Welcome to Federal Health Update. This newsletter is a compilation of the latest news in the federal health care sector.

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EXECUTIVE AND CONGRESSIONAL NEWS

- On May 24, 2018, the House passed H.R. 5515, the National Defense Authorization Act (NDAA) for Fiscal Year 2019. This is the 58th consecutive year that the House has passed the NDAA.
  

MILITARY HEALTH CARE NEWS

- Several military medical professionals were recently honored in Washington, D.C., at the 2018 Heroes of Military Medicine Awards, hosted by the Henry M. Jackson Foundation for the Advancement of Military Medicine.

Included among the honorees were:

  o Air Force Staff Sgt. Alyson Venegas, Senior Airman Linda Wilson, and Senior Airman Logan Bennett from the 99th Medical Group, 99th Air Base Wing, Nellis Air Force Base, Nevada were awarded the Hero of Military Medicine Ambassador Award for the selfless actions on the evening of October 1, 2017. At that time, a gunman opened fire at a country music festival in Las Vegas, killing 58 and wounding 489.
U.S. Representative Brad Wenstrup from Ohio’s 2nd District received the Hero of Military Medicine Senior Leader Award. Wenstrup, now a colonel, joined the Army Reserve in 1998. In 2005-2006, he deployed to Iraq as a combat surgeon. Currently, Wenstrup fulfills his Reserve duties treating patients at Walter Reed National Military Medical Center in Bethesda, Maryland.

Air Force Col. William Nelson received the Air Force Hero of Military Medicine Award. Nelson’s 27-year career has taken him across the world. He commanded the 39th Medical Operations Squadron at Ramstein Air Base, Germany, the Air Force’s largest overseas aeromedical squadron. At present, he executes strategy for the Air Force’s 711th Human Performance Wing at Wright-Patterson Air Force Base, Ohio.

Army Maj. Andrew Fisher received the Army Hero of Military Medicine Award. Fisher joined in 1992 as an infantryman. He is a second-year medical student at Texas A&M College of Medicine and also serves in the Texas National Guard as a physician assistant.

Navy Petty Officer 3rd Class Schuyler B. Nesbitt received the Navy Hero of Military Medicine Award. Nesbitt provided medical care on the USNS Comfort in Cuba, Colombia, Guatemala, Honduras, and Panama. He currently serves in the 1st Marine Division, where he deployed with the 31st Marine Expeditionary Unit.

On May 18, 2018, the U.S. Office of Federal Contract Compliance Programs (OFCCP) issued a directive (Directive 2018-02), announcing a two-year extension of the current moratorium on enforcement of federal contractor obligations based on TRICARE participation through May 7, 2021.

During the Obama administration, the OFCCP began to assert jurisdiction over health care providers based on their participation in TRICARE. The OFCCP reasoned that TRICARE providers were covered government subcontractors either because (1) they were providing supplies or services necessary to the performance of the direct contractors TRICARE contracts or else (2) had assumed or undertaken some portion of the direct contractors’ obligations under the TRICARE contracts.

Health care providers responded by objecting to the OFCCP’s assertion of jurisdiction leading to litigation between the agency and Florida Hospital of Orlando. In addition, Congress responded in 2011 by including a provision in the National Defense Authorization Act (NDAA) for Fiscal Year 2012 barring the OFCCP from asserting jurisdiction over a healthcare provider based on TRICARE participation:

Despite the clear congressional attempt to shut down further assertions of jurisdiction based solely on TRICARE, the OFCCP continued its efforts. Specifically, while the OFCCP admitted that the NDAA precluded it from asserting jurisdiction over TRICARE providers based on the second prong of the definition of a subcontract (assumption of a government contractor’s obligations), it argued that it could still assert jurisdiction based on the first prong of the definition (providing supplies or services necessary to the performance of a prime contract).

When the moratorium was set to expire in 2019, TRICARE participants had to decide in 2018 whether to start complying with the OFCCP’s rules in order to be prepared to possibly be audited in 2019. The two-year extension means that current TRICARE participants now have some additional time to decide whether to end participation in the program, come into compliance with the OFCCP’s rules, or be prepared to fight the agency over jurisdiction.

The new Directive also cites a GAO report documenting the “difficulties active-duty and retired service members and their families have accessing health care” and expressing a concern “that the continued uncertainty over the extent to which the E.O., Section 503, and VEVRAA apply to TRICARE subcontractors has contributed to this difficulty.”
VETERANS AFFAIRS NEWS

- On May 18, 2018, President Trump announced that he will nominate Robert Wilkie, the acting head of the Department of Veterans Affairs (VA), to be the next VA Secretary.

Prior to his current role at the VA, Wilkie was serving as undersecretary of defense for personnel and readiness. He previously served as assistant secretary of Defense during the George W. Bush administration. Prior to his first Pentagon tour, he was special assistant to the President for National Security Affairs and a senior director of the National Security Council under Dr. Condoleezza Rice. Wilkie also served as senior advisor to Senator Thom Tillis as well as being counsel and advisor on International Security Affairs to the Majority Leader of the United States Senate, the Honorable Trent Lott.

Wilkie is a reserve officer in the United States Air Force Reserve assigned to the Office of the Chief of Staff. Paul R. Lawrence has assumed the role of under secretary for benefits. A former Army captain and airborne school graduate, Laurence was a public sector vice president with Kaiser Associates. Previously, he held leadership positions with Ernst & Young, Accenture, the MITRE Corporation, IBM Business Consulting Services, and PricewaterhouseCoopers. Lawrence has a Master of Arts and Ph.D. in Economics from Virginia Tech, as well as a Bachelor of Arts degree in Economics from the University of Massachusetts, Amherst.

Thomas J. Murphy, currently the executive in charge of the Veterans Benefits Administration (VBA), will become the new VBA Midwest Area Director, in St. Louis, Mo. Prior to serving in the temporary position of Executive in Charge, Murphy was principal deputy under secretary for benefits in VBA.

Additionally, Margarita Devlin will become principal deputy under secretary for benefits in VBA. Until recently, she served as the executive director of VA’s Benefits Assistance Service (BAS). Devlin has served as executive director of Navigation, Advocacy and Community Engagement, executive director of Interagency Care and Benefits Coordination, and other positions in VA since 2003. She holds a master’s degree from the University of South Florida.

GENERAL HEALTH CARE NEWS

- The U.S. Department of Health and Human Services (HHS) issued a proposal to update the regulations governing the Title X family planning program, which focuses on serving low-income Americans.

The proposed update to the regulations ensures compliance with statutory program integrity provisions governing the program and, in particular, the statutory prohibition on funding “programs where abortion is a method of family planning.” (42 U.S.C. § 300a-6) The proposed update to the regulations, which were last revised 18 years ago, would also make notable improvements designed to increase the number of patients served and improve their quality of care.

The Title X program serves approximately 4 million people annually, and the proposed update seeks to ensure a holistic and health-centered approach; safeguarding the short and long-term family planning needs of more women, men and adolescents in need of services. It is important that individuals in low-income communities receive comprehensive family planning services and care that promotes the welfare of adults and youth.

Key elements of the proposed update include:
• Requiring clear financial and physical separation between Title X funded projects and programs or facilities where abortion is a method of family planning.
  
  o This separation will ensure adherence to statutory restrictions and provide clarity about permissible and impermissible activities for Title X projects.

• Improving program transparency by requiring more complete reporting by grantees about sub-recipients and other program partners and their Title X funded activities, to ensure quality provision of family planning services and compliance with statutory and regulatory requirements.

• Protecting Title X health providers so that they are not required to choose between the health of their patients and their own consciences, by eliminating the current requirement that they provide abortion counseling and referral. The proposal would not bar non-directive counseling on abortion, but would prohibit referral for abortion as a method of family planning.

• Protecting women and children who have experienced child abuse, child molestation, incest, sexual abuse, rape, intimate partner violence and trafficking by:
  
  o Requiring annual training for staff at Title X clinics and ensuring they have a site-specific protocol in place to protect victims.
  
  o Requiring compliance with State and local laws on reporting or notification of these crimes.
  
  o Providing counseling to minors on how to resist attempts to coerce them into sexual activities.

• Requiring clinics to encourage meaningful parent/child communication and, as required by federal law, encourage family participation in a minor’s decision to seek family planning services, giving practical ways to begin – and maintain – such communication.

• Maintaining the patient/doctor confidential relationship within the statutory requirements.

• Permitting individuals to qualify for Title X services if they are unable to obtain employer-sponsored insurance coverage for certain contraceptive services due to their employer’s religious beliefs or moral convictions.

• Providing high quality comprehensive family planning services to those currently unserved, while ensuring the integrity of the Title X program, consistent with statutory requirements.

To view the proposed update, please visit: https://www.hhs.gov/opa/title-x-family-planning/about-title-x-grants/statutes-and-regulations/index.html

• **The Health Resources and Services Administration (HRSA) Office of Information Technology won The American Council for Technology and Industry Advisory Council’s (ACT-IAC) award for its new Data Analytics Platform.**

  The Data Analytics Platform vastly speeds up the grant-making and management process for HRSA’s more than 3,000 grantees; improves financial accountability; enhances program integrity and oversight; and reduces human error and data silos.

  Led by HRSA’s Chief Information Officer, Adriane Burton, a team of 25 staffers took part in the project.

  The project was selected from 150 highly-technical exhibits submitted by agencies and organizations across the United States. A non-profit partnership first established in 1979, ACT-IAC assists government in using information technology to streamline operations. HRSA received the honor at ACT-IAC’s recent Igniting Innovation 2018 Conference – their annual event to identify best innovations to improve services to citizens and government.
REPORTS/POLICIES


HILL HEARINGS

- The Senate Committee on Health, Education, Labor, and Pensions will hold a hearing on June 12, 2018, to examine the cost of prescription drugs, focusing on examining the President's blueprint 'American Patients First' to lower drug prices.

LEGISLATION

- H.R.4245 (introduced May 22, 2018): The Veterans' Electronic Health Record Modernization Oversight Act of 2017 was referred to the Committee on Veterans' Affairs. Sponsor: Representative Timothy J. Walz [D-MN-1]

- H.R.5918 (introduced May 22, 2018): A bill to direct the Secretary of Defense to carry out a program on service dog training for members of the Armed Forces with post-traumatic stress disorder or other post-deployment mental health conditions was referred to the House Committee on Armed Services. Sponsor: Representative Carol Shea-Porter [D-NH-1]

- S.2904 (introduced May 22, 2018): A bill to require the Secretary of Health and Human Services to provide guidance to states regarding federal reimbursement for furnishing services and treatment for substance use disorders using telehealth services was referred to the Committee on Finance. Sponsor: Senator Thomas R. Carper [D-DE]

- S.2906 (introduced May 22, 2018): A bill to establish a permanent community care program for veterans, to improve the recruitment of health care providers of the Department of Veterans Affairs, to improve construction by the Department, and for other purposes was referred to the Committee on Veterans’ Affairs. Sponsor: Senator Joe Manchin, III [D-WV]

- H.R.3832 (introduced May 22, 2018): The Veterans Opioid Abuse Prevention Act was referred to the Committee on Veterans' Affairs. Sponsor: Representative Neal P. Dunn [R-FL-2]

The 2018 AMSUS Annual Continuing Education Meeting will be held on **Nov. 26-30, 2018**, at the Gaylord National Harbor, Md. [http://www.amsusmeetings.org/home-2/](http://www.amsusmeetings.org/home-2/)

If you need further information on any item in the *Federal Health Update*, please contact Kate Theroux at (703) 447-3257 or by e-mail at katetheroux@federalhealthcarenews.com.