

(13) COMMITTEE ON WAYS AND MEANS.—Mr. Neal.

Mr. CROWLEY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentleman from New York?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE DESIGNATION OF CERTAIN MINORITY EMPLOYEES

Mr. CROWLEY. Mr. Speaker, I offer a resolution and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the resolution is as follows:

H. RES. 8

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the six minority employees authorized therein shall be the following named persons, effective January 3, 2017, until otherwise ordered by the House, to-wit: Nadeam Elshanni, George Kundanis, Diane Dewhirst, Richard Meltzer, Wyndee Parker, and Drew Hammill, each to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-fifth Congress, as enacted into permanent law by section 115 of Public Law 95-94. In addition, the Minority Leader may appoint and set the annual rate of pay for up to 3 further minority employees.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FIXING THE DAILY HOUR OF MEETING OF THE FIRST SESSION OF THE ONE HUNDRED FIFTEENTH CONGRESS

Mr. SESSIONS. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 9

Resolved, That unless otherwise ordered, the hour of daily meeting of the House shall be 2 p.m. on Mondays; noon on Tuesdays (or 2 p.m. if no legislative business was conducted on the preceding Monday); noon on Wednesdays and Thursdays; and 9 a.m. on all other days of the week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REGARDING CONSENT TO ASSEMBLE OUTSIDE THE SEAT OF GOVERNMENT

Mr. SESSIONS. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That pursuant to clause 4, section 5, article I of the Constitution, during the One Hundred Fifteenth Congress the Speaker of the House and the Majority Leader of the Senate or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, may notify the Members of the House and the Senate, respectively, to assemble at a place outside the District of Columbia if, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS DURING THE 115TH CONGRESS

Mr. MCCARTHY. Mr. Speaker, I ask unanimous consent that, during the 115th Congress, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GRANTING MEMBERS PERMISSION TO EXTEND REMARKS AND INCLUDE EXTRANEEOUS MATERIAL IN THE CONGRESSIONAL RECORD DURING THE 115TH CONGRESS

Mr. MCCARTHY. Mr. Speaker, I ask unanimous consent that during the 115th Congress all Members be permitted to extend their remarks and to include extraneous material within the permitted limit in that section of the RECORD entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER MORNING-HOUR DEBATE

Mr. MCCARTHY. Mr. Speaker, I ask unanimous consent that during the first session of the 115th Congress:

(1) on legislative days of Monday or Tuesday when the House convenes pursuant to House Resolution 9, the House shall convene 2 hours earlier than the time otherwise established by the resolution for the purpose of conducting morning-hour debate;

(2) on legislative days of Wednesday or Thursday when the House convenes pursuant to House Resolution 9, the House shall convene 2 hours earlier than the time otherwise established by the resolution for the purpose of conducting morning-hour debate;

(3) when the House convenes pursuant to an order other than House Resolution 9, the House shall convene for the purpose of conducting morning-hour debate only as prescribed by such order;

(4) the time for morning-hour debate shall be allocated equally between the parties and may not continue beyond 10 minutes before the hour appointed for the resumption of the session of the House; and

(5) the form of proceeding for morning-hour debate shall be as follows:

(a) the prayer by the Chaplain, the approval of the Journal and the Pledge of Allegiance to the flag shall be postponed until resumption of the session of the House;

(b) initial and subsequent recognitions for debate shall alternate between the parties;

(c) recognition shall be conferred by the Speaker only pursuant to lists submitted by the majority leader and by the minority leader;

(d) no Member may address the House for longer than 5 minutes, except the majority leader, the minority leader, or the minority whip;

(e) no legislative business shall be in order except the filing of privileged reports; and

(f) following morning-hour debate, the Chair shall declare a recess pursuant to clause 12(a) of rule I until the time appointed for the resumption of the session of the House; and

(6) the Speaker may dispense with morning-hour debate upon receipt of a notification described in clause 12(c) of rule I, or upon a change in reconvening pursuant to clause 12(e) of rule I, and notify Members accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

ENSURING VA EMPLOYEE ACCOUNTABILITY ACT

Mr. ROE of Tennessee. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 27) to amend title 38, United States Code, to require the Secretary of Veterans Affairs to retain a copy of

any reprimand or admonishment received by an employee of the Department in the permanent record of the employee.

The Clerk read the title of the bill.
The text of the bill is as follows:

H.R. 27

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ensuring VA Employee Accountability Act".

SEC. 2. RETENTION OF RECORDS OF REPRIMANDS AND ADMONISHMENTS RECEIVED BY EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 719. Record of reprimands and admonishments

"If any employee of the Department receives a reprimand or admonishment, the Secretary shall retain a copy of such reprimand or admonishment in the permanent record of the employee as long as the employee is employed by the Department."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"719. Record of reprimands and admonishments."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. ROE) and the gentleman from California (Mr. TAKANO) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. ROE of Tennessee. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and add extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 27, the Ensuring VA Employee Accountability Act.

Mr. Speaker, one of my top priorities this Congress as the new chairman of the House Committee on Veterans' Affairs is to ensure we give the next Secretary of Veterans Affairs the tools he or she will need to swiftly and effectively discipline poor-performing employees at the VA.

I firmly believe that all other needed reforms are destined to fail if we don't help VA managers who are trapped in an antiquated civil service system to do their job.

Mr. Speaker, currently, if a VA employee is either reprimanded or admonished for their performance, all records of those administrative punishments are removed from the employee's personnel file within 3 years for a reprimand and 2 years for an admonishment.

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Subsequent to the removal of these personnel actions, there is no record of

their poor performance or acts regardless of how many different jobs they hold in the VA or how long they remain a VA employee.

Mr. Speaker, personnel policies and rules such as those we are addressing today permit a culture at the Department of Veterans Affairs that allows the misdeeds of a few to overshadow the good work done by the vast majority of VA employees. It is time we ensure that only the most ethical and qualified employees advance and retain positions of trust and service to veterans. One way to help advance that goal is to require VA to retain an employee's entire history in their personnel file, as H.R. 27 would do.

Now, no one is saying that employees can't improve their performance after being reprimanded or admonished, but managers should know the complete history of their staff or potential hires when they are determining who is best qualified for any given position. This is a commonsense reform that I hope we can all support.

As a reminder to my colleagues old and new, the bill before us today is identical to H.R. 1038, which passed the House during the 114th Congress. That bill, like this one, was introduced by my friend from Pennsylvania, Mr. COSTELLO. I thank him again for reintroducing this needed legislation, and I thank the majority leader and others for scheduling this important bill on the first day of the 115th Congress. I think it sends a message to our veterans that instilling a culture of accountability at VA is, and will remain, among our highest priorities. I urge all of my colleagues to join me in supporting H.R. 27.

Mr. Speaker, I reserve the balance of my time.

Mr. TAKANO. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the Ensuring VA Employee Accountability Act of 2017.

This bill requires VA to keep a permanent copy of an admonishment or reprimand in a VA employee's personnel file. Currently, an informal admonishment remains on a VA employee's record for 2 years, while a more serious written reprimand stays in the file for more than 3 years.

Maintaining a comprehensive record of VA employees' personnel files will allow VA managers to track their employees' improvement, or lack thereof, related to the specific problem addressed in the original complaint. This approach will increase transparency, allow VA managers to address problematic performance, and give VA employees a chance to improve.

Although I support this bill, I want to address concerns raised by the American Federation of Government Employees and include this letter in the CONGRESSIONAL RECORD.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO,

January 3, 2017.

Re H.R. 27, Ensuring VA Employee Accountability Act

DEAR REPRESENTATIVE: On behalf of the American Federation of Government Employees (AFGE), which represents nearly 700,000 federal employees, including 230,000 non-management employees of the Department of Veterans Affairs (VA), I strongly urge you to oppose H.R. 27, the Ensuring VA Employees Accountability Act. The bill is scheduled for floor consideration this week under suspension of the rules.

This bill would deprive every VA employee, including non-managerial employees, of the chance to clear his or her name after receiving an unjustified reprimand from a manager who is acting out of incompetence, bias, anti-veteran animus or whistleblower retaliation.

H.R. 27 would not increase accountability for VA mismanagement. However, it would deprive the 115,000 veterans in the VA workforce of the record expungement rights they had as military personnel. It would also deprive veterans in the VA workforce, and all VA employees, of second chances after they receive reprimands or admonishments early in their careers. If this bill is enacted, VA employees will no longer have any rights to expunge their personnel files even if the reprimands or admonishments were placed in their files decades ago.

In addition, this bill would have an adverse impact on agency operations and the VA's ability to recruit and retain a strong workforce. It would divert precious VA resources away from caring for veterans through an increase in wasteful litigation because the bill eliminates the use of an extremely efficient tool for settling personnel matters through Clear Record Settlement Agreements (CRAs).

CRAs give VA managers the flexibility to resolve routine personnel disputes efficiently and quickly without protracted litigation or destruction of the VA careers of front line employees, including large numbers of service-connected disabled veterans who provide medical care, clean operating rooms, process benefit claims, police VA facilities, and set cemetery headstones. The Merit Systems Protection Board (MSPB) stated in its 2013 report, Clear Record Settlement Agreements and the Law, that 95% of agency representatives resolved disputes using negotiated settlement agreements (NSAs) and 89% of these agreements involved CRAs.

Congress has received a great deal of testimony in recent years from brave whistleblowers and their labor representatives regarding the widespread management abuse of reprimands to punish employees and destroy their VA careers. Similarly, Congress has provided steadfast support to active duty personnel making the often-difficult transition to civilian employment, including VA support in the form of vocational rehabilitation, compensated work therapy, PTSD treatment, and programs to address homelessness and substance abuse.

H.R. 27 is at best ambiguous about the fate of veterans who leave VA employment for deployment and then seek to return to the VA workforce. Would reprimands that were placed in their personnel files prior to deployment still be visible to all potential VA employers reviewing the returning veteran's application?

In closing, AFGE urges lawmakers to reject this counterproductive assault on VA front line employees who are, too often, unfairly reprimanded by hostile, unsupportive and incompetent managers and human resources personnel.

Thank you for considering our views on this bill.

Sincerely,

MARILYN PARK,
Legislative Representative.

Mr. TAKANO. Mr. Speaker, I share these concerns and intend to work with my colleagues across the aisle and in the Senate to ensure that if this bill passes into law, the change will not adversely impact whistleblowers, the thousands of veterans employed by the VA, and the VA employees who work hard every day to support the needs of our Nation's veterans.

Whistleblowers and employees who face unlawful retaliation from managers should have the opportunity to clear their names before any proposed admonishments or reprimands are made permanent in their records. I also want to clarify that this bill should not be used to eliminate the VA's ability to enter into clear record settlement agreements with employees or get in the way of resolving personnel matters in an efficient manner.

In our efforts to enhance personnel policies at the VA, it is important that we remember that one-third of VA employees are veterans themselves, and many more have immediate family members who are veterans. Many of these employees are also hardworking doctors and nurses who want to provide quality care for their patients. These Federal civil servants want to do a good job in order to provide veterans the best possible service, and this bill should not be used by managers to intimidate or retaliate against these employees.

This bill simply requires VA to maintain a complete record of a VA employee's personnel file, a practice intended to increase transparency and ultimately improve outcomes for veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. COSTELLO), a very active member of the Committee on Veterans' Affairs and my good friend.

Mr. COSTELLO of Pennsylvania. Mr. Speaker, as we all are well aware, today begins a new session of Congress, with a new opportunity to chart a promising path for the future direction of our country.

While many Americans across the country remain very frustrated with what they feel is a giant, unresponsive bureaucracy that is not working for them, all Americans want to see VA care and services implemented properly.

Last session, Mr. Speaker, this Congress did make some reasonable progress legislatively to bring about reforming the VA, but more needs to be done. Some of our legislation which passed the House died in the Senate.

The bill I introduced and rise in support of today, the Ensuring VA Employee Accountability Act, is important for the following reasons: the bill requires the Department of Veterans

Affairs to maintain an up-to-date file of employee disciplinary actions throughout each employee's tenure at the VA.

Under current VA policy, disciplinary actions remain in an employee's file for only 3 years before they are deleted, preventing poor performers within the VA from being tracked or held accountable over the long term. This bill will ensure a complete record is kept and evaluated when a VA employee is considered for bonuses, promotions, or other career advancement.

I also want to be clear about this. This bill is fair to all VA employees, and a great many VA employees do very, very good work in caring for our veterans. This bill does not impose any new employee penalties or affect the existing due process rights for a VA employee to appeal a disciplinary action in any manner whatsoever.

The goal is simply to ensure our veterans are receiving the best possible care from our government and that these employees who do wrong or perform poorly do not have it swept under the rug and then disappear after a few years.

I thank the staff on the Committee on Veterans' Affairs for their work on this bill, especially Jon Clark and Kelsey Baron, and look forward to the leadership of Chairman ROE in this session of Congress.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. TAKANO. Mr. Speaker, I have no further speakers.

I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, once again, I encourage all Members to support this legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. ROE) that the House suspend the rules and pass the bill, H.R. 27.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BIOLOGICAL IMPLANT TRACKING AND VETERAN SAFETY ACT OF 2017

Mr. ROE of Tennessee. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 28) to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to adopt and implement a standard identification protocol for use in the tracking and procurement of biological implants by the Department of Veterans Affairs, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 28

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biological Implant Tracking and Veteran Safety Act of 2017".

SEC. 2. IDENTIFICATION AND TRACKING OF BIOLOGICAL IMPLANTS USED IN DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES.

(a) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 7330C. Identification and tracking of biological implants

"(a) STANDARD IDENTIFICATION SYSTEM FOR BIOLOGICAL IMPLANTS.—(1) The Secretary shall adopt the unique device identification system developed for medical devices by the Food and Drug Administration under section 519(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(f)), or implement a comparable standard identification system, for use in identifying biological implants intended for use in medical procedures conducted in medical facilities of the Department.

"(2) In adopting or implementing a standard identification system for biological implants under paragraph (1), the Secretary shall permit a vendor to use any of the accredited entities identified by the Food and Drug Administration as an issuing agency pursuant to section 830.100 of title 21, Code of Federal Regulations, or any successor regulation.

"(b) BIOLOGICAL IMPLANT TRACKING SYSTEM.—(1) The Secretary shall implement a system for tracking the biological implants described in subsection (a) from human donor or animal source to implantation.

"(2) The tracking system implemented under paragraph (1) shall be compatible with the identification system adopted or implemented under subsection (a).

"(3) The Secretary shall implement inventory controls compatible with the tracking system implemented under paragraph (1) so that all patients who have received, in a medical facility of the Department, a biological implant subject to a recall can be notified of the recall if, based on the evaluation by appropriate medical personnel of the Department of the risks and benefits, the Secretary determines such notification is appropriate.

"(c) CONSISTENCY WITH FOOD AND DRUG ADMINISTRATION REGULATIONS.—To the extent that a conflict arises between this section and a provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 or 361 of the Public Health Service Act (42 U.S.C. 262 and 264) (including any regulations issued under such provisions), the provision of the Federal Food, Drug, and Cosmetic Act or Public Health Service Act (including any regulations issued under such provisions) shall apply.

"(d) BIOLOGICAL IMPLANT DEFINED.—In this section, the term 'biological implant' means any human cell, tissue, or cellular or tissue-based product or animal product—

"(1) under the meaning given the term 'human cells, tissues, or cellular or tissue-based products' in section 1271.3 of title 21, Code of Federal Regulations, or any successor regulation; or

"(2) that is regulated as a device under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7330B the following new item:

"7330C. Identification and tracking of biological implants."

(c) IMPLEMENTATION DEADLINES.—

(1) STANDARD IDENTIFICATION SYSTEM.—The Secretary of Veterans Affairs shall adopt or