

VA HOSPITALS ESTABLISHING LEADERSHIP  
 PERFORMANCE ACT

JULY 24, 2018.—Committed to the Committee of the Whole House on the State of  
 the Union and ordered to be printed

Mr. ROE of Tennessee, from the Committee on Veterans' Affairs,  
 submitted the following

R E P O R T

[To accompany H.R. 5864]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5864) to direct the Secretary of Veterans Affairs to establish qualifications for the human resources positions within the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 5864, the VA Hospitals Establishing Leadership Performance (VA HELP) Act, would require the Department of Veterans Affairs (VA) to establish qualification standards and performance metrics for human resources (HR) professionals working within the Veterans Health Administration (VHA). Representative Mike Bost of Illinois introduced H.R. 5864 on May 17, 2018.

## BACKGROUND AND NEED FOR LEGISLATION

The vast majority—88 percent—of VA employees work for the Veterans Health Administration (VHA), which manages and oversees the VA healthcare system.<sup>1</sup> VHA’s effectiveness is hampered by nationwide recruitment and retention issues that are worsened by an aging workforce that is becoming increasingly retirement-eligible.<sup>2</sup>

In recognition of this, Congress acted in section 301 of the Veterans Access, Choice, and Accountability Act of 2014 (P.L. 113–146) to require the VA Inspector General (IG) to identify and publish the five occupations of health care providers with the largest staffing shortages across VHA and authorize direct hiring authority to fill those shortages. The resulting reports, which have been released annually since 2014, found a consistent need for physicians, nurses, psychologists, physician assistants, medical technologists, and physical therapists.<sup>3</sup> Congress modified this reporting requirement in section 201 of the VA Choice and Quality Employment Act of 2017 (Public Law 115–46; 131 STAT. 958) to require the IG to identify both clinical and non-clinical occupations with the largest staffing shortages within each VA medical center. This was intended to allow for the improved identification of local staffing needs, which could vary significantly, as well as the improved utilization of direct hiring authority to address those needs. The modified report, which was released for the first time in 2018, found that physicians and nurses remained the top two most commonly cited clinical shortage occupations and that HR professionals were the most commonly cited non-clinical shortage occupation.<sup>4</sup> The IG also found several challenges to improved recruitment and retention across VHA, including a lack of qualified applicants, non-competitive salaries, high turnover, and geographic concerns such as urban areas with highly-competitive labor markets and rural areas with serious labor market shortages.<sup>5</sup> These findings are substantively similar to findings made in 2016 by the Commission on Care, which concluded that:

VHA has staffing shortages and vacancies at every level of the organization and across numerous critical positions, including facility leadership, clinical staff, supply chain per-

<sup>1</sup>VA Fiscal Year 2019 Budget Submission, Volume II—Medical Programs and Information Technology Programs, VHA–55.

<sup>2</sup>United States Cong. House Committee on Veterans’ Affairs Subcommittee on Health and Subcommittee on Economic Opportunity. “*Legislative Hearing*.” March 16, 2016. 114th Cong. 2nd sess. Washington: GPO, 2016 (testimony of Max Stier, President and Chief Executive Officer, Partnership for Public Service.)

<sup>3</sup>VA Office of the Inspector General 18–01693–196, June 2018, “OIG Determination of Veterans Health Administration’s Occupational Staffing Shortages,” <https://www.va.gov/oig/pubs/VAOIG-18-01693-196.pdf>.

<sup>4</sup>Ibid.

<sup>5</sup>Ibid.

sonnel, and customer service staff. VHA lacks competitive pay, must use inflexible hiring processes, and continues to use a talent management approach from the last century. A confusing mix of personnel authorities and position standards make staffing and management a struggle for both supervisors and human resources personnel.<sup>6</sup>

The Committee concurs with that assessment, as well as with the Disabled American Veterans' comment in testimony regarding this bill that, "[while] VA acknowledges the need for reforming its human capital management system . . . leadership has not always provided strong guidance, oversight, or resource support to carry out such reforms."<sup>7</sup> Given that, the Committee has become increasingly concerned in recent years that VHA HR professionals may not have the necessary qualifications to adequately fulfill their obligations. This concern has been compounded by several Committee investigations which found VHA HR professionals with sub-standard educational and professional backgrounds—including one HR Director at a VA medical center who lacked both a college degree and relevant work experience. Given the direct impact that staffing shortages have on VHA's ability to ensure timely access to quality care for veteran patients, the Committee believes that improving VHA's HR functions should be a priority for the Department. Accordingly, section 2 of the bill would require VA, within 180 days of enactment, to establish qualification standards and standardized performance metrics for HR positions within VHA. To ensure transparency and to aid the Committee in ongoing oversight of VA hiring, section 2 of the bill would require VA to provide such standards and metrics to Congress once they have been established and also require the Government Accountability Office to assess their quality and implementation and report to Congress with their findings.

#### HEARINGS

On June 13, 2018, the Subcommittee on Health conducted a legislative hearing on a number of bills including H.R. 5864.

The following witnesses testified:

The Honorable Vicky Hartzler, U.S. House of Representatives, 4th District, Missouri; The Honorable Marcy Kaptur, U.S. House of Representatives, 9th District, Ohio; The Honorable Matt Cartwright, U.S. House of Representatives, 17th District, Pennsylvania; The Honorable Clay Higgins, U.S. House of Representatives, 3rd District, Louisiana; The Honorable Mike Bost, U.S. House of Representatives, 12th District, Illinois; The Honorable Jeff Denham, U.S. House of Representatives, 10th District, California; The Honorable Jenniffer González-Colón, U.S. House of Representatives, Puerto Rico; The Honorable Brad Wenstrup, U.S. House of Representatives, 2nd District, Ohio; Roscoe Butler, Deputy Director for Health Care, Veterans Affairs and Rehabilitation, The American Le-

<sup>6</sup>Commission on Care, June 30, 2016, "Commission on Care Final Report," [https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/912/2016/07/Commission-on-Care-Final-Report\\_063016\\_FOR-WEB.pdf](https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/912/2016/07/Commission-on-Care-Final-Report_063016_FOR-WEB.pdf).

<sup>7</sup>United States Cong. House Committee on Veterans' Affairs Subcommittee on Health. "Legislative Hearing." June 13, 2018. 115th Cong. 2nd sess. Washington: GPO, 2018 (testimony of Jeremy M. Villanueva, Associate National Legislative Director, Disabled American Veterans).

gion; Jeremy Villanueva, Associate National Legislative Director, Disabled American Veterans; Kayda Keleher, Associate Director, National Legislative Service, Veterans of Foreign Wars of the United States; and Jessica Bonjorni MBA, PMP, SPHR, Acting Assistant Deputy Under Secretary for Health for Workforce Services, Veterans Health Administration, U.S. Department of Veterans Affairs, who was accompanied by Dayna Cooper MSN, RN, Director, Home and Community-Based Programs, Veterans Health Administration, U.S. Department of Veterans Affairs.

Statements for the record were submitted by:

American Orthotic and Prosthetic Association, Paralyzed Veterans of America, and Military Officers Association of America.

#### SUBCOMMITTEE CONSIDERATION

On June 27, 2018, the Subcommittee on Health met in open markup session, a quorum being present, and favorably forwarded H.R. 5864 to the full Committee.

#### COMMITTEE CONSIDERATION

On July 12, 2018, the full Committee met in open markup session, a quorum being present, and ordered H.R. 5864 to be reported favorably to the House of Representatives by voice vote.

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, there were no recorded votes taken on amendments or in connection with ordering H.R. 5864 reported to the House. A motion by Representative Tim Walz of Minnesota—the Ranking Member of the Committee on Veterans' Affairs—to report H.R. 5864 favorably to the House of Representatives was adopted by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are to improve the HR functioning across the VA healthcare system.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 5864 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 5864 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 5864 provided by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 18, 2018.*

Hon. PHIL ROE, M.D.,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5864, the VA Hospitals Establishing Leadership Performance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 5864—VA Hospitals Establishing Leadership Performance Act*

Within 180 days of enactment, H.R. 5864 would require the Department of Veterans Affairs (VA) to establish qualifications and performance metrics for each human resource position with the Veterans Health Administration. Within one year of enactment, the bill also would require VA and the Government Accountability Office to report to the Congress on the qualifications and standardized performance metrics for those positions. Based on the resources needed to address similar requirements, CBO estimates that implementing this bill would cost less than \$500,000 over the 2019–2023 period; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 5864 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 5864 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5864 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 5864 prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 5864.

## STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, H.R. 5864 is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 5864 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 5864 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee estimates that H.R. 5864 contains no directed rulemaking that would require the Secretary to prescribe regulations.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

Section 1 of the bill would provide a short title of the bill as the "VA Hospitals Establishing Leadership Performance (VA HELP) Act".

*Section 2. Qualifications for human resources positions within the Veterans Health Administration of the Department of Veterans Affairs*

Section 2(a) of the bill would require VA, not later than 180 days after the date of enactment of this Act, to: establish qualifications for each human resources position within the Veterans Health Administration; establish standardized performance metrics for each such position; and to submit to Congress a report containing such qualifications and standardized metrics.

Section 2(b) of the bill would require the Comptroller General of the United States, not later than 180 days after the establishment

of the qualifications and performance metrics under subsection (a), to submit to the Committee on Veterans' Affairs of the House of Representatives and the Committee on Veterans' Affairs of the Senate a report containing a description of the implementation of such qualifications and performance metrics and an assessment of the quality of such qualifications and performance metrics.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

If enacted, this bill would make no changes in existing law.

