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COMMITTEE ON VETERANS' AFFAIRS

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Subcommittee Questions VA Prosthetic Contracting Practices

WASHINGTON, D.C. —Today, the Subcommittee on Oversight & Investigations (O&I) held an oversight hearing entitled, “Purchasing Perspective: VA’s Prosthetics Paradox.” VA’s prosthetic acquisition process has been under the Subcommittee’s microscope for more than a year. The Subcommittee today took aim at the abuse in prosthetic contracting, VA’s inability to audit prosthetic purchases, and a new policy for biologics, which sets the terms for the purchasing of biological-based medicines and procedures as prosthetic devices.

VA admitted having failed to adequately document purchases under Section 8123 of Title 38, which allows VA to purchase a prosthetic without competition and “without regard to any other provision of law.” Furthermore, VA’s testimony today contradicted a March 23, 2012, letter to O&I Chairman Johnson from VA Deputy Secretary Gould regarding the application of Section 8123 by VA purchasers. VA’s actions also neglect the efforts of veteran-owned small businesses who contract with the federal government.

“Our veterans coming home from battle deserve the best prosthetics treatment possible. It is the least we can do for our brave men and women who have lost limbs defending America’s freedoms and liberties. First and foremost, quality of care cannot, and should not, ever be compromised. But failing to document purchases under 8123, as acknowledged by VA, is a reckless use of taxpayer dollars,” stated Rep. Bill Johnson, Chairman of the Subcommittee on Oversight & Investigations. “To us on this Subcommittee, it appears as though the VA operates as it sees fit and abuses the system until attention is called to its operation.”

The Subcommittee also questioned fraud in acquiring prosthetic devices as [recently documented by the VAOIG](#). Johnson cited as a possible cause for abuse, resulting in millions of dollars being misspent or wasted, the expiration of VA’s “Prosthetics Simplified Acquisition Procedures Training” directive, which previously guided the limited use of Section 8123 for prosthetic contracting. First issued in 2003, the directive expired in 2008.

“An updated directive would probably have been useful over the last four years as VA increased its prosthetics spending by 80 percent,” Johnson said. “However, we have seen no such update, and have even learned from those in the field that VA’s Central Office has instructed VISNs to continue following it.”

In addition, VA recently informed the Subcommittee that a new policy places biologics in the same category as prosthetic devices. This policy invites more abuse in an already fraudulent-ridden contracting system.

“VA considers biologics under its lengthy and broad definition of prosthetics, so it could acquire biologics through Section 8123, as it clearly has been doing. This apparently means to VA that it does not have to follow Federal Acquisition Regulations (FAR), VA Acquisition Regulations (VAAR), or the Competition in Contracting Act,” said Johnson. “Therefore, is it any wonder VA is where it is today? We have these laws in place for a reason, but ignoring them is not one of those reasons.”

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