



H.R. 1994, as amended, the “VA Accountability Act of 2015,” Sponsored by Chairman Jeff Miller

What the Bill Does:

H.R. 1994, as amended, would provide the Secretary of the Department of Veterans Affairs (VA) increased flexibility in removing VA employees for performance or misconduct; would provide improved protections for whistleblowers including restricting bonus awards for supervisors who retaliate against whistleblowers; and would strengthen accountability and performance measures for VA Senior Executive Service (SES) employees.

Why the Bill is Needed:

Since the passage of the Choice Act last summer, the Committee has continued to uncover many instances of mismanagement or misconduct by VA employees. Some of these instances include: allegations of manipulation of disability claims data at the Philadelphia Regional Benefit Office; the continued construction failures of a new medical center in Aurora, Colorado that is now many years and hundreds of millions of dollars over budget; VA’s alleged \$2.5 billion shortfall for FY 2015; allegations of illegal use of government purchase cards resulting in the waste of billions of dollars annually; and many other examples of poor performance or misconduct. Throughout all of these incidents, it has become clear that VA often does not hold individuals appropriately accountable for their actions, and in the instances that they have tried to take disciplinary action against an employee, the process is so difficult and lengthy that such action rarely occurs.

A recent study done by the U.S. Government Accountability Office (GAO) found that on average, it takes six months to a year, if not longer, to remove a permanent civil servant in the Federal Government. This problem is epitomized by an example from 2014 where a VA peer-support specialist took a veteran who was an inpatient at the substance abuse clinic of the Central Alabama Veterans Health Care System to an off-campus location where he helped the veteran purchase illegal drugs and paid for the veteran to partake in other illicit behaviors. It took VA over a year to even begin removal procedures for this employee. Senior VA officials have also stated that the process for removing employees is too difficult and lengthy. At a full Committee oversight hearing on May 13, 2015, entitled, “Assessing the Promise and Progress of the Choice Program,” VA Deputy Secretary Sloan Gibson admitted that it was too hard to fire bad employees at VA.

Therefore, H.R. 1994, as amended, would:

- Expand the SES removal authority provided under the Choice Act to all VA employees;
- Allow employees to have seven days, after VA’s final decision, to appeal their removal or demotion to the Merit Systems Protection Board (MSPB), and an administrative judge from the MSPB would then have 45 days to complete an expedited appeal and render a final decision on the case. The outcome of this appeal would not be reviewable by any other entity or court. If the MSPB is not able to complete the appeal within 45 days, the Secretary’s decision would be final;
- Protect whistleblowers from retaliation by not allowing the Secretary to use this authority to fire employees who have filed a complaint with the Office of Special Counsel (OSC), or who have filed a complaint under the new whistleblower process also created by this bill, until their complaints are resolved and/or finalized;
- Limit paid administrative leave for all VA employees to only 14 days in a one-year time span;
- Extend the probationary period for all new VA employees from 12 months to 18 months; and
- Improve accountability for VA SES employees by developing more enhanced performance measures, and allowing the Secretary to reduce an SES employee’s retirement pension only upon their conviction of a felony that influenced their work performance