

Congress of the United States

Washington, DC 20515

June 25, 2020

The Honorable Robert Wilkie
Secretary
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Wilkie:

Robert M. Levy, M.D., the former Chief Pathologist at the Department of Veterans Affairs (VA) Medical Center in Fayetteville, Arkansas, recently pled guilty in Federal Court to one count of mail fraud and one count of involuntary manslaughter after an investigation by the VA Office of Inspector General uncovered his scheme to hide his substance use problems and the effect those problems had on the care he provided to veterans. During the time of Dr. Levy's cover up, he misdiagnosed thousands of veteran patients with at least 15 dying under his care.

While these facts alone are troubling, more troubling is that, according to the indictment, Dr. Levy had previously reported to duty under the influence in March of 2016. While VA suspended Dr. Levy's privileges and proposed his removal "due to unprofessional conduct related to high blood alcohol content level while on duty," management rescinded his proposed removal and allowed Dr. Levy to return to duty after he completed an inpatient alcohol treatment program.

Medical professionals are not immune from substance use problems. We must balance our compassion for those battling substance use disorders with the fact that inappropriate substance use by medical professionals can have, as evidenced by Dr. Levy's case, catastrophic effects on patients. The failure to properly address substance use issues puts patients at risk and degrades trust in healthcare organizations. We commend the dedicated men and women at VA who have helped to increase VA's trust scores since 2017 to record levels.¹ VA must, however, not allow individuals like Dr. Levy to undermine the trust veterans have in the VA healthcare system or the hard work of the other VA employees.

Unfortunately, for too long VA did not adequately police itself. After several high-profile employee misconduct cases, Congress passed, and President Trump signed into law, the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 (Act). Section 101 of the Act established the Office of Accountability and Whistleblower Protection (OAWP) which, in relevant part, is tasked with advising the Secretary on matters of accountability and issuing recommendations and reports related to these matters. While we recognize that OAWP did not exist at the time Dr. Levy first reported to duty under the influence, it did exist when his scheme was uncovered. Therefore, we would like to know whether OAWP or any office within VA has performed an accountability review into Dr. Levy's

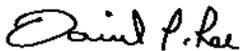
¹ <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5464>

case. Such a review would help identify missteps, gaps in policies or training, and lessons learned so VA can avoid similar occurrences.

Finally, the Act also authorized the Secretary to recover bonuses paid to certain employees and to reduce the annuity of employees convicted of felonies that influenced the individual's performance. Here, the indictment alleged that Dr. Levy received bonuses based in part on a misrepresentation of his error rate. Moreover, VA had employed Dr. Levy since 2005 and, given the length of his tenure and age, he may be eligible for an annuity. According to news reports, Dr. Levy faces a maximum sentence of 28 years in prison when sentenced. Therefore, we would like to know what actions VA has taken to recoup bonuses Dr. Levy received, whether Dr. Levy is eligible for an annuity, and, if so, whether VA has considered reducing his annuity.

We appreciate your commitment to accountability and we look forward to your response. If you have questions about this request, please contact Chris McNamee, Deputy Staff Director and General Counsel at (202) 225-3527.

Sincerely,



David P. Roe, M.D.
Ranking Member
Committee on Veterans' Affairs



Steve Womack
Ranking Member
Committee on the Budget