

Testimony of Dr. Stephen P. Rosenthal
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Before
The U.S. House of Representatives
Subcommittee on Health
of the
Committee on Veterans Affairs

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Thank you Mr. Chairman for the opportunity to address your sub-committee this afternoon on behalf of the physicians and dentists who practice in the Veterans Health System. I am Dr. Steve Rosenthal. I have practiced in the VHA for 28- plus years and I am currently Acting Chief of Nuclear Medicine at the Miami VA Medical Center. However, today I am here to testify in my capacity as President of the National Association of VA Physicians and Dentists. NAVAPD is the only national organization whose sole mission is enhancing the professional working conditions, and incentives, that increase VA physicians and dentists ability to provide accessible, high quality health care for our Veterans.

We are here today with three messages: 1.) To thank this administration for recognizing the need for an adjustment in the direction of competitive pay for the front line medical staff who serves our nation's veterans. 2.) To support the paradigm shift in compensation that is suggested in the proposal offered by the Department. A shift which, we believe, lays the groundwork for Title 38 VA physicians and dentists to keep pace with similar practitioners in the private sector, And, 3.) To suggest changes to the proposal that we believe will produce a statute that is simple, equitable, understandable, self-updating and more easily administered than the "*Health Care Personnel Enhancement Act of 2003.*" Our proposal has flexibility, is market responsive and maintains in harmony with the American economy.

Some thirteen years ago, we came before Congress asking that the compensation of VA doctors be adjusted upward because we were falling woefully behind our colleagues in the private sector. You heard us and enacted legislation that brought us more in line with the private sector. Since that bill was signed into law a dozen years ago, save for cost of living increases, VA physicians have not received one dime in increased compensation. While the time for action is long overdue, we believe that Secretary Principi and Undersecretary Roswell have acted out of genuine desire to provide the quality of health care our country's veteran population deserves.

The Department of Veterans Affairs is facing a critical situation in its compensation system for physicians and dentists. The VA can no longer recruit and retain highly qualified and experienced physicians and dentists, and not just in the categories where scarce medical and surgical sub-specialties are required. Many VA professionals remain employed in the VHA out of respect for and loyalty to the men and women "who shall have borne the battle." However, these professionals also desire opportunities to do research that cannot be done elsewhere and to educate future healthcare providers. In so doing, they build careers and provide unique care-giving knowledge for the special needs of our veterans. These professionals want to be treated fairly and be compensated commensurate with their knowledge and skill levels.

Because the Department of Veterans Affairs is not meeting these professional career goals, recruitment and retention of physicians and dentists is a critical, and worsening, problem for the Department. In addition, generational attitude shifts of many young professionals have redirected their focus away from institutionalized medical care, medical education, and research. There is a rapidly shrinking pool from which to select replacement physicians and dentists with the requisite knowledge base and specialized skills.

Historically, it has been necessary for VA physicians and dentists to come to Congress with a request for increases in compensation through the addition of “specialty pay” categories or higher ‘pay bands’ for existing specialty pay brackets. This has meant VA physicians and dentists pay has approached private sector standards for a snapshot in time. We have then had to “wait our turn” for the next legislative opportunity...all the while slipping further and further behind our private sector colleagues. Now we have a proposal on the table that suggests review and parity on a regular basis, without the need to change the law of the land each time, which we believe is a prudent change in thinking that will have a positive impact on recruitment and retention of quality physicians and dentists. However, as is usually the case...the devil is in the details.

The Department of Veterans Affairs proposal is vague and complex and, NAVAPD believes, impossible to fairly administer. NAVAPD also believes that the Department’s proposed legislation is limited in scope, is intended to benefit only a small minority of front line medical staff, provides few details regarding implementation, and has the potential to be manipulated in ways that were not originally intended. Further, the legislation proposed by the Department is not in concert with either the most recent Presidentially mandated Quadrennial Report or even the Department of Veterans Affairs’ Task Force Interpretation of that Report.

The stated purpose of this legislation is to provide salaries that will be competitive with the private sector, which will in turn keep the professionals we have and attract high-quality recruits to the VHA. However, as proposed, this legislation would have a positive compensation impact on only thirty-percent (30%) of the fourteen thousand-plus physicians and dentists currently in the VHA. And that assumes total pay would include base pay, market pay AND performance pay. It is difficult to see this as a “moral booster” or recruiting tool.

It is even more difficult to see how this will help VA meet overall operational and clinical objectives. The front line medical staff is more than just “foot soldiers” in achieving these objectives. They are the face of the VA, they are the decision makers, the team leaders, the clinical thinkers, the quality managers, the innovators. They are very much the pilots of this highly technical, highly complex machine that is the modern health care system, managing life and death decisions, entrusted with the care and comfort of vulnerable and suffering human beings. They are under constant public scrutiny, relying upon their many years of education, training and experience, their intuition and art, and their humanity to guide their clinical actions in helping veterans and their families face the most complex, intimate and difficult choices of their lives. In this regard, quality does matter, and not just for the 20 or 30 percent of the most difficult to recruit and the highly paid sub-specialists, but perhaps of equal or greater importance, also for the journeyman VA physicians and dentists, the folks who are the heart and soul of this system and the ones who make it run day in and day out.

In addition to the goals which have already been described, and which are primarily addressed by the proposed legislation – the ability to recruit and retain extremely high paid rare sub-specialist - we ask that you keep another objective in mind as well the importance of returning the VHA to those who have the interest of the organization most at heart, the career physicians and dentists.

Wasting precious taxpayer dollars through the use of expensive contracts with affiliated university or private groups to hire needed and rare sub-specialists must be significantly reduced, if not eliminated. We agree with the department that it is vexing and galling, perhaps even ludicrous, to pay more to hire these specialists on contract while losing the benefit of a loyal full time VA employee in the process. To “pretend” to not pay them higher than the prohibited salary levels by hiring them “On Contract” is a lose-lose proposition for the VA, the veterans and the taxpayers. One of the stated purposes of this legislation is to address this issue, it is only a part of story from our perspective.

The Department understandably wishes to improve efficiency and spend wisely. However, we are here to let you know that cutting dollar costs by limiting the pay of the front line medical staff comes with its own special cost, one not addressed or even acknowledged by the language in the Department’s proposal. It is true that the VA needs to remain competitive with the academic institutions in order to recruit their best and brightest academic performers. However, there may be a vested interest on the part of AAMC in ensuring that the VA remains less than competitive in this arena. Therefore, I must add that NAVAPD is very concerned about the use of AAMC salary data as a benchmark for VA physicians. Since the vast majority of frontline VA physicians are practicing clinicians, it stands to reason that the workforce that VA competes against for recruitment and retention are private practicing physicians, just as is the case with dentists. We strongly believe that other sources of comparative physician income data, such the Medical Group Management Association (MGMA), should be used to benchmark salaries of VA physicians.

The value and contributions of sub-specialty providers are generally well understood; but less well understood perhaps are the contributions of another class of VA physicians and dentists – the full time, clinically based medical staff providers. These are the folks for whom the quality of the organization matters, who are loyal not only to their patients and their colleagues, but also to their organization and the mission of the VA. We represent and are concerned about the “bread and butter” of the medical staff, the doctors who come to work each day with the intent to make their facility a better place and who are committed to working in a health care environment which is world class and second to none in their community in the standards and quality of care. The cost of neglecting this talent is never addressed in the proposed bill and in our estimation the cost is incalculable. If this item remains unaddressed when the bill is passed this asset will almost certainly gradually be lost to expensive contract services.

The proposed legislation describes “Performance Pay” as, “a variable pay band linked to a physician’s or dentist’s achievement of specific corporate goals and individual performance objectives.” It goes on to say, “The amount payable to a physician or dentist for this component may vary based upon individual achievement, and may not exceed \$10,000.” The proposal later states that “no physician or dentist will be paid less the day after the implementation than he or she was being paid the day before implementation.” How is it possible to determine performance pay prior to implementation. Is this provision, in fact, a “lack of performance” pay that potentially will be held over the heads of physicians and dentists like the sword of Damocles? At a minimum, this provision, as written, is vague and open to abuse. We recommend that a clear and distinct benchmark be used for evaluating the performance of Medical Center and VISN Directors to ensure

that performance pay is equitably administered across the country and not just a means for individual Directors to balance their budgets.

Additionally, this assurance of no negative pay adjustments appears to be negated by subsection 7431 (B) (d) which states, “Any decrease in pay that results from an adjustment to the market or performance component of a physician’s or dentist’s total compensation does not constitute an adverse action,” and by the proposed language for subsection 7431, which states, “the functions of the Secretary and other officers of the Department of Veterans Affairs under this chapter are vested in their discretion.” This provision appears to remove the due process rights of physicians and dentists and is reported to be in response to the unfair termination case of Dr. Elizabeth Von Zemensky in which the courts upheld her reinstatement.

Physicians and dentists are further placed at risk of negative pay adjustments when budget pressures may force cost cutting measures. This is the result of the statutory provision that prohibits negative pay adjustments for the largest professional group in the VHA, nurses. We implore you not to allow an accounting bulls-eye to be placed on our backs, and adopt the same no negative pay adjustment standard for physicians and dentists in this legislation as currently exists for nurses. Similarly, we urge you to favorably consider the deletion of the aforementioned change to subsection 7431.

As I mentioned earlier, the current proposal will positively impact only thirty percent (30%) of the physicians and dentists in the VHA. This is the result of three factors, the percentile used to calculate the benchmark for pay, the use of all three tiers to reach the benchmark sum, and the local flexibility of Base Pay. We would recommend that Base Pay be standardized at the GS 15, step 10 level...including locality adjustments for all physicians and dentists. We would recommend that the benchmark sum of Base Pay and Market Pay only, be set at eighty percent (80%) the 75th percentile of the Medical Group Management Association (MGMA) compensation level for physicians and that the benchmark sum be placed at eighty percent (80%) the 75th percentile of the American Dental Association (ADA) net private practice income for dentists.

We would recommend that Performance Pay be granted for higher than standard work achievement and that the range be expanded to \$20,000. We would also recommend that a “Dedication Pay” tier be added based upon years of service as a retention inducement.

If this legislation is going to be the vehicle that moves the recruitment and retention of high quality physicians and dentists into the 21st century then we must address the leave policies that are unintentionally punitive in their effect. While private sector practices are offering newly minted physicians and dentists between six and eight weeks of annual leave, as well as paid time for continuing medical education, we have remained trapped in a system that discourages normal vacations by charging us leave for Saturday and Sunday if we take leave on the preceding Friday and the following Monday...regardless of whether or not we see patients or perform other duties on that Saturday and/or Sunday. We believe that the department has the authority to make the necessary adjustments to correct this situation. We have been trying to work with them for over two years on this issue. However, we have been unsuccessful, even though other groups have changed leave and other benefits without this type of difficulty. We now turn to you for help. Please include in this legislative package the directive necessary to allow us to take our thirty days of annual leave without the penalty of being charged for our non-duty days.

Mr. Chairman, we have taken the liberty of including suggested substitute language in our written testimony on these and other relevant subjects for your consideration. We believe this alternative compensation proposal will provide the roadmap necessary for VA professionals to know where our careers stand and what the future will hold for us. We hope this will contribute to your deliberations.

The following is a brief statement that we received from one of our rank and file that speaks to the points we are addressing here that I would like share with you:

I'm a full time VA employee, board certified in three specialties, with eleven years of post-graduate training before beginning my practice at the VA, where I've remained for the last eight years. I am an Intensivist, a specialist in critical care medicine and take care of patients who are severely ill in the intensive care unit. During that time I'm on call 24 hours a day, seven days a week. It is demanding and stressful work. When I'm attending in the ICU, four months out of the year, I work on average 70 hours a week, including weekends, for which I receive no additional compensation. When I'm not in the ICU, I work about 50 hours a week. I'm also a co-director of the ICU and I spend long hours working on quality and safety improvement efforts, which have helped to make our ICU among the best in our community. My VA salary, which is my only source of income, is \$134,000 dollars a year, admittedly a good income. By contrast, however, according to the Medical Group Management Association (MGMA) data base, the median national income for a Critical Care Intensivist in 2001 was \$203,000, the mean salary income nationally was \$218,747, and for the third quartile was \$277,564. In all likelihood a competitive salary in my particular market area is more than double my current income.

The VA has an asset in both its academic and clinical front line staff, which it seems, it does not fully recognize and which this bill absolutely does not recognize. The cost in loyalty, in efficiency, in quality improvement to the VA, in letting this asset remain under-recognized, and not aggressively competing to retain this asset is immeasurable and vastly exceeds that for recruitment and retention of high end, rare sub-specialists. I agree with the effort to compete for these high end sub-specialists but believe that it misses the real mark, if that is the main intent of the bill, in terms of providing real and lasting value not only to the veterans but to the health and future of the VA itself.

Again, thank you for the opportunity to share NAVAPD's thoughts on this critically important legislation. I would be happy to answer any questions you may have.

ELEMENTS OF THE NAVAPD PROPOSED SUBSTITUTE COMPENSATION LEGISLATION

The alternative compensation plan described below will address the tremendous pay disparities between VA physicians and dentists and those in private practice and academia. Although this plan would not match current private practice incomes, it would stem the rapid drain of these professionals from the system. The proposed compensation plan will provide assurance to Veterans that this Nation will maintain a Veterans' Health System that is second to none.

1. All pay of every category, past and future, will immediately count for calculations of retirement annuities and for calculations of lump sum retirement settlements.
2. Retirement lump sum settlement calculations will be based on total salary at the time of retirement.
3. No dentist or physician will receive less than his or her current salary on the day before enactment of this statute.
4. Judicial review will be maintained for all administrative levels as now dictated by Title 38 and Title 5 statutes.
5. There will be no written employment contracts or specified retirement dates.
6. There will be no vesting periods for any category of pay.
7. Federal Locality Pay will be included for all Department of Veterans' Affairs physicians and dentists according to current Federal statutes for each geographic location.
8. The most recently available American Dental Association (ADA) and Medical Group Management Association (MGMA) data shall be used in calculating the Market pay guidelines, adjusted each year by the fluctuations of the most recent Medical Index component of the Consumer Price Index. An oversight committee including field physicians and dentists will determine the formulation of the Market pay guidelines each year.
9. Market pay tier guidelines will be updated every year on November 1 and the new guidelines will become effective on the first day of the first full pay period in the subsequent January.
10. Total compensation will be the sum of Base and Market Pay. Performance Pay will be calculated and addressed separately.
11. VA dentists and physicians will earn thirty days of annual leave per year. Non-duty days (weekends and holidays) will not count against that leave.
12. VA dentists and physicians will earn fifteen days of sick leave per year. Non-duty days (weekends and holidays) will not count against that leave.
13. All language referencing benchmarking salaries must be included in the actual legislative language, including all references to specific sources of income data as well as levels at which benchmarks will be set.
14. This statute will become effective immediately upon enactment.
15. The legislative language must specifically state that salaries of VA physicians and dentists will not be reduced, consistent with all other categories of VA employees.

The stated goals by the Department of Veterans Affairs are listed below and are clearly met by NAVAPD's alternative proposal:

- Compensation structure is simpler
- Compensation provisions are improved
- VA's ability to retain and recruit is enhanced
- Market forces are incorporated into the proposal
- Statutory limitations will not be outdated by time
- Compensation levels should not fall drastically behind those in the private sector and academia

In addition the NAVAPD alternative proposal addresses physicians' and dentists' goals as follows:

- There are guaranteed base salaries
- Individual formulation and calculation of salary structures are easily understood
- Updates are accomplished yearly
- Administrative abuse is largely prevented
- Already earned retirement benefits are protected
- All pay is used to calculate retirement benefits
- Leave schedules are aligned to more nearly mirror the private and academic sectors
- Provides inclusion of Federal Locality Pay
- No physician or dentist will lose pay
- Current judicial protections are retained
- Written employment contracts and vesting periods are eliminated
- Retirement only on specified anniversaries is eliminated

COMPENSATION COMPONENTS

A) Total Pay:

This will consist of two components: Base Pay and Market Pay

- 1. Base Pay--**Base Pay for VA physicians and dentists will be the equivalent of GS 15/10 including appropriate Federal Locality Pay. This tier will be adjusted each January by COLAs.
- 2. Market Pay--**
 - a) Medical and surgical specialists and sub-specialists will receive 90% of the Medical Group Management Association (MGMA) level in the same specialty at the 75th percentile.
 - b) Primary care physicians will receive 90% of the family practice physician level of the Medical Group Management Association (MGMA) at the 75th percentile.

- c) Dental specialists will receive 90% of the American Dental Association (ADA) average of private practice net income for dentists in the same specialty at the 75th percentile.
- d) General practicing dentists will receive 90% of the American Dental Association (ADA) average of private practice net income for general dentists at the 75th percentile.

B) Performance Pay:

VA physicians and dentists will be paid up to \$20,000 per annum for achievements in quality, productivity and support of corporate goals. A national panel to include physicians & dentists from the field will recommend definitions and pay levels for quality, productivity and corporate goals.