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December 6, 2017

The Honorable David Shulkin  
Secretary of Veterans Affairs  
810 Vermont Avenue NW  
Washington, D.C.

Dear Secretary Shulkin,

In August 2016, VA fired Dr. Mohamed Eleraky, a physician at the Jackson VA Medical Center (VAMC). Unfortunately for Mississippi veterans, Dr. Eleraky appealed his firing to a Disciplinary Appeals Board (DAB) and won. VA reinstated Dr. Eleraky in April 2017.

Working with the VA, Congress passed important accountability reform legislation in August. However, this legislation – the Department of Veterans Affairs Accountability and Whistleblower Protection Act – did not address the full scope of the process necessary to removing VA physicians for clinical competence reasons. The circumstances of Dr. Eleraky's case and reinstatement demonstrate the need for further reform.

I support your ongoing effort to reviewing potential policy and legislative changes regarding the removal of unqualified physicians. As part of this process, I recommend that your review focus on the DAB, which serves as the appeals forum for physician clinical competence cases. A thorough review of the DAB is overdue: the DAB process was established in 1991, but has experienced only minor changes in the interim. From an organizational perspective, the DAB is comprised solely of physicians without any representation or input from the Medical Centers, the Veteran Integrated Service Networks, or the Veterans Health Administration (e.g., Office of the Principal Deputy Undersecretary for Health (PDUSH)). Additionally, from a process perspective, the DAB has rules of procedure – such as standards of proof and introduction of evidence – that may differ significantly from other appeals processes.

Please keep me updated as the policy and legislative review regarding the removal of unqualified physicians continues. I would also appreciate your confirmation that the review will examine the DAB, an issue that needs serious attention.

Sincerely,

