA DIRECTIVES**

20 APRIL 2016

Distinguished members of the Subcommittee on Health, it is my pleasure, on behalf of AMVETS, to offer this testimony concerning the following pending legislation:

- **HR 2460, to improve the provision of adult day health care services for veterans;**
- **HR 3956, the VA Health Center Management Stability and Improvement act;**
- **HR 3974, the Grow Our Own Directive: Physician Assistant Employment & Education Act of 2015;**
- **HR 3989, the Support our Military Caregivers Act of 2015;**
- **Draft legislation regarding informed consent; and**
- **Draft legislation regarding the scheduling of veteran appointments & to improve the uniform application of VA directives**

Though I plan to focus the bulk of my remarks on Representative Brownley's "Informed Consent" bill, I would like to begin today's statement with the following introductory remarks prior to turning to each specific piece of legislation. I ask that this committee ensures that the health care obligations imposed by the sacrifices of our veterans are met in a timely, professional and compassionate manner and I urge you to reject any plan to eliminate the VA from the hands-on care of our veterans.

I know that each of you is aware of, and appreciates the numerous issues of importance facing our military members, veterans and retirees; therefore this testimony will be, following these introductory remarks limited to the specific pending health care legislation being considered today.

I would also like to highlight several general issues that AMVETS would like the committee to monitor and enforce as it goes about its work, followed by specific recommendations related to the VA.

General Recommendations:

- ensure that the VA provides a continuity of health care for all individuals who were wounded or injured in the line of duty including those who were exposed to toxic chemicals;
- ensure that all eligible veterans not only have adequate access, but timely and appropriate treatment, for all of their physical and mental healthcare needs;
- continue the strictest oversight to ensure the safety, physical and mental health and confidentiality of victims of military sexual trauma;
- ensure that the VA continues to provide competent, compassionate, high quality health care to all eligible veterans; and
- ensure that the VA continues to receive sufficient, timely and predictable funding.

Specific Recommendations:

- Ensure that both advanced appropriations and discretionary funding for VA keeps pace with medical care inflation and healthcare demand so that all veterans healthcare needs can be adequately met;
- Maximize the use of non-physician medical personnel, when appropriate, as a way to mitigate physician shortages and reduce patient wait times especially while utilization of the VA system continues to rise;
- Ensure that VA makes more realistic third-party medical care collection estimates so that Congress doesn't end up under-appropriating funds based on false expectations which in turn negatively impact veteran care. Additionally, VA needs to redouble its efforts to increase its medical care collections efforts, because taken together, the cumulative effects of overestimating and under-collecting only degrade the care available to our veterans. Furthermore, VA needs to establish both first- and third-party copayment accuracy performance measures which would help minimize wasted collection efforts and veteran dissatisfaction;
- VA needs to incorporate civilian healthcare management best practices and include a pathway to VA hospital/clinic management for civilians as part of their succession plan requirements, so that VA will be able to attract the best and the brightest healthcare managers in the industry;
- VA could immediately increase its doctor/patient (d/p) ratio to a more realistic and productive levels in order to cut wait times for veterans needing treatment and/or referrals. While the current VA (d/p) ratio is only 1:1200, the (d/p) ratio for non-VA physicians is close to 1:4200. Instituting this one change would drastically improve our veterans access to needed healthcare;
- VA needs to improve its patient management system so that veterans have more appointment setting options available to them, which could reduce staffing errors and requirements. VA should also consider utilizing a hybrid system whereby half the day might consist of scheduled appointment and the other half would be for walk in or same-day appointment. The elimination of the need for non-specialty appointments would allow veterans quicker access to their primary care providers;
- The current VA healthcare system appears to be top-heavy with administrative staff and short-handed when it comes to patient-focused clinical staff. This imbalance can only lead to noticeable veteran wait times;
- The VA needs to thoroughly review its entire organizational structure in order to take advantage of system efficiencies and to maximize both human and financial resources, while also minimizing waste and redundancies;

- VA must immediately improve its recruitment, hiring and retention policies to ensure the timely delivery of high quality healthcare to our veterans. VA currently utilizes a cumbersome and overly-lengthy hiring process which reduces its ability to deliver critical services. VA need to consider adopting a more expedient hiring/approval process which could include some form of provisional employment;
- VA needs to have, and utilize, the option to terminate non-performing employees at all levels of the organization so that only dedicated, accurate, motivated employees will remain in service to our veterans; and
- Finally, VA needs to reform their incentive programs so that only high-performing employees receive appropriate bonuses for their excellence in serving our veterans.

Pending Health Care Legislation

HR 2460, to improve the provision of adult day health care services for veterans – AMVETS supports this legislation, which seems like the best of both worlds, in that it provides the appropriate and necessary care for veterans, in a more cost effective manner while also providing an improved quality of life. This legislation directs the Secretary of Veterans Affairs to enter into an agreement or a contract with each state home to pay for adult day health care for a veteran eligible for, but not receiving, nursing home care.

The veteran must need such care either specifically for a service-connected disability or the veteran must have a service-connected disability rated 70% or more.

Payment under each agreement or contract between the Secretary and a state home must equal 65% of the payment that the Secretary would otherwise pay to the state home if the veteran were receiving nursing home care.

HR 3956, the VA Health Center Management Stability & Improvement Act – AMVETS supports this legislation which seems to be a bit of a no-brainer. Medical centers without directors will most likely not perform as well as or as consistently as, those that do. Specifically, the bill directs the VA to develop and implement a plan to hire a director for each VA medical center without a permanent director, giving the highest priority to medical centers that have not had a permanent director for the longest periods.

HR 3974, the Grow Our Own Directive: Physician Assistant Employment & Education Act of 2015 – AMVETS supports this legislation which builds upon and leverages the training and experience of former military members. This bill directs the VA to carry out the Grow Our Own Directive or G.O.O.D. pilot program to provide educational assistance

to certain former members of the Armed Forces for education and training as VA physician assistants.

An individual is eligible to participate in the program if the individual:

- has medical or military health experience gained while serving in the Armed Forces;
- has received a certificate, associate degree, baccalaureate degree, master's degree, or post baccalaureate training in a science relating to health care;
- has participated in the delivery of health care services or related medical services; and
- does not have a degree of doctor of medicine, doctor of osteopathy, or doctor of dentistry.

The VA shall:

- provide educational assistance to program participants for the costs of obtaining a master's degree in physician assistant studies or a similar master's degree;
- ensure that mentors are available for program participants at each VA facility at which a participant is employed;
- seek to partner with specified government programs and with appropriate educational institutions that offer degrees in physician assistant studies;
- establish specified standards to improve the education and hiring of VA physician assistants, and
- implement a national plan for the retention and recruitment of VA physician assistants that includes the adoption of competitive pay standards.

HR 3989, the Support Our Military Caregivers Act - AMVETS is very supportive of this bill which permits an individual to elect to have an independent contractor perform an external clinical review of any of the following:

- a VA denial of an individual's application to be a caregiver or family caregiver eligible for VA benefits;
- with respect to an approved application, a VA determination of the level or amount of personal care services that a veteran requires;
- a request by a caregiver or family caregiver for a reconsideration of the level or amount of personal care services that a veteran requires based on post-application changes; and
- a revocation of benefits by the VA.

The VA shall ensure that each external clinical review is completed and the individual is notified in writing of the results within 120 days of the election.

Draft Legislation, to ensure that VA medical facilities comply with requirements related to appointment scheduling for veterans and to improve the uniform application of directives – AMVETS feels strongly that there needs to be continuity across the VA healthcare system and this bill should help to make that recommendation a reality.

Draft Legislation, to establish a list of drugs that require an increased level of informed consent – this is a top issue for AMVETS and we whole-heartedly support this legislation because we believe that the health and welfare of veterans needs to come first. This means their interests come before any VA employees, including physicians.

AMVETS believes that having the veteran's 'buy-in' and clear understanding of any proposed risky medications, will not only provide much needed 'peace of mind' for the veteran and their family, but will be instrumental in the overall healing process. An informed patient is much more likely to fully comply with their doctor's instructions and much less likely to complain or be dissatisfied with their treatment.

Let me be clear that our intention in supporting this legislation is not to 'burden' or disrespect VA doctors, but to provide veterans the opportunity to be more actively involved in their health care treatments.

In order to minimize the burden on physicians, AMVETS suggests utilizing nationally standardized medical educational material which could be adopted by the VA and made available either digitally or in a preprinted format (medication guide). All of the medications which would require informed consent would either be available in a database whereby each medication, with its additional information including, but not limited to:

- all the names of any drugs being offered to the patient, including any other trade or generic name for such drug;
- side effects, if any, including dependency;
- any alternative methods of treatment or therapy not involving a covered drug;
- whether the drug is being offered for a non-Food & Drug Administration (FDA) approved use;
- whether the drug is being given in a dosage that exceeds the dosages approved or tested by the FDA;
- any potential dangers of mixing drugs and dosages in sizes and combinations that have not been approved or tested by the FDA;
- any known interactions between a covered drug and other drugs or substances, including alcohol;
- any and all other appropriate warnings or information that a patient in similar circumstances would reasonably want to know

could be printed for each specific covered medication and provided to the patient.

If utilizing the pre-printed medication guide, the format of which is yet to be determined, each covered medication would be included with all of the same additional information as the database option, the physician would then merely 'check off' the recommended medications and hand the information to the patient. In both cases a 'consent form' would be provided to the patient for his/her signature, in either an electronic or paper format.

The patient's signature, at this point, merely indicates that they have been provided with the information regarding any covered medications and should not yet be understood as an acceptance of the proposed treatment plan. At this point the patient should be given the opportunity to ask any immediate questions of the physician or the veteran could be referred to a pharmacist for further information.

The patient would then be given three full business days from the initial prescription recommendation to:

- consider and internalize the information provided by the clinician;
- conduct any additional research;
- seek a second opinion, discuss with family or get a legal opinion

At the end of the three day period, the patient would then convey their approval/disapproval of the suggested medication(s) via secure messaging (My HealthVet), phone, email or fax directly to the prescribing physician or his/her office.

The veteran's signature along with the follow up (oral or written) at the end of the three days would jointly fulfill the informed consent signature requirement, so there would be no further reason for the veteran to return to the doctor's office on this matter unless there were extenuating circumstances. (This process could be even further streamlined by not requiring the veteran to do any follow up, **unless** they disagree with the proposed treatment plan. In which case, their previous signature plus their lack of disagreement with the proposed treatment plan could be taken as their complicit consent.)

An additional point of clarification I would like to make is that the VHA Handbook already mandates that side effects and alternative treatments be explained to a veteran prior to deciding on a treatment plan. This proposed legislation then is not asking for something entirely alien to the VA, it is merely asking for an **increased** 'Informed Consent' requirement.

Remember this added requirement would only be utilized when a physician prescribes a medication from the *limited list of covered medications* which carry 'black-box' warnings, have substantial risks or undesirable side effects, etc.

This type of information is especially critical for veterans who may have additional physical and/or mental health concerns and may already be taking or require a number of dangerous medications.

The need for this type of medical disclosure is also a concern in the non-veteran health care community as evidenced by the FDA's recent announcement that immediate-release opioid painkillers such as oxycodone will now have to carry a "black box" warning about the risk of abuse, addiction, overdose and death. ("Black box" warnings are the FDA's strongest, and they're meant to help educate doctors as they're prescribing medications to patients. See article below)

This completes my statement at this time and I thank you again for the opportunity to offer our comments on pending legislation. I will be happy to answer any questions the committee may have.

Additional Information:

VHA Handbook on Informed Consent – sent as a separate attachment



Diane M. Zumatto

AMVETS National Legislative Director



Diane M. Zumatto of Spotsylvania, VA joined AMVETS as their National Legislative Director in August 2011. Zumatto a native New Yorker and the daughter of immigrant parents decided to follow in her family's footsteps by joining the military. Ms. Zumatto is a former Women's Army Corps/U.S. Army member who was stationed in Germany and Ft. Bragg, NC, was married to a CW4 aviator in the Washington Army National Guard, and is the mother of four adult children, two of whom joined the military.

Ms. Zumatto was an author of the *Independent Budget* (IB) from 2011 - 2016. The IB, which is published annually, is a comprehensive budget & policy document created by veterans for veterans. Because the IB covers all the issues important to veterans, including: veteran/survivor benefits; judicial review; medical care; construction programs; education, employment and training; and National Cemetery Administration, it is widely anticipated and utilized by the White House, VA, Congress, as well as, other Military/Veteran Service Organizations.

Ms. Zumatto regularly provides both oral and written testimony for various congressional committees and subcommittees, including the House/Senate Veterans Affairs Committees. Ms. Zumatto is also responsible for establishing and pursuing the annual legislative priorities for AMVETS, developing legislative briefing/policy papers, and is a quarterly contributor to '*American Veteran*' magazine. Since coming on board with AMVETS, Ms. Zumatto has focused on toxic wounds/Gulf War Illness, veteran employment and transition, military sexual trauma, veteran discrimination and memorial affairs issues.

Zumatto, one of only a handful of female Legislative Directors in the veteran's community, has more than 20 years of experience working with a variety of non-profits in increasingly more challenging positions, including: the American Museum of Natural History; the National Federation of Independent Business; the Tacoma-Pierce County Board of Realtors; The Washington State Association of Fire Chiefs; Saint Martin's College; the James Monroe Museum; the Friends of the Wilderness Battlefield and The Enlisted Association of the National Guard of the United States. Diane's non-profit experience is extremely well-rounded as she has variously served in both staff and volunteer positions including as a board member and consultant. Ms. Zumatto received a B.A. in Historic Preservation from the University of Mary Washington, in 2005.

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