

United States Senate

June 10, 2014

The Honorable Sloan Gibson
Acting Secretary
Veterans Affairs Department
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Secretary Gibson,

I realize you are faced with the immense responsibility of initiating system-wide reform of the current bureaucratic disorder that runs rampant at the Department of Veterans Affairs. An aspect of the bureaucracy that must be improved moving forward is how this agency interacts with Members of Congress. U.S. Senators and U.S. Representatives routinely practice their Legislative Branch duty and right to oversee and question Executive Branch activities. Many federal agencies consider healthy tension between the Executive and Legislative Branches the norm, but this is also a relationship that must be nurtured and treated with mutual respect at all times. It has been my experience that Congress' relationship with the VA has deteriorated over time; I struggle to understand why this has happened and why it has become increasingly difficult to get answers on behalf of Kansans who seek my help to do so.

There are numerous issues and inquiries listed here that I would like to draw your attention to as we begin to build a constructive relationship with the best interests of veterans in mind. To that point, I would like to extend an invitation to you that I previously offered Secretary Shinseki. In April, I asked Secretary Shinseki to visit Kansas with me to see firsthand the struggles of veterans and VA facility employees in my state who want to renew their faith in the VA. There is considerable work to be done in the VA right now, so I understand that travel might be an unlikely prospect in the near future, but I trust that we might meet soon enough in my Washington, D.C., office to begin working together to improve the health and well-being of our veterans. I welcome the chance to work with you and I look forward to hearing your perspective to the following issues – issues I care deeply about and that impact veterans in my home state of Kansas.

Unauthorized Activities at VA Facilities in Kansas: On February 4, 2014, I met with the Director of the VHA Office of Rural Health to discuss rural health issues in Kansas. I took the opportunity during this meeting to ask about concerns regarding troubling incidents at the Leavenworth and Topeka VA Medical Centers and potential investigations at each facility. The VA Office of Legislative Affairs Liaison (OCLL) attending this meeting on Feb 4, 2014, Angela Prudhomme, advised that someone from the VA would be in touch with us on the status of

potential investigations at these facilities. My staff continued to follow up with OCLL in February, and on March 12, 2014, I questioned Secretary Shinseki directly about the nature of the emergency room closure at the Topeka Medical Center. The Secretary stated that we would receive an update about Topeka. My office did not receive follow-up from the VA whatsoever. This lack of response led to my question to acting VA Inspector General Richard J. Griffin during the Senate Veterans' Affairs Committee hearing on May 15, 2014, as to whether he was aware of any Office of Inspector General (OIG) investigations currently underway in Kansas. While Mr. Griffin stated he was unaware, I relayed the potential concerns at both Leavenworth and Topeka during our exchange. On May 18, 2014, Mr. Griffin's staff followed up to share that there were no current investigations underway but that an investigation at Leavenworth had been closed out due to insufficient evidence to corroborate allegations.

I am concerned about the truly comprehensive nature of OIG investigations at a time when VA employees are reluctant to share their experiences for fear of retribution. This ultimately hinders a thorough investigation regarding the full scope of allegations against a facility. In particular, I am troubled by the nature of the allegations that were assessed by the OIG in Leavenworth and Topeka.

We were told that the Topeka, Kansas, Colmery-O'Neil VA Medical Center Emergency Department (ED) closed in January 2014 due to alleged misconduct and malfeasance, yet the OIG did not investigate these accusations. The OIG queried how the Topeka ED had handled patient operations post-closure and when they would be able to reopen ED services. Instead, the OIG relied on the feedback from Topeka management that the ED closed due to staff shortages.

In a similar situation at the Leavenworth, Kansas, Dwight D. Eisenhower VA Medical Center, allegations of a VA employee threatening other employees on multiple occasions – including once with a firearm while on VA property – was not the nature of the OIG investigation. Instead, the OIG only looked into the allegation that someone brought a firearm to the VA facility. Because 14 individuals (their association with the VA facility is unknown) did not corroborate this allegation, the case was closed. The point is, if the OIG does not ask the appropriate questions their investigation may be flawed in accounting for the full scope of allegations against a facility. How their queries are formulated is fundamental to the credibility of an investigation.

The role of the OIG and investigations in Kansas have since become increasingly confusing and worrisome due to letters from the Veteran Integrated Service Network 15 (VISN 15) and the Director of the Wichita, Kansas, Robert J. Dole VA Medical Center on May 29, 2014, and May 30, 2014, respectively. I am inquiring with you about these specific admissions of wait lists in Kansas and how the VA will hold people accountable in a separate letter given the explicit impact these wait lists could have on veterans.

Liberal, Kansas, Community Based Outpatient Clinic (CBOC) and Provider Recruitment and Retention: For more than three years, the Community Based Outpatient Clinic (CBOC) in Liberal, Kansas, has been without a primary care provider. For nearly three years, I have asked the VA about this vacancy, when a provider might be hired at the Liberal CBOC and, more

broadly, how the VA intends to improve its methods for recruitment and retention of health care providers – especially in rural communities. On January 29, 2013, and April 11, 2013, I asked Secretary Shinseki in-person about this vacancy in Liberal, Kansas. My staff followed up in May and June 2013 seeking more information about how the VA intends to augment their recruitment and retention program to look for new ways to enhance the program and fill vacancies. In fact, we offered the notion of partnering with the Department of Defense on the possible recruitment of retiring service members in the medical corps to work at VA facilities in rural areas. The VA response included excerpts of Dr. Petzel's April 11, 2013, testimony and reference to a "rural workforce strategy," however, there was no explanation of what this strategy entails and when it would be implemented. I attended the April 11, 2013 hearing and asked about this very issue, so I was already well aware of the response he was provided in-person. Recycling statements from the hearing when queried for additional information is not sufficient to addressing this issue. Of note, Dr. Petzel speaks to an increase in the hiring of providers but gives no feedback when asked how many of those providers were hired in Kansas; my sense is the answer is none.

As of February 2014, two individuals were identified to fill the vacant position in Liberal, Kansas; unfortunately, a background check indicated one provider should probably not be practicing medicine altogether, and the other individual backed out of their commitment in Liberal for another CBOC in California. During the March 12, 2014, hearing with Secretary Shinseki before the Senate Veterans' Affairs Committee, I once again asked about the vacancy in Liberal, when it would be filled and, more broadly, how the VA intends to improve its methods for recruitment and retention of health care providers – especially in rural communities. I was disappointed that Secretary Shinseki offered a similar response to what he stated over one year ago: he was unfamiliar with the hiring status, but instead of addressing reform in the recruitment program given that the current strategy wasn't working, Dr. Petzel offered Telehealth as a means to treat veterans who are underserved at the Liberal CBOC. On April 28, 2014, I offered Secretary Shinseki a written invitation to come to Kansas with me and visit the Liberal CBOC because I felt a trip to our facilities would help to explain how our rural communities continue to be hit the hardest and have the greatest need for additional capacity. To date, I still have not received an explanation of how the VA intends to look for new ways to recruit and retain health care providers in rural communities, or information on when the Liberal CBOC will have a permanent provider to serve veterans in the area.

Mr. Gibson, rural veterans make up 41 percent of all veterans enrolled in the VA health care system, creating a vital need for health care access in rural areas. The VA's ability to recruit and retain health care providers must receive a fresh look, and changes must be made to increase the number of providers who serve rural veterans. Liberal is in need of such a provider and the veterans in the community deserve to know when a physician will arrive to treat them.

Wichita, Kansas, Dole VA and McConnell Air Force Base (AFB) Collaborative Project: This has been an ongoing issue of concern for more than seven years, and numerous requests for information – over the past 18 months in particular – have received non-answers or insufficient responses from the VA. On January 29, 2013, and April 11, 2013, I asked Secretary Shinseki in-

person for an explanation as to when the Dole VA/McConnell AFB collaborative project would be funded and constructed in Wichita, Kansas. My office has repeatedly sought answers to this question in the form of briefings, emails, phone calls and meetings. A meeting with Ms. Joan Mooney, Assistant Secretary for Congressional and Legislative Affairs, at the VA Central Office on November 4, 2013, resulted in a January meeting at the Dole VA with an official from VISN 15, Brandi Fate, to support the development of the Dole VA Strategic Capital Investment Plan (SCIP) submission for FY16. Beyond this action, there was no follow-up from the VA to my office regarding the future of this collaborative project, particularly as it relates the project's consideration for resources in FY15. I was caught off guard to see that the FY15 budget proposal and SCIP major construction list did not score or rank the Dole VA/McConnell AFB collaborative project, which ranked #196 in the FY14 SCIP. During the Senate Veterans' Affairs Committee hearing on March 12, 2014, I once again asked Secretary Shinseki about the future of this project and why it wasn't scored or ranked in the FY15 budget proposal. Given that the Secretary did not have an answer during the hearing, I sent the Secretary a follow-up letter asking for an explanation regarding the exclusion of this project, which was incidentally highlighted in a separate chapter of the FY15 budget proposal as one of six "future VA/DoD collaborative projects."

The response letter from Dr. Petzel on May 12, 2014, includes statements that are grossly inaccurate and demonstrate that little thought, oversight and documentation on this project was considered when crafting the response to me. For example, Dr. Petzel states that the Wichita VA submission for FY15 failed the validation process because cost data for only one valid alternative for new construction was provided when a minimum of three alternatives are required. VA should reference their own feasibility study that concluded the best, most cost-effective alternative was new construction on McConnell AFB. Three of the five alternatives were deemed "not viable." VA officials have stated time and again that new construction for a collaborative facility on McConnell AFB is not a matter of "if" but "when." This justifies a submission of cost data for one alternative of new construction because other alternatives have already been ruled out and deemed "not viable" by the VA.

Mr. Gibson, this project has been overlooked for one reason or another. I believe senior leaders must get involved to make certain the VA seeks opportunities to invest in collaborative capital assets with the DoD – such as medical facilities – that would support veterans and those currently serving our nation. I am concerned that internal VA processes, inattention and inconsistencies in staff work are having a negative impact on future-year collaborative projects that benefit service members, both past and present. I look forward to your assessment of this collaborative project and information on when the VA will proceed with funding and construction in Wichita, Kansas.

Access Received Closer to Home (ARCH) in Kansas: Since my days serving in the U.S. House of Representatives, I have advocated for the creation of Project ARCH (Access Received Closer to Home), a program aimed at serving rural veterans by giving them access to health care from a community provider close to home instead of traveling hundreds of miles to seek care at a VA facility. Since 2011, the ARCH pilot program has been operating in five rural sites – one of

those sites is Pratt, Kansas. We understand from independent analysis that more than 90 percent of veterans who received primary care services through ARCH were “completely satisfied,” and cited significantly shortened travel times to receive this care. At almost every opportunity when interacting with VA officials, I ask about this program and seek information about its operations and the future of serving veterans in rural areas as the pilot program is set to expire in September 2014.

Similar to the examples listed above, I asked Secretary Shinseki about the ARCH program several times in 2013. Members of my staff made similar inquiries with other VA officials during the same time period. At the Senate Veterans’ Affairs Committee hearing on March 12, 2014, I asked the Secretary to share the independent analysis detailing the operations of the ARCH program and what the Secretary may be considering to determine the future of the program. In response, the Secretary stated the report would be on his desk “by sunset” and shared with me thereafter. When the VA did not provide this information in the weeks following the hearing, we requested a briefing and delivery of the analysis as promised by the Secretary. VHA Office of Rural Health Director Gina Capra, along with other VA officials who conferenced-called in, spoke with my staff and SVAC staff on April 11, 2014, whereby analysis was not delivered as anticipated and a decision about the future of the ARCH program was still pending senior leadership review. Nearly three months later, I have still not received one piece of the analysis that was promised by the Secretary or any information about the future of the program, which remains in limbo as its September expiration quickly approaches.

What is most troubling is that the VHA seems to have already made a decision about the future of ARCH and has begun the process of informing veterans that they will no longer be able to access care from local providers through the program. I believe this information was purposely withheld from me and my colleagues. I am told by sources that on March 26, 2014 the national program director for ARCH directed the five pilot sites— following the SVAC hearing in March — to begin contacting veterans who participate in ARCH and explaining that the program would be ending. Instead of continuing to work with patients and connecting them with providers in their local area, VA employees at these pilots must report weekly to VHA about how many veterans they have called to inform of the program’s cancelation and the alternate plans to send them back to VA facilities. The VHA made an intentional decision not to inform Congress about their plans to discontinue and not extend this program. All along, the VHA has given us the impression that they were waiting on analysis about the success of the ARCH program to inform their decision about extending the program — a misleading storyline. I am enraged by this breach of trust because those who suffer from this irresponsibility are veterans.

Mr. Gibson, as the VA now looks for ways to “accelerate access to care” for veterans, I ask that you immediately utilize your discretion founded in the general contract authority of Title 38, Section 1703 to continue offering access to health care for rural veterans given the established care coordination with non-VA community providers and the many veterans who benefit from this program. For reasons I do not understand, the VHA is choosing — at VHA’s own initiative - to end this program despite the satisfaction communicated by veterans and independently assessed by Altarum. Project ARCH has been tested over the last three years and veterans are

worried the services they have become accustomed to will now be discontinued. While improvements to enhance care coordination can always be made, such as allowing non-VA providers to work directly with VA facility ARCH staff, you have a program that veterans appreciate and surveys prove they are satisfied with because of the increased access to care. Your effort to “accelerate access to care” for veterans should begin with continuing to utilize ARCH.

Dodge City Community College (DCCC) Helicopter Program: I sent a letter addressed to Secretary Shinseki on February 24, 2014, regarding the Dodge City Community College Helicopter Program (DCCC). The DCCC has received disparate responses from the Muskogee, Oklahoma, VA Regional Office and the St. Louis, Missouri, VA Regional Office on both the process and availability of GI Bill reimbursement for their flight instructor pilot program. The conflicting feedback between regional offices suggests a need for increased oversight from VA headquarters and better coordination not only between headquarters and regional offices, but also among regional offices themselves. I have yet to receive the response needed from Secretary Shinseki or another VA official to resolve this situation for the Dodge City Community College.

Mr. Gibson, I would be grateful if you could assist the Dodge City Community College and provide a response that addresses their concerns and resolves the disparity between the VA’s regional offices.

Marriage and Family Therapists (MFTs) and Licensed Professional Mental Health Counselors (LPMHCs): In 2006, Congress authorized the employment of licensed professional mental health counselors (LPMHCs) and marriage and family therapists (MFTs) by the VA. However, the two professions comprise less than 1 percent of the VA behavioral health workforce, despite representing almost 40 percent of the overall mental health workforce in the United States. On March 18, 2014, the VA provided a fact sheet to Capitol Hill regarding the coordination of the Departments of Veterans Affairs, Defense, and Health and Human Services in response to the President’s August 31, 2012, Executive Order to improve mental health care and treatment for veterans, service members and their families. The next day, on March 19, 2014, my office submitted six questions regarding mental health services for veterans and the hiring of mental health professionals in Kansas – specifically the hiring of MFTs and LPMHCs. For example, how many of the 1,723 mental health professionals who have been hired are positioned in Kansas? Although Tim Embree, Director of Congressional Outreach and Communications at the VA, immediately followed up to acknowledge receipt of these questions and handed them off to Angela Prudhomme as the head for the Health Team, no further correspondence was made. Two months later, my staff reached out to Mr. Embree and Ms. Prudhomme on May 13, 2014, as a reminder of these outstanding questions and we are still waiting on a response from the VA today.

Mr. Gibson, this is a classic example of our experience when interacting with the VA. Our questions and requests for information seem to fall through the cracks with repeated signs of carelessness and a lack of urgency to provide information to a U.S. Senator and Member of the Senate Veteran Affairs Committee. While some individuals within the VA are doing the best

they can, the bureaucracy and the manner in which our requests are handled are hindering your agency and only compounding our lack of faith in its ability to meet the needs of veterans.

Disclosure of Medical Conditions – Disability Compensation Review: On May 20, 2014, my staff requested information on the VA's policy regarding the disclosure of ailments or medical conditions discovered during a veteran's disability compensation review process that are unrelated to the condition(s) listed for review. I am concerned that as a matter of VA policy, veterans are not notified or disclosed of any condition identified by a health care professional during the disability compensation review process if a veteran does not list this condition on the disability compensation claim. When seeking health care, during an official VA review or otherwise, veterans should be made aware of conditions that affect them. It is troubling to think that veterans could be suffering from conditions or illnesses that haven't been disclosed to them because of a requirement preventing a health care professional from relying the information to a patient.

I received answers from the VA on this policy question on June 6, 2014, and unfortunately the response leads to more concerns about how veterans are being treated. Throughout the Disability Examination Procedure Guide and definition of Integrated Disability Evaluation System (IDES), the term "claimed condition" is referenced and noticeably absent is guidance on unclaimed conditions. Specificity is lacking and this lends to misinterpretation. I am particularly troubled that the following guidance could be used in a way that adversely impacts veterans: "As with the national (Compensation and Pension) C&P Program, C&P examinations are not intended to provide treatment or accomplish extensive evaluations that may be necessary to ultimately diagnose or even rule out more complex diagnostic decisions." As you have determined based on the evidence presented to you thus far, there are those who are lacking integrity and might take great liberty in this guidance by advising practitioners to refrain from diagnosing any condition that is not a claimed condition listed for the official exam. My staff has followed up with a few more questions to fully understand the nature of this policy and its impacts on veterans.

On behalf of veterans in Kansas with this concern, please advise as to whether this policy exists and explain why it was established. I would also ask that you look for ways to eliminate this policy to safeguard the health and well-being of veterans. If this is true, I'm fearful of how many veterans this has negatively impacted over the years.

Health Care Scheduling Prevented Beyond Six Months: On May 23, 2014, my staff requested information on an apparent VA policy that prevents a veteran from scheduling appointments beyond a 6-month window. Given that a wait time is typically months from the date a veteran calls to schedule an appointment, this unnecessary postponement extends the timeframe for a veteran to receive care and is yet another reason for unreliable data on actual wait times. Although this is a recent inquiry with the VA, and the well-intended staff person – Jon Coen – has notably been in routine communication with my office, I have yet to receive an answer regarding this nonsensical policy.

Mr. Gibson, this seems like a policy that should be removed immediately to allow veterans to schedule appointments in advance when and if they can.

The bureaucratic issues within the VA run incredibly deep and have been identified all across the country. I believe many of these problems stem from a lack of leadership and an attitude among senior leaders within the VA headquarters that accepts mediocrity and resists challenging the system. As evidenced by the requests outlined here as well as the long delays we have experienced waiting for answers to our questions on behalf of veterans, it is clear that change must begin at the top in order to institute change across the VA system as a whole. I am hopeful that individuals within the VA who do not grasp the importance of working with Congress on behalf of veterans will hear a different message from you than they have from the Secretary's office in the past. Otherwise, they will continue to put your agency at risk of fracturing an already fragile relationship with the Legislative Branch. I look forward to working together and serving veterans to the best of our ability.

Very Truly Yours,



Jerry Moran