

FEDERAL PHYSICIAN



3

Only 793 out of over 20,000 Physicians Received PCA in FY 2015

5

VA and BOP can't fill all Physician Jobs

7

Will Federal Employees Lose Appeal Rights in 2017?

8

Bonus Limits Increased in 2017

What's In Store for Federal Employees in the Next Administration, Congress?

How the Trump Administration and Congress will address overall government revenue and spending priorities next year remains a huge question that could have ramifications for federal employees and retirees.

A government-wide hiring freeze (with exceptions for military, public safety and public health positions) could be imposed by Executive Order on January 20, the first day of the new administration. The Federal Physicians Association will be writing a letter to the President-Elect to advise the new Administration of the many agencies and federal physicians employed in public health positions throughout the government.

Budget cuts in 2017 could place Federal employee benefits at risk in a variety of ways, through legislation that:

- Increases employee retirement contributions, something that has already happened once for employees hired after January 1, 2013. Prior to

the date, federal employees contributed .08 percent of their pay to FERS and the government's share was 12.7 percent. Beginning in 2013, the employee share was increased to 3.1 percent and the agency share was decreased to 9.6 percent.

- Converts the government's contribution toward Federal Employee Health Benefit Program (FEHBP) premiums to a voucher system. Currently the federal government pays 70 percent of the cost of the FEHBP insurance; under one proposal the government share would start at a fixed amount, possibly \$6,100 for self only coverage, \$13,200 for self plus one and \$14,000 for family coverage. The end result would be that those enrolled in FEHBP would pay more for their health insurance.
- Bases retiree COLAs on the "chained" CPI which would reduce any annual COLA by .25 percent.

See **WHAT'S IN STORE** page 2

21st Century Cures Act Includes Provisions to Help Fill Positions

The President has signed the 21st Century Cures Act, a \$6.3 billion bill to "help modernize and personalize health care, encourage greater innovation, support research, and streamline the system." The 21st Century Cures Act provides \$1.75 billion annually for the National Institutes of Health (NIH) and \$110 million for the Food and Drug Administration (FDA) for the next five years and rescinds \$3.5 billion from the Prevention and Public Health Fund.

The bill includes \$1.8 billion for the cancer research "moonshot" championed by Vice President Biden, \$1.56 billion for the BRAIN Initiative, a project to create new technologies that will allow for comprehensive mapping of the human brain, and \$1.4 billion for the Precision Medicine Initiative, a project to collect genetic data on one million American volunteers that will be used to help develop new treatments.

President Approves 2.1 percent Pay Increase, Higher than Originally Proposed

In a year-end surprise, President Obama increased the size of the federal employee pay increase from 1.6 percent to 2.1 percent. The increase was largely due to Congressional action on the military pay increase which was set at 2.1 percent. The across-the-board pay increase will remain at 1 percent as originally proposed and the locality pay adjustments will increase from .6 percent to 1.1 percent.

Included in the 1000+ page bill are provisions affecting compensation and staffing:

- Section 714A of the bill allows the Secretary HHS to appoint qualified candidates to scientific, technical or professional positions at the Food and Drug Administration, Centers for Drug Evaluation and Research, Biologics Evaluation and Research and Devices and Radiological Health and fix the annual rate of pay for any

See **CURES ACT** page 2

WHAT'S IN STORE *from page 1*

- Reduce the G Fund payout in the Thrift Savings Program. In 2015, the House proposed changes to how interest is calculated for the G Fund which would have reduced the return to practically zero and use the savings for the Highway Trust Fund.

Pay changes being considered could include the elimination of relatively automatic within-grade increases for General Schedule employees and overall conversion to a system that is more performance-based. Vice President-Elect Pence is a major proponent of

CURES ACT *from page 1*

individual appointed under this provision, or personnel appointed to the centers before enactment of this section, at a rate not to exceed the annual rate of pay of the President (\$400,000 a year.)

- Replaces NIH's existing loan repayment programs for researchers with one program for intramural researchers with up to four subcategories and one loan repayment program for extramural researchers with up to six subcategories. It increases the maximum yearly loan repayment amount from \$35,000 to \$50,000 and allows the Director of NIH to better target the loan repayment programs to meet workforce or scientific needs related to biomedical research by eliminating loan repayment subcategories or by adding a limited number of new subcategories.

The bill Improves FDA and NIH scientists' ability to attend scientific conferences so they can keep up with the newest advancements in science and collaborate with one another. The bill provides for the appointment of directors of national research institutes and national centers. It specifies that directors have five-year terms, who may be reappointed at the end of a term, and clarifies that there is no

performance based pay. In addition, the House has already passed legislation to speed up the disciplinary process and limit federal employee appeal rights. The Republican platform at their convention in Cleveland said "...The inability of federal managers to discipline and dismiss, if necessary, problem staff members is an affront to every conscientious worker..." (See the related article on Federal Employee Appeal Rights on page 7.)

The Republican platform also said that: "The federal workforce is larger and more highly paid than ever. The taxpayers spend an average of \$35,000 a year per employee on non-cash benefits, triple the

limit to the number of terms that a director may serve. It increases the number of positions in the research service, allows increased salary, and changes the qualifications to include engineers so the service can serve FDA in addition to other HHS agencies. Requires FDA to publish a report on workforce planning that includes an analysis of the workforce needs at the FDA and a recruitment and retention plan for hiring qualified scientific, technical and professional candidates.

The bill would allow the FDA to rely on data summaries and "real world evidence" instead of hard clinical trial evidence when weighing the approval of existing drugs for new uses.

average non-cash compensation of the average worker in the private sector... We urge Congress to bring federal compensation and benefits in line with the standards of most American employees."

President-Elect Trump's nominee to be the Director of the Office of Management and Budget, Rep. Mick Mulvaney (R-SC) has a record of supporting spending cuts that affect federal employees. He has sponsored bills to reduce the size of the federal workforce and supports privatizing federal jobs, especially at the Transportation Security Agency. He also sponsored legislation to eliminate the federal transit benefit subsidy to pay for Hurricane Sandy relief funds.

The bill includes provisions aimed at improving mental health care for millions of Americans and fighting the opioid epidemic and includes \$500 million a year to help states prevent opioid misuse and get better treatment for addicts.

The bill establishes an Assistant Secretary for Mental Health and Substance Use to head the Substance Abuse and Mental Health Services Administration (SAMHSA) and establishes a Chief Medical Officer (CMO) within SAMHSA to assist the Assistant Secretary in evaluating and organizing programs within the agency and to promote evidence-based and promising best practices emphasizing clinical focus.



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FEDERAL PHYSICIANS ASSOCIATION

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Physicians Association and are not
Department or Agency positions.*

Annual Best Places to Work® in Federal Government Ranking Released

In the most recent Best Places to Work® survey, the Centers for Disease Control and Prevention ranked highest among agencies employing federal physicians, 51 out of 305 agency subcomponents. The Substance Abuse and Mental Health Services Administration ranked lowest, 302 out of 305 among agencies employing federal physicians.

The overall score is calculated using a proprietary weighted formula that looks at responses to three different questions in the Office of Personnel Management's Federal Employee Viewpoint Survey:

- I recommend my organization as a good place to work.
- Considering everything, how satisfied are you with your job?
- Considering everything, how satisfied are you with your organization?

Other rankings (out of 305) of agencies employing federal physicians were: the Food and Drug Administration (73),

Centers for Medicare and Medicaid Services (74), National Institutes of Health (77), Health Resources and Services Administration (97), US Army Medical Command (232), the Veterans Health Administration (235), Naval Medical Command (246), Indian Health Service (249), Office of the Secretary, HHS (267) and the Defense Health Agency (281).

Although the survey rankings include all occupations, agencies with a large number of federal physicians are dissatisfied with pay according to the results. Only the Health Research and Services Administration, the Centers for Medicare and Medicaid and the Centers for Disease Control and Prevention ranked in the upper half of agencies on pay. The Indian Health Service, the Defense Health Agency, the Veterans Health Administration, and the US Army Medical Command ranked in the bottom 10 percent of all sub-agencies on pay.

The 2016 Best Places to Work rankings include the views of more than 421,000 civil servants from 379 federal organizations on a wide range of workplace topics. This includes the views of 407,780 employees who completed the U.S. Office of Personnel Management's Federal Employee Viewpoint Survey.

According to Sirota, a survey research organization, the 2016 employee engagement score for private sector employees is 77.1 out of 100, representing a 17.7-point gap with the federal government. Only 12 federal agencies scored above the private sector average this year.

The Best Places to Work in the Federal Government® rankings, produced by the Partnership for Public Services and Deloitte, offer the most comprehensive assessment of how federal public servants view their jobs and workplaces, providing employee perspectives on leadership, pay, innovation, work-life balance and other issues.

Annual PCA Report Covers Less Than 4 percent of Federal Physicians

The annual report on agency use of the Physicians Comparability Allowance (PCA) states that of the 20,720 full-time permanent, non-seasonal civilian physicians employed by the federal government, 793 physicians received PCA payments. According to the report, the weighted average salary in FY 2015 (excluding the PCA) was \$150,104, while the weighted average of the PCA was \$24,593.

In FY 2015, the Department of Health and Human Services provided the PCA to 303 physicians; the average PCA

was \$22,410 and the average salary (not including the PCA) was \$152,446. Most physicians at HHS are research positions and are paid under title 42 or title 38 pay authorities. In FY 2015, the Bureau of Prisons provided the PCA to 321 physicians; the average PCA was \$26,461 and the average salary (not including the PCA) was \$145,037. The Johnson Space Center, NASA, paid PCA payments to 24 physicians in FY 2015; the average PCA was \$19,850 and the average salary (not including the PCA) was \$158,569. In FY 2015 the Department of State

provided PCA payments to 99 physicians; the average PCA was \$26,000 and the average salary (not including the PCA) was \$156,000.

Other agencies paying the PCA included the Environmental Protection Agency (4 physicians), Department of Labor (6 physicians), the Peace Corps (4 physicians), the Social Security Administration (2 physicians), the US Agency for International Development (8 physicians) and the Department of Veterans Affairs (11 physicians).

PRESIDENT *from page 12*

The list, while not comprehensive, shines a light on some of the Nation's civil servants' great and most lasting achievements over the past eight years.

Among the specific accomplishments cited by the president are:

Improving detection and tracing of foodborne outbreaks. The food supply is safer for consumers because of "GenomeTrakr," a first-of-its-kind network of labs using whole genome sequencing to detect and trace foodborne

outbreaks back to their source. Spearheaded by the Food and Drug Administration (FDA), GenomeTrakr promises to speed foodborne illness outbreak investigations and reduce foodborne illnesses and deaths.

DoD Releases Phased Retirement Policy

The Department of Defense released its policy on phased retirement (Directive-type Memorandum (DTM) 16-004—Phased Retirement) a human resources tool that allows retirement-eligible full-time civilian employees to request to work part-time while receiving a portion of their retirement annuity.

Who is Eligible for Phased Retirement

- a. A “retirement-eligible employee” is:
- (1) An employee eligible under the Civil Service Retirement System for an immediate retirement who has at least 30 years of service and is at least 55 years old, or who has at least 20 years of service and is at least 60 years old.
 - (2) An employee eligible under the Federal Employees Retirement System for an immediate retirement who has at least 30 years of service and has reached his or her minimum retirement age (between ages 55 and 57, depending on his or her birth

year), or who has at least 20 years of service and is at least 60 years old.

- b. Retirement-eligible employees must have been employed on a full-time basis for at least a consecutive three year period ending on the effective date of entry into phased retirement status.

Working Percentages and Established Hours

- a. Working Percentage. The phased retiree will work one-half the number of hours he or she worked as a full-time employee immediately before entering phased retirement. An authorized DoD Component official may approve a phased retiree working in excess of the 50 percent working schedule only in rare and exceptional circumstances meeting all of the following conditions:
- b. Established Hours. The phased retiree’s established work schedule is subject to any applicable agency policy and applicable collective bargaining agreement.

Phased retirees will mentor other employees for at least 20 percent of their working hours. DoD Components will establish mentoring guidelines to best fit their needs.

Employees meeting eligibility for phased retirement will complete and submit the Standard Form 3116, “Phased Employment/Phased Retirement Status Elections,” along with any appropriate documentation, to an authorized DoD Component official. An authorized DoD Component official must approve the application in writing and must establish a time limit for the period of phased retirement in accordance with Section 5 as a condition of approval, using DD Form 3018, “Phased Retirement Request and Agreement.”

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Guidelines Issued on Use of Social Media for Federal Employees

Federal employees need to be careful with how they use social media accounts, or they could find themselves in legal trouble according to The Office of Government Ethics (OGE).

OGE published a Standards of Conduct guide for social media that details how to use sites like Facebook or LinkedIn. Employees can use social media; however, there are restrictions for when and how.

For instance, going on Facebook while in the office or with a government-issued device is a bad idea. While not expressly forbidden, OGE referenced the law governing “official time” that requires employees make “an honest effort” to only perform work functions during working hours. That law also requires employees to

protect and preserve government devices for strictly work-related purposes.

Employees should also refrain from including their official titles on sites like Facebook or Myspace. OGE said including a title could accidentally imply a federal endorsement or sponsorship of some kind, or appear like an employee is using it for personal gain. Both of those violate federal employee conduct laws. However, there are instances where a title is appropriate. It needs to stay purely biographical in nature, for example, a list of previous or current job status. A person’s position in government is also a factor, as senior leaders and political appointees interact with the public on behalf of the agency or administration.

Endorsing friends or colleagues for a certain skill or talent is OK, said OGE. This is a common trait in sites like LinkedIn. In these instances, the circumstances imply a personal affiliation as opposed to a representation on behalf of the agency or administration.

Also, fundraising through social media is OK, as long as normal precautions are followed regarding these activities. Federal employees shouldn’t use social media to solicit funds from subordinates, and the endorsement of a particular non-profit needs to come from a personal angle. There shouldn’t be any doubt as to whether the employee is acting on behalf of their position or government organization.

Low Pay for Health Professional Results in Poor Medical Care in the Bureau of Prisons

Earlier this year, the Inspector General for the Department of Justice released a report that documented the shortfalls in medical staffing at the Federal Bureau of Prisons (BOP). The report said that competition, pay limits and geographic limitation limits the Bureau's ability to recruit and retain medical professionals.

The Federal Physicians Association has long advocated that the Bureau of Prisons adopt a modified title 38 (the pay system for physicians at the Department of Veterans Affairs) pay system similar to those in place for years at the Departments of Health and Human Service and Defense.

BOP is responsible for incarcerating federal inmates and is required to provide them with medically necessary health care. As of September 2014, the BOP had 3,871 positions to provide medical care, but only 3,215 positions were filled. The report found that only 24 of 97 BOP institutions had a medical staffing rate of 90 percent or higher as of September 2014 and 12 BOP institutions were medically staffed at only 71 percent or below, which the BOP's former Assistant Director for Health Services and Medical Director described as crisis level.

The report found that the salaries and incentives the BOP offers are not competitive with those of the private sector, particularly given the need for BOP to compensate its employees for the safety and security factors intrinsic to working in a correctional setting. The report found that in major metropolitan areas, the BOP's greatest recruiting challenge is attracting candidates that are also qualified to work in private organizations, such as hospitals and local medical centers. At the BOP's more rural locations, the report found that the remoteness of the institution often deters medical professionals.

The federal limits on pay and incentives that hiring officials can offer potential employees are a significant challenge for BOP institutions. BOP hiring officials said that the compensation offered is not enough to competitively attract or retain medical professionals. The report said this is especially true for the positions, such as doctors, pharmacists, and dentists, which are necessary to operate health units.

Using data from the BOP, OPM, and the Bureau of Labor Statistics (BLS), the report found that there is a large gap between the salaries the BOP pays its medical employees and those offered for similar positions in the local areas surrounding institutions. According to the report, the pay gap is 60 percent for physicians, 102 percent difference for pharmacists, and 133 percent difference for dentists. The private sector pays medical professionals who are not working in correctional settings significantly more than BOP civil service employees in the same positions, indicating that the salaries the BOP offers do not factor in the fact that its employees face inherent security risks associated with working in a correctional setting.

The BOP is one of the largest employers of physicians and dentists still using the Physicians Comparability Allowance (PCA) which allows the BOP to increase compensation by up to \$30,000 a year. The BOP received approval from the Justice Management Division and OPM to determine pay for psychiatrists using title 38, which increases an individual's pay up to a maximum of \$260,000 per year. However, BOP is still advertising vacancies for Medical Officers with a maximum pay of \$160,300 (not including the PCA.)

BOP officials said that additional funding would be required to extend title 38 pay to other professionals.

FPA has asked BOP for a status report on the problems with recruiting medical professionals.

The VHA Also Suffers from a Shortage of Physicians and Other Medical Personnel

Despite the authority to pay physicians up to \$400,000 a year, a September 2016 report by the Inspector General of the Department of Veterans Affairs, VHA continues to have serious problems in recruiting and retaining doctors, nurses and psychologists. The report followed an earlier report by the General Accountability Office which found that the rate of medical professionals leaving increased by 31 percent between 2011 and 2015.

VHA categorizes staffing losses into three broad categories—voluntary retirements, regrettable losses, and other losses. Regrettable losses are defined as those individuals who resign from the VA or who transfer to another government agency. Regrettable losses are staff that potentially could have stayed on at VHA and represent a missed opportunity for VHA to retain staff. The IG report indicated that Medical Officer regrettable losses represent 61 percent of the total losses in FY 2015, while 30 percent were due to voluntary retirement, and 8 percent from other causes.

Other than retirement, the primary reason cited for leaving, offered by 28 percent of those in exit surveys, was advancement and 21 percent said that dissatisfaction with certain aspects of the work, such as concerns about management and obstacles to getting the work done, was the primary reason they were leaving.

FY 2017 Budget Funded at FY 2016 Levels until April 28

Late on Friday, December 9, the Senate voted 63–36 to avoid a government shutdown and keep the federal government funded by a Continuing Resolution (CR) through April 28, 2017. The CR means that agencies will be forced to operate for seven months of FY 2017 at FY 2016 levels and absorb increased costs, such as the costs of the January 1, 2017 pay increase. The legislation also allows the incoming Trump Administration three months to work with Congress to implement President-Elect Trump's priorities.

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Will Federal Employees Lose Appeal Rights in 2017?

In October 2016, Rep. Todd Rokita, (R-IN) introduced the Promote Accountability and Government Efficiency Act to convert all federal employees into at-will workers which would have eliminated federal employee appeal and due process protections. Some members of the President-Elect Trump transition team support the idea that it should be easier to fire and discipline federal employees.

Protecting federal employee merit rights, including due process and appeal rights, is the job of the Merit Systems Protection Board (MSPB), an independent, quasi-judicial agency in the Executive branch. The mission of the MSPB is to “Protect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices.”

Another independent agency, the U.S. Office of Special Counsel (OSC) is an investigative and prosecutorial agency. OSC’s primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisals for whistleblowing.

An agency may implement an adverse action—up to and including removal—for such cause as will promote the efficiency of the service. Before an agency imposes a suspension for 14 days or less, an employee is entitled to: (1) an advance written notice stating the specific reasons for the proposed action; (2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer; (3) be represented by an attorney or other representative; and (4) a written decision and the specific reasons therefor at the earliest practicable date.

Before an agency imposes a suspension for more than 14 days, a change to lower grade, reduction in pay, or a removal action, an employee is entitled to: (1) at least 30 days advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific

reasons for the proposed action; (2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer; (3) be represented by an attorney or other representative; and (4) a written decision and the specific reasons therefor at the earliest practicable date.

The law also provides that for the more serious adverse actions, once the action has taken effect, the employee is entitled to file an appeal with the MSPB. U.S. Supreme Court has repeatedly held that, when a cause is required to remove a public employee, due process is necessary to determine if that cause has been met. However, at a minimum, due process includes the right to: (1) be notified of the Government’s intentions; and (2) receive a meaningful opportunity to respond before the action takes place.

As part of the Veterans Access, Choice and Accountability Act, the appeals process for fired Senior Executives was reduced to three weeks, but the Justice Department later ruled that the streamlined process was unconstitutional.

MSPB is responsible for ensuring that the federal workforce is free from prohibited personnel practices (PPPs). The twelve PPPs are:

- (1) Discriminating against an employee or applicant based on race, color, religion, sex, national origin, age, disability, marital status, or political affiliation;
- (2) Soliciting or considering any recommendation that is not job-related and based on personal knowledge of the employee or applicant;
- (3) Coercing the political activity of any person;
- (4) Deceiving or obstructing any person from competing for employment;
- (5) Influencing anyone from withdrawing from competition;
- (6) Giving an unauthorized preference or advantage to an employee or applicant;
- (7) Giving employment advantages to relatives;
- (8) Retaliating against employees or

- applicants for whistleblowing;
- (9) Retaliating against employees or applicants for filing an appeal, complaint, or grievance;
- (10) Discriminating based on personal conduct which is not job related;
- (11) Violating veterans’ preference requirements; and
- (12) Taking or failing to take any personnel action that violates any law, rule, or regulation directly concerning the merit system principles.

If a personnel action involves a prohibited personnel practice, regardless of whether the action is appealable to the Board, the employee may file a complaint with the Special Counsel, asking that the Special Counsel seek corrective action from the Board. Under the Whistleblower Protection Act of 1989, an individual who alleges that a personnel action was taken, or not taken, or threatened, because of “whistleblowing” may seek corrective action from the MSPB directly if the Special Counsel does not seek corrective action on his or her behalf.

An employee can file an appeal with the appropriate MSPB regional or field office having geographical jurisdiction, where an administrative judge issues an initial decision. Unless a party files a petition for review with the MSPB, the initial decision becomes final 35 days after issuance. Any party, or OPM or the Special Counsel, may petition the full MSPB in Washington to review the initial decision. The Board’s decision for review is final and constitutes final administrative action.

Most of the cases brought to the MSPB are appeals of agency adverse actions—removals, suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. The next largest number of cases involve appeals of OPM determinations in retirement matters. Other types of actions that may be appealed to the MSPB include: performance-based removals or reductions in grade, denials of within-grade salary increases, reduction-in-force actions,

See RIGHTS page 8

XXXXX from page 7

OPM suitability determinations, OPM employment practices (the development and use of examinations, qualification standards, tests and other measurement instruments), denials of restoration of reemployment rights, and certain terminations of probationary employees.

There are also additional jurisdictional issues when the employee is a member of a bargaining unit that has a negotiated grievance procedure covering any of the actions that may be appealed to the Board. In such instances, the employee normally must pursue a grievance through the negotiated grievance procedure. There are three exceptions to this general rule: (1) when the action is an adverse action or performance-based action; (2) when the employee raises an issue of prohibited discrimination

in connection with the action; and (3) when the employee alleges that the action was the result of a prohibited personnel practice other than discrimination. If any of these exceptions apply, the employee has the choice of using the negotiated grievance procedure or filing an appeal with the MSPB, but may not do both.

Approximately 2 million Federal employees, or about two-thirds of the full-time civilian work force, currently have appeal rights to the MSPB. Generally, employees who may appeal adverse actions and performance-based actions are those in the competitive service who have completed a probationary period and those in the excepted service with at least two years continuous service.

Probationary employees have very limited appeal rights. They may appeal a termination based on political affiliation

or marital status, and they may appeal a termination based on conditions arising before employment on the grounds that the termination was not in accordance with regulations.

Recently, the probationary period for DoD employees has been increased from one year to two years. There have been suggestions that the two-year probationary period be extended to all federal employees. A new Director of the Office of Personnel Management could play a leading role in potential changes to disciplinary practices, employee appeal rights, and pay and benefits

Employees and annuitants may appeal OPM decisions affecting entitlements under the retirement systems. Certain actions, such as OPM suitability determinations and OPM employment practices, may be appealed by applicants for employment.

Annual Defense Authorization Bill Creates New Leave Categories

The 2017 National Defense Authorization Act (S. 2943) includes the Administrative Leave Reform Act which caps the use of administrative leave at 10 days for cases of misconduct or poor performance. That bill creates new types of leave, investigative and notice leave, that agencies can use in 30 day increments. Extensions of these two new leave types of more than 90 days must be reported to Congress. The legislation is the result of a General Accountability Office (GAO) report that found agencies had placed 57,000 employees on administrative leave for more than a month between 2011 and 2013. The GAO report also found 263 cases where employees were paid not to work for over a year.

The bill gives OPM up to 270 days to issue rules on acceptable use of administrative leave—including for routine purposes such as weather- or safety-related reasons—and gives agencies up to another 270 days to change their records systems to better account for such leave.

VA Finalizes Rule that Expands Scope of Nurse Practice

The Veteran Affairs Department has finalized a rule that will allow advanced practice registered nurses to practice to their full authority at VA facilities, however the new permission will not expand to certified registered nurse anesthetists following lobbying from anesthesiologists.

Bonus Limits to Increase in 2017

The Office of Management and Budget (OMB) and the Office of Personnel Management (OPM) have announced an end to the freeze on the limits on bonuses that has been in effect since 2010. Agencies will be able to award bonuses totaling 1.5 percent of total salaries in 2017, up from the 1 percent limit. The OMB and OPM directive also removed the caps for other awards frozen at fiscal 2010 spending levels including group awards; referral bonuses; recruitment, relocation and retention incentives; and quality step increases. The administration also has raised the spending cap on senior executive and other senior-level bonuses in fiscal 2017, from 4.8 percent to 7.5 percent. Bonuses for political appointees remain frozen.

In Brief

President-Elect Trump's Transition Team Reaching Out to Federal Employee Groups

Leaders of federal employee unions and professional associations have been meeting with staff from the President-Elect's transition staff to understand the priorities and concerns of federal employees. FPA members who have issues, concerns or legislative ideas that they believe should be addressed by the new Administration should send their suggestions to staff@FedPhy.org with their ideas that can be considered by the FPA for forwarding to the Transition Team.

DOD Buyout Increases to \$40,000

Dozens, maybe hundreds of Defense Department employees lost the chance to pick up an extra \$15,000 because they took buyouts early in 2016. The employees received up to \$25,000 before deductions. That has been the standard VSIP (voluntary separation incentive payment) since the Clinton administration's major downsizing in the 1990s. The new \$40,000 buyouts, for now, are limited to Army, Navy, Air Force and Marine Corps civilian employees and end December 31, 2018. That could change and they could be extended to other agencies that now have buyouts capped at \$25,000.

Federal Background Checks to Include Social Media Postings

Earlier in 2016, Director of Intelligence James Clapper signed a policy allowing background check investigators to scan public social media postings as part of their assessment for new or renewals of security clearances. The policy means that clearance applicants or holders will have to consent to searching of information that has been broadcast or published for public consumption; is available to the public on request; is accessible online to the public; is available to the public by subscription or purchase; or is otherwise lawfully accessible to the public. Information turned up in those searches will be weighed under

the same standards that investigators use when deciding if and how to follow up information from other sources, such as document searches or interviews.

Starting a Career as Federal Physician with Extra Credit for Leave Accrual

Applicants for federal physician vacancies can earn more leave under the provisions of an Office of Personnel Management (OPM) regulation that provides credit for non-federal service for purposes of determining leave accrual. Under 5 U.S.C. 6303(e) a newly appointed or reappointed employee may receive service credit for prior non-Federal service that otherwise would not be creditable for the purposes of determining his or her annual leave accrual. Applicants need to check with the Human Resource Office before they are appointed to ask to earn the higher leave.

The determination to approve an employee's qualifying prior work experience must be made before the effective date of the employee's entry on duty and cannot be made retroactively. The authority to provide extra credit is discretionary—an employee has no entitlement to this credit.

This provision applies only to a newly-appointed employee or an employee reappointed following a break in service of a least 90 calendar days from the date of his or her last period of civilian employment in the civil service. The amount of service credit that may be granted to an employee is determined at the sole and exclusive discretion of the head of the office and the amount of service credited may not exceed the actual amount of service during which he or she performed duties directly related to the position to which he or she is being appointed.

One year Anniversary of the OPM Data Breaches

It has now been more than a year since the Office of Personnel Management (OPM) discovered that the background investigation records of 21.5 million current, former, and prospective federal employees and contractors had been stolen. Much of the hacked

information was highly sensitive, including Social Security numbers, fingerprints, and information on drug and mental-health histories.

Since the June 2015 breaches, the federal government has set in motion several plans to improve cybersecurity across the federal government. In January 2016, the White House announced a series of changes to strengthen the security and effectiveness of federal background investigations, including a proposal to establish a multi-billion dollar Information Technology Modernization Fund.

In addition, the White House has announced the establishment of a new agency to conduct federal employee background checks, with the help of the Pentagon. The National Background Investigations Bureau will conduct the roughly 600,000 annual background checks for new or renewed security clearances. The Defense Department will assume responsibility for storing sensitive information on federal employees before the end of 2016.

Also under consideration is the expansion of the 10 years of identity theft protections and credit monitoring to include medical identify theft protections.

Congress Passes Bill to Enhance Whistleblower Protection

Congress has passed legislation to extend federal contractor whistleblower protections to employees of: (1) personal services contractors working on defense contracts (currently, the protections apply to employees of defense contractors, subcontractors, grantees, or subgrantees); and (2) personal services contractors or subgrantees working on federal civilian contracts (currently, the protections apply to employees of civilian contractors, subcontractors, or grantees). The civilian contractor protections, which are currently in effect as a pilot program, are made permanent. The bill also extends the prohibition against reimbursement of legal fees incurred in defending against reprisal claims brought by whistleblowers to defense and civilian subcontractors and personal services contractors.

Federal Law Provides Authority for Agencies to Work With Federal Physicians Association

Although the Federal Physicians Association (FPA) is not a union and does not have the authority to bargain with agency management on pay or conditions of employment, there is a law that provides authority for professional associations and agencies to work together on a variety of issues.

P.L. 104-177 and 5 Code of Federal Regulations (CFR) Section 251 directs agencies to establish consultative relationships with professional associations on matters related to agency operations and personnel management. According to the CFR, "The purposes of consultation and communications are: the improvement of agency operations, personnel management, and employee effectiveness; the exchange of information (e.g. ideas, opinions, and proposals); and the establishment of policies that best serve the mission of the agency." The CFR allows agency heads to consult with professional

organizations on matters that are of interest to its members.

The CFR also outlines what types of support agencies may provide to professional associations when the agency determines that the action would benefit the agency's programs or would be warranted as a service to employees. The CFR outlines the types of support an agency may provide, which includes providing Government resources support (such as space for meetings, use of agency bulletin boards, internal agency mail distribution systems, electronic bulletin boards, and other means of informing agency employees about meetings and activities. Agency support to any organization is not to be construed as Federal sponsorship or endorsement of the organization or its activities.

Finally, the CFR also allows agencies to establish allotments for dues for professional associations.

FPA Seeking Candidates for Members of the Board of Directors/Agency Contacts

There are currently several vacancies on the Board of Directors for the Federal Physicians Association. Directors are required to participate in periodic Board meetings by conference call and to recruit colleagues to join the Association. FPA members who are interested in serving on the Board should call the FPA office, 1-877-333-7497 or send an email to staff@fedphy.org, to get more information or to volunteer to serve.

FPA Agency Contacts

In order to keep members of the Federal Physicians Association informed of actions or issues affecting federal physicians, and to make sure federal physicians are made aware of FPA's activities, FPA is developing contacts in all agencies employing federal physicians. The goal is to have an FPA contact in each NIH institute, at each Indian Health Service hospital, at each DoD installation, etc.

FPA members interested in serving as agency contacts should contact the office at 1-877-333-7497, or staff@fedphy.org.



Premiere Professional Liability Insurance



Professional Liability Insurance for Federal Physicians

FEDS PLI covers the exposures that make Federal Physicians vulnerable to:

- Administrative Investigations
- State Medical Board Investigations & Proceedings arising out of the performance of your federal duties
- Disciplinary Actions
- Criminal Investigations
- Civil Lawsuits/Bivens Actions for alleged violations of a patient's constitutional rights

FEDS \$1,000,000 Annual Policy

\$290

Some physicians (and all physicians classified as mgrs & supervisors) are eligible for agency reimbursement up to half the cost for a net premium of

only \$145

FEDS also offers a \$2,000,000 policy for \$390.

There is a reason this coverage is available and affordable to all federal employees. Obtaining counsel or representation experienced in federal matters - after a claim is made against you - will cost many multiples of our annual premium!

**Call the FPA or visit our website at www.fedsprotection.com for more information or to enroll today!
You can even enroll by phone at 866-955-FEDS with payroll deduction available.**

Welcome New FPA Members

David Blaney	Centers for Disease Control and Prevention	Preventive Medicine
Deborah Cornell	Indian Health Service	Family Medicine
Logan Grady	Bureau of Prisons	Psychiatrist
Stephen Hoey	Bureau of Prisons	Internal Medicine, D.O.
Damien Luviano	Dept of Veterans Affairs	Ophthalmology
Linda Maddox	Dept of Veterans Affairs	Preventative Medicine
Victor Pace	Veterans Health Administration	Family Medicine

Reasons to Join the Federal Physicians Association

- You will be member of a professional association of physicians whose number one priority is to be an advocate for federal physicians before federal agencies and the Congress.
 - You will be part of an association that includes physicians working to: find cures for heart disease, cancer and diabetes, protect the safety of food and drugs, prevent diseases and promote health and provide medical care to America's Veterans, Defense and State Department employees and Native Americans. *No individual physician will have the influence of this partnership of physicians.*
 - You will belong to the association that is working to eliminate pay inequities between physicians with the same experience, specialty and who work in the same geographic area.
 - You will have access to the latest developments affecting federal physician pay and benefits.
 - You increase FPA's influence in the agencies and Congress to accomplish changes you want for you and your colleagues.
- Complete the application below and mail to FPA or join on the secure website at www.join.fedphy.org.



Federal Physicians Association Membership Application

Name: _____ Office Phone: _____
last first

Address: _____ Email: _____
street

Address: _____
city state zip

Agency: _____ Medical Specialty: _____

Grade: _____ Yrs Service: _____ Type Pay System: _____ Total Pay: _____
*PCA, T38, PDPP

Annual: \$100/year \$185/2 years Check enclosed payable to FPA

Amex MasterCard Visa Account Number: _____ - _____ - _____ Exp Date: _____ / _____

Mail to: FPA, 5868 Mapledale Plaza, Suite 104, Woodbridge, VA 22193
 May we print your name as a new member in the newsletter? yes no

50% of dues is attributable to nondeductible lobbying activity and is therefore not deductible under Internal Revenue Code Section 162 as an ordinary and necessary business expense.

1ST QUARTER 2017



Federal Physician

5868 Mapledale Plaza, Suite 104
Woodbridge, VA 22193

President Praises the Accomplishments of Federal Employees

The White House recently released the following statement summarizing the contributions federal employees make to the nation.

“So whatever or whoever inspired you to join public service; whether you’re a young person who just signed up because you want to make a difference, or a career employee who has dedicated your life to that pursuit—I want you to know that it has been my privilege to call you my colleagues. This precious experiment in self-government only works when we have selfless citizens like you.”

— President Barack Obama

The White House statement also said:

Our Nation’s civil servants are making Government smarter, faster, and more responsive to the needs of the American people. They’re partnering

with leaders and advocates from State and local levels to help ensure the voices of the American people are heard. They’re finding ways to process health benefits applications for disadvantaged tribal populations more efficiently and effectively, and making important strides in ending veterans’ homelessness. They’ve worked to swiftly transport American aid workers with Ebola to the United States for life-saving treatment, and helped engineer a new spacecraft that could carry humans farther into space than we’ve ever seen before. They run airports and embassies, take care of troops and their families, defend the Nation’s borders, make sure roads and railways are designed and built safely, and advance the frontiers of science and innovation.

America’s Federal workforce relentlessly pursues the mission of bringing

lasting change to the lives of ordinary people across America, often at great personal sacrifice and in the toughest of circumstances—including a politics that does not always fully recognize the value of their work.

Today, the President issued a video message thanking Federal employees for their service, and recognizing the enormous difference they make in the lives of Americans. To celebrate the accomplishments of the Federal workforce, today the Administration is releasing a list of examples demonstrating the impact Federal employees have had in making Government work better for the American people, whether by leveraging technology, helping local leaders realize their goals and visions, advancing the frontiers of science and innovation, increasing access to opportunity for all, or driving efficiency in Government operations.