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Volume 40, Number 2 November 2018



VA 2019 Budget Approved Ahead of Budget Deadline

n an unusual move, the Congress forwarded a completed full-year budget for the VA and military construction to President Trump prior to the deadline of September 30. This is only the second time in 9 years that this has been accomplished.

The approved budget includes a greater than 6% increase in funding for the VA next year. The VA budget has quadrupled in 17 years, to the current total of \$209 billion, the first time it has exceeded \$200 billion. The House of Representatives voted 377 to 20 just one day after the Senate had also overwhelmingly approved the measure.

Prior debate had been stalled over some \$1 billion dollars for VA community care. The Congress moved funds around from other VA accounts to cover the gap to address the White House's opposition to increased overall spending. Congressional Democrats had supported increased overall spending to fund the shortfall.

to approve all appropriations bills prior to the September 30 deadline and avoid a possible government shutdown. This would be the first time in 22 years that all Congressional appropriations duties are completed prior to the end of the budget year if successful.

The VA budget includes \$71.2 billion for medical care, \$7.5 billion for homeless veterans treatment, \$589 million for traumatic brain injury programs and \$206 million for suicide prevention outreach. in addition to the \$8.6 billion included within the medical care allocation. Additionally, \$76 billion were approved as advanced VA appropriations for fiscal 2020 to prevent any future government shutdowns from disrupting VA care.

\$1.8 billion for VA construction projects next year and \$2 billion for infrastructure repair throughout the VA system were included, as well as another \$1.1 billion for improvements to VA electronic health records. ¤

Congressional leaders have undertaken an effort

NAVAPD Is Seeking Candidates for Its Board

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Can The Government Make You Move for Your Job?

Bill Enhances Sick Leave for Veterans Who Are Providers

the Board. Please note that you would need to be available for monthly Board meetings via conference call on the third Thursday of each month at

5pm Eastern time.

Resumes should be sent to: opscoord@navapd.org

Or

NAVAPD P.O. 15418 Arlington, Virginia 22215-0418

We hope to hear from you. ¤

f you are a non-retired member of NAVAPD and would like to serve on the NAVAPD Board of Directors, NAVAPD would like to hear from you. We are seeking one to three additional Veterans Affairs physicians or dentists to add to the Board.

While we are not limiting the area of the country for consideration, we would especially like representation from the Midwest or Northwest as there are currently no Board members from those areas of the country.

If you are interested in being considered, please send your resume and a cover letter expressing your interest and what you would like to bring to

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am writing this note as we await the mid-term elections and whichever political party wins control of congress it will have a major impact on the future of VA health care. Much has already happened in Congress since January 2017 and some of the activity is described in this current newsletter.

I recently had a constructive meeting with Representative Jim Banks, the Chairman of the newly created

The President's Corner

Samuel V. Spagnolo, MD

Congressional Technology and Modernization Subcommittee. Over the next several years, the main focus of this committee is implementation of the "Cerner" electronic health record (EHR) for VA.

During the August congressional recess I met with various key staff on the Veterans Affairs Committee (HVAC) to discuss important issues that concern members of NAVAPD.

Secretary Wilkie has openly discussed his vision for the VA in the future. He is going to focus on customer service in all VA activities that specifically include implementation of the Mission Act, Business Transformation and VA/DOD Collaboration.

Don't hesitate to reach out to us about things of interest to you and/or your medical center. NAVAPD is here for all



Rep. Jim Banks, Chair of Tech & Modernization Comm with Dr. Spagnolo

the physicians, dentists and podiatrists in the VA system and continues to work with leadership in the VA and members of Congress in providing the best possible care to our Nation's Veterans. $\mbox{\ensuremath{\square}}$

2018 VA Medical Center Rankings Reveal Mixed Bag

The recently released ranking of all 146 VA hospitals shows that nine of the facilities have the lowest possible 1-star rating. While this is a decrease from 14 hospitals for last year, there was also a decline in the number of highest-ranked 5-star VA hospitals, from 19 to 17. Overall, 40 VA hospitals dropped one star or more, 68 remained unchanged, and 38 improved in rankings.

The largest one-year improvement was at Hot Springs, South Dakota, which improved from 2-stars to 5-stars.

Three of this year's lowest-ranked hospitals showed no change in their 1-star ranking since 2016 (three years) while the Big Spring, Texas and Loma Linda, California VA hospitals received 1-star ratings for a second year in a row. However, overall 66 percent of VA hospitals, 96 of 146, showed some improvements from the 2017 findings, including decreases in length of stay, mortality, and avoidable adverse events.

VA Secretary Robert Wilkie said in a statement, "With closer monitoring and increased medical center leadership and support we have seen solid improvements at most of our facilities. Even our highest performing facilities are getting better, and that is driving up our quality standards across the country."

He added, "There's no doubt that there's still plenty of work to do."

Hospitals receiving 1-star ratings will undergo improvement activities. In February, the VA announced a four-step plan for improvement of 1-star facilities, overseen by Dr. Peter Almenoff. The plan would identify weaknesses, set performance targets, provide expert improvement coaches, and make leadership changes if necessary.

The 2018 1-star hospitals are:

- Atlanta,
- Big Spring,

- El Paso,
- Loma Linda,
- Memphis,
- Montgomery,
- Phoenix,
- Tucson,
- Washington.

This year's 5-star hospitals are:

- Asheville,
- Bath,
- Butler,
- Cincinnati,
- Cleveland,
- Coatesville,
- Connecticut,
- Erie,
- Hot Springs,
- Iron Mountain,
- Lebanon,
- Madison,
- Northampton,
- Saginaw,
- Salem.
- St Cloud,
- Togus.

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Mass Cancellations of Diagnostic Tests Raise Concerns

n issue that has long been recognized in the VA has raised its head once again: How to recognize and handle long-out-of-date orders without cancelling valid and needed procedures. This issue first came into prominence following the revelations of "secret" order lists to manipulate veteran wait-times data at the VA in Phoenix in 2014. NAVAPD focused on this and other issues at a Summit in Washington DC that year.

At the Iowa City VA, a radiology technologist, Jeff Dettbarn, said he knew something was wrong when a patient arrived in February 2017 for a CT scan, but the doctor's order for it had been canceled. He started collecting cancellation notices for diagnostic procedures such as CT scans. MRIs and ultrasounds.

"I knew something was not right," he said. "Because none of them were canceled by a physician."

Cancellations of more than 250,000 radiology orders at VA hospitals across the country since 2016 have raised questions about whether - in a rush to clear out outdated and duplicate diagnostic orders - some facilities failed to follow correct procedures. At issue is a concern over whether some medically necessary orders for CT scans and other imaging tests were canceled improperly.

The VA inspector general is auditing mass cancellations at nine VA medical centers "to determine whether VA processed radiology requests in a timely manner and appropriately managed canceled requests. Those hospitals are: cancellations have also been raised at Tampa and Bay Pines, Florida; Salisbury, North Carolina; Cleveland; Dallas; Denver; Las Vegas; Los Angeles; and Iowa City.

In Iowa City, Dettbarn alerted the hospital's compliance officer about his concerns. He is now facing disciplinary proceedings which were initiated shortly after he reported his concerns about order cancelations. He contends they

are an effort to retaliate against him. His supervisors alleged he was "disruptive" and didn't send one patient's images to be interpreted - accusations he has denied. Dettbarn has been detailed to a job collating VA records since July 2017. The Office of Special Counsel, a federal agency tasked with protecting whistle-blowers, is investigating.

This much is clear: in sworn testimony in the disciplinary proceedings against Dettbarn, Iowa City administrative staffer Lisa Bickford said she and other employees were told by the hospital's chief radiologist that they needed to "clean" up a backlog of incomplete diagnostic orders, some dating back years. Orders more than 60 days old were considered "invalid" or expired. The staff responded by "annihilating" thousands of orders in a matter of weeks, according to Bickford.

The Iowa City hospital acknowledged the facility failed to follow national VA guidelines for diagnostic order cancellations but said that happened in only a officials convened with radiology man-"small number of instances" and "anything closed improperly was reviewed" and actions were taken to try to ensure veterans received any needed exams. The VA said many of the orders were outdated or duplicated. The agency said it welcomes the oversight and is working with the inspector general to improve cancellation guidelines. VA officials said efforts to close the loop on test orders with physicians and veterans surpass private-sector practices.

Concerns about diagnostic test order the VA hospital in Tampa in a discrimination lawsuit brought by four ultrasound technicians. At the Tampa facility, radiology managers began tackling outstanding orders in fall 2016. As many as 10 people were tasked with the job, one administrative staffer testified in a deposition in the technicians' lawsuit. Multiple employees testified they canceled orders by date and did not consult any doctors before doing

so, nor was there patient contact. They reportedly disabled office printers because of the volume of cancellations one employee estimated they canceled thousands of radiology orders, according to testimony. They worry veterans may have gone without needed tests for months or longer before they or their doctors realized tests weren't performed - if they realized at all. Some employees indicated that administrators went beyond past orders and canceled future ones.

The VA has acknowledged that it has received word that a few places haven't been following the cancellation directive as intended, and it has investigated and educated to fix that.

The VA's guidelines on order cancellations have undergone revisions in the past few years. In 2016, hospitals were told to try contacting patients multiple times before cancellations. VA hospitals came under increasing pressure to address outstanding diagnostic orders after a conference call that national agers across the country in January 2017. More than 325,000 orders for scans of veteran patients had not been completed nationwide. Last year, the rules required review by a radiologist or the ordering provider before canceling. If the tests were still needed, patients should be contacted to schedule them. Since last year, hospitals have been required to establish a fail-safe "triage" process, such as written verification of review by providers.

The VA has not commented on what happened in Tampa, citing the litigation, except to express confidence that the facility has processes in place to provide the best care possible for veterans.

When The Tampa Bay Times first reported the technicians' concerns in July, the hospital's chief of staff, Colleen Jakey, wrote to providers asking them to review canceled orders. The facility reported that a review of a ran-

(Continued on page 7)

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DoD and VA Issue Reserarch RFI for Contract Medical Personnel

he Defense Health Agency (DHA), the Department of Defense (DoD) complement of the Veterans Health Administration (VHA) recently issued a Request For Information (RFI) to research the market-place and gather companies' feedback. The goal is to determine the capabilities available in industry to supplement clinical operations in the DoD military treatment facilities and/or VA medical facilities in the continental United States and territories. Responses were due October 8, 2018.

The DHA has partnered with the VA to determine the feasibility of a joint strategic solution for the delivery of integrated, high-quality health care services to 19 million beneficiaries. Both agencies operate medical facilities in the United States and its territories as shown below. The facilities include clinics (stand alone, non-bedded facilities), community hospitals, and medical centers that are staffed by DoD, VA, mili-

tary personnel, civilian employees and contractor staff.

The contracted staff is comprised of numerous clinical occupations. These include health care providers/workers in the following broad functional categories supporting inpatient and outpatient facilities: Ancillary, Dental, Nursing, and Physician Services.

Contracted personnel that would provide the various services include but are not limited to: audiologists, clinical laboratory personnel, dietitians, midlevel providers (i.e., nurse practitioners, physician assistants), occupational therapists, pharmacists, physical therapists, podiatrists, radiology support, respiratory therapists, speech pathologists, clinical support staff such as medical assistants; general dentists and specialty dentists, dental hygienists, dental assistants and dental lab technicians; registered and/or licensed nurses including all types of registered

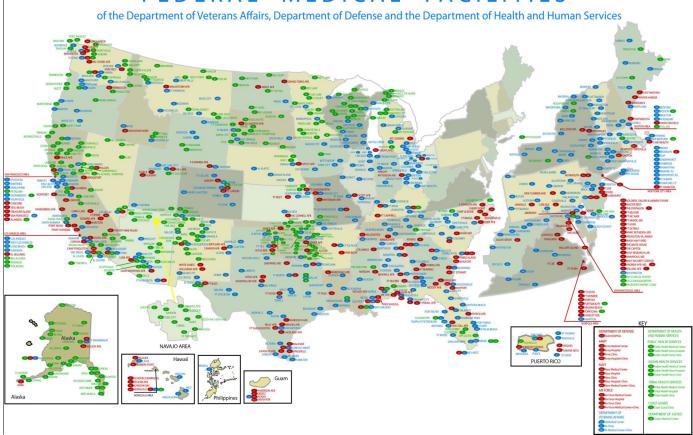
and advanced practice nurses as well as practical and vocational nurses; primary and specialty care physicians.

The Goals of this RFI are:

- Determine industry practice variations for acquisitions of similar services, duration and performance location.
- Determine industry capabilities to fulfill DoD/VA combined requirement..
- Verify whether small business is a viable partner for this program.
- Confirm appropriate NAICS and size standard.
- Determine if DoD/VA requirements and contract structure aligns with industry practices.
- · Identify industry leaders
- · Assess competition

The RFI is designed to demonstrate industry capabilities for DoD VA HCSS. Survey information captured from this RFI will only be used for market research and participation is voluntary. ¤

FEDERAL MEDICAL FACILITIES



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VA Secretary Refuses to Release Mar-a-Lago Documents

n response to a letter from Congressman Tim Walz, the ranking Democrat on the House Veterans Affairs Committee, VA Secretary Robert Wilkie has refused to provide requested information regarding VA communications with the so called "Mar-a-Lago Crowd." This is a group of three members of President Trump's Mar-a-Lago country club who have been alleged to influence VA policies, hiring and firing decision for at least the last year.

The group is reportedly comprised of Ike Perlmutter, billionaire chairman of Marvel Entertainment; Palm Beach physician Bruce Moskowitz; and attorney Marc Sherman. They are alleged to have teamed up to influence personnel decisions and shape VA policy once Donald Trump became president.

Representative Walz had requested copies of emails and other internal communications between the Department of Veterans Affairs and the Mar-a-Lago group. VA Secretary Wilkie replied that the documents requested are "the subject of ongoing litigation alleging violations of the Federal Advisory Committee Act and, therefore, not appropriate for release at this time." Walz characterized the response as "stonewalling, plain and simple," in an interview. He added, "This just reeks of corruption. It's cronyism."

Walz's office then sent a second letter to Wilkie with a new deadline of October 31 for release of all documents showing VA interactions with the group. The second letter said that the initial response was "a transparent attempt to stonewall not only a member of Congress but also the American public on amatter of significant importance to our nation's veterans. Be assured, this issue will remain a top concern of the Committee until all our questions have been answered."

The lawsuit to which Wilkie referred was filed August 18, in the U.S. District Court for the District of Columbia by VoteVets Action Fund. This is the high-

est spending liberal nonprofit organization in recent federal elections. The suit Democrats on the Senate Veterans alleges that the Trump administration empowered the Mar-a-Lago individuals to influence the VA in violation of the Federal Advisory Committee Act. That Watergate-era law stipulates that if an agency is going to use an outside group for advice and recommendations, it must file a charter for the committee. disclose minutes of it meetings, and disclose materials provided to the committee. The attorney representing Vote-Vets says the VA took none of these steps to legitimize the "Mar-a-Lago Crowd."

The VoteVets lawsuit relies on a ProPublica news article and VA documents that ProPublica obtained under the Freedom of Information Act (FOIA). VoteVets was formed in 2006 by Iraq and Afghanistan war veterans who hold progressive political views. ProPublica was founded by billionaire democratic donors Herbert and Marion Sandler. The lawsuit seeks a court order to stop the Mar-a-Lago trio from meeting with or advising Wilkie or other VA officials until the VA complies with transparency obligations of the 1972 law.

Walz gives his Congressional colleagues the benefit of the doubt, saying said the mid-term elections next month are the reason Republican colleagues on the committee haven't joined him in pressing the VA for documents about the Mar-a-Lago trio influence. He doesn't give the same benefit of the doubt to Wilkie, who was acting VA secretary earlier this year and was introduced to the Mar-a-Lago trio before later being nominated to be VA secretary.

Walz says the refusal to release the documents made a bad situation "significantly worse by sending a letter falsely claiming" documents are being withheld "because of a lawsuit filed [eight days] after I requested the information," Walz said. Wilkie's decision to deny him the documents means "he owns this now," Walz said.

Affairs Committee pressed Wilkie at a hearing last month on his own interactions with the Mar-a-Lago trio. Wilkie told U.S. Sen. Patty Murray, D-Wash., he will reject improper outside influences on the VA. Asked whether VA officials still consult with the Mar-a-Lago trio, Wilkie said, "Not that I know of. I met with them once for an hour when I was in Palm Beach the first week I was acting [secretary]. I have had no connection with them since then."

Pressed by U.S. Sen. Mazie Hirono, D-Hawaii, Wilkie said the topic discussed with the trio in Palm Beach was the Cerner Corp. contract to create a electronic health record system for the VA, the same system adopted by the Department of Defense.

"And if I'm going to believe the media stories, that the folks I talked to were against it, then I went against their wishes because I approved it two weeks later," Wilkie said.

He also conceded to Hirono that his first contact with a member of the Mara-Lago group occurred the day he began his stint as acting VA secretary days earlier, when Sherman was waiting for him in his office at VA headquarters.

Hirono asked him, "What was discussed that day?

"Somebody I had never met before ... was standing there and told me for whom he worked," Wilkie said. "And I listened and I said thank you. I'm always happy to listen to anyone who wants to talk about veterans. I was not familiar with what was going on. Again, that was my first day." ¤

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Can the Government Make You Move for Your Job?

Jeff Neal October 1, 2018 Reprinted by permission of author

he Department of Agriculture announced in August that it plans to relocate two offices the National Institute of Food and Agriculture (NIFA) and the Economic Research Service (ERS). The proposal has met with some resistance from the Congress and from employees and their representatives.

Without getting into the merits of this or any other proposal, the idea of directed reassignments to different commuting areas is worth discussing.

Can the government force you to relocate or risk losing your job? Do they have to get congressional approval? Do you have to be on a mobility agreement? What options do employees have when their jobs are moving but they do not want to go with them?

The answer to the first question is generally ves - your job can be relocated and failure to relocate with it can be grounds for removal. Most federal workers know that members of the Senior Executive Service are subject to directed reassignments to different locations, but it is less well known that the same vulnerability exists for other employees. If the government wants to move you, it has to pay for moving expenses, including real estate fees, temporary quarters, and movement of household goods.

The fact that employees can find their jobs relocated does not mean it happens often. Large scale relocations tend to generate congressional interest because no Representative or Senator wants to see jobs moving from their district or state. Unions also weigh in against such changes, and local officials also oppose losing local jobs. That does not mean such moves do not and can never happen. They can.

Mobility Agreements

One question I have gotten not this subject is about mobility agreements.

Some employees have to sign mobility agreements as a condition of employment. If the employee declines a move, s/he can be fired for failing to satisfy a condition of employment. That leads to the misconception that only employees on mobility agreements can be ordered to relocate. Other employees can be ordered to relocate as well.

The right of an agency to force a move and fire the employees who refuse to move has been established in case law since 1980. When the employee is not covered by a mobility agreement, the agency has the burden to show that they are making the move because of legitimate management reasons that would promote the efficiency of the service and to give employees sufficient. The best answers to some of those notice. If the agency can meet that burden and the employee cannot show that the reason is a pretext, the Merit Systems Protection Board (MSPB) will typically uphold the removal. If the employee is covered by a mobility agreement, the removal is even easier for the agency to defend.

Relocation Considerations

Making a decision to accept a move is not easy and in today's economy, it can be complicated. What happens if the employee is married and his/her spouse is employed as well. Whose job pays the most? What happens if the nongovernment spouse cannot find another job? Can they live on one income? Would a move derail the spouse's career? Are there other family considerations such as child or elder care? Or a child who is in the last year of high school? Or a mortgage that is upside down because of the fluctuating home market? All of those are legitimate personal issues that many people would face.

Sadly, the government does not have to consider such problems in making its decisions. In fact, considering some of them would put an agency in jeopardy. For example, if an agency decided it was easier to move Betty Lou because she was not married and lived alone, rather than moving Bob who is married,

the agency would discriminate against Betty Lou based on her marital status. That means an agency cannot consider some of the very real human consequences of its decisions.

Agency Impact

Another question is about the impact of geographic moves on an agency. What happens when an agency decides to move 100 or 1,000 or more jobs? How many employees relocate? How many find other jobs in the agency? And how many end up out of the agency or even out of government? Does the agency have the money to pay for moves that can easily cost \$100,000 or more per employee?

questions come from the Department of Defense (DOD). During multiple rounds of the Base Closure and Realignment Commissions, DOD made many decisions to relocate or consolidate organizations.

For a short move 40 miles away. Federal News Radio reported that 70 percent of employees relocated with their jobs when the Defense Information Systems Agency moved to Fort Meade, Maryland, while 15 percent found other jobs and 15 percent retired. The Department of the Army reported it expected about 30 percent of employees to relocate in BRAC-related moves. The Defense Logistics Agency had a similar experience.

For the most part, employees made short distance moves, but were unwilling or unable to make big moves. The number of people moving with their iobs can be affected by the number of federal jobs in the losing area. The more jobs the area has, the larger the number who will stay put. Given the increased number of federal employees now eligible for retirement, I would expect to see even larger numbers of retirements than DOD experienced during BRAC.

When agencies are moving small num-(Continued on page 7) Volume 40, Number 1 Page 7

Can the Government Make You Move for Your Job? (con't.)

(Continued from page 6)

bers of employees, the effect is typically not severe. If an agent wants to move three employees and two say no, filling the jobs is not a big deal. When the moves involve large numbers, the problems can grow. If an agency has 1,000 jobs that relocate and only 300 people go with them, the impact on the mission can be significant. Filling hundreds of jobs can be too big a climb for some agencies and some types of jobs. Agencies can take steps to mitigate the damage by phasing moves over a period of years rather than months, and can increase telework for jobs that do not have to be in a particular location.

Congressional Approval

The last question is congressional approval. Does an agency have to get the blessing of Congress to relocate employees? It depends on the scale of the moves. If an agency wants to relocate a handful of employees, it can often be done entirely within agency appropriations and operating authorities. When the numbers get to the point where the agency needs big dollars to pay for relocation, or is moving dozens or hundreds or more jobs, there may be congressional notification requirements,

reprogramming requests, or new money needed. In those cases, Congress will have a say and their questions will cover an agency's reasons for the move, how it plans to deal with workforce issues, and how it will mitigate the risk to the mission that may be caused by large numbers of employees refusing to relocate.

So clearly you can find your job being moved to another location. Should most employees be fearful that their jobs may be relocated? No. Unless there is a large program like BRAC, the number of employees who are forced to relocate in any year is very small. It is not insignificant to the people whose jobs are affected, but most employees will never be asked to make a geographic move that they do not want. \(\mathbb{Z}\)

This column was originally published on Jeff Neal's blog, ChiefHRO.com, and has been reposted here with permission from the author. Visit ChiefHRO.com to read more of Jeff's articles regarding federal human resources and other current events along with his insights on reforming the HR system.

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About the Author



Jeff Neal is a senior vice president for <u>ICF</u> and founder of the blog, ChiefHRO.com. He has 33 years in federal service, including serving as Chief Human Capital Officer for the Department of Homeland Security and Chief Human Resources Officer for the Defense Logistics Agency. Jeff is also a Fellow and Director at the National Academy of Public Administration and a Partnership for Public Service SAGE.

Mass Cancellations of Diagnostic Tests Raise Concerns (con't.)

(Continued from page 3)

dom sample of cancellations did not turn up any cases of harm to veterans. The technicians say some doctors have reordered canceled exams but won't know whether veteran patients suffered harm until they are performed and assessed.

In January 2017 in a dozen states, there were VA medical centers with more than 5,000 outstanding radiology orders including 29,000 in Columbia, S.C.; 21,000 in Cleveland; and 12,000 in Washington. Some dated back to the 1980s, but some were only months old. In some cases, staff may not have been able to contact veterans to schedule exams. In other cases, veterans may not have shown up, possibly because their ailments had gone away. Some orders may have been duplicates ordered by two different doctors.

A review by medical and ethics specialists determined that orders from before June 2015 could be safely canceled. Studies due after that date required additional steps prior to cancellation to assure patient safety. The national call to action triggered a dramatic reduction in pending exam orders overdue by two months or longer. By last month, the total number of outstanding radiology orders had dropped to 31,000 nationwide. X

NAVAPD-Endorsed Bill Enhances Sick Leave for Vet VA Providers

ast year NAVAPD endorsed bill S.899 introduced by Senator Mazie Hirono'. It would expand the Wounded Warrior Federal Leave Act Providing Healthcare Transition Im-(WWFLA) to cover VA physicians and

dentists among others.

The bill, now known as the Veterans provement Act, was approved and is on its way to the President's desk for signature into law. The bill expands the WWFLA to include disabled veterans serving their fellow veterans as VHA providers. X

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NAVAPD's Mission and Principles

Mission

AVAPD is dedicated to the principle that this nation's veterans, as a result of their service to our country's Armed Forces, have earned an entitlement to quality health care to meet their needs as they become sick or injured. The Department of Veterans Affairs ("VA") is that agency of government obligated to honor the Nation's contract with its deserved Veterans.

NAVAPD has as its highest priority the preservation and strengthening of the VA health care system, so that it stands ever ready to give our veterans quality medical care equal to or better than that which can be obtained elsewhere in our society.

Just as VA doctors care for those who have served, they also stand ready to treat the military and civilian casualties of future conflicts and non-military disasters.

VA health care facilities are a principal element in our national security and in our national defense, representing as they do a vast resource to back up the limited capabilities of our military hospitals.

Guiding Principles

NAVAPD shall function as the official professional organization of the VA physicians and dentists at all levels in the VA Health Care system, from the local health care facilities through VISNs to the national level.

NAVAPD shall cooperate to the maximum extent possible with official representatives of the VA, to the end that the best possible health care is provided to veteran beneficiaries.

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