



DEPARTMENT OF VETERANS AFFAIRS
UNDER SECRETARY FOR HEALTH
WASHINGTON DC 20420

MAY 22 2009

Nancy Reissener
Acting Director (00)
VA Caribbean Healthcare System
10 Calle Casia
San Juan, PR 00921-3201

Dear Ms. Reissener:

I am responding to the issues raised in your memorandum of June 26, 2008, concerning the Unfair Labor Practice (ULP) charges filed by the American Federation of Government Employees (AFGE), Local 2408, relating to Compressed Work Schedules for the Dental Service at the VA Caribbean Healthcare System in San Juan, Puerto Rico.

Pursuant to delegated authority, I have determined, on the basis of the enclosed decision paper, that the issue presented involving the implementation of the CWS schedule for Dental service employees is a matter concerning or arising out of professional conduct or competence and is thus exempted from collective bargaining by 38 U.S.C. § 7422(b). The issues involving the notice regarding the termination of the CWS, which was provided to the employees prior to notifying the union, and the termination of the CWS schedule itself, are not matters concerning or arising out of professional conduct or competence and are within the scope of collective bargaining.

Please provide this decision to your Regional Counsel as soon as possible.

Sincerely yours,



Gerald M. Cross, MD, FAAFP
Acting Under Secretary for Health

Enclosure

Title 38 Decision Paper
VA Caribbean Healthcare System

VA – 09-0

FACTS

In May 2007, a new Dental Service Chief (Edgardo E. Quiñones, D.M.D., F.A.C.P.) was hired at the VA Caribbean Healthcare System (VACHCS) in San Juan, Puerto Rico. Upon surveying the state of the Service, Dr. Quiñones discovered that over 525 dental patients were not placed in the Electronic Wait List (EWL), and were instead placed on paper waiting lists.¹ Dr. Quiñones and the VACHCS Director had to develop a plan to decrease the Dental wait list. Dr. Quiñones decided to implement a Compressed Work Schedule (CWS) to address the shortages in capacity for Dental Services and to increase patient accessibility to dental care. (Attachment B)

On June 13, 2007, Dr. Quiñones met with Richard Camacho, President of the American Federation of Government Employees (AFGE and or union), Local 2408, to discuss the implementation of a volunteer CWS for Dental Service employees. (Attachment C) Dr. Quiñones explained that the CWS “is an answer for us to be more efficient in our operatory utilization and [to] deliver increase[d] patient care to our veterans and eligible patients. This is a temporary solution in addressing our shortage in dental capacity and to increase dental access to care.” (Attachment C, ¶ 4) The CWS would begin on July 8, 2008 and would be reviewed every six months. (Attachment C, ¶ 5)

On June 27, 2007, Mr. Camacho acknowledged receipt of Dr. Quiñones’ memorandum notifying him of the establishment of the CWS for the Dental Service. (Attachment D). The union accepted the June 19, 2007 memorandum, as a Memorandum of Understanding on the implementation of the CWS.

On July 6, 2007 an e-mail was sent on behalf of Mr. Quiñones to all dental staff to remind them of the start of the CWS. (Attachment E)

On November 6, 2007, Dr. Quiñones notified the Dental Service staff that the CWS would be terminated at the beginning of the first pay period in January 2008.

¹ A memorandum sent by William F. Feeley, Deputy Under Secretary for Health for Operations and Management, to all Network Directors required that “...all patients in dental Classification I-V...receive an initial screening exam within 30 days of application. Subsequent dental care is also to be carried out within 30 days of the desired appointment date. If these appointments cannot be attained within this timeframe, the veteran must be placed on the Electronic Wait List (EWL).” The goal was for all VISNs to have fewer than 50 veterans awaiting dental care for more than 30 days. (Attachment A)