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**STATEMENT OF
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COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
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Chairman Takano and Members of the Committee:

Thank you for inviting DAV (Disabled American Veterans) to submit a statement for the record for this legislative hearing of the House Veterans' Affairs Committee. As you know, DAV is a non-profit veterans service organization comprised of more than one million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to offer our views on the bills under consideration by the Committee.

H.R. 96, to Provide Dental Care for All Veterans Enrolled in Veterans Health Care

H.R. 96, would phase in eligibility for all veterans enrolled in the Department of Veterans Affairs (VA) for health care to receive dental care as a part of their medical benefits package.

The bill would require the VA Secretary to furnish dental care in the same manner as any other medical service, and defines a four-year implementation plan beginning with veterans in priority groups one and two (veterans with service-connected disabilities rated at 30 percent or more) in year one.

Dental care is an important part of overall health care. Many private employers and state Medicaid programs provide dental care as part of a comprehensive health care package. Most clinicians agree there are strong associations between significant dental issues and other adverse systemic health outcomes. Unfortunately, gaps in coverage often affect people with lower incomes and complex health needs the most.

DAV strongly supports H.R. 96 in accordance with DAV Resolution No.185, which calls for the provision of comprehensive dental care to all service-connected veterans enrolled in the VA health care system.

H.R. 2791, Department of Veterans Affairs Tribal Advisory Committee Act of 2019

H.R. 2791 would require the VA Secretary to establish an advisory committee on Tribal and Indian Affairs to provide advice and guidance on matters relating to Indian tribes, tribal organizations and Native American veterans. The committee would

facilitate government to government consultation between the Department and Indian tribes or tribal organizations. Membership of the committee would consist of 15 voting members selected by the Secretary from among individuals nominated by Indian tribes or tribal organizations. Each of the 12 service areas of the Indian Health Services will be represented in the membership of the committee.

The advisory committee's duties would include: providing a forum from Indian tribes, tribal organizations and the Department to discuss issues and proposals for changes to Department regulations, policies and procedures; proposing clarifications, recommendations and solutions to address issues raised at tribal, regional and national levels, especially regarding the Annual Tribal Consultation Report; and, encouraging the Secretary to work with other Federal agencies and Congress so that Native American veterans are not denied the full benefit of their status as both Native Americans and veterans and providing an annual report with recommendations to the VA Secretary for improving benefits and services for these veterans.

DAV recommends the advisory committee also be charged with identifying improvements for disseminating information about veterans' benefits to Native American veterans. We believe improved outreach and sharing of information about available resources and more consistent adherence to the memorandum of agreement between VA, the Indian Health Service and the tribal organizations will lead to improved access to care for these veterans and help to fill existing gaps in health care, such as mental health services.

DAV is pleased to support H.R. 2791 in accordance with DAV Resolution No. 377, which calls for supporting the rights and benefits earned by service-connected Native American and Alaska native veterans, and recognizes that VA's implementation of its memorandum of understanding with the Indian Health Service and the tribes has been problematic. In order to ensure that Native American and Alaska native veterans receive all of the benefits to which they are entitled, these agreements must be honored. We believe this advisory committee can further assist with improving compliance with the existing agreements and help improve benefits delivery for Native American veterans.

H.R. 6082, the Forgotten Vietnam Veterans Act

H.R. 6082 would amend title 38, United States Code, § 101(29)(A), specifically the defined dates of wartime service in the Republic of Vietnam. It would change the current earliest date of February 28, 1961, to the proposed earliest date of November 1, 1955.

It is estimated that 5,000 to 10,000 active military personnel served with the United States Military Assistance Advisory Group in Vietnam between November 1, 1955, and February 27, 1961. However, veterans who served in Vietnam before February 28, 1961, are not considered to have served during the Vietnam era period of war despite facing war-like conditions and receiving the Armed Forces Expeditionary Medal.

DAV, as a National Veterans Service Organization, recognizes the year of 1955 as the earliest time frame for Vietnam war-time service. Therefore, we are pleased to support H.R. 6082, as it would make veterans who served in Vietnam from 1955 forward, eligible for non-service connected pension, war-time service, and Vietnam veteran status.

H.R. 6141, the Protecting MOMs Who Served Act

H.R. 6141 would require the VA to increase support for its maternity care coordination activities and identify any adverse effects military service has on maternal mortality and morbidity among veterans and certain subgroups of veterans using VA health care services.

Women using VA health care have a number of factors that may put them at higher risk of adverse birth and health outcomes such as: physical disabilities, advanced age, mental health conditions including PTSD, depression, anxiety and substance abuse. Maternity services for women veterans are provided through VA's Community Care Network. In order to ensure that women veterans are receiving high quality care, VA has instituted a maternity care coordination policy. Unfortunately, VA women's health champions have identified that this critical care coordination position is often a collateral duty. According to VA's 2018 WATCH Report, only 11% of VA facilities had a dedicated full-time maternity care coordinator. For about 45% of VA's health care centers, it was reported as a collateral duty (often assigned to Women Veterans Program Managers).

This legislation would provide additional resources to VA to ensure training is available and that staff have adequate time to execute VA's maternity care coordination policy. The bill also requires VA to use existing data to assess maternal mortality among veterans and ensure inclusion of data elements in standardized state reports to assist VA in monitoring and tracking maternal mortality among veterans.

DAV strongly supports H.R. 6141 in accordance with the following two resolutions. DAV Resolution No. 020 calls upon DAV to support program enhancements and improvements including gender-specific services for women veterans. DAV Resolution No.133 is supportive of VA's efforts to identify and research associations between military service and the impact on veteran's health.

H.R. 7111, Veterans Economic Recovery Act of 2020

The veteran unemployment rate across the country has risen exponentially. The combination of job losses, social isolation, and mounting anxiety due to the coronavirus pandemic has hit the veterans' community especially hard. H.R. 7111, the Veterans Economic Recovery Act of 2020, would create an education program for unemployed veterans across the country.

This program would provide 12 months of educational benefits to pursue training in high-demand fields through the Rapid Retraining Program. It would mirror current post-9/11 GI Bill education benefits, with both tuition funding and a housing stipend on par with full-time students. The program would be open to 35,000 unemployed veterans who lost their jobs due to the pandemic and are not eligible for any other VA educational program.

Outside of creating the new program, H.R. 7111, would expand the Veteran Employment through Technology Education Courses for Training Providers—or VET TEC program to assist transitioning service members. We believe this expansion will provide relief and address concerns for many transitioning service members during the COVID-19 pandemic.

DAV strongly supports H.R. 7111 in accordance with Resolution Nos. 202 and 313, which call for adequate funding for existing training and the adoption of programs that remove barriers and provide adequate employment education. We urge the Committee to swiftly pass H.R. 7111 as employment relief is urgently needed in the veterans' community and this legislation would remove obstacles veterans are currently facing during this economic crisis caused by the pandemic.

H.R. 7163, the VA FOIA Reform Act

H.R. 7163, the VA Freedom of Information Act (FOIA) Reform Act would require VA to address and fix major issues that delay veterans from obtaining their records through a FOIA request.

In 2019, the VA processed 23,749 FOIA requests, of which the department fully granted 5,046. The VA rejected 5,018 requests, and partially denied 9,500. In other cases, the agency said it was unable to contact the people who filed the FOIAs so considered them denied. There were 2,631 backlogged FOIA requests and 118 backlogged appeals at the end of 2019. Some of the oldest unfulfilled requests date back to 2011.

This legislation would require VA to reduce its current FOIA request backlog by 75 percent within three years. Additionally, it would require a review of VA's practices by the National Archives; VA to develop a plan to address technological problems; VA to have records available via their website; and to report to Congress about their root causes for backlogged cases and their plan to implement solutions.

Delays in processing FOIA requests can have negative impacts on a veteran's ability to gain access to information needed to develop a pending claim or appeal within VA. As veterans have direct access to medical records through VA's My HealtheVet, we believe they should have electronic access to their VA claims file information as well.

DAV supports H.R. 7163 in accordance with DAV Resolution No. 359, which supports VA modernization of information technology and improvements to include digital sharing and improved access for disabled veterans.

H.R. 7287, to clarify the licensure requirement or contractor medical professionals to perform medical disability examinations for the Department of Veterans Affairs

Rural and highly rural veterans live in areas with limited medical and health care resources. Thus, providing them with timely and quality VA contract examinations for their VA benefit claims can be challenging. H.R. 7287 would allow greater access to VA examinations for rural veterans.

Public Law 114-315 includes a provision that allows VA contract physicians to conduct VA examinations across state lines. H.R. 7287 would amend this section of the law to allow for non-physician licensed health care providers, such as physician assistants, nurse practitioners, audiologists, or psychologists, to conduct VA contract examinations across state lines. VA currently allows non-physician licensed medical professionals to provide a variety of examinations, when appropriate, at the VA and as contractors within their own states. This would allow them to provide contract examinations across state lines.

DAV supports H.R. 7287, as it would allow more licensed medical professionals to conduct disability examinations for rural and highly rural veterans. VA claims are often the gateway for many veterans to access VA benefits and VA health care. This legislation would provide greater availability for contract examinations, thereby allowing rural veterans to have their claims adjudicated quicker, which could improve timely access to VA benefits and health care.

Discussion draft “Veterans Benefits Fairness and Transparency Act of 2020”

This discussion draft, the “Veterans Benefits Fairness and Transparency Act of 2020,” would require VA to provide access to Disability Benefits Questionnaires (DBQs) to all veterans via VA’s website. VA removed publically available DBQs in April and DAV supports this legislation to re-establish all veterans’ access to DBQs, as originally intended by VA.

DBQs were introduced in 2010 to facilitate the collection of evidence for veterans’ claims for disability compensation benefits. Although originally designed for veterans by the Veterans Benefits Administration (VBA), for more than a decade, DBQs were used internally by VA physicians and by private medical providers to supplement disability claims evidence.

In 2016, VBA changed its policy by ending the practice of allowing veterans to have DBQs completed by a private physician via telehealth. However, VA and VA contract examiners were allowed to continue using 16 different DBQs via telehealth.

A February 2020 Office of Inspector General (OIG) report, “Telehealth Public-Use Questionnaires Were Used Improperly to Determine Disability Benefits,” indicates that DBQs have been used by veterans to perpetrate fraud in disability claims. The report notes that although VBA prohibits the use of private provider telehealth appointments for the submission of claims evidence, many of the claims investigated by the OIG may have involved telehealth examinations. In DAV’s opinion, this is not a credible argument, as the OIG report did not cite any specific examples. Instead, the OIG merely asserts that the 81 cases studied “were likely completed by telehealth.” Additionally, the report makes vague reference to fraud; however, the OIG doesn’t cite a single instance of fraud in its report.

Instead of implementing any of the recommendations from the OIG to clarify the proper DBQ use by veterans, such as updating DBQs to indicate non-use via telehealth, VA removed public-facing DBQs from its website in April 2020. This action now prevents private medical providers and veterans from accessing these forms. Accredited veterans service organizations and VA providers still maintain access to DBQs on an internal agency server.

VA has a duty to fully and sympathetically read and develop a veteran’s claim; and this duty is heightened for unrepresented veterans. See *Comer v. Peake*, 552 F.3d 1362, 1368 (Fed. Cir. 2009). By denying unrepresented veterans access to DBQs, VA is unjustifiably disadvantaging unrepresented veterans in the claims process. Removing DBQs prevents unrepresented veterans an opportunity to fully develop their claims, by not providing the same development tools available to represented veterans.

The Veterans Benefits Fairness and Transparency Act would correct the inequities VA has created by allowing all veterans access to DBQs for the development of their claims with VA.

Another concern noted by the OIG report is the timeliness of updating publically available DBQs. Previously, when VA updated a DBQ, VA submitted that form through the Office of Management and Budget (OMB) and the Federal Register, a process that can take more than one year. The OIG maintains that public-facing DBQs must be updated under the requirements of the Paperwork Reduction Act of 1995 (PRA).

The Veterans Benefits Fairness and Transparency Act would also address this timeliness issue of updating existing DBQs. It notes, “the Secretary may waive any interagency approval process required to approve a modification to a disability benefit questionnaire form if such requirement only applies by reason of the forms being made public...” DAV agrees that this would greatly reduce the timeliness concerns and believes that DBQs should not be considered an agency request for information from the public. We assert that a collection of medical evidence such as DBQs are not subject to the requirements of the PRA. Exempting DBQs from this process is in alignment with the PRA as it will minimize the paperwork burden and minimize the cost to the federal government.

Additionally, the discussion draft provides that DBQs will be considered timely and adequate if a veteran uses a version within one year of the date of any DBQs being updated. This also addresses the issue of timeliness of updating DBQs by accepting outdated DBQs within one year of the last update.

DAV fully supports the Veterans Benefits Fairness and Transparency Act as it will restore the DBQs to their original purpose, allow all veterans to have access to enhance the development of their own claim, and address the timeliness of updating DBQs. In addition, DAV makes the following recommendation to the discussion draft:

Allow veterans to complete DBQs via telehealth with a private provider. As we do not know what the landscape will look like going forward after the national health crisis ends, and the continued uncertainty of the COVID-19 environment, it is likely many health care providers will continue to use telehealth for the foreseeable future. Therefore, allowing telehealth appointments with private medical providers for the same DBQs the VA is using via telehealth allows veterans to retain their freedom to seek outside medical assistance with their claims. Also, as many veterans have compromised health and complex health care needs, authorizing the use of telehealth for private providers to use DBQs protects the veteran's health as well.

VA has recognized the impact caused by the pandemic as they have increased the number of DBQs that can be completed via telehealth from 16 to 29. Given the limited ability for in-person examinations due to the current COVID-19 crisis, veterans should also be able to have a DBQ completed by a private physician via telehealth. This should include the same DBQs VA and VA contractors are authorized to complete.

H.R. 3582, to expand the scope of the Advisory Committee on Minority Veterans

H.R. 3582 expands the scope of the Advisory Committee on Minority Veterans by including lesbian, gay, bisexual, and transgender (LGBT) individuals as minority group members. Veteran minority group members currently consist of: Asian American, Black, Hispanic, Native American (including American Indian, Alaskan Native and Native Hawaiian) and Pacific-Islander American veterans. The committee reports on the issues of minority group members in relation to VA programs and services.

This legislation will help VA with its goal to establish a more welcoming and inclusive environment and culture for all veterans and to ensure staff are respectful, culturally sensitive and expert in addressing the health care needs of the diverse veteran population it serves. The Advisory Committee on Minority Veterans has long called for improved data collection to ensure that minority veteran populations have equitable access to services and benefits to which they are entitled.

DAV joined our coauthors of the *Independent Budget (IB) for the 116th Congress* in recommending that Congress fund research into health disparities and barriers to care experienced by LGBT veterans. The IB highlighted the need to ensure VA providers are able to meet the health care needs of all LGBT veterans and to fully staff and train LGBT veteran care coordinators at each VA medical center. In addition, DAV has expressed concern about studies that have shown LGBT veterans are at twice the risk of suicidal ideation compared to heterosexual peers and are more likely to screen positive for post-traumatic stress disorder (PTSD), alcohol misuse and depression. Veterans compelled to hide their sexual orientation during military service were also more likely to screen positive for depression and PTSD.

While DAV has no specific resolution from our membership on this issue, we have no objection to the favorable consideration of this bill calling for inclusion of LGBT representatives on the Advisory Committee on Minority Veterans.

H.R. 3228, the VA Mission Telehealth Clarification Act

H.R. 3228, the VA Mission Telehealth Clarification Act, would authorize all health professional trainees to provide treatment to patients of the Veterans Health Administration through telemedicine.

VA has been a leader in its use of telemedicine to reach remote populations and patients who have difficulty traveling—such as veterans with spinal cord disabilities or disease. Use of telehealth has grown precipitously since the COVID-19 pandemic began—both in the VA health care system and in the private sector. DAV supports the use of telehealth and understands that the scope of practice and licensing for clinical providers in a federal health care system must be flexible enough to meet changes in health care delivery and the needs of the population it serves. While DAV does not have a specific resolution that addresses this issue, we do not have an objection to its favorable consideration.

H.R. 2435, Accelerating Veterans Recovery Outdoors Act

H.R. 2435, the Accelerating Veterans Recovery Outdoors Act, would require the VA Secretary to establish an interagency task force to make recommendations on how to use public lands to support medical therapy programs for veterans. The task force would identify obstacles that exist to outdoor recreation and look for opportunities for collaboration between the VA and public lands agencies to ensure veterans have ample opportunities to enjoy outdoor recreation on the land they served to protect.

America's disabled veterans deserve the best treatment available as they recover from service-related illnesses or injuries following military service. Providing veterans with outdoor therapy can be a helpful form of treatment, but there has yet to be a coordinated effort within the federal government to better facilitate this alternative therapy option in a manner that would reach more veterans.

DAV has supported numerous programs over the years to provide recreational therapies for injured and ill veterans, most notably the DAV and VA co-sponsored National Disabled Veterans Winter Sports Clinic and National Disabled Veterans TEE Tournament. Although DAV has no specific resolution to support this bill, the legislation has the potential to create even more opportunities for disabled veterans to experience the life-changing power of outdoor recreational therapies therefore, we have no objection to its favorable consideration by the Committee.

H.R. 4526, Brian Tally VA Employment Transparency Act

The Brian Tally VA Employment Transparency Act would require the VA to notify a veteran within 30 days of filing a claim for injury or death whether or not the person who provided the treatment to the claimant that caused the illness, disability, or death was a contractor or a VA employee, the statute of limitations for pursuing legal action in that state, and the importance of obtaining legal counsel. Currently, veterans who believe that they are the victim of malpractice by the VA can potentially be left with no legal recourse if the VA does not notify them of the statute of limitations in the state where they received treatment and the provider turns out to be a contractor. Contractors, unlike federal employees, fall under state statute of limitations laws and malpractice suits against them must be pursued in state courts.

DAV does not have a specific resolution that speaks to this issue; however, veterans should feel protected when being treated at the VA, no matter the employment status of those providing care therefore, we have no objection to this bill's favorable consideration by the Committee.

H.R. 3010, Honoring All Veterans Act

H.R. 3010 would change the existing mission statement of the Department of Veterans Affairs to be more gender neutral. The proposed changes would read as follows: "To fulfill President Lincoln's promise to care for those 'who shall have borne the battle' and for their families, caregivers, and survivors." DAV has no resolution from our membership on this issue and takes no position on the bill.

H.R. 4281, Access to Contraception Expansion for Veterans or ACE Veterans Act

H.R. 4281 would authorize VA to provide a full year's supply of contraception to women veterans. The author of the ACE Act emphasized that dispensing a full year of oral contraception is an evidence-based practice that would improve women's health. According to a 2019 study published in JAMA Internal Medicine, dispensing a 12-month supply of oral contraceptive medication at VA could reduce unintended pregnancies among women veterans and produce significant (\$2 million) cost savings for the Department annually. DAV has no resolution from our membership on this issue and takes no position on the bill.

H.R. 4908 and draft bill, Native American Veteran Parity in Access to Care Today Act, or Native American PACT Act

The Government Accountability Office issued a report (GAO-19-291) in March 2019 evaluating the implementation of the 2010 memorandum of understanding (MOU) between VA and the Department of Health and Human Services' (HHS) Indian Health Service (IHS) to improve the health status of American Indian and Alaska Native (AI/AN) veterans through coordination and resource sharing among VA, IHS, and tribes.

Officials at both IHS and facilities operated by tribes or tribal organizations, known as tribal health programs (THPs) recognize VA copayments represented a barrier to AI/AN veterans receiving the care they need. Even though VA may waive copayments, about 30% of AI/AN veterans were charged copayments by VA in fiscal year 2017, averaging about \$281.56 billed per veteran.

By prohibiting VA from charging AI/AN veterans copayments, this bill would align VA to existing policy and practice by IHS, THP, and Medicaid to not charge any fees or copays of any kind to AI/AN people, including AI/AN veterans.

DAV does not have a resolution specific to this issue and takes no position on this bill.

H.R. 6039, an agreement with the city of Vallejo, California, for the transfer of Mare Island Naval Cemetery in Vallejo, California

H.R. 6039, would direct the Secretary of Veterans Affairs to enter into an agreement with the city of Vallejo, California, to hand over ownership and care of the Mare Island Naval Cemetery to the National Cemetery Administration (NCA).

Mare Island Naval Shipyard (MINS) was the first United States Navy base established on the Pacific Ocean in 1853. The Mare Island Naval Cemetery was established in 1854 on MINS and continued internments until 1921. It is currently the final resting place for more than 800 individuals, most of them veterans. The Mare Island Naval Cemetery was included in the National Register of Historic Places in 1975. The shipyard was identified for closure during the Base Realignment and Closure (BRAC) process of 1993 and was decommissioned in 1996. Since that time, the city of Vallejo, CA, has owned the property, including the Naval Cemetery. Since its closure in 1996, the cemetery has fallen into disrepair.

In testimony before the Senate Veterans' Affairs Committee in August 2018, Under Secretary for Benefits, Dr. Paul Lawrence stated that VA does not support the transfer of the Mare Island Naval Cemetery to VA. He stated that the acquisition of the cemetery by VA does not align with VA's current strategic objectives with respect to providing burial access to veterans and their families. VA indicated that media reports raised the possibility of sub-surface issues with the property, but were unable to verify these reports without a complete survey and assessment of the cemetery. If those

reports are validated, VA estimated costs to restore the cemetery could be \$15 million or more.

Efforts for restoration at Mare Island Naval Cemetery have been undertaken. In August 2018, DOD approved applications by the City of Vallejo for initial repairs. These improvements, through the DOD's Innovative Readiness Training (IRT) program, are designed to provide training for reserve forces while also bettering local communities through medical or engineering support. Starting in 2019, the 801st Engineering Company of the U.S. Army Corps of Engineers have removed old sick trees, taken away picket fencing to be restored later and cleaned and repaired gravestones darkened with age. The drainage problem is scheduled to be addressed. However, as of today, the IRT website shows the mission at Mare Island Naval Cemetery has been postponed.

DAV does not have a resolution that addresses this issue and takes no position on this bill; however, we have concerns about this legislation. We believe that by NCA taking over the restoration, maintenance and future responsibilities of the Mare Island Naval Cemetery, could take away resources and funding from National Cemeteries that are accepting new internments for veterans and their families.

Draft Bill, Burial Equity for Guards and Reserves Act of 2020

The Burial Equity for Guards and Reserves Act of 2020 would ensure that State veterans' cemetery grants from the Secretary of Veterans Affairs may not be allowed to establish a condition in said grant that would restrict the ability of a State to inter veterans of the Army and Air National Guard, the reserve components of the Armed Forces, or the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs while still a member. DAV does not have resolution specific to this issue and takes no position on the bill.

Draft Bill to extend certain employment and reemployment rights to members of the National Guard who perform State active duty.

This bill would extend certain employment and reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) to members of the National Guard who perform State active duty. DAV does not have a resolution specific to this issue and takes no position on the bill.

Draft Bill to expand eligibility for home loans from the Secretary of Veterans Affairs to certain members of the reserve components of the Armed Forces.

This bill would extend eligibility for home loans provided by the VA to members of the Reserve Components of the Armed Forces who served not less than 90 cumulative days of active service with 30 of those days having to be consecutive. DAV does not have a resolution specific to this issue and takes no position on the bill.

Draft Bill to clarify the scope of procedural rights of members of the uniformed services with respect to their employment and reemployment rights

This bill would clarify the procedural rights of members of the uniformed services to prevent an employer from forcing an employee to arbitrate a USERRA claim without all parties being in agreement to it. DAV does not have a resolution specific to this issue and takes no position on the bill.

Chairman Takano, this concludes my testimony. DAV would be pleased to respond to any questions from you or Committee members concerning our views on the bills under consideration today.