STATEMENT OF
TIFFANY ELLETT
VETERANS AFFAIRS & REHABILITATION DIVISION DIRECTOR
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON HEALTH
COMMITTEE ON VETERANS' AFFAIRS,
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"VA's FEDERAL SUPREMACY INITIATIVE: PUTTING VETERANS FIRST?"

SEPTEMBER 19, 2023

Chairwoman Miller-Meeks, Ranking Member Brownley, and distinguished members of the Committee, on behalf of our National Commander Daniel Seehafer and our 1.6 million members, The American Legion thanks you for the opportunity to offer this statement on VA's Federal Supremacy Initiative. The American Legion is directed by active Legionnaires who dedicate their time and resources to serve veterans and their families. As a resolution-based organization, our positions are guided by more than 104 years of advocacy that originates at the grassroots level. Every time The American Legion testifies, we offer a direct voice from the veteran community to Congress.

The Authority of VA Professionals to Practice Health Care rule became effective on November 12, 2020.[1] This rule was issued to "confirm that its [VA] healthcare professionals may practice their healthcare profession consistent with the scope and requirements of their VA employment, notwithstanding any State license, registration, certification, or other requirements that unduly interfere with their practice." This rulemaking also confirmed VA's authority to standardize the scope of practice for healthcare professionals in all VA facilities through a set of national practicing standards. As these national standards of practice (NSP) started to unfold, the veteran advocate community became concerned about how NSP would be researched, developed, approved and implemented. Over the last three years, The American Legion has been in communication with multiple offices within VA in an attempt to understand the NSP and to ensure that quality of care remains at the center of VA's process.

According to the November rule, VA has operated as a national health system that authorizes VA healthcare professionals to practice in any state as long as they have a valid license, registration, certification, or fulfill other state requirements in at least one state. In doing so, VA healthcare professionals have been practicing within the scope of their VA employment regardless of any state requirements that would restrict practice across state lines. The rule highlights VA's acute need to exercise its statutory authority of allowing VA healthcare providers to practice medicine across state lines, move these individuals quickly across the country to care for veterans and other

[1] Authority of VA Professionals To Practice Health Care, 85 Fed. Reg. 71838 (Nov. 12, 2020) (Interim Final Rule). https://www.federalregister.gov/documents/2020/11/12/2020-24817/authority-of-va-professionals-to-practice-health-care

beneficiaries, and not have state licensure, registration, certification, or other requirements prohibit such actions. VA has also shared that NSP would provide additional protection against adverse state actions when healthcare providers practice within the scope of their VA employment, particularly when practicing across state lines.[2] To that end, the following concerns have been brought to our attention by both veterans and medical professionals:

1. The scope of practice for some occupations are only allowed in a minority number of states.
2. VA will arbitrarily set the standards without appropriate input from stakeholders.
3. The lowest common denominator across states will be used to define the standards.

These concerns are specifically focused on the occupations involved in surgical services. Members of the anesthesiology, dentistry, orthodontics, and ophthalmology communities, some of whom are veterans and some who are VA employees, have expressed concerns to us about the scope of practice for health providers, within adjacent occupations, expanding beyond evidence-based best practices in the medical community. As a response to this concern, The American Legion conducted an independent third-party survey of 1,400 veterans between February and April focusing on veteran health care preferences. See Exhibit 1.

Initial findings show that 91 percent of veterans agree that they should receive at least the same quality surgery as at top-rated civilian hospitals. Additional findings identified that 71 percent of veterans believe that VA will have a different standard of care if nurse anesthetists replace physician anesthesiologists. The American Legion, through Resolution No. 3: *The American Legion Policy on Non-Surgeons Performing Invasive Eye Surgery Within The Department of Veterans Affairs,* supports of the concept of "surgery by surgeons" within the VA eye care arena in order to provide veterans with the highest possible quality of surgical eye care available, and for VA to ensure only medically trained surgeons perform invasive eye surgery on America's veterans.[3] Furthermore, through Resolution No. 19: *Physician-led Health-Care Teams,* The American Legion calls for VA to utilize the practice of physician-led medical teams, when appropriate, in VA's delivery of healthcare services to veterans.[4] Both resolutions are focused on support of VA providing the highest quality and safest healthcare services for our nation's veterans.

Given the concerns of medical providers, veterans, and other organizations within the veteran community, The American Legion would be remiss not to state our concern about improper expansion or restriction of a healthcare provider's scope of practice through the establishment of NSP. Through Resolution No. 20: *National Standards of Practice*, The American Legion calls on Congress to provide oversight and accountability efforts, including the Office of the Inspector General and the Government Accountability Office, over the implementation of the NSP process and outcomes.[5]

---

[2] "VA National Standards of Practice," Last updated: August 11, 2023, https://www.va.gov/STANDARDSOFPRACTICE/faq.asp

[3] The American Legion Resolution No. 3 (2006): *The American Legion policy on non-surgeons performing invasive eye surgery within the Department of Veterans Affairs*. https://archive.legion.org/node/3032

[4] The American Legion Resolution No. 19 (2022): *Physician-led Health-Care Teams*. https://archive.legion.org/node/14057

[5] The American Legion Resolution No. 20 (2022): *National Standards of Practice*. https://archive.legion.org/node/14058

For The American Legion to fully support VA's NSP initiative, VA must ensure:

1. Healthcare providers are held to the level of licensure and certification requirements that are held by the majority of states.
2. The evaluation and application of NSP is consistent with providing the best care possible to veterans.
3. Necessary stakeholders, including professional medical associations, are able to provide input at all phases of the development and implementation process of NSP.

Chairwoman Miller-Meeks, Ranking Member Brownley, and distinguished members of the Committee, The American Legion thanks you for your leadership and for allowing us the opportunity to share the position. For additional information or questions, please contact John Kamin, Senior Legislative Associate, at (202) 263-5748 or jkamin@legion.org.

EXHIBIT 1

AMERICAN LEGION

American Legion
National Survey on Veterans' Care Preferences

Key Findings
September 18, 2023

DEMOGRAPHICS:

Demographics		Definition of audience	Total (%)
U.S. Veterans (%)		All 2023 Veterans interviewed (n=1400)	100
Branch of Service	Army	Army Veteran	43
	Navy	Navy Veteran	19
	Air Force	Air Force Veteran	18
	Marine Corps	Marine Corps Veteran	11
	National Guard	National Guard Veteran	7
	Coast Guard	Coast Guard Veteran	2
Race/Ethnicity	Wht	Considers self white	73
	Blk	Considers self Black / African American	11
	Hisp	From Hispanic/Latino origin or Latin American background	10
Gender	M	Male	83
	F	Female	17
Age	<35	Age 23-34	10
	35-49	Age 35-49	23
	50-64	Age 50-64	29
	65+	Age 65-74	22

	75+	Age 75+	16
Region	Northeast	Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Washington D.C.	16
	Midwest	Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, Wisconsin	22
	South	Virginia, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas	41
	West	Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming	22

FINDINGS:

The following is a question-by-question analysis of the national veterans' survey findings including key sub-groups.

1. Are you enrolled in VA healthcare?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Yes	59	58	61	68	71	59	49	50	55	70	72	100	67	83
No	36	37	33	24	25	36	45	47	40	26	25	0	30	16
Not eligible	5	4	7	8	4	5	5	3	5	4	3	0	4	1

AMERICAN LEGION

2. Where do you prefer to receive your care? (**IF RESPONDENT SELECTED "YES" FOR Q1)**

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
VA facility	69	68	74	70	74	66	65	72	66	79	73	69	70	74
Community provider	31	32	26	30	26	34	35	28	34	21	27	31	30	26

3. Would you recommend VA to another Veteran?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Yes	74	74	76	76	78	73	75	70	72	83	82	88	77	84
No	10	9	10	13	10	10	6	9	10	6	8	6	10	8
Don't know/Not sure	16	17	14	11	11	17	19	21	18	11	10	6	13	8

4. Do you have multiple medical conditions or health issues?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Yes	63	62	68	60	57	67	62	69	63	65	66	72	100	78
No	33	34	28	35	39	29	35	29	34	31	29	25	0	19
Prefer not to say	4	4	4	5	4	4	4	2	3	4	5	4	0	2

AMERICAN LEGION

5. During your time of service in the military, were you exposed to toxins such as those from Agent Orange or burn pits?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Yes	26	27	20	32	36	18	21	31	26	21	31	37	33	100
No	61	60	64	54	51	68	66	57	61	66	58	49	54	0
Not sure	13	12	16	13	13	14	13	12	13	13	12	14	13	0

6. Do you prefer a physician or a nurse to provide your primary health care services?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Physician	67	68	65	60	65	68	66	74	67	63	73	68	69	72
Nurse	5	4	7	12	7	3	2	4	5	6	3	5	4	7
First available	28	28	29	29	28	28	32	22	28	31	25	27	28	20

AMERICAN LEGION

7. In your opinion, is it important that your anesthesia care during surgery be provided by a physician anesthesiologist?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Yes, it is important	74	75	72	82	81	74	67	71	72	82	79	75	75	78
No, it is not important	18	17	20	13	12	17	23	23	20	13	13	18	18	17
Don't know	8	8	8	5	7	9	10	6	8	6	8	7	7	5

8. Would you prefer to have a physician or nurse administer anesthesia during surgery?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Prefer a physician to administer anesthesia during surgery	61	61	61	62	65	58	59	62	60	63	62	61	62	63
Prefer a nurse to administer anesthesia during surgery	5	4	7	14	7	3	2	4	4	8	7	5	5	8
No preference as to who administers anesthesia during surgery	35	35	32	24	29	39	39	34	36	30	31	34	34	29

DISPLAY TEXT: Approximately 95-96 of all major surgical procedures in the United States anesthesia care is overseen by a physician anesthesiologist and often assisted by a nurse anesthetist.

AMERICAN LEGION

9. Do you agree or disagree with the following statements?

Surgery and anesthesia are inherently dangerous. Many VA patients have underlying medical conditions such as diabetes, high blood pressure, heart disease, arthritis, or chronic pain that put them at greater risk for surgical complications. Requiring physician involvement is a necessary safeguard.

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Strongly agree	61	61	64	51	63	62	64	61	60	76	58	61	65	63
Somewhat agree	31	32	28	38	31	30	29	34	33	18	33	32	29	31
Somewhat disagree	6	6	5	8	5	7	5	4	6	4	8	5	5	4
Strongly disagree	2	1	2	3	1	2	2	0	1	2	2	1	1	2

10. Do you agree or disagree with the following statements?

Not one top-rated civilian hospital in the U.S. allows nurse-only anesthesia care. Veterans deserve the same level of high-quality care during surgery as non-veterans get at top-rated hospitals.

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Strongly agree	64	63	68	51	65	65	66	67	65	64	59	63	66	65
Somewhat agree	27	27	23	35	26	25	24	28	26	28	27	28	26	28
Somewhat disagree	7	7	6	10	6	8	7	4	7	4	9	7	6	4
Strongly disagree	2	2	3	4	3	2	3	1	2	4	5	2	2	3

AMERICAN LEGION

11. Do you agree or disagree with the following statements?

If the VA replaces physician anesthesiologists with nurse anesthetists there will be two standards of care: one lower standard of care for veterans in VA facilities and the other a higher standard of care for non-veterans in virtually every other hospital in the United States.

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Strongly agree	39	37	47	37	45	42	37	30	39	41	35	41	41	44
Somewhat agree	32	33	29	43	31	30	33	31	32	32	34	32	31	29
Somewhat disagree	20	21	16	15	16	22	20	28	21	18	21	20	20	20
Strongly disagree	8	8	8	4	8	7	10	11	8	9	11	7	8	7

12. If only a nurse anesthetist were available to oversee your anesthesia care at a VA facility, would you opt to instead receive your care from a physician outside a VA facility to ensure you had a physician anesthesiologist during surgery?

U.S. Veterans (%)	All	Gender		Age					Race/Ethnicity			Miscellaneous		
		M	F	23-34	35-49	50-64	65-74	75+	Wht	Blk	Hisp	VA Enrolled	Multiple Health Issues	Burn Pit Exposure
Yes	52	50	62	63	62	48	45	50	49	59	62	54	55	59
No	23	23	19	21	20	26	20	24	24	22	21	24	21	22
Don't know	25	27	19	17	18	26	35	26	28	19	18	22	24	19

AMERICAN LEGION

METHODOLOGY:

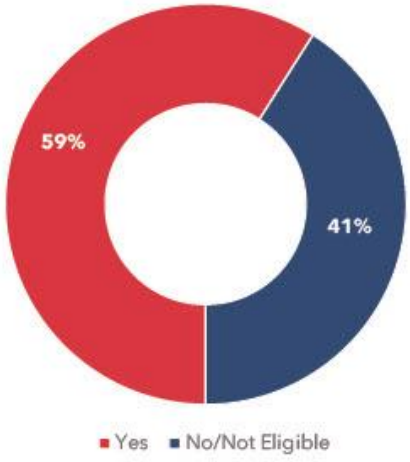
Pierrepont Consulting & Analytics LLC examined care preferences at VA for anesthesia and related health care issues among Veterans of all ages and service branches. Mercury Analytics LLC conducted the fieldwork.

This national survey of U.S. Veterans used a mixed methodology. Most responses (n=1360) were online; the remainder by telephone (n=40). For some elderly Veterans, phone interviews were either the best or only option to secure a response. Our sample size of n=1400 ensures that key learnings reflect statistically sound and trustworthy results. The survey was conducted between February and April, 2023.

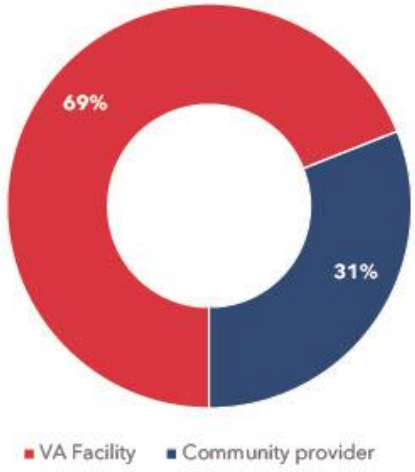
The overall margin of sampling error is +/- 2.62% at the 95% confidence level, meaning the overall results would not vary by more than 2.62% 19 times out of 20. Sampling error is greater for subgroups.

VA care preferences

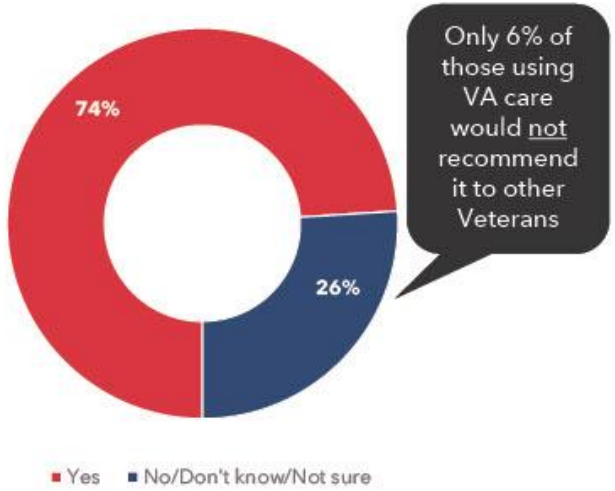
Are you enrolled in VA healthcare?



Where do you prefer to receive your care?

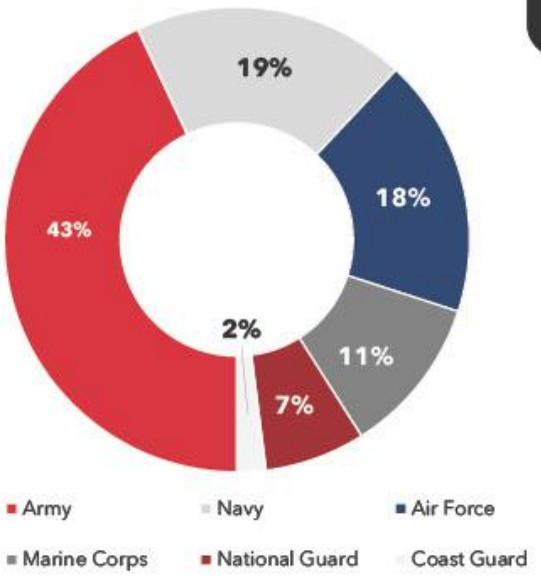


Would you recommend VA to another Veteran?



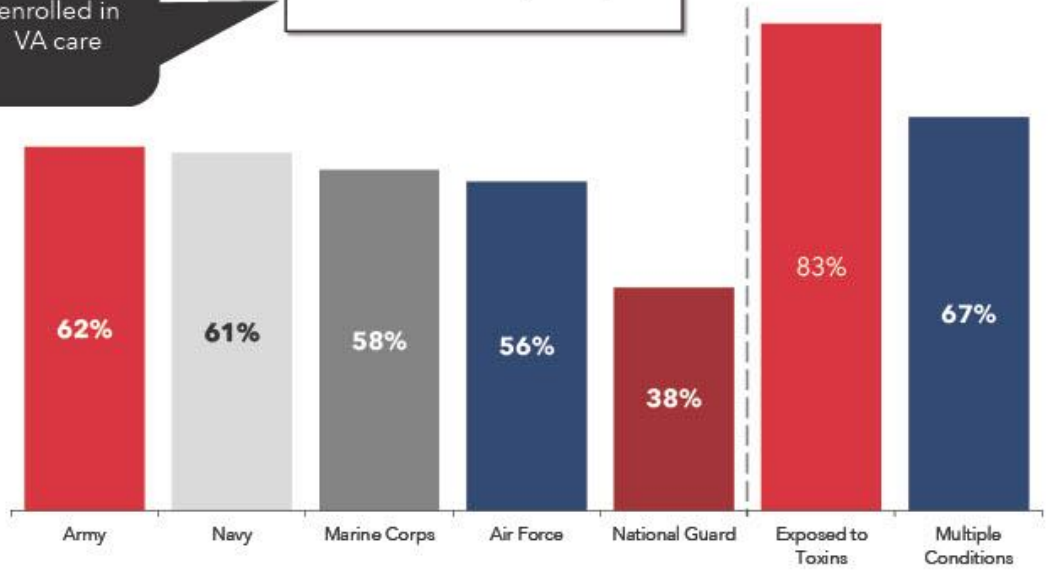
VA enrollment by **service branch and medical condition**

What was your branch of service?



Three in five (59%) Veterans are enrolled in VA care

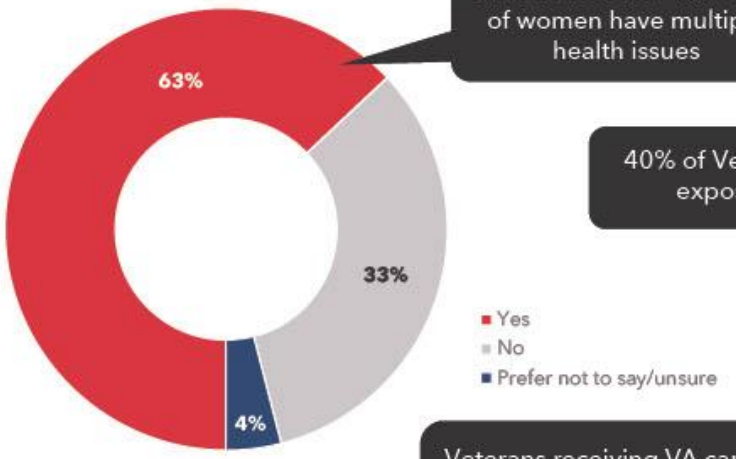
Are you enrolled in VA healthcare? (% Yes)



Multiple conditions and toxin exposure

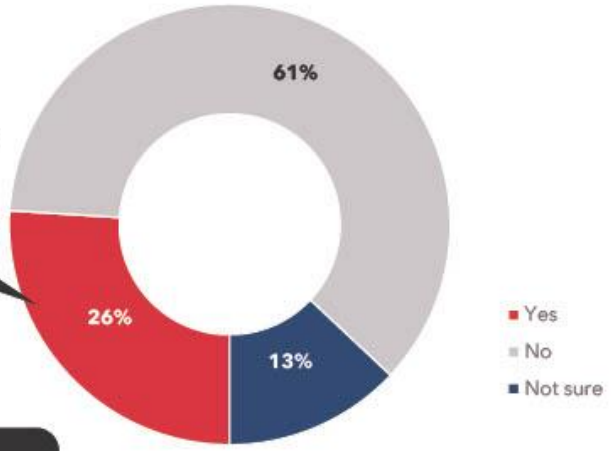
Do you have multiple medical conditions or health issues?

69% of Vets 75+ and 68% of women have multiple health issues



During your time of service in the military, were you exposed to toxins such as those from Agent Orange or burn pits?

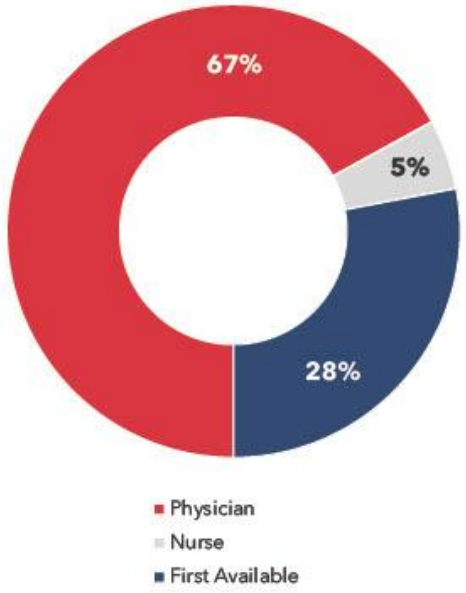
40% of Vets using VA were exposed to toxins

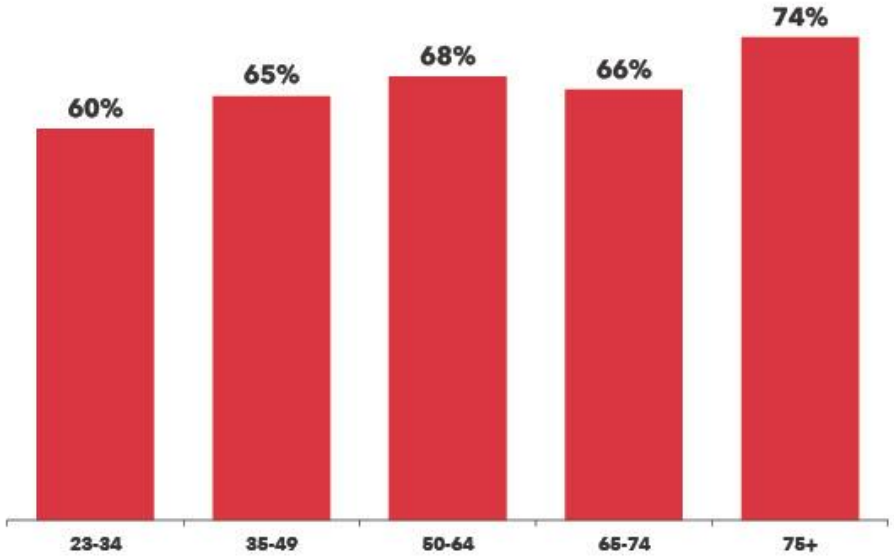


Veterans receiving VA care are significantly more likely (88%) to have multiple conditions than those not receiving VA care (55%)

Physician preference for **primary care**

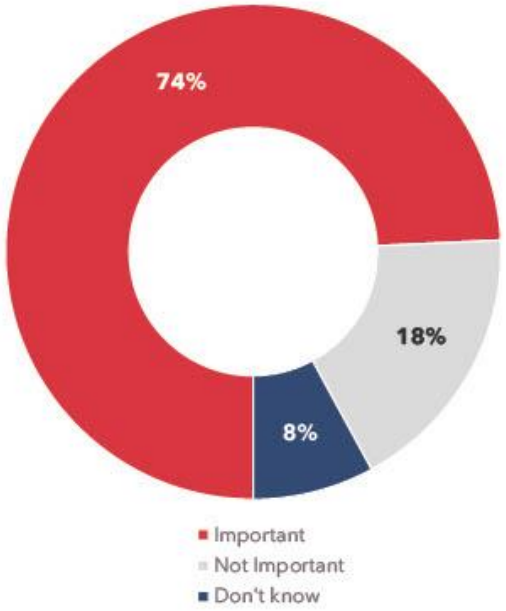
Do you prefer a physician or a nurse to provide your primary health care services?





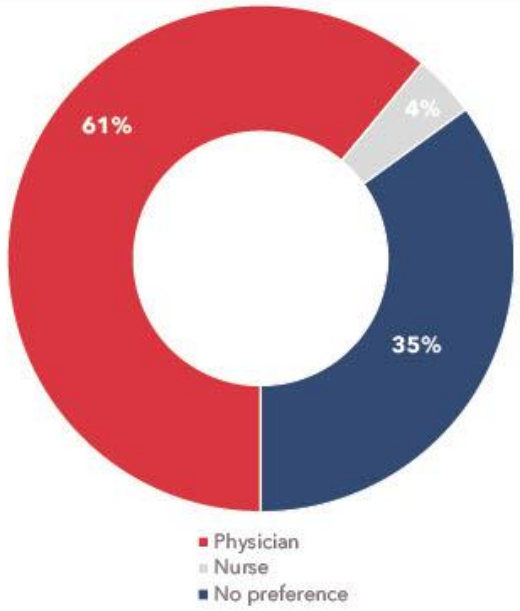
Physician preference for **anesthesia care**

In your opinion, is it important that your anesthesia care during surgery be provided by a physician anesthesiologist?



Veterans of every age, gender, race, and medical condition prefer physician-administered anesthesia care

Would you prefer to have a physician or nurse administer anesthesia during surgery?



Physician preference for **anesthesia care**

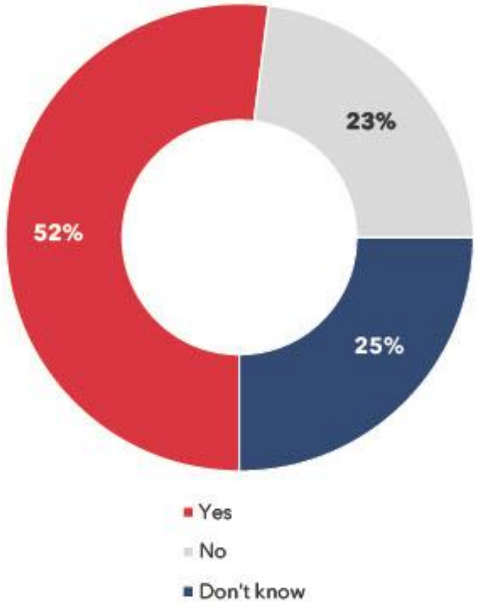
Do you agree or disagree with the following statements?	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree
Surgery and anesthesia are inherently dangerous. Many VA patients have underlying medical conditions such as diabetes, high blood pressure, heart disease, arthritis, or chronic pain that put them at greater risk for surgical complications. Requiring physician involvement is a necessary safeguard.	61%	31%	6%	2%
Not one top-rated civilian hospital in the U.S. allows nurse-only anesthesia care. Veterans deserve the same level of high-quality care during surgery as non-veterans get at top-rated hospitals.	64%	27%	7%	2%
If the VA replaces physician anesthesiologists with nurse anesthetists there will be two standards of care: one lower standard of care for veterans in VA facilities and the other a higher standard of care for non-veterans in virtually every other hospital in the United States.	39%	32%	20%	8%

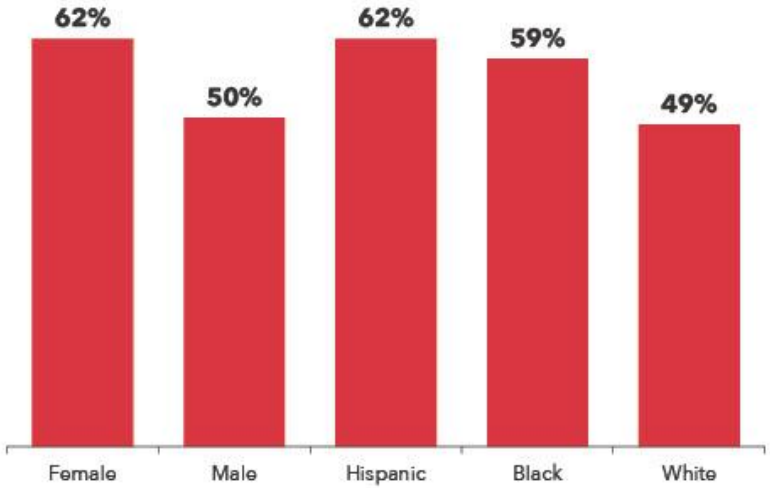
Details may not sum to total due to rounding.

REINGOLD

Seeking physician-led care **outside VA**

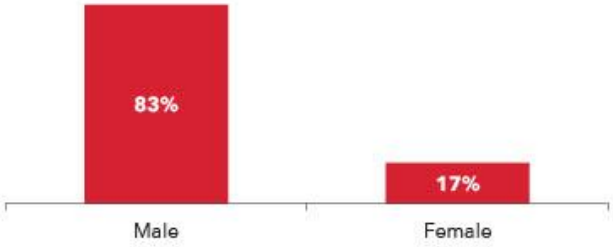
If only a nurse anesthetist were available to oversee your anesthesia care at a VA facility, would you opt to instead receive your care from a physician outside a VA facility to ensure you had a physician anesthesiologist during surgery?



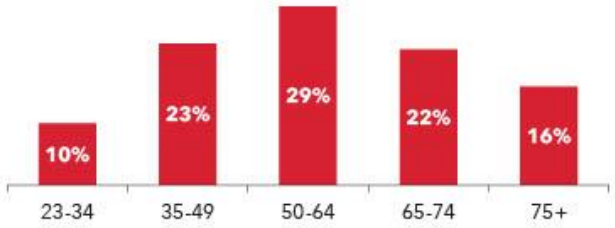


Demographics

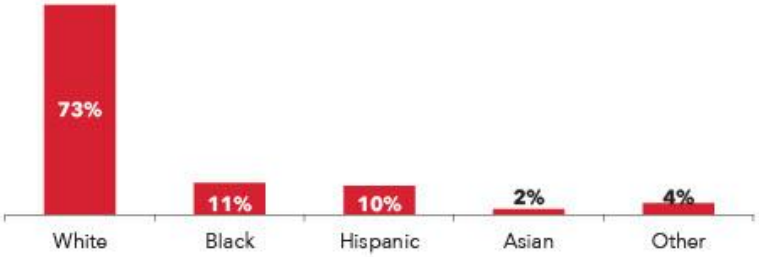
Gender



Age



Race



Region