



May 16, 2018

The Honorable Phil Roe
Chair
Committee on Veterans Affairs
U.S. House of Representatives
Washington, DC 20515

The Honorable Tim Walz
Ranking Member
Committee on Veterans Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Roe and Ranking Member Walz:

On behalf of the American College of Physicians (ACP), I am writing in reference to the *VA Mission Act of 2018* (H.R. 5674), which was reported out of your committee on May 8th and is now slated for consideration by the full House of Representatives. Since many of ACP's physician members work and provide care within the Veteran's Health Administration (VHA), we would like to offer our feedback, recommendations and concerns on key aspects of this legislation, which is intended to streamline the VA's numerous community care programs into one cohesive program, among other purposes. We believe the VA's mission in trying to provide high quality, comprehensive, and timely care to veterans in their time of need and throughout their lifetime is of great importance, and we hope to engage with you further on these matters as well as on future policy reforms.

The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 152,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Overarching Views

ACP recognizes the important health care services that the VHA provides to this nation's military veterans. We support maintaining the integrity of this system of care and also ensuring adequate funding to allow the VHA to provide timely and high quality health care services. Furthermore, in the past, the College has supported the efforts of the Agency to better meet the growing health care needs of veterans through the Veterans Choice Program, which expanded the availability of medical and hospital services from community, non-VHA physicians and other health care professionals for veterans who qualify based on length of wait-list time (cannot access care within 30 days) or distance (must travel more than 40 miles) from VHA facilities.

We appreciate the fact that the *VA Mission Act of 2018* represents a bipartisan, bicameral agreement and comes at a time when funding for the VA Choice Program will soon be exhausted. That said, H.R. 5674 proposes sweeping, even transformational, reforms to the VHA that would consolidate and expand current options veterans have for receiving care outside of the VHA, and it would provide

temporary funding, \$5.2 billion, for the existing VA Choice Program until the new consolidated program (Veterans Community Care Program) is implemented. ACP's interest in this legislation is to ensure that veterans have access to timely, contiguous care across the spectrum of health care services, with coordination and management of that care in the hands of a primary clinician or clinical care team; that the expansion of care to non-VHA facilities does not come at the cost of maintaining or improving existing VHA services or infrastructure; and that recruitment and retention of clinicians to the VHA is valued appropriately, including reimbursement for services provided.

Eligibility for Non-VHA Care

H.R. 5674 would expand the eligibility of veterans to receive care outside of the VHA by going beyond the established Choice Program requirements of VA care not able to be provided within 30 days or at a VA facility within 40 miles. Rather, the Secretary of the VA would have broad discretion to determine eligibility based on the nature of the care or services required, the frequency of the care needed, whether the veteran faces excessive hardships with accessing care at VHA facilities, whenever quality measures are deficient at VHA facilities, or for any other consideration the secretary deems appropriate. This is of concern to ACP because the expansion of eligibility, which is broadly stated and even nuanced in the legislation, coupled with the unilateral discretion of the secretary to determine that eligibility could lead us down the pathway of completely outsourcing care at the VA to non-VHA facilities. ACP does not and would not support that. Giving such discretion to the secretary would also have the practical effect of limiting congressional oversight, which is of concern.

With this expanded eligibility, and the requirement that the VHA coordinate care for that veteran, it is also unclear to ACP what mechanisms are in place under the bill to ensure the bidirectional exchange of quality standards/measures and patient clinical information necessary for effective patient care between VHA and non-VHA physicians, other health care professionals and facilities regarding patients that receive services from both sources. ACP views those elements as critical to high quality patient care.

Payment Rates and Methodologies

This legislation would establish payment rates for community care as, "to the extent practicable," the Medicare rate. It would authorize the VA to pay higher rates in highly rural areas and, in Alaska; the Alaskan Fee Schedule would be followed. For states with All-Payer Model Agreements, the Medicare rate would be calculated based on the payment rates in those Agreements.

ACP agrees that the fee schedule employed within the new program should be commensurate with the Medicare payment schedule. However, it bears noting that while the existing Choice Program employs the Medicare rate, often times physicians are actually paid below that rate, which is problematic. Currently, the VHA pays intermediaries who in turn negotiate contracts with providers for less than the Medicare rate. ACP would urge that the VHA *and its agents/intermediaries* (emphasis added) be required to pay providers the full Medicare rate.

Claim processes should also be clearly defined and similar to those under Medicare, and operate under prompt payment or similar requirements, which H.R. 5674 appears to do. ACP is pleased that H.R. 5674 requires that Non-VA entities or physicians submit claims to the VA within 180 days of providing care

or services, an improvement over current law where payment of claims can and do often languish. This will ensure more timely payment to clinicians for their services.

Testing New Care and Payment Models

H.R. 5674 would establish a VA Center for Innovation for Care and Payment. The VA, acting through the Center, would be authorized to carry out such pilot programs as appropriate to develop new, innovative approaches to testing payment and service delivery models to reduce expenditures while preserving or enhancing the quality of and access to care furnished by the VA. The Center would be required to test payment and service delivery models to determine whether such models improve the quality of, access to, or patient satisfaction of such care and services, as well as the cost savings associated with such models. VA would be required to test models where the VA determines that there is evidence that the model addresses a defined population for which there are deficits in care leading to poor clinical outcomes or potentially avoidable expenditures. The VA would be required to focus on models expected to reduce program costs while preserving or enhancing the quality of or access to the care VA provides. Pilot programs would be authorized to last no longer than 5 years and the VA would be prohibited from carrying out more than 10 programs concurrently, and could not spend more than \$50 million per fiscal year.

ACP has been a strong proponent of testing new innovative models of payment and health care delivery under Medicare, as has been occurring under the Center for Medicare and Medicaid Innovation (CMMI). CMMI's mission is to test and expand innovative models of care in Medicare to better align physician payment to improve quality, cost-effectiveness, and patient-centered care. The Congressional Budget Office (CBO) has [concluded](#) that for every CMMI dollar spent, almost four are saved, reducing federal spending by about \$34 billion over 10 years.

To create a seemingly parallel Center for Innovation under the VA has the potential to reap benefits for veterans, clinicians, and the health care system as a whole if quality metrics and cost savings are achieved, but ACP does have some reservations about this approach as applied under the VHA. Our understanding of H.R. 5674 is that models tested in this new Center would be open to all veterans who meet the eligibility requirements for the models and that the VA secretary would have the authority to terminate any model that does not improve quality or reduce costs or conversely expand a model nationwide (through rule making) if similar quality/cost savings benchmarks are met. ACP appreciates that the legislation requires the secretary to consult with "clinical and analytical experts in medicine and health care management" in the testing of models. We certainly believe that our expertise and experience as clinicians can be helpful to the process. However, we again have concerns about the apparent unilateral decision-making authority of the secretary in carrying out this section as "final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise."

Funding and VA Infrastructure

ACP supports adequate funding to maintain and improve the VA infrastructure. Under the Bipartisan Budget Act of 2018, the VA was given a \$4 billion increase to its budget cap in order to address infrastructure needs. We are disappointed and concerned that the President's FY2019 budget proposes

using half that amount on community care and not for its intended purpose. While veterans' ability to access care in the community is important, and often necessary, it should not come at the cost of maintaining and improving the VA's vital infrastructure.

In conclusion, we appreciate the bipartisan effort that has been observed in the development of the VA MISSION Act. We look forward to working with you going forward on this very important matter, and hope to continue to provide the clinician perspective on VA health care reforms, as appropriate.

Sincerely,

A handwritten signature in cursive script that reads "Ana María López".

Ana María López, MD, MPH, FACP
President