LEGISLATIVE HEARING ON H.R. 472; H.R. 1041; H.R. 740; AND H.R. 1391

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

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C O N T E N T S

TUESDAY, FEBRUARY 25, 2025

Page

OPENING STATEMENTS

The Honorable Mike Bost, Chairman 1
The Honorable Mark Takano, Ranking Member 3

SPEAKING FROM THE DAIS

The Honorable Delia Ramirez, U.S. House of Representatives, (IL-3) 6

WITNESSES

PANEL 1

Ms. Beth Murphy, Acting Principal Deputy Undersecretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs 8
Accompanied by:
Ms. Tracey Therit, Chief Human Capital Officer, Office of Human Resources and Administration/Operations, Security, and Preparedness, Veterans Health Administration, U.S. Department of Veterans Affairs
Dr. Sachin Yende, Chief Medical Officer, Integrated Veteran Care, Veterans Health Administration, U.S. Department of Veterans Affairs

PANEL 2

Mr. Jim Whaley, Chief Executive Officer, Mission Roll Call 30
Mr. Patrick Murray, Director, National Legislative Service, Veterans of Foreign Wars 31
The Honorable Max Rose, Senior Advisor, Vet Voice Foundation 33

APPENDIX

PREPARED STATEMENTS OF WITNESSES

Ms. Beth Murphy Prepared Statement 43
Mr. Jim Whaley Prepared Statement 66
Mr. Patrick Murray Prepared Statement 76
The Honorable Max Rose Prepared Statement 79

STATEMENTS FOR THE RECORD

Disabled American Veterans Prepared Statement 83
Veterans Healthcare Policy Institute Prepared Statement 88
Whistleblowers of America Prepared Statement 91
Paralyzed Veterans of America Prepared Statement 93
National Association of Veterans' Research and Education Foundations Prepared Statement 97
Joint Letter from the U.S. Department of Veterans Affairs Labor Unions 99

Page

APPENDIX—CONTINUED

American Federation of Government Employees, AFL-CIO Prepared Statement 101
Concerned Veterans for America Prepared Statement 118
National Association for Gun Rights Prepared Statement 122
Letter from the Everytown for Gun Safety submitted by Mark Takano 125
Letter from the National Fraternal Order of Police submitted by Mark Takano 132

LEGISLATIVE HEARING ON H.R. 472; H.R. 1041; H.R. 740; AND H.R. 1391

TUESDAY, FEBRUARY 25, 2025

COMMITTEE ON VETERANS' AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

The joint hearing met, pursuant to notice, at 2:13 p.m., in room 360, Cannon House Office Building, Hon. Mike Bost [chairman of the Veterans' Affairs Committee] presiding.

Present: Representatives Bost, Miller-Meeks, Murphy, Hamadeh, King-Hinds, Barrett, Takano, Brownley, Pappas, Ramirez, Budzinski, Kennedy, Dexter, Conaway, and Morrison.

OPENING STATEMENT OF MIKE BOST, CHAIRMAN

The CHAIRMAN. The committee will come to order. Good afternoon, everyone. Just so you know, I am glad to be here today and consider my bill, H.R. 4472, the Restore VA Accountability Act of 2025; also, H.R. 1041, the Veterans 2d Amendment Protection Act; H.R. 740, the Veterans' Assuring Critical Care Expansions to Support Servicemembers (ACCESS) Act of 2025. Now, we will also be discussing a Discussion Draft related to information the Secretary is allowed to transmit to the U.S. Department of Justice (DOJ) related to the Second Amendment issues. Finally, we will consider Ms. Ramirez's bill, the Student Veteran Benefit Restoration Act of 2025.

Before I discuss the bills before us today, I would first like to welcome all of our witnesses who are here to testify on this legislation before us. We have discussed at length each of the issues these bills would address in multiple oversight hearings and through letters and traveled outside the Beltway to listen to the men and women who work at U.S. Department of Veterans Affairs (VA) and the veterans that they serve to fix these problems. Now, that this is this is what each of these bills would do, is fix a significant problem that exists in the VA.

Now, I am sure the ranking member will suggest otherwise during his comments and he is welcome to continue to disagree. I remain concerned by the rhetoric-based talking points and fearmongering coming from our friends on the other side of the aisle. Despite this, I am focused on action on behalf of the millions of men and women who serve and from my seat as chairman. That is what the American people elected us to do and that is what the House Republican majority will deliver on.

None of the bills on today's agenda are new or should come to a shock to anyone. In fact, we marked two of them up last Con-

gress. I should also point out that the ranking member voted for VA Accountability Act in 2017, along with the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018, when they both passed with large bipartisan majorities.

With that, I am proud to have introduced my bill H.R. 472, the Restore VA Accountability Act of 2025 again this Congress. My bill would codify Congress' intent in 2017 to protect veterans' care and the taxpayers' investment by holding VA employees accountable. The Biden-Harris administration repeatedly protected employees who were accused of all kinds of misconduct, from disturbing sexual harassment to racism to senior executives incorrectly pocketing funds to poor patient care. Our investigation list was long and continues to grow, and holding people accountable who failed the veterans they are in charge of serving has taken far too long.

Now, under President Trump's leadership, accountability is back at VA. Protecting veterans, not protecting bureaucrats is our mission once again. This means providing essential services to veterans by building a world-class workforce at the VA. The VA workforce is the second largest bureaucracy in the world. My legislation would protect those employees who come to work every day and do the right thing. I am 100 percent confident that most VA employees want to do good work. Time and time again, members on both sides of the aisle have heard from whistleblowers that bad employees continue to serve as a distraction from the mission. Right now VA does not have the ability to hold these bad employees accountable. This has a direct impact on the delivery of services across VA. We must ask ourselves if bad employees know they will not face consequences, then what is the incentive to correct the behavior?

Now, I am grateful to the over 15 organizations who support my bill and I look forward to the discussion today. I am proud to also have introduced my bill, H.R. 1041, the Veterans' 2d Amendment Protection Act. My bill would prohibit VA from sending a veteran's name to the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) unless a judge or a court decides that the person could be a danger to themselves or others.

In some cases, Virginia will appoint a fiduciary to a veteran to help them manage their VA benefits and finances. The appointment of a fiduciary has nothing to do with somebody being dangerous. It is about the veteran's ability to manage their financial benefits. The minute VA appoints a fiduciary, that veteran's name is automatically sent to NICS. In every other system a person must be found to be a danger by a judge based on the evidence being reported to NICS. Our veterans are reported to NICS without the same due process, as others who have not worn the uniform.

My message remains simple: VA should not be able to take away a veteran's Second Amendment rights without due process simply because they need help managing their finances. Veterans should not be treated any different than every other American citizen. We know this practice creates a stigma around accessing veterans' critical VA care and services. It is time to stop it. This bill is not about

guns on demand. It is about giving veterans the same due process as every other American.

We also have a Discussion Draft before us today that would fix how VA has already reported over 250,000 veterans to NICS without due process solely because they have a fiduciary. I look forward to today's discussion about this bill and I am proud to have introduced my bill, H.R. 740 the Veterans' ACCESS of 2025. The House Republican bill would safeguard a veteran's right to healthcare that they want, whether in-community or in-house; ensuring veterans have access to life-saving mental healthcare and treatment; place veterans, not bureaucrats, back in the control seat of their own healthcare decisions. It will make clear that community care is VA care. Let me say that again. Community care is VA care. The ACCESS Act would ensure VA's focus is veterans, not bureaucracy.

VA healthcare is some of the best healthcare in the world, but only when it fully relies on the assets in the community. This bill ensures that we uphold the promise of President Trump and House Republicans' MISSION Act to ensure that veterans receive care they deserve. We drafted this legislation following two reports of VA bureaucrats during the Biden-Harris administration who were actively working to keep veterans' healthcare in-house. That is unacceptable. I have said it before, I will say it again, the MISSION Act is not optional. It is the law. My bill makes this message perfectly clear.

I am looking forward to a thoughtful discussion on the legislation before us today so that we can make a meaningful impact for veterans this Congress.

I now yield to Ranking Member Takano for his opening remarks.

OPENING STATEMENT OF MARK TAKANO, RANKING MEMBER

Mr. TAKANO. Well, thank you, Mr. Chairman.

In the audience and watching the livestream today, we are joined by former VA employees who were illegally and suddenly terminated by President Trump since he took office on January 20th. These are Americans, many of them veterans and military spouses, who are now unemployed and I want to tell a few of their stories.

An operations manager in Veterans Benefits Administration (VBA) who served 9 years in the Air Force before continuing his service at VA, he is 100 percent service-connected. All of his performance evaluations were Outstanding or Fully Successful. Now jobless, thanks to Trump.

An Information Technology (IT) specialist in VA's financial technology services, she is a veteran spouse and her performance was outstanding. She told us her family depends on her income. They are now left scrambling to figure out how to pay their bills and what they are going to do for health insurance, thanks to Trump.

An appellate attorney in the Office of General Counsel, he is 100 percent service-connected disabled veteran with two Bronze Stars who served on four combat deployments. He had 9 days until the end of his probationary period. Fired by President Trump.

A training specialist for the Warriors to Workforce Program, nearly 8 years of service in the Navy. He had moved his family from Colorado to Maryland just to work at VA. He is his family's breadwinner. Now jobless, thanks to Trump.

These are just a few of the many responses committee Democrats have received from VA employees, veterans, and military spouses. We are gathering information about these reckless firings as a part of our oversight responsibilities. It is absolutely heartbreaking, heartbreaking, to hear from these Americans who were victims of the illegal Department of Government Efficiency (DOGE) purge.

We are in the midst of a constitutional crisis unlike any America has ever faced. Our democracy hangs in the balance. The guardrails that check and balance our system of governance are rapidly weakening. Our institutions are literally being dismantled. Presidents Musk and Trump continue their blatantly illegal and unconstitutional rampage, which is premised on the belief that we will not notice and that my Republican colleagues continue to ignore, that we will not care as we see neighbors and friends harmed by these actions.

We cannot pretend that this is normal or right. This is not government efficiency. This is not fixing the bureaucracy. It is destruction.

Now, my colleagues across the aisle accuse us of partisan fearmongering and hysteria as they yell and feign outrage. I am sure they will continue to do so today because they do not want the public to learn the truth: that the illegal and unconstitutional actions taken by Musk and Trump are directly harming veterans and their families. Veterans are already suffering under this regime and anyone who denies that is not telling the truth.

The outrage should be directed at this, at what is really happening. Many of those VA employees who lost their jobs since January 20th were HR professionals. Their terminations, along with a rumored lockout from HR software and USAJobs, are already directly impacting VA's ability to onboard mission-critical positions, like physicians, nurses, and disability claim raters.

We have also heard that DOGE canceled a contract that Veterans Health Administration (VHA) uses to recruit healthcare providers. Without the ability to recruit doctors, VA cannot sustain a stable healthcare workforce to meet the needs of veterans.

We have talked to veterans whose access to healthcare has been directly impacted by employee terminations. We know new clinics that would increase access to care cannot open due to staffing shortages. This is the truth and it is our responsibility as Members of Congress to tell these stories and to demand transparency from VA.

Now, I am appalled that we are even here today considering the Restore VA Accountability Act. This bill makes absolutely no sense. If we open our eyes to what is happening at VA with the ongoing purge of employees based on lies, why would we even think about giving VA more authority to fire employees when they are haphazardly and illegally terminating employees as we speak?

Last week, the Office of Inspector General released a report that revealed UnitedHealth Group and TriWest Healthcare profited and pocketed nearly 1 billion taxpayer dollars in overpayments from VA through the Community Care program that these two third-party administrators have decided they just do not want to pay back. Why are we considering a bill that would further enrich UnitedHealth Care Group and TriWest Healthcare when they are

caught up in a legal dispute with VA over the money that they owe back to the government?

Now, I want to share one final story from a terminated VA employee. She is a service-connected disabled veteran of the Marine Corps, a military spouse of 23 years, and a Federal employee for the last 7, with outstanding performance reviews. She is now facing immense emotional and financial distress. She writes, "I have given my life to serving this country. Now I ask my country to stand by me."

With that, I yield back, Mr. Chairman.

The CHAIRMAN. I thank the ranking member.

You know, I have said it once and I will say it again, you know, I trust Secretary Collins is doing the right thing for veterans and taxpayers to effectively right size and recognize VA to work better for the men and women it serves. One, because he is a veteran himself. Two, because he knows the mission that he is serving and the veterans that he is serving.

I believe my colleagues on the other side of the aisle have lost sight of VA's mission. As chairman and as a veteran myself, my mission is the same: veterans are my number one priority, not protecting bureaucracy. We would be lying if we said that everything at the VA is perfect and that there are not any improvements to be made to make an agency work better. That includes the workforce. I take Secretary Collins at his word when he says there will be no impact to the delivery of care benefits and services for veterans with this plan.

My colleagues on the other side of the aisle continue to spread false information about what is happening to scare and use veterans because they have no real plan for the American people. The fearmongering needs to stop. I think it is amazing that now here we are with the decisions we are trying to make to make it better, that during the last administration we had a time when our oversight discovered that we had one VA that ran a sex room in their VA and we did not fire the employees that actually were involved with it. Now we are saying, oh, no, no, we cannot do that. We had administrators that where we were supposed to be giving bonuses to the frontline workers, the docs, the frontline workers, the nurses, and instead they gave it to the—they gave that, but they also gave a 20 percent bonuses at times to those administrators right here in DC that get paid a whole lot more than those docs and nurses. Yet nobody said anything.

Now here we are. We are watching them reduce a staff situation and, you know what, if you are the person that were mentioned, you know, I am empathetic with that. The concerns that you have, reach out to your Congressman or reach out to our office and say, okay, here is what my job was. We will try to work through that. Let me tell you that just turnover itself reduces our staffing by that much about once a month.

Understand this. The amount of numbers that are being put out there are less than 1 percent. Less than 1 percent to help to try to straighten out a bureaucracy that is running wild. If we can take those dollars and shift them over to try to reduce one more suicide from happening, to provide better quality care in those pro-

grams that actually are working, how do you tell that to the taxpayers? How do you tell that to the taxpayers?

VA has reduced its workforce by less than 1 percent, as I just said. All of these employees were in their probationary period and have an appeals process. If they believe that it was not done properly, there is a process by which you can appeal.

I will also say that VA has a record hiring surge last year. The former administration acknowledges many times over that they over-hired and were hoping to manage the problem through employee turnover. That was not done. We are in this position because the Biden-Harris administration could not manage their budget and irresponsibly over-hired employees.

Now, my colleagues, they go on and leave out details in the midst of their rallies and press conferences and fearmongering. They do not mention the fact that that is the case, that we over-hired. We have heard this song and dance before and I hope my colleagues on the other side of the aisle will stop using veterans and their families for political posturing. As I said before, I trust Secretary Collins, President Trump are doing the right thing for millions of veterans at the VA. As long as I am chairman, I will continue to focus on the results from those men and women.

With that, let us get back to the business at hand. I would this time would now like to recognize Representative Ramirez to testify about her legislation that we are discussing here today.

STATEMENT OF DELIA RAMIREZ

Ms. RAMIREZ. Thank you, Chairman. I appreciate that.

Earlier today I had an opportunity to be in our joint hearing and hear from many veteran service organizations on the incredible work that they are doing and also on the request that they have for us to make sure that we are protecting all of the veteran benefits that we all say we care so deeply about. I am grateful to be here with you now to talk about an important bill that I introduced last Congress.

As someone that gets to represent 20,727 diverse veterans, I take this job very seriously. It is why I continue to be part of this committee in my second term in Congress. It is an honor of my life to represent Illinois' Third congressional District, advancing policies that improve the lives of my constituents, ensuring that every single veteran has access to the benefits that they have earned and that we have promised them. Access to affordable quality education is one of those benefits. The GI Bill is a critically important policy that makes educational opportunities affordable and accessible to veterans.

We know veterans are diverse. I mean, we were just talking about that in a committee a couple weeks ago. When we talk about veterans, we are not just talking about veterans because of race, but we are talking about women, we are talking about first generation veterans, we are talking about low-income veterans, we are talking about people of color, we are talking about LGBTQI veterans, and deported veterans. Yes, because there are veterans that go fight for our country and because of trauma, Post-Traumatic Stress Disorder (PTSD), come back to the country that they love and then they find themselves in a difficult situation that gets

them deported. We are talking about every single veteran, including them.

As a result of the diversity, they have diverse interests and diverse educational needs. Ensuring that they have the ability to choose a school that best meets their need while being confident that regardless of their choice, they receive a high-quality education is one of my top priorities. However, in recent years, student veterans have been targeted by bad actors seeking to enrich themselves by exploiting veterans' GI benefits. Those actors have reduced those who have served our Nation to a tuition payment and exploited them to gain access to dependable Federal disbursement. Folks, that is unacceptable.

When a student veteran is defrauded by a bad faith actor, it is only right, only just that the veteran have recourse or a way for them to get their benefits back. No student veteran should have to give up or defer their dreams of an education because of fraud. That is why I am so proud to say that the very first bill I ever introduced as a Member of Congress was the Student Veteran Benefit Restoration Act, which would begin the process of restoring GI Bill education benefits for student veterans who have been defrauded by an educational institution. The bill last Congress passed the House with bipartisan support, 406 votes in favor.

We also know that the bill moved us just a step closer to having a comparable restoration process to those that govern the Federal benefits of non-veteran students. That is why I am so proud to reintroduce my bill again this Congress. The Student Veteran Benefit Restoration Act of 2025 is stronger and offers our student veterans more comprehensive protections. The bill introduced this Congress, my first of the 119th, offers student veterans who have been defrauded by predatory institutions the following protections. It includes mandatory restoration, which means benefits could be automatically restored in cases of fraud, loss of approval, or even legal action. The bill also expands the fraud scope, which means my bill would include court rulings and DOJ closures in addition to VA investigations for restoration. The bill also provides a separate appeals process created for schools who want to challenge the repayment determinations. It includes an explicit fraud definition. It defines fraud as including false, misleading, and deceptive acts.

We have more work to do to protect our veterans from bad faith actors and make certain that they have every single opportunity to live a meaningful, thriving, and joyful life post service. This bill gets us closer to that.

Thank you to all of my colleagues in this committee, to the ranking member, to the chairman for your support last Congress. I look forward to getting this bill passed this Congress out of the House, then the Senate, and signed to law. I look forward to working with every one of you to make that happen.

Thank you, Chairman. I yield back.

The CHAIRMAN. I also look forward to it passing as well.

I would like at this time to welcome our first panel. If everyone would please come to the front. Testifying before us today, we have Ms. Beth Murphy, acting principal deputy undersecretary for benefits at the Veterans Benefit Administration for the U.S. Department of Affairs. She is accompanied by Ms. Tracey Therit, is that

correct? Chief human capital officer at the Office of Human Resources and Administration/Operations, Security, and Preparedness for the Department of Veterans Affairs. Does that fit on a business card? That is pretty long. Dr. Sachin Yende, chief medical officer in integrated veterans care at the Veterans Health Administration at the Department Veterans Affairs.

I ask the witnesses to please stand and raise their right hands.

[Witnesses sworn.]

The CHAIRMAN. Thank you. Let the record reflect that the witnesses have answered in the affirmative.

Ms. MURPHY. Hi. I now recognize you for 5 minutes for your testimony.

STATEMENT OF BETH MURPHY

Ms. MURPHY. Good afternoon, Chairman Bost, Ranking Member Takano, and members of the committee. Thank you for the invitation to present our views on pending legislation that would affect Department of Veterans Affairs' programs and services. Accompanying me today is Ms. Tracey Therit, chief human capital officer, Office of Human Resources and Administration/Operations, Security, and Preparedness; Dr. Sachin Yende, chief medical officer for VHA's Integrated Veterans Care.

VA offers support for much of the proposed legislation before us today. First, VA supports H.R. 1391, the Student Veterans Benefit Restoration Act, which would restore VA education benefits for veterans affected by deceptive educational institution practices. VA believes the institution, not the students, should repay all covered assistance, including payments directly to students. To ensure this, VA recommends amending the bill to require institutions to reimburse both direct student payments and tuition funds received from VA, preventing veterans from bearing the burden of repayment.

VA also supports H.R. 1041, the 2d Amendment Protection Act, and the unnamed Second Amendment bill, but also notes risks with both aspects of the bills. VA has continuously complied with all legal reporting requirements to the Department of Justice for recording individuals on the National Instant Criminal Background Check System, or NICS. When VA determines a veteran unable to manage their affairs, H.R. 1041 would require an evaluative consideration in addition to a VA incompetency decision to determine whether the veteran's mental capacity warrants NICS reporting.

Additionally, VA notes that H.R. 1041 would neither remove nor amend DOJ's policies and procedures when enforcing the Brady Handgun Violence Protection Act. DOJ defines mental defective as any individual who lacks the mental capacity to contract or manage their own affairs. To avoid putting the veteran at risk of facing criminal liability when purchasing a firearm, VA recommends including legislative language that would clearly exempt an individual deemed incompetent for purposes of the VA fiduciary program from being considered a mental defective as defined by DOJ. However, I want to make it clear, Mr. Chairman, that, if passed, VA will continue to comply with Federal law and implement both bills as written.

VA does wish to note that we continue to take veterans' suicide prevention extremely seriously. One example of our efforts is that,

effective February 14, 2025, VA, in collaboration with Veterans Health Administration, requires the distribution of two new fact sheets on gun safety storage and suicide awareness to prospective fiduciaries during the appointment process, reinforcing VA's commitment to veteran safety.

VA also supports H.R. 4472, the Restore Accountability Act of 2025, with amendments, to strengthen its disciplinary authorities. Legal challenges to the VA Accountability Act have weakened its distinction with existing laws, prompting VA to advocate for modifications to 38 U.S. Code Sections 712, 713, and 714 to enhance accountability, reduce litigation risk, and ensure disciplinary actions stand. VA welcomes the opportunity to engage in technical assistance to address these issues. VA will continue to take disciplinary action under applicable existing authorities, providing certainty and minimizing legal risk to VA while working with Congress to address the legal risks identified in the draft bill.

Finally, VA strongly supports the intent of H.R. 740, the Veterans' ACCESS Act of 2025, proposed by Chairman Bost, which directly aligns with Secretary Collins' focus on providing timely care for eligible veterans. The bill would codify VA's access standards, strengthen referral processes, and expand options for mental health residential rehab care. It also establishes a standardized screening process for residential mental healthcare and requires real-time wait times tracking across facilities. VA is steadfast in its commitment to refining processes, strengthening provider networks, and working with Congress to ensure timely care for veterans. We appreciate the committee's leadership and look forward to advancing these and similar solutions that prioritize veterans.

Mr. Chairman, that concludes my statement. Thank you again for the opportunity to discuss this important legislation to improve benefits and services for veterans, servicemembers, and their families. My colleagues and I would be glad to answer any questions you or the other members of the committee may have.

[THE PREPARED STATEMENT OF BETH MURPHY APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you, Ms. Murphy. We appreciate your testimony.

We are going to go to questions.

Ms. Murphy, and I only need a yes or no answer, other versions of the Discussion Draft on the bill requiring us to no longer return to NICS's list for those who are seeking a fiduciary, other drafts would for the VA notification would notify the Attorney General that all VA prior reports of the veteran to the NICS list was "improper." Do these other bills put Trump administration and VA at risk of being sued, including for possible reparations?

Ms. MURPHY. Yes, sir.

The CHAIRMAN. Okay. Okay. I also need a yes or no answer. Once the Consolidation Appropriations Act of 2024 and the subsequential Continuing Resolutions expire, will VA resume reporting VA with fiduciary to NICS unless Congress passes the permanent solution?

Ms. MURPHY. We would follow the law that was applicable. If it expired, yes, we would follow the law in effect at the time.

The CHAIRMAN. Ms. Therit, why are the authorities in the Accountability Act necessary for VA to be able to hold its employees accountable?

Ms. THERIT. Chairman Bost, the authorities in the Restore Accountability Act will help us to hold our employees to a higher performance standard as well as a higher standard of conduct, and that is good for serving veterans.

The CHAIRMAN. Dr. Yende, what are VA's current policies when veterans are seeking administration to residential rehabilitation treatment programs (RRTP)?

Dr. YENDE. Chairman Bost, the current policy is if a veteran needs priority care, that should be provided within 72 hours. If it is a non-priority care for RRTP programs, it should be provided within 30 days.

The CHAIRMAN. Can you tell me how you think that my bill, Veterans' ACCESS Act, would improve access for veterans seeking substance abuse treatment?

Dr. YENDE. Chairman Bost, we are supportive of this legislation. We already are making some changes in our policies and procedures. We do require some minor tweaks where we would change the priority admission threshold from 72 hours to 48 hours and the 30-day threshold to 20 days.

Additionally, there will be a requirement for screening. We have already started working on those screening measures by standardizing our screening procedures at the Veterans Integrated Services Network (VISN) level. I think what is in the ACCESS Act, we have already started taking some steps toward that direction and we believe it will help in providing timely access to our vets.

The CHAIRMAN. Thank you. Ms. Murphy, once again, yes or no answer. Do you believe that every veteran with a fiduciary is automatically a danger to themselves and others?

Ms. MURPHY. I am not able to answer that——

The CHAIRMAN. Wait, wait, wait. You are not able to answer whether you believe if a fiduciary is provided for a veteran, whether they are automatically a danger to themselves or others?

Ms. MURPHY. If a fiduciary is provided, that fiduciary takes care of their VA funds.

The CHAIRMAN. Their financial needs.

Ms. MURPHY. Their financial needs. If you are using the word "automatically," then I would say no.

The CHAIRMAN. Okay. Dr. Yende, over the last month, this committee has conducted several oversight hearings focused on community care. Our witnesses have included VA program administrators and providers, but, most importantly, veterans. Under Secretary Collins, how is VA planning to ensure veterans can get the care, including community care, that they have earned?

Dr. YENDE. Chairman Bost, we believe community care is VA care, and we would make sure that when a veteran is eligible and desires community care, our veterans should be provided access to community care. We are working, as Secretary Collins has said, in making sure that veterans have earned the access to community care and will take the steps to make sure that happens.

The CHAIRMAN. Thank you. Ms. Murphy, I have one more question, and I know that you are probably not going to answer, but

I am going to put it on the record anyway. Do you believe that it is right for those people who have fought and died, many of them physically disabled for life in many ways, that seek care from the VA should have every due process under the law that someone who has not receives?

Ms. MURPHY. I believe that we, as part of our VA responsibilities, have to administer all the due process that is required.

The CHAIRMAN. Okay. Maybe I should ask this. You believe—I apologize.

Ms. MURPHY. It is all right, sir.

The CHAIRMAN. By golly, I normally have to stand up in a position of attention for that.

Ms. MURPHY. Sounds inspirational, for sure.

The CHAIRMAN. Let me ask this. Do you believe that the VA has the authority to give due process?

Ms. MURPHY. Regarding VA benefits and services, yes.

The CHAIRMAN. Regarding their constitutional rights?

Ms. MURPHY. We, as part of our due process, provide information, in this case regarding the Brady Bill, information that would be helpful to the potential beneficiary, the potential individual covered by the fiduciary program, so they are aware of the rights. We provide information.

The CHAIRMAN. Well, first off, let me say that I believe that every other person in this United States besides veterans has the right to go before a judge to make that decision to offer them due process. That is why I carry this bill and why we are going to push hard to make sure that bill passed.

With that, my time has expired and I yield to the ranking member for his questions. Thank you.

Mr. TAKANO. Thank you, Mr. Chairman.

Ms. Therit, your title at VA is chief human capital officer. Is that correct?

Ms. THERIT. That is correct, Ranking Member Takano.

Mr. TAKANO. Thank you. Can you tell me how many VA employees have been terminated since January 20, 2025?

Ms. THERIT. Approximately 1,400 employees have been terminated during their probationary period.

Mr. TAKANO. Can you speak up? I cannot hear you too well.

Ms. THERIT. Sorry. Ranking Member Takano, approximately 1,400 employees have been terminated during their probationary period.

Mr. TAKANO. Thank you for that. Who in your chain of command ordered you to carry out these terminations?

Ms. THERIT. Ranking Member Takano, I am happy to take questions about the termination of employees during their probationary period for the record. Today my focus is on the legislation, the Restore Accountability Act.

Mr. TAKANO. Well, madam, please stop. The Restore VA Accountability Act changes the authorities VA has to terminate employees, right?

Ms. THERIT. The Restore Accountability Act——

Mr. TAKANO. Just to answer my question. The Restore VA Accountability Act changes the authorities VA has to terminate employees, right?

Ms. THERIT. Ranking Member Takano——

Mr. TAKANO. I am establishing the germaneness of my questions to you——

Ms. THERIT. I understand.

Mr. TAKANO [continuing]. so please answer my questions. Who in the chain of your command ordered you to carry out these terminations?

Ms. THERIT. I used the authorities within the Code of Federal Regulations.

Mr. TAKANO. Nobody ordered you to carry out these determinations. You did it on your own?

Ms. THERIT. There was direction from the U.S. Office of Personnel Management (OPM).

Mr. TAKANO. There was a direction from OPM, instructed you? Who in that office instructed you?

Ms. THERIT. Sir, I am happy to take these questions——

Mr. TAKANO. You are refusing to answer the question. Were leaders in the VA offices that these employees worked in notified prior or even after their termination?

Ms. THERIT. Sir, I am happy to take questions——

Mr. TAKANO. You are nonresponsive. Many VA program officers still do not know who from their ranks were terminated. Was the decision to terminate these employees made outside of VA?

Ms. THERIT. Ranking Member Takano, I am happy to answer the questions for the record.

Mr. TAKANO. For the record. You will answer it later? Is what you are telling me?

Ms. THERIT. I will, sir.

Mr. TAKANO. Thank you. How many VA employees did you terminate on the night of February 13, 2025?

Ms. THERIT. Ranking Member Takano, as I mentioned, approximately 1,400 employees have been terminated during their probationary period.

Mr. TAKANO. Okay. You cannot tell me on February 13, 2025?

Ms. THERIT. I will provide that information for the record.

Mr. TAKANO. Thank you. How many VA employees did you terminate yesterday?

Ms. THERIT. Ranking Member Takano, approximately 1,400 employees were terminated during their probationary period. I can provide the information requested for the record.

Mr. TAKANO. Okay. Thank you. I have a poster that shows the memo that you wrote and sent to the employees that were terminated. Did you write and sign this memo?

Ms. THERIT. Ranking Member Takano, that is my signature on that letter.

Mr. TAKANO. You wrote and signed the memo?

Ms. THERIT. It is my signature on the letter.

Mr. TAKANO. Did you write the memo?

Ms. THERIT. The memo was provided.

Mr. TAKANO. You did not write it. It was provided to you by someone else?

Ms. THERIT. The memo was provided for——

Mr. TAKANO. You are not going to tell me who provided you with the memo?

Ms. THERIT. Ranking Member Takano, I am happy——

Mr. TAKANO. Your name is on the memo.

Ms. THERIT. I am happy to take questions——

Mr. TAKANO. Did you personally determine and verify which probationary employees to terminate?

Ms. THERIT. Ranking Member Takano, I am happy to take that question for the record.

Mr. TAKANO. Okay. Right here, you wrote that based on this employee's termination—that you based this employee's termination on their performance. Did you verify that each terminated employee had been evaluated for their performance?

Ms. THERIT. Ranking Member Takano, I will answer your questions for the record.

Mr. TAKANO. Did every probationary employee who was terminated have performance issues?

Ms. THERIT. Ranking Member Takano, I am happy to answer your question——

Mr. TAKANO. You cannot answer that question, though you sent this memo out and it resulted in their termination?

Ms. THERIT. At today's hearing, I am prepared to talk about the Restore Accountability Act.

Mr. TAKANO. Okay. Ms. Therit, my staff has now heard from many of the people who were fired, and we know that many had stellar performance records, which directly contradicts the memo you sent out. Did you do your due diligence before you sent this memo out and assure yourself that everything in this memo was true?

Ms. THERIT. Ranking Member Takano, I am happy to take your questions for the record.

Mr. TAKANO. You just sent this memo out and whether or not you are going to fire an employee based on their performance, but you did not do the due diligence yourself to make sure that this memo was true?

Ms. THERIT. I am happy to take the question and provide that information for the record.

Mr. TAKANO. The answer is no. It is not just that you are happy to take my question. The acting U.S. attorney in New York decided that she would resign before engaging in a quid pro quo that violated the oath she took. Did you take an oath to do the job you are doing now?

Ms. THERIT. Ranking Member Takano, every Federal employee has an oath——

Mr. TAKANO. Okay, thank you. Yes. The answer is yes. Do you believe that terminating these employees and lying about the reason why was a violation of that oath?

Ms. THERIT. Ranking Member Takano, I am supporting the decision that was made.

Mr. TAKANO. You supported the decision and you sent out memos without knowing whether or not their performance actually justified their termination?

Ms. THERIT. Ranking Member Takano I am happy to answer questions——

Mr. TAKANO. Madam, at what point would you resign rather than follow an instruction from a superior?

Ms. THERIT. Ranking Member Takano——

Mr. TAKANO. Does not that weigh on your conscience that somebody's livelihood was terminated and you did not do the due diligence to find out whether this memo was, in fact, true?

Ms. THERIT. Ranking Member Takano, if any employee is concerned——

Mr. TAKANO. Just look at the veterans that are sitting behind you, ma'am. You fired these people.

The CHAIRMAN. The gentleman's time has expired.

Representative King-Hinds, you are recognized for 5 minutes.

Ms. KING-HINDS. Whew. We got 99 problems in the Veterans Administration. You know, I am a new member and I have seen multiple reports, both from the Government Accountability Office (GAO) and the Inspector General (IG), laying out what the issues are and all this work that needs to be done with regards to providing the access to the care that veterans rightfully deserve. I want to reshift our focus to the policy at hand. For me, my district, the issue is access. The manner in which we have been having the conversation with regards to access is a one or the other proposition, right? Whether we should just put all the money with regards to the VA or expand to community care services.

I am looking for a win-win. How do we—and I do not think, right, when you are looking at communities like mine where access is an issue, you cannot just get in a car and drive. You know, this is an issue for rural communities as well. How do we balance and optimize basically having those two complement each other so that we ensure that veterans who live in remote rural areas actually have access?

Dr. YENDE. Thank you for the question. Dr. Braverman and I testified a couple of weeks ago. We completely understand that in places like the Pacific Islands and Alaska, we will have to come up with some innovative solutions given challenges with access in those areas. We actually worked recently with VISN 21 that covers your area, put together a brief report outlining access both through VA direct care system as well as the community care system. As Mr. McIntyre from TriWest testified, we are also working with our third-party administrators.

I will make sure we will provide you that summary. I think it is already on its way, but I will personally make sure we provide you with a detailed summary of how we can ensure access in your area.

Ms. KING-HINDS. I would appreciate that because some of the conversations that we are having seems or sounds like a first world problem to me when the issue really is just can we get some service? Looking forward to that report. Thank you very much.

I yield my time. Thanks.

The CHAIRMAN. Representative Budzinski, you are recognized.

Ms. BUDZINSKI. Thank you, Chairman Bost and Ranking Member Takano, for this hearing, and thank you to the witnesses for your time.

I have strong concerns about several of the bills up for consideration today, but most notably H.R. 472, the Restore VA Accountability Act. We have seen, as Ranking Member Takano discussed, the mass firings across the Federal Government, but specifically

those 1,400 VA staff that were fired just last night. That is a total of actually at least 2,400 employees let go at the VA headquarters. That is not accounting for those who have taken the so-called Fork in the Road leave package.

I want to note I have the privilege of serving as a ranking member on the Subcommittee on Tech Modernization. We held our first hearing yesterday regarding the ongoing rollout of the electronic health record system. At a time when we need to be recruiting and retaining staff for major projects, like Electronic Health Record Modernization (EHRM) that has really struggled to catch fire and get off the ground, it troubles me that as a part of that hearing it was acknowledged that some of these firings were actually within the EHRM program, creating potentially further struggles for the program being further short-staffed.

I want to point out that veterans make up approximately 30 percent of the Federal workforce. Not only is this administration firing thousands of employees who provide crucial service to our vets, they are also firing thousands of veteran employees themselves. I have also heard directly from veteran employees in my district who were unjustifiably terminated. I believe in staff accountability, especially when it comes to those providing services for our veterans, but it must be done in a just and fair manner. VA officials themselves have communicated to the committee that they do not need additional authorities to hold employees accountable.

When the Restore VA Accountability Act was considered by this committee last Congress, I offered an amendment that would have stricken provisions of this bill that explicitly superseded collective bargaining agreements made with VA employee unions with respect to disciplinary procedures. I noted at the time that more than 79 percent of VA's workforce are bargaining unit employees. Procedures outlined in VA's collective bargaining agreements have been agreed upon after extensive negotiations between unions and management to enact legislation that would simply throw out these contracts out the window, I think is cruel and unfair, given that the parties negotiated these agreements under the law at the time.

When Congress passes new laws, it is customary for labor and management to return to the bargaining table to incorporate those new laws into VA's collective bargaining agreements, not for Congress to unilaterally deny the workforce that right. Specifying in this bill that any collective bargaining agreements must be superseded is anti-union and anti-worker, and it is just that simple.

My question is, Ms. Therit, my question for you is that if instead of tossing out collective bargaining agreements and beyond any mass firings of the VA workers, would it not be more efficient and cost-effective to simply improve training for HR employees and frontline supervisors on how to properly and effectively discipline employees under Title V, and especially when compared to attempting to pass a law that has proved unconstitutional in the past and will almost certainly be litigated?

Ms. THERIT. We have recognized that the Restore Accountability would require some modifications and some rigorous technical review working with the committee. I think two things that we have been steadfast in is that we are always looking to improve, whether it is improving the training, whether it is improving the processes,

whether it is improving the timelines that we have to propose, decide, and finalize an action. The bill offers a lot of those opportunities for us to improve our accountability when it comes to performance and conduct.

The other component is that we want to make sure that any actions that we take are legally defensible. We do not want to have to reinstate employees. We do not want to have to reverse actions that we have taken. The sections that you reference with respect to collective bargaining, with respect to opportunities to improve, in our views on the bill, we do look forward to working with the committee to make sure the language in those sections is sufficient enough for us to be able to learn from some of the challenges that we have had in the past and still be able to hold our employees to high levels of performance and conduct. Whether it is in the investigative process, in the training process, in the execution of these authorities that we are able to do what the committee expects of us, which is to hold our employees to a high standard and keep the veteran at the center of all that we do.

Ms. BUDZINSKI. There is an acknowledgement that there are some issues specifically around collective bargaining that have to be addressed, that this legislation is not superseding collective bargaining agreements?

Ms. THERIT. Ma'am, Representative Budzinski, we do have, in our views, some recommendations for rigorous technical assistance with the committee on those sections. The one thing that we want to do is learn from the past where we implemented without bargaining, and understand what our obligations are, so that we meet those obligations and that we use the authority to its fullest extent possible.

Ms. BUDZINSKI. I yield back. Thank you.

The CHAIRMAN. Representative Barrett.

Mr. BARRETT. Thank you, Mr. Chairman.

Thank you for being here today. I want to follow-up on a few of Ms. Budzinski's questions because we are genuinely looking at this electronic health record issue.

First, I wanted to ask Ms. Murphy, and the chairman was kind of getting at this point earlier, but is it true that a veteran who has their Second Amendment rights revoked through that process, their only opportunity to appeal, that is after they have already appeared on the list, basically prohibiting them from owning a firearm? Is that correct?

Ms. MURPHY. VA, previous to the Consolidated Appropriations Act last year, was reporting to NICS. Now we have only reported to NICS when there is a court order finding that meets the requirements. As far as the—sir, I have lost track of your question. Could you help me out?

Mr. BARRETT. Yes. Basically, their only opportunity to appeal be after NICS has already been——

Ms. MURPHY. We report as required in the cases. Once they are on the NICS list, there is an appeal process. There is a——

Mr. BARRETT. There is no——

Ms. MURPHY. There is a——

Mr. BARRETT. There is no opportunity or no notification given to a veteran before they would appear on NICS, basically to discourage that from going forward.

Ms. MURPHY. From our side, from the VA side, we would provide them information. We make two attempts at phone calls during our due process for the fiduciary program purpose, to explain what the Brady Act is, what the ramifications would be, just so that they are aware. I believe that—so once they are on the NICS list, they could ask for a reconsideration.

Mr. BARRETT. Just of that particular provision. It is different than what a civilian would encounter in a similar situation.

Ms. MURPHY. That is my understanding.

Mr. BARRETT. Okay, thank you. Then, Ms. Therit, can you give us a few examples in your experience of just misconduct that you have been made aware of that led to an investigation, that led to a termination, and others that led to an investigation that did not lead to a termination for an employee?

Ms. THERIT. Representative, we have varying examples.

Mr. BARRETT. Right.

Ms. THERIT. We take about 5,000 adverse actions a year to remove, to suspend, or to demote employees. I know our Office of Accountability and Whistleblower Protection has testified on some of the investigations that they have done of senior leaders and the outcomes that have been implemented regarding termination of those senior leaders. I am aware of situations that have led to an investigation which was recommended, a termination, and that termination was taken. We have also had situations where employees have retired or resigned before that action could be taken.

Mr. BARRETT. Okay.

Ms. THERIT. I know I have recommended that we look at strengthening some of those procedures so individuals are not walking out the door with adverse actions and no action taken to hold them accountable.

Mr. BARRETT. If a person resigns prior to a finding, does that carry forward with them to another Federal agency or another Federal job that they may be applying for?

Ms. THERIT. There are limitations in the current legislation. For instance, it does not cover senior executives, it does not cover individuals who retire, and the circumstances under which a personnel record can be annotated. If somebody goes to another Federal agency, that adverse action or that misconduct is seen by the current employer does not always happen in every single case.

Mr. BARRETT. Okay.

Ms. THERIT. We, again, look forward to the committee to saying, what can we do to improve? What can we do to be the standard bearer when it comes to——

Mr. BARRETT. Right.

Ms. THERIT [continuing]. employee performance and accountability in the Federal Government?

Mr. BARRETT. Then how long, on average, does it take for an investigation for a serious case of misconduct, an allegation of that, how long would an investigation typically take?

Ms. THERIT. Average timeframes can vary depending on the allegations, depending on the number of witnesses who need to be contacted.

Mr. BARRETT. Can you give me a typical?

Ms. THERIT. I know the Office of Accountability and Whistleblower Protection maybe said 120 days on average in some cases.

Mr. BARRETT. Okay, 120 days.

Ms. THERIT. That means 4 months.

Mr. BARRETT. I am running short on time. Do you feel that there is a disincentive baked into that for managers within VA to go forward with that investigation if they feel that it takes too long, that the results will not actually be actioned, that a person will walk away and maybe take another job before they would be held accountable for something?

Ms. THERIT. Representative, I have heard of situations where managers feel that it is either not worth their time or they do not feel that they would be supported in going through the process and taking an action. We need to make sure that our managers are supported if they are doing the right thing and holding somebody who is not performing at the level expected or engaging in misconduct accountable.

Mr. BARRETT. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Representative Ramirez, you are recognized for 5 minutes.

Ms. RAMIREZ. Thank you, Chairman.

As the ranking member of Oversight Investigations for this committee, I take seriously my responsibility to carefully weigh the impacts of legislation we advance out of this committee. It is my priority to ensure that the bills we advance protect the VA programs and services that meet veterans' needs and improve the quality of their lives. However, I got to say, there are some that still insist that the mass firings that are happening are not impacting our veterans.

Ms. Therit, let me ask you, did you do an analysis of how these reckless terminations would impact the agency's efficiency?

Ms. THERIT. Representative Ramirez, I mentioned in Ranking Member Takano's call that it is about 1,400 employees.

Ms. RAMIREZ. No, no. I am asking, did you do an analysis before you went on to fire that many people?

Ms. THERIT. I mentioned to Ranking Member Takano that I would be happy to take these questions on the terminations during probation and provide answers.

Ms. RAMIREZ. You are not responding about doing analysis. We do not know who in the VA did that analysis. We do not know who told you to prepare that memo. We do not know what went into any analysis if, in fact, there was an analysis, because we are saying that there is not going to be an impact on veterans. We are seeing mass firings happen. We do not know if you trusted that analysis because you are unable to disclose that.

Let us say it for what it is. As far as right now, we as members of this committee and as the ranking member of Oversight and Investigations, I have no idea if you did your homework before firing thousands of veterans and VA employees to make sure veteran care

and benefits would not be impacted. Let me just make sure I say that.

Ms. Therit, less than 3 weeks ago, you testified before our subcommittee that under current law, the VA cannot discipline an employee if there is no evidence to support a punishment. In other words, the VA can only discipline an employee only if there is evidence of wrongdoing. Yet today, the VA supports the Restore VA Accountability Act, which limits the evidence the VA can consider when disciplining employees. By limiting the Douglas factors, which is an important criteria that agencies have to consider before any disciplinary action to ensure fairness in the process, are not we suggesting that the VA should consider some piece of evidence but not others? Is not that, in effect, just to pressing evidence?

I mean, we are clear that there could be evidence that negates or mitigates a disciplinary action. Correct? The VA would not be able to consider that evidence? I do not understand how that is fair.

Ms. Therit, let me ask, my question to you is, do you believe that limiting the Douglas factor is constitutional?

Ms. THERIT. Representative Ramirez, I want to make sure that the Restore Accountability Act——

Ms. RAMIREZ. Hold on.

Ms. THERIT [continuing]. offers employees due process.

Ms. RAMIREZ. Okay. Let me ask the question again because I think it is really important. I mean, our responsibility is to uphold the Constitution here. Let me ask you again. Do you believe limiting the Douglas factors is, in fact, constitutional? Yes or no?

Ms. THERIT. I believe employees are due—should have due process when they are held to a standard of performance in kind.

Ms. RAMIREZ. You do not believe the Douglas factors is constitutional, or you do believe that they are constitutional? Yes or no?

Ms. THERIT. I believe there have to be factors, whether they were the Douglas factors or other factors, that are used in making those due process determinations.

Ms. RAMIREZ. Ms. Therit, I am sitting here and I am watching people who have dedicated their life to protecting and to providing access to benefits and service to our veterans in tears. I am asking myself, how the heck am I in a room right now where the person that is responsible for emails cannot tell me who told you to write the email, cannot walk us through the process in which they determine if it is going to impact the ability for veterans to receive the benefits that they deserve? Here I am with no answers.

I mean, you have to understand the frustration in the ranking member here because we are talking about accountability, but somehow there is no accountability in what you just did. That is why I have to tell you that it is incredibly important that on the record I state to you that what is happening in the VA is unacceptable and has real consequences to our veterans. If there was no real analysis done, if you are firing left and right during probation period, and if you have no way of determining why the employee was fired, then that tells me that there is no real due process. I cannot leave here without putting that on the record.

Ms. Murphy, I want to go to you as I wrap up, and I just want to ask you a real quick question. Do you believe that without sufficient mechanisms in place that we are able to protect veterans?

Ms. MURPHY. Could you be more specific with the context for that, please?

Ms. RAMIREZ. Yes. Well, I know that we are running out, so let me get back, if I can, the next round.

Ms. MURPHY. Certainly.

Ms. RAMIREZ. Thank you.

The CHAIRMAN. First off, I want to remind members that their questions should be directed to the topic of the hearing, which is the three pieces of legislation that we have before us. Five pieces of legislation we have before us. It has been a long day. So, with——

Mr. TAKANO. Well, Mr. Chairman, I will just remind you that, you know, we are considering the VA Accountability Act, which does change the course——

The CHAIRMAN. That is true.

Mr. TAKANO [continuing]. of our questions.

The CHAIRMAN. That is true. Some of the comments have went beyond what that language actually does. The questions went beyond what the Accountability Act actually does.

Mr. TAKANO. Well, everything that I have heard today is very germane to accountability. What are the standards we are using to hire and fire people or how they can be——

The CHAIRMAN. Not the actual language of the bill.

Mr. TAKANO [continuing]. disciplined? Our questions are going to. You know, people are being fired and under disciplinary—you know, they were said that they are——

The CHAIRMAN. Not under the bill that we are discussing.

Mr. TAKANO. Well, the bill we are discussing——

The CHAIRMAN. The bill that we are discussing does not deal with the situation that—and I gave you free rein to go ahead and have the communication and talk about it and I responded. We have to be focused on these bills that are before us today. That does not mean we will not have another time where we will talk and discuss that. As we go off away from what the actual language of the bill is, then it deters from the actual language of the bills that we are trying to deal with.

Mr. TAKANO. Mr. Chairman, when will we have a hearing on this topic of all these dismissed veterans? When will you commit to do a hearing?

The CHAIRMAN. We can discuss that at another time, but right now we have——

Mr. TAKANO. Do you commit to doing a hearing on all these dismissals that contradict——

The CHAIRMAN. You know, we have——

Mr. TAKANO. The veterans——

The CHAIRMAN.—actually had conversations in this room. We have had conversations in the other room in the full hearing on these issues. Now, my thought is, is that we need to get focused on the bills that are before us. You and I have had this. We have actually discussed it in two full—actually in a bicameral hearing and we have let that go. We need to actually get back to focusing

on the bills that are before us so that we can have this hearing that we need to have.

Mr. TAKANO. Well, that is fine. We have veterans who have been dismissed, who has——

The CHAIRMAN. We have each——

Mr. TAKANO [continuing]. glowing performance records and we ought to know why.

The CHAIRMAN. Do you know why?

Mr. TAKANO. I am asking you, will you commit to doing a hearing on that topic?

The CHAIRMAN. I have answered that if they come to me, we can talk about that.

Mr. TAKANO. Excuse me?

The CHAIRMAN. If they come to me, we can talk about that. I said that to the hearing in there. I said that if the individual—there is a due process that they can go through.

Mr. TAKANO. I would ask you, I think this merits a hearing. The American people are upset about these veterans who have been dismissed with glowing performance records. There seems to have been no performance—there has been no analysis on efficiency, on how this affects—there is no justification for why.

The CHAIRMAN. Okay. Representative Hamadeh, you are recognized.

Mr. HAMADEH. Thank you, Mr. Chairman.

You know, as I sit here time and time again, I see my colleagues on the other side always seeming to protect the bureaucracy. I want to remind everybody that the VA employs over 400,000 employees. What we are talking about is 1,400. I mean, the 400,000 employees, that is bigger than the United States Navy. I know you all have a tough task ahead of you to make sure that the VA is actually working for the veteran.

Going back to the topic at hand, as a veteran and a former prosecutor myself, I understand that oath of office to uphold the Constitution and to protect the communities. I am proud to co-lead Chairman Bost's Veterans 2d Amendment Protection Act because it is crucial that veterans retain the same constitutional rights we fought to protect.

Now, Ms. Murphy, does the VA ever report veterans to NICS before considering any evidence that they may be a danger to themselves or others?

Ms. MURPHY. Thank you for that question. Under the current construct, we are not reporting anyone other than those who have been adjudicated under a court order that included that they were a danger to themselves or others. That is under our current instruction. That is already taken care of by the court.

Mr. HAMADEH. When did that happen?

Ms. MURPHY. In March 2024, under the Consolidated Appropriations Act. That is the authority we are operating under now.

Mr. HAMADEH. Are you following the Supreme Court's guidelines?

Ms. MURPHY. We are. We are following the guidelines of the act.

Mr. HAMADEH. Now, Ms. Murphy, would the ACCESS Act, by codifying clear access standards and expanding eligibility for sub-

stance use and urgent mental healthcare, help these veterans get the care they deserve?

Ms. MURPHY. I would like to ask Dr. Yende to weigh in on that, please.

Dr. YENDE. Yes, Congressman, we are supportive of the ACCESS Act and we believe it will improve access to veterans both on the community care side as well as on the direct care side and making sure veterans get timely access to substance abuse care and residential treatment programs.

Mr. HAMADEH. I often hear this report or this poll that is by my Democrat colleagues and some at the VA that say that the VA has a 92 percent trust in the healthcare that they receive when veterans go there. That study often is only talking about people who actually went through the VA process or the outpatient. It is a post outpatient survey, but it does not talk about those who never made it through the system. That is kind of my biggest concern right now when you are talking about mental health and substance use and they never make it through the system because they find the bureaucracy and the red tape so difficult to go through. I think that is why the ACCESS Act is going to hopefully resolve some of this. Is that what your opinion is as well?

Dr. YENDE. I would say, Congressman, the ACCESS Act, particularly the RRTP provisions, very clearly delineate the thresholds when we should be referring veterans out. They would be reducing both the priority threshold from 72 to 48 hours and the non-priority thresholds from 30 to 20 days. We believe that will improve access to veterans.

Mr. HAMADEH. Have you been implementing that already?

Dr. YENDE. We have made a policy decision, and I cannot tell you exactly when, to implement the 72-hour threshold and the 30-day threshold. If this act is implemented, we will make some changes to meet that threshold. We have already put in some place some processes that allow us to sort of meet the current thresholds and we will have to just tweak those if this particular act is passed.

Mr. HAMADEH. You are able to currently do that, even given the 1,400 people who were dismissed?

Dr. YENDE. I am not sure I can answer your question in terms of the impacts of those 1,400 individuals. I would just say we are committed to making sure veterans get their timely access. The only thing I would add is that there is an exceptions list that has been submitted and most of the frontline staff are part of that exception list.

Mr. HAMADEH. All right, thank you.

Chairman, I yield back.

The CHAIRMAN. Representative Brownley.

Ms. BROWNLEY. Thank you, Mr. Chairman. I wanted to ask my first question to Dr. Yende.

Dr. Yende, last week DOGE canceled a contract with a service-disabled, veteran-owned small business that supported VHA in marketing and recruiting for difficult to fill clinical staff positions, staff vacancies at VA medical centers and clinics nationwide. It is my understanding that this contract, some version of which has existed for 20 years, actually saves VA money by decreasing the cost per hire. Without this contract, VA will struggle to attract the doc-

tors and nurses that they need, leading to additional workforce shortages, care delays, and more care being sent to the community and rising costs. Are you aware of this contract being canceled?

Dr. YENDE. I am not aware about the cancellation of the contract, so I would take that back as to potential impacts.

Ms. BROWNLEY. Are you aware of the contract and what it does?

Dr. YENDE. I am vaguely aware about contracts to help hire sort of providers in the VA, but I do not have the details.

Ms. BROWNLEY. Okay. You are vaguely aware of the contract. Vaguely aware of what its intention to do is to help bring in applicants for important positions within the VA. Do you agree that that is its purpose?

Dr. YENDE. I believe so.

Ms. BROWNLEY. Okay. If we do not have it, if we do not have that contract, do you believe that that could impact our ability to hire high-quality professionals in the organization?

Dr. YENDE. Congresswoman, having served at a facility as a chief of staff, I would say there are multiple ways to bring on providers, both VA providers, fee basis providers. In terms of the impacts of terminating that contract on being able to bring in frontline providers, I do not have that information, but we can definitely get back to you on that.

Ms. BROWNLEY. Okay, thank you. Ms. Therit, I think I wanted to ask you to—you know, so I think we have established that 2,400 people have been laid off or fired from the VA. Are you aware that the VA has continually told us that there are 40,000 vacancies within the VA that need to be filled? Does that number sound accurate to you?

Ms. THERIT.

[Audio malfunction] thousand employees and we manage to our budget. Our budget does not have 40,000 vacancies on our records. We are looking at a smaller percentage than 40,000 vacancies of positions that we continue to fill. As Dr. Yende had mentioned, under the hiring freeze that the Office of Personnel Management communicated in January, we have identified over 100 occupational series that we continue to fill and we make sure that those positions that are in the Veterans Health Administration, the Veterans Benefits Administration——

Ms. BROWNLEY. Okay, Okay, Okay.

Ms. THERIT [continuing]. National Cemetery Administration, and the board are filled.

Ms. BROWNLEY. Got it, got it, got it. Thank you. Of the 24 that have been fired, do you have any idea—so, veterans make up about almost 29 percent of the VA's workforce and many of those are 100 percent service-connected disabled veterans who were in those jobs. Do you have any idea how many of our veterans were impacted by this firing and layoff?

Ms. THERIT. Representative Brownley, about a third of our workforce are veterans. With respect to veteran hiring and veteran recruitment and veteran retention, probationary status looks at prior Federal service and in many of those instances, under the Veterans Recruitment Authority, they continue to have continuous service. We do not have the specific numbers of the 1,400 that have been impacted, but can provide that information.

Ms. BROWNLEY. Okay. Well, I would certainly like to know that. I would also like to know how many actually were working in VA medical facilities across the country as well.

I do not have much time left. I understand that there are several people here in the audience who have been impacted by this firing and layoff. I just want to thank them actually for being here. I do not know what all of their responsibilities are exactly, but I know some of them are doing very important work that have been laid off. Some are training actually people who are coming out of the military to work for the VA, to teach them how to be procurement managers. Some are making sure that their benefits are right and completely fulfilled, as they should be.

To me, these are very, very important positions that need to be filled. I am sorry to the people who are here that do not have a voice in this hearing/

I will yield back.

The CHAIRMAN. Representative Kennedy.

Mr. KENNEDY. Thank you. First, let me start by thanking all the veterans that are here with us today for your service to our country and those Federal workers that are here with us today that are veterans of this country and those that are service-disabled. I thank you for your service and I am disgusted by the way that you have been treated. Not just you in this room, but your colleagues, military colleagues across this country. It is heartbreaking, it is infuriating, and it is wrong.

We are talking about those that have dedicated their lives to service to this country and then some of whom have bled for this country and then have dedicated their lives even further by going into public service as Federal workers. Yet because you are on probation, or so that is what we have been told, we cannot even get a straight answer today, your job is terminated. That is despicable. Our veterans deserve better, especially those veterans that have bled for this country. This House has an obligation to treat you with dignity and respect like the heroes that you are.

I spoke to a service-disabled veteran this past week, who worked as a Federal worker for over a decade and a half and took a promotion less than a year ago. His job was terminated. He was on the chop block. These were arbitrary cuts. Arbitrary cuts. Despicable.

Ms. Therit, you talk about the fact that there is less of a staff shortage across the VA. According to the VA's own numbers, it is 40,000. That is the number we were told by the VA. That is not accurate?

Ms. THERIT. Representative Kennedy, the 40,000 number are not funded positions. There are a smaller number of funded vacancies.

Mr. KENNEDY. There is a shortage.

Ms. THERIT. There are staffing models that identify requirements and those requirements can support that number that you mentioned. There is a requirements and a staffing model and a staffing study that is done around what workforce is needed to support some of the care. I believe those were some of the numbers that were identified through the The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act.

Mr. KENNEDY. Yet, right when the executive order by President Trump was put into place, the hiring freeze, there were 1,900-plus people in the pipeline that were hired, ready to go to work at our VA across this country, and they were automatically cut. Is that accurate?

Ms. THERIT. Representative Kennedy, there were many employees, about 1,700, who had job offers and they were brought on board.

Mr. KENNEDY. Those job offers were rescinded, correct?

Ms. THERIT. No, they were actually brought on board by February the 8th based on those offers that had been made and those start dates that were announced.

Mr. KENNEDY. 1,700 people whose jobs have been offered were hired——

Ms. THERIT. Correct.

Mr. KENNEDY [continuing]. after the hiring freeze?

Ms. THERIT. Correct.

Mr. KENNEDY. I would like to see a detailed account of that. There were 716 job postings that were taken offline. Is that accurate?

Ms. THERIT. My understanding is it was 714.

Mr. KENNEDY. Okay, 714 that were taken down, correct?

Ms. THERIT. Correct.

Mr. KENNEDY. We have a staff shortage according to the VA's own account. We have those that were posted that were not hired and we have 1,400, you are telling us 1,400. We still have not seen a detailed account of these firings.

Ms. THERIT. Representative Kennedy, we have exemptions approved by the Office of Personnel Management to continue hiring, to continue posting job opportunity announcement. We continue to bring employees on each pay period to support our veterans in our medical centers as well as our benefits offices and our cemeteries.

Mr. KENNEDY. Well, tell that to the 1,400 people that were terminated, those veterans and service-disabled veterans who were terminated. Tell them that there was an exemption. There was no true exemption for our VA and those veterans, including those that are sitting right behind you here today. It is unconscionable. This country is better than that. We have a history of treating our military veterans with a priority and that did not happen in this instance.

I yield back.

The CHAIRMAN. Representative Dexter, you are recognized for 5 minutes.

Ms. DEXTER. Thank you, Chairman Bost and Ranking Member Takano, for convening this hearing. Thank you to our witnesses for being here today. To our veterans who were so clearly fired without any understanding of the impact not only on you, but on our veterans throughout this country, I am sorry and thank you for being here.

Please know that the Democrats are going to be fighting for you. That includes standing up against H.R. 472, which makes it easier to fire our committed VA employees, injecting more cruel chaos into our communities. Just last week back home in Oregon, I convened a roundtable with almost 15 veteran serving organizations. Our

State has one of the highest veteran suicide rates in the country. Each one of the advocates and veterans at that table underscored the importance of preventing these tragic deaths.

Ms. Therit, is it correct that suicide prevention is the VA's number one clinical priority?

Ms. THERIT. Dr. Yende to answer the question.

Ms. DEXTER. Thank you. Dr. Yende.

Dr. YENDE. Yes, Dr. Dexter, we agree.

Ms. DEXTER. Thank you. I believe Ms. Therit has confirmed this number, but I just want to ask again. How many veterans have been fired since January 20th? Veterans.

Ms. THERIT. Dr. Dexter, I will have to take that question for the record.

Ms. DEXTER. Okay. Job and income loss are two of the top indicators for suicidal ideation. Is that correct, Dr. Yende?

Dr. YENDE. It could be one of the many factors. I believe it is documented that that is accurate, but thank you.

Now tell me, Ms. Therit, what communication did the VA provide to veterans prior to termination to help them cope with their job and income loss?

Ms. THERIT. Dr. Dexter, I will take that question for the record.

Ms. DEXTER. I just want to underline that we have prioritized clinically suicide prevention as our top clinical priority. We went on to terminate veterans without any impact—or impactful intervention prior to that termination. Is that accurate?

Ms. THERIT. Dr. Dexter, I will take that question for the record.

Ms. DEXTER. OK. We have established that you sent an email to fire them. I will assert, unless we are proven otherwise, when you get back to us, that that was done without any additional support for these veterans.

Ms. THERIT. Dr. Dexter, as I had mentioned, I am prepared to talk about the Restore Accountability Act today.

Ms. DEXTER. I think this is directly relevant. I am going to now move to what did you send these veterans after they were terminated to help them cope with their job and income loss, to hopefully prevent suicide in these veterans and our workers?

Ms. THERIT. Dr. Dexter, I can mention that as the chief human capital officer at the VA, in my signature block, I have the 911 suicide prevention hotline. That information is always available to individuals who contact me. I think, as Chairman Bost had mentioned, if anybody has concerns about the action that the VA has taken, they are free to reach out to us or to others for answers to those questions.

Ms. DEXTER. That is a 911 is always available. I also understand that our crisis line had terminations impacting that as well. I will just make the statement because I assume that that is not going to be elaborated on.

Laying off veterans, especially without proper mental health resources, is a betrayal of their service to our country and our promise to them. I urge you all to remember that no amount of perceived efficiency is worth abandoning our values as Americans and our commitment to these brave veterans who served our country.

To add insult to injury among those fired, Ms. Therit was an instructor, as I mentioned, for the Veterans Suicide Prevention Hot-

line. It is a cruel irony that the Trump administration, enabled by Republicans, is not only putting our veteran employees at risk, but in doing so is making it harder for veterans to access care, which we have said is our top clinical priority in their greatest hours of need. Our veterans deserve much better than what this administration and our country is standing up for at this moment. I believe that we have a duty to address this issue imminently.

Thank you, Mr. Chair. I yield back.

The CHAIRMAN. Dr. Conaway, you are recognized for 5 minutes.

Mr. CONAWAY. Thank you, Mr. Chairman.

Our veterans are courageous men and women who have sacrificed much of their lives to defend and protect our country. These brave men and women make up roughly 30 percent of our Federal workforce. Our House Appropriations Committee estimates that nearly 6,000 veterans have lost their jobs, which is, to my mind, completely unacceptable when we understand and know. We have heard, well, partial answers to our questions about staffing levels at the VA.

Many veteran employees who have been terminated were probationary employees, as you mentioned, as some of you have mentioned. Many of these persons were not people who were new to the VA system. They were people who had been in the VA system for some time and were promoted into new positions. It makes their termination—presumably, they were promoted because they were doing a good job to be promoted. It makes their determination as probationary periods, using that as a subtext, particularly galling.

Can you discuss, and I will start with Ms. Murphy, what impact you think these firings will have on the lives of veterans and our families, and in particular the many veterans who were terminated from service in these rounds of cuts?

Ms. MURPHY. Dr. Conaway, from the veterans benefits perspective on our side of VA, the core mission, delivering benefits to veterans, has continued. I would point out that just today we issued a press release noting that we have reached our one-millionth claims processed earlier this year than ever. In the last—we have had 10 of our highest production days just in the last month, and the highest day ever at 12,000 claims. We are continuing to deliver, as Secretary Collins has instructed, on our core mission: delivering benefits to veterans.

Mr. CONAWAY. Well, that you are working on your core mission is one thing, but the question is what are the outcomes as you are working on that?

Ms. Therit, you mentioned that the number 40,000 is not an accurate number reflecting the vacancies. You suggested in your comments that if you look at what is budgeted for staff, that there is a gap between with respect to the number of employees for which there is a budget whose positions have not actually been filled. Can you tell us what that number is? If 40,000 is wrong and you mentioned we have got a budget limiting that, what is the number of budgeted positions that are not filled?

Ms. THERIT. Dr. Conaway, the information that we publish on a quarterly basis related to the MISSION Act, Section 505 report, contains that information. I am happy to provide it. I do not have it with me today.

Mr. CONAWAY. OK, thank you. I look forward to getting that information.

Now, Dr. Yende, excuse me, do you—and we have had a question about this and perhaps we can get a more fulsome answer, but the VA facilities across the Nation, are they fully staffed? I mean, and if they are not fully staffed, and we do not believe they are, is it 70 percent fully staffed, 80 percent? Where do you think that number? Can you give us a range at least about the staffing levels at these facilities across the Nation?

Dr. YENDE. I would have to take that question back and provide a more definite number. I do not have that information.

Mr. CONAWAY. Just in your experience running agencies and healthcare systems, does not staffing play an important role in the outcomes of care that people receive in those institutions that are delivering, well, any service, but in this case healthcare to veterans or other services to veterans for that matter?

Dr. YENDE. Yes, Dr. Conaway, staffing does play a role, but leadership at VA facilities day-in and day-out try to make sure that veterans' frontline access is not impacted by staffing. There are multiple ways to do that.

Mr. CONAWAY. Yet we have seen time after time, and this is not any particular administration, by the way, but we have seen that veterans are having trouble accessing care. You know, referrals can sit for 6, 9 months, we have heard in this very hearing room for people with possible cancer who do not get on to definitive care.

What do you expect that you are going to be able to do to meet the staffing shortfall that is currently in place? By the way, you mentioned—well, I am about done. Please tell us about what you expect to happen with respect to staffing and how that is going to positively impact the responsibilities of VA.

The CHAIRMAN. The gentlemen's time has expired.

Thank you.

Dr. Miller-Meeks, you are recognized for 5 minutes.

Ms. MILLER-MEEKS. Thank you very much, Mr. Chair, and thank you for holding this important hearing.

Ms. Murphy, after a veteran, and I am saying this as both a veteran married to a veteran in a family of veterans and also a doctor, former nurse, so, after a veteran is already reported to NICS based on no evidence of dangerousness, is not it harmful to a veteran's mental health that they have to prove to the VA that they are not dangerous to get their name removed from NICS?

Ms. MURPHY. Pardon me——

Ms. MILLER-MEEKS. Is there any effect on a veteran's dignity, purposefulness, and mental health and well-being if they have to prove to the VA that they are not defective after they have been reported to the NIC system by someone who may not be a doctor, may not have any medical experience, and may not be a judge?

Ms. MURPHY. I do want to point out that this year, since March 2024, when our reporting requirements changed, we have reported three individuals. The number in the past, I believe the prior Fiscal Year was around 13,000, similar to the prior Fiscal Year before that. Our reporting numbers are much lower. To have the requirement to be—it is currently not an issue.

Previously when we were reporting hire, there was an appeal process, there was a request for relief process, and those were taken on a case-by-case basis. Even in the Veterans Fiduciary Program, there is opportunity if there is a change in the mental health condition, they can submit additional evidence. Plus——

Ms. MILLER-MEEKS. Well, thank you for saying that. If the VA updates the Attorney General that all prior reports of veterans to NICS solely because they have a fiduciary no longer applies, will the veteran who was reported to the NICS list for other reasons stay on the NICS list or are they removed from the NICS list? Are they still on the list even if they find there was no basis or they know the fiduciary no longer applies to them?

Ms. MURPHY. They would still be on the NICS list and we would have to——

Ms. MILLER-MEEKS. Without due process, they are still on the NICS list. They are denied their constitutional rights even after the Attorney Generals have been told that it no longer applies to them. They are referred solely on the basis of having a fiduciary. I found that appalling after these veterans are the ones that defended our rights.

Dr. Yende, one of the things that we have heard throughout the community and from veterans is that their experience getting appointments with community care. If they meet the eligibility, i.e., they cannot get into a VA clinic appointment within 30 days and/or they live over 40 miles, that getting the appointment varies dramatically depending upon which VA facility or region they are in. What steps is the VA taking to ensure that community care policies such as the Referral Coordination Initiative are implemented consistently across all business?

Dr. YENDE. We have very clear guidance to each facility to make sure that Referral Coordination Initiative, or RCI, is implemented in as many specialties as possible.

I would just add, Chairman, there are other reasons why there may be delays, which may be related to staff who help to schedule these appointments. We work closely with the sites where there are long wait times in making sure they have the right processes, the right leadership, and the right staffing level. It is not just typically staffing level. There may be multiple factors at play.

Ms. MILLER-MEEKS. Dr. Yende, if a veteran wants a mental health appointment in person, should not that be up to them and their decision?

Dr. YENDE. Yes.

Ms. MILLER-MEEKS. Rather than the VA considering that we have given them a telehealth appointment within 30 days and so, therefore, they have denied a visit or an appointment if they want their visit in person?

Dr. YENDE. We agree with you.

Ms. MILLER-MEEKS. OK. Thank you so much.

With that, Mr. Chair, I yield back.

The CHAIRMAN. Thank you. The gentlewoman yields back.

Ms. Murphy and all others, thank you so much for being here. You are dismissed and excused. We want to then invite the second panel up to the witness table.

The CHAIRMAN. Turn my mic on first. I would like to welcome our second panel, Mr. Jim Whaley, the chief executive officer of Mission Roll Call; Mr. Patrick Murray, the director of National Legislative Services of Veterans of Foreign Wars (VFW) . I would also like to extend a special welcome to a former Member of Congress, himself a veteran, Mr. Max Rose has served here in this Congress and like I said, is a veteran himself. Nice tie, by the way. Welcome. No one understands that but you and I do. He is with us today as a senior advisor to the Veterans Voice Foundation.

I appreciate all of you being here. If you could, would you please stand and raise your right hand?

[Witnesses sworn.]

The CHAIRMAN. Thank you. Let the record reflect that the witnesses have answered in the affirmative.

Mr. Whaley, you are now recognized for 5 minutes for your opening statement.

STATEMENT OF JIM WHALEY

Mr. WHALEY. Good afternoon, Chairman Bost, Ranking Member Takano, and distinguished Members of the House Veterans Affairs Committee. Thank you for this opportunity to testify on behalf of Mission Roll Call and the 1.4 million veterans we represent.

At Mission Roll Call our goal is simple: making sure veterans' voices are heard where it matters most. We use polling and direct engagement to bring real, unfiltered veteran perspectives to policymakers and the public. Amplifying this data on behalf of veterans and their families allows us to advocate for meaningful change that improves the lives of those who have served.

One of the biggest concerns we hear about is access to healthcare. While the Mission Act of 2018 made improvements, many veterans still struggle. A recent poll of over 2,500 veterans and family members found 44 percent experienced delays in care, 31 percent had difficulty scheduling, and 12 percent were denied community care. Veterans should not have to wait unreasonable amounts of time or travel excessive distance to receive care. That is why we support the Veterans' ACCESS Act of 2025, to ensure care is built around the veteran, not bureaucracy.

This act makes important progress on several fronts. Namely, it mandates reasonable time and distance standards to ensure veterans are not asked to travel too far or too long to receive care. It clarifies wait time standards to help prevent lengthy delays in receiving care. It gives veterans a voice in how, when, and where they receive care. Perhaps most importantly, it ensures no veteran in need of crucial mental healthcare is left unattended in their moments of greatest need.

Another issue is the Veterans 2d Amendment Protection Act. Right now, the VA reports to the FBI's NICS data base over 270,000 veterans since 1998. By comparison, the FBI itself has reported fewer than 2,000 under the same criteria. The decision to list any American on the NICS list and encroach upon constitutionally protected rights should not be made lightly and should only be done through judicial process. Yet the VA has made this an administrative decision. Veterans fear seeking help for PTS or Traumatic Brain Injury (TBI) could cost them their rights without

due process. Congress temporarily addressed this issue last year, but it is time to make it a permanent protection.

Of course, none of this matters if we do not hold the VA accountable. The VA serves over 9 million veterans, but too many still face barriers to timely care. Long wait times persist and veterans regularly report difficulty assessing services. The Restore VA Accountability Act of 2025 is a step toward ensuring the VA effective, addresses underperformance, maintains a veteran's first culture. Serving veterans is a privilege and every VA employee should be held to the highest standards.

Last, I want to highlight the importance of the Student Veteran Benefit Restoration Act. Education benefits are life-changing for veterans. Veterans invest in their futures using their hard-earned educational benefits. When a school loses State approval or commits fraud, they are left with nothing. This bill ensures veterans do not lose their benefits due to circumstances out of their control.

At Mission Roll Call, we believe in solutions, not just critiques. We are eager to partner with the VA to tackle these challenges together. We also recognize the vital role of veterans service organizations nationwide and urge collaboration to maximize impact. Working together, we can ensure veterans and their families receive the care and support they deserve.

The bottom line? We need policies that put veterans first, healthcare, protection of rights, accountability at the VA, and education benefits. These issues directly impact veterans and their families. Mission Roll Call will continue to amplify and bring their voices to you because where policy and serving veterans is concerned, veterans' voices should lead the conversation.

Chairman Bost, Ranking Member Takano, other distinguished members of the committee, this concludes my testimony. Thank you. I look forward to any questions.

[THE PREPARED STATEMENT OF JIM WHALEY APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you, Mr. Whaley. Appreciate that.

Mr. Murray, you are recognized for 5 minutes.

STATEMENT OF PATRICK MURRAY

Mr. MURRAY. Chairman Bost, Ranking Member Takano, members of the committee, on behalf of the men and women of the VFW and its auxiliary, thank you for the opportunity to provide remarks on this legislation today.

On accountability, the VFW fully agrees that the VA Secretary should have the ability to remove bad employees from their roles. We believe Secretary McDonough should have had this authority as the same applies to Secretary Collins. We are worried that this could now lead to more arbitrary firings of competent and capable employees simply as a cost-cutting measure.

Two weeks ago, Secretary Collins announced VA fired more than a thousand employees. Last night it was 1,400 more. Nowhere in these messages did it explain what warranted that action. Members on this committee regularly say VA needs to weed out the bad actors, and we agree. The dismissal of thousands of employees was not done because it was warranted. It was done because it was easy.

Among the employees who were let go were veterans and military spouses. Other firings were of employees recently promoted into new roles. Some of these firings have been rescinded because they were key positions, but that is not the case for all. Before this committee advances this bill, we ask that there be proper oversight to ensure the men and women who serve our veterans, caregivers, and survivors were not fired from crucial roles.

The VFW supports the Student Veteran Benefit Restoration Act to protect student veterans and their earned education benefits from schools that commit fraud. This legislation would require VA to restore the education entitlements to the student, and the school would be required to repay VA the associated funds it received. As written and if passed into law, these protections would apply to future violations of fraud, and we recommend including retroactive restoration of education entitlements for students who could be affected prior to enactment.

The VFW supports H.R. 1041 to protect veterans' Second Amendment rights and establish due process for those who have been assigned fiduciaries by VA before referring them to the NICS list. We supported this bill over 15 years ago when an earlier version was first brought to VFW's attention and will continue to support this proposal until it is passed into law. Even though the issue of fiduciaries affects a small percentage of veterans, we argue that every veteran deserves protection of their constitutional rights.

The VFW also supports H.R. 740, the Veterans' ACCESS Act. This proposal would provide some enhancements to the VA community care program. Since the passage of the MISSION Act 2018, VA has not implemented this program consistently across this entire network. Veterans deserve consistency in their care and this is a step toward providing that. While this proposal does not address VA direct care, we would be remiss not to remind this committee that some of the reasons community care appointments and costs are increasing is because VA cannot provide some of these vital services.

Care in the community is VA care, but providing resources for care only in the community is something that we cannot abide by. VA care, direct care can lead to—sorry, VA direct care can lead to a less capable VA and an over reliance on the pressure relief system of community care. This could be detrimental to the overall care for veterans.

Last, Section 302 of this proposal seeks to implement a different pilot program for accessing certain mental health services without a prior referral authorization if the veteran is enrolled in VA healthcare. This process is similar to the existing urgent care treatment models available to veterans. That system works for veterans because it allows quick access to treatment that could typically face certain delays or overcrowding VA emergency rooms. That system also brings high costs and unknown budget impacts. VA does not know if 10 veterans will use that system or if 10,000 veterans will use that system. VA simply has to pay the bill when it shows up. This uncoordinated care has grown the community care budget in the past few years, and we predict this provision could have similar unpredictable increases in cost. We believe this provision could be

beneficial, but we would like to warn against reductions in direct VA care in order to maintain these uncoordinated care options.

Chairman Bost, Ranking Member Takano, thank you for the opportunity to provide remarks on these bills today and I am prepared to answer any questions you may have.

[THE PREPARED STATEMENT OF PATRICK MURRAY APPEARS IN THE APPENDIX]

The CHAIRMAN. Mr. Murray, thank you.

Congressman Rose, you are recognized.

STATEMENT OF MAX ROSE

Mr. ROSE. Chairman, thank you. It is great to see you again. Ranking Member, it is great to see you as well. It is really an honor to come back to this committee, which I was so honored to serve on. Of course, I am equally honored that my return to this committee has caused such a surge in member attendance to hear what I have to say.

I am the senior advisor to Vet Voice Foundation, representing nearly 2 million veterans and military families across the country. I am also a veteran myself, a Purple Heart recipient, and I continue to serve in the Reserves. Roughly 3, 4 years ago, I myself hit a rough patch and made the decision, along with my family, that I would seek mental healthcare at my local VA. It is not something I am ashamed of, and I think every veteran at one point or another goes through that moment.

What I found at my local VA was an institution that was not just represented by the actual healthcare providers. I found a home, a place that understands veterans. That is why we built this institution as a Nation. That is why we continue to support it because we have collectively made the decision that we need a healthcare organization that is uniquely suited for veterans. I believe that this committee stands in a bipartisan fashion to fight for and defend that, which brings me to this issue of community care.

We all collectively agree that if there needs to be a safeguard for if veterans cannot seek care or find the care that they need at a local VA. I also equally believe that we have to fight for each and every day to make sure that our VA is properly resourced. At times those two issues can be awfully conflicting. We have got to make sure that both from a budgeting standpoint as well as from a policy standpoint, what we are spending our days on is looking at how we can improve the VA itself, not slowly kill it via a thinly veiled effort at privatization. That is what I believe our North Star should be.

I am also gravely concerned by the lack of transparency and uncertainty surrounding the recent policy changes that have directly impacted VA, the VA workforce. I do not believe that there is any such thing as a non-essential category of VA workers. They are all essential and they all directly impact patient care. We know for a fact that there have been blanket firings, at least large groups of people that work the front desk at VA's medical, technicians, people that service hotlines, people that support, at least on an ancillary basis surgeries, and other absolutely essential services. Now, they may not be direct providers, but they are absolutely essential and they absolutely impact direct patient care.

I believe that the consequences of these mass firings will result in veterans not receiving the care that they need and, ultimately, veterans being put in harm's way. That directly contradicts the promise that we as a Nation have made to veterans, that they, when they sign on that dotted line and make a promise to make the ultimate sacrifice for this Nation, that we will be there for them when they come home.

My views on the legislation before the committee today is in my written testimony. I, of course, look forward to speaking about that. I will conclude with this. As you deliberate on these bills, my guiding principle remains steadfast. Our veterans deserve policies that honor their service, protect their rights, and provide them with the support they need to thrive. I look forward to working with this committee to ensure your legislative efforts achieve our common goals while upholding the trust and well-being of our veterans.

I thank you for your time and look forward to your questions.

[THE PREPARED STATEMENT OF MAX ROSE APPEARS IN THE APPENDIX]

The CHAIRMAN. We are now going to turn to questions. I recognize myself for 5 minutes.

This one is for the entire panel. Yes or no. Do you believe every American citizen, including every veteran, is entitled to their day in court before they lose any constitutional right?

Mr. WHALEY. Yes.

Mr. MURRAY. Yes.

Mr. ROSE. Certainly. I mean, of course.

The CHAIRMAN. Mr. Murray, a few weeks ago, a VFW representative testified that VA denied her request for a specialized mental health program due to the program being out of network. Do you believe veterans should be able to access community care that works for them regardless of their network?

Mr. MURRAY. Absolutely. That instance, it was actually denied multiple times because a veteran on the East Coast wanted a treatment facility, first in Arizona, then in Utah. Because that was in TriWest versus Optum, it was denied. There was nothing that we found that was in writing, that that was in statute and regulation. It was just in practice. We believe it might have been the contracts, but we are not privy to some of that information. That could have led to disastrous consequences.

The CHAIRMAN. Mr. Whaley, how do underperforming employees impact the quality of care provided to veterans?

Mr. WHALEY. Well, I think every American expects our VA to be the most efficient and effective program it could possibly be. I mean, we cannot expect to have the greatest military in the world if we do not have the greatest healthcare system in the world, both for active duty military and for veterans. I think we want the best and brightest. We want to retain them. We want to give the opportunity to improve the capabilities of the VA.

The CHAIRMAN. Mr. Whaley, also, for veterans with substance use disorder, does it take a lot of courage to show up to a facility and admit they need help? Do you think the VA currently—the current community care process is simple enough for veterans to get the care that they need?

Mr. WHALEY. No. The numbers speak for themselves. The number for suicides has not dropped in years. In fact, it is gone higher. We know that there is a challenge, a significant challenge, that our country should be embarrassed about. We have too many veterans that are taking their life. We need to make it easy for them to get the care they want when they need it, and promptly. We cannot have veterans that have mental challenges, thoughts of suicide have to wait for somebody to give them a call to get the appointment that they need. They need the appointment now. They need to be taken care of.

The CHAIRMAN. Yes. Congressman Rose, you said yourself you have used the VA facility. OK. How close was that VA facility to your home?

Mr. ROSE. Well, Staten Island, so the traffic is always unpredictable, Chairman.

The CHAIRMAN. I understand, but I would say about a half-hour.

OK. I agree with you, we do not want to privatize the VA. I am going to tell you that right now. Never have I said I want to provide privatize the VA. You do believe that if a person lives in Wyoming and is 3 or 4 hours at best from VA, they should still be able to receive care at the level that you do, being 15, 20 minutes or even a half-hour or 45 minutes based on traffic?

Mr. ROSE. Sure, absolutely, Chairman. I believe that is already in statute based off of the ability for someone to seek community care dependent on how far away the nearest VA facility is. What the concern actually is with this legislation, if you look at, for instance, the pilot that is being offered, much of that is thrown out the window and you see the opportunity for people to seek community-based care, often even without a referral. This opens the door exactly to privatization, what we both collectively have said, we that we are opposed to, because in instances like that, you are actually drawing funds away from the VA's capacity to serve its own institution. That prevents veterans like myself from being able to still continue to go to institutions that were developed to actually understand them and support them.

The CHAIRMAN. That will lead me to my last question. Do you believe the VA was created for the veterans or was it created for the VA?

Mr. ROSE. Of course the VA was created for veterans. Of course.

The CHAIRMAN. OK. The only concern that I have is that when we tell the veteran they have to go to the VA and that veteran has, for whatever reason, a need to go into the community care. Like I said, do not want to, I think there are some very special things that our VA does and continue to do. Of course, this also leads to a bill that I believe you were around when we passed, which was MISSION Act. Right? You were here for that, which part of that was also to revamp the VA so that each—because what we have got is, is we have got several veterans that might, in 1950's, lived in one area and now we have very few veterans there, and that is in the Air Commission. This is not an argument for the House because the House did their job. It is for the Senate to do their job. We have no senators here, so we cannot badmouth them over that.

With that, I yield back and I recognize the ranking member for his question.

Mr. TAKANO. Thank you, Mr. Chairman. Yes, we are not going to talk about the Air Commission. All right.

Congressman Rose, good to see you back, my friend.

Mr. ROSE. Good to see you, too.

Mr. TAKANO. You are looking well. Thank you for being here today. As a veteran and user of VA, you know, your perspective is important for us, your insights. As Congress develops policies that may change how VA delivers care, what do you think are the most important considerations we should weigh to ensure veterans receive timely and high-quality healthcare?

Mr. ROSE. Sure. I think the beginning, our North Star should be is that the VA, by virtually every metric, is performing better than other large healthcare institutions. Based off of patient surveys, treatment quality, even in many instances wait times, the VA is performing better. I think our first immediate priority should be to make sure that we are investing at greater numbers into the VA.

We also should note that the vast majority of VA employees could get paid more in other healthcare organizations. They are making the explicit choice to continue their record of service, many of whom are veterans. Their service should be honored and they should be supported rather than fired en masse.

Mr. TAKANO. Thank you for that, Congressman Rose. How does staffing affect VA's ability to deliver timely and high-quality care to veterans?

Mr. ROSE. I believe it is everything. It is not just staffing in regards to how many nurses you have, how many direct primary care physicians, although that is absolutely essential. If you want to make sure that you are delivering high-quality care to veterans, you have to make sure that your front desks are manned. You have to make sure that there are proper care coordinators in place. You have to make sure that there are people policing the parking lots. All of those different types of positions were very largely represented in the groups that were just fired over the course of these past 2 weeks.

Mr. TAKANO. I am glad you are getting to this. VA relies on staffing in its community care offices, at VA medical centers to coordinate veterans care when it is referred out. When you get a referral to go in the community, you have this Office of Community Care which actually follows through on that. Is it my understanding that some of these, many of these community care offices are understaffed?

Mr. ROSE. They are absolutely understaffed. I am so happy you brought this up because when we think about community care, certainly if a veteran cannot get a specialty appointment within a month or even 20 days, community-based care is absolutely a priority and important. That veteran then comes back to the VA and everyone in healthcare today is focused on treating the entire person and making sure that there is properly integrated care. That is completely destroyed if we do not have an office in the VA that monitors that.

Mr. TAKANO. This Office of Community Care, are you aware of firings that affected those offices?

Mr. ROSE. Sure. I mean, I think we all collectively are.

Mr. TAKANO. OK. Does the Veterans' ACCESS Act do anything to ensure that there is adequate staffing at VA community care offices to process those referrals?

Mr. ROSE. Absolutely not. Nor does the bill do anything to mandate or require that community-based healthcare options can actually serve the veteran better at a lower cost. In fact, the vast majority of the time, it is at a much higher cost, which is a detriment to the taxpayer.

Mr. TAKANO. Help me understand this. Currently at the Office of Community Care, in many places, at many medical centers, I have heard that there may be appointments available inside the VA that could be offered to the veteran at a much shorter timeline, meaning that they can get in faster at the VA than they could in the community. Then that does not often happen, and often veterans may also—are not offered the choice of going to the VA, even if it is a little longer, because VA has better outcomes on a particular specialty.

Mr. ROSE. Sure, absolutely. Look, and I go back to the chairman's point that he made earlier. If this committee is truly committed on a bipartisan basis to improving the VA, and every single healthcare organization can improve, what it would focus on is making sure that it could increase efficiency, increase patient care, which both can happen at the same time, not on constantly figuring out ways to push veterans out of the institution.

Mr. TAKANO. I would be all in favor of DOGE looking at community care coordination operations within VA to make sure that the taxpayer is getting the best value. Sometimes the taxpayer will get much better value out of having the veteran actually be able to go and seek treatment inside the VA and that if we adequately staffed the Office of Community Care that this could all be done efficiently. We would see veterans getting their appointments, right? Does the Veterans' ACCESS Act do anything to improve manual processes that frequently lengthen the time it takes for a referral to be made?

Mr. ROSE. No. Look, and to your point, this is ultimately a detriment to the taxpayer because all too often these options outside of the VA cost so much more, particularly with healthcare consolidation as it is today. This is something that DOGE should actually be opposed to, not in support of.

Mr. TAKANO. Well, thank you. My time has run out. I yield back.

The CHAIRMAN. Dr. Dexter, you are recognized for 5 minutes.

Ms. DEXTER. Thank you, Chairman Bost.

Today my Republican colleagues are pushing a proposal to expand for-profit care at the expense of our direct VA system. The data shows that VA healthcare consistently outperforms for-profit care in terms of quality and patient satisfaction. That alone should make us skeptical of this policy. What makes this even more egregious is that they are pushing lower quality care at massive unwarranted cost to American taxpayers. Just last week, the Office of the Inspector General issued a report indicating that the third-party administrators who run the for-profit VA care program were overpaid by almost a billion dollars and that those for-profit entities, predominantly Optum, are now refusing to return those overpayments to the VA.

Congressman Rose, thank you for joining us. Since the passage of the VA MISSION Act, VA's expenditures on for-profit care has dramatically climbed. Is that correct?

Mr. ROSE. Yes.

Ms. DEXTER. In recent years, year over year growth in community care expenditure has been as high as 19 percent. I bring this to show the vastly increasing proportion of community care versus indirect VA care, 2017 versus 2023.

Congressman Rose, specialty providers in the community are not required to make quality of care data publicly available or report that data back to the VA. Is that accurate?

Mr. ROSE. Absolutely.

Ms. DEXTER. It is also true that providers in the community are not required to provide real-time data on wait times to veterans. Is that accurate?

Mr. ROSE. One hundred percent. We have no way, when they seek privatized care, to hold these institutions accountable or to have any centralized dashboard or metrics on a national basis.

Ms. DEXTER. A veteran does not make an informed decision about whether to wait for VA, which they have a relatively reasonable understanding of the wait, versus a black box of going to the [inaudible].

Mr. ROSE. Right. This is why I believe it should be the bipartisan prerogative of this committee to be opposed to any thinly veiled effort to privatize the VA, which is all this is. This is not an effort to improve patient care or save money.

Ms. DEXTER. I absolutely agree with you.

Finally, providers in the community do not have to return medical records to the VA after they see a patient. Is that correct?

Mr. ROSE. Absolutely.

Ms. DEXTER. I know this because I have been a VA provider in the VA, in the direct care system. I have trained VA doctors. I have been a community care provider outside of the VA. I have heard multiple times today, care in the community is VA care. I will tell you, as somebody who has delivered that care, that is absolutely not the case. I did not have access to the medications patients were taking, their prior workup, and when I finished with them, I sent them back into a black box. It is absolutely a misappropriation of funds to do this work this way.

Thank you, Congressman Rose, for your responses. As our VA system is robbed of funding that it desperately needs, this is a zero sum game. We are not making the pie bigger. We need to serve our veterans. It is insane that we are discussing a proposal to increase poor care, disruptive care, and at the cost of what we know is data-driven, highly satisfactory care for our veterans.

I look forward to working with you, Congressman Rose, to ensure that every veteran in this country has access to care at a properly funded VA that allows them to receive the comprehensive and integrated care that they deserve. For us to continue this and move this bill forward is shameful. It is a hundred percent prospectively investing in community care that undermines veterans' care. I thank you for this time.

I yield back.

The CHAIRMAN. Thank you. Ranking Member, do you have any closing remarks?

Mr. TAKANO. Yes. I would like to request unanimous consent to enter four items into the record. Let me get the list. I have two items, excuse me. I have letters from Everytown Gun Safety and the Fraternal Order of Police to be entered into the record. I ask for unanimous consent.

The CHAIRMAN. Without objection.

Mr. TAKANO. Yes. Thank you. You want final comments?

The CHAIRMAN. Yes. Yep.

Mr. TAKANO. Let me say, Mr. Chairman, I do hope that we can have a hearing specifically on the topic of the unfairly dismissed employees from VA, especially the veterans who had stellar performance reviews, but yet were still dismissed. I do not think it is adequate that you invited them to come speak with you personally. I do think the American people want to know what happened and hold whoever made this decision, because Ms. Therit was not able to tell me who ordered her to issue that memorandum, which fired every employee. Nor was she able to deal with this contradiction in her memo that people were fired for their performance, but clearly we know that we have employees who had stellar performance records.

Let me say that I appreciate the testimony of the panel today. Mr. Murray, I did not ask you many questions, but I certainly appreciated what the VFW's views on many sections of the ACCESS Act and that you, like I, and the VFW and my views about the adequate balance of, the proper balance between community care and direct care, well, I would just say it is really about for-profit care and direct care within the VA. I just want to make sure that we are not summarily putting out, referring into the private sector care that diminishes VA's ability to offer direct care. Ninety percent of the veterans are getting their care—I mean, 90 percent of the veterans who are enrolled in VA are getting their care through direct care. We do not want to see that diminished by the trend that was shown by my colleague from Oregon.

With that, I yield back and look forward to working with you on a future hearing.

The CHAIRMAN. I thank you and we will take everything you said under advisement.

I think that it is vitally important that we do recognize that just a few weeks ago in a hearing that GAO noted that 42 percent of the care which is given by the community is done for 25 percent of the cost. That is important and that is why we should continue the discussion. Not in any way, shape, or form to privatize, I have said that.

It is important that the veteran remember, and I have said it so many times, and I have said it so many times today, the VA was created for the veteran, not for the VA. Who are we serving? Are we serving the bureaucrats at the VA or are we serving the veterans? I, and I believe my constituents, even though I have a VA right down the road from me, I believe a majority of my constituents believe we are to serve our veterans.

With that, I want to thank all of our witnesses for being here. I look forward to addressing the problems that these bills would fix

to provide solutions for our Nation's veterans and their families. I will continue to push VA to strive for world-class care and know it is capable of providing that for veterans. Under my leadership, we will continue to work to ensure VA has the best in class workforce to deliver care and benefits. We will hold them accountable when they miss the mark. As chairman, I will always put veterans first and they should never feel fearful of losing their constitutional rights when they visit VA.

With that, I ask unanimous consent that all members shall have 5 legislative days in which to revise and extend their remarks and include any extraneous material. Hearing no objections, so ordered.

The hearing is now adjourned.

[Whereupon, at 4:26 p.m., the committee was adjourned.]

A P P E N D I X

Prepared Statements of Witnesses

Prepared Statement of Beth Murphy

STATEMENT OF
MS. BETH MURPHY
ACTING PRINCIPAL DEPUTY UNDER SECRETARY FOR BENEFITS
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

February 25, 2025

Chairman Bost, Ranking Member Takano, and other Members of the Committee, thank you for inviting us here today to present our views on several bills that would affect Department of Veterans Affairs (VA) programs and services. Joining me today is Ms. Tracy Therit, Chief Human Capital Officer and Dr. Sachin Yende, Chief Medical Officer for Integrated Veterans Care with the Veterans Health Administration.

H.R. 1391 "Student Veteran Benefit Restoration Act of 2025"

This bill would add a new 38 U.S.C. § 3699C that would require VA to restore entitlement to VA educational assistance for individuals pursuing an approved course or program of education in certain circumstances. The new section would also prohibit VA, in those same circumstances, from counting payment of VA educational assistance towards the 48-month limit on the aggregate period for receiving assistance under 2 or more educational assistance programs. The circumstances under which these requirements would apply are as follows:

- For any period during which an educational institution was not properly approved to receive VA benefits on behalf of students, including when an educational institution's approval was revoked;
- For any period during which VA determines that an educational institution engaged in prohibited activities relating to advertising, sales, and enrollment practices;
- For any period during which a court finds the educational institution guilty of, or liable for, fraud;
- For any period during which the Department of Justice closed the educational institution on the basis of fraud or for a violation of Federal or state law; and
- For any period during which the educational institution engaged in fraud, after which it closed.

In addition, new section 3699C would, as a condition of approval of a course or program, require that an educational institution agree that, if VA restores a portion of a student's entitlement to VA educational assistance, the educational institution will repay VA the portion of educational assistance it received for the student. Furthermore, if a court finds an educational institution guilty of or liable for fraud and orders the educational institution to pay financial relief to the Federal Government, VA may file a claim with the Department of the Treasury for recoupment of all amounts of VA

educational assistance the institution obtained through fraud. Finally, new section 3699C would require VA to establish an appeal process for an educational institution to request review of a VA finding that the institution has to repay educational assistance.

VA supports this bill, subject to the availability of appropriations.

This bill would protect the Nation's Veterans who are using their VA education benefits to attend educational institutions that engage in deceptive practices by restoring entitlement used for periods an institution engaged in such practices. The bill would also help to safeguard taxpayers' dollars when violations are found.

However, when an educational institution engages in deceptive practices, proposed section 3699C(c)(1) would hold it financially responsible for only the tuition and fee payments VA made directly to it, but not for payments of benefits that VA pays directly to a beneficiary, such as monthly housing payments and book and supply stipends under the Post-9/11 GI Bill, and monthly benefit payments under the Survivors and Dependents Educational Assistance Program (chapter 35, DEA), the Montgomery GI Bill (chapter 30, MGIB), and the Montgomery GI Bill – Selected Reserve (chapter 1606, MGIB-SR), as well as Veterans Readiness and Employment benefits, including tuition, fees, supplies and monthly subsistence allowance. On the other hand, when an educational institution engages in deceptive practices, proposed section 3699C(a) and (e) would require VA to restore entitlement to all educational assistance, including entitlement to educational assistance paid to a beneficiary. We believe that section 3699C(c)(1) should require an educational institution to be responsible for repayment of the total amount of educational assistance paid (that is, payments made to both the educational institution and the beneficiary) because of the institution's engagement in deceptive practices. Otherwise, the beneficiary would be responsible for repaying any overpayments of benefits paid directly to the beneficiary instead of to the educational institution.

A cost estimate is not available at this time, but VA anticipates that this bill will have mandatory costs.

H.R. 496 Veterans Second Amendment Restoration Act

This bill would require VA to notify the Attorney General that the basis for transmitting a beneficiary's personally identifiable information, solely on the basis of a determination under 38 U.S.C § 5502 for the purpose of assigning a fiduciary to a VA beneficiary who is incapable of managing their own affairs, to the Department of Justice (DOJ), for use by the National Instant Criminal Background Check System (NICS) established under section 103 of the Brady Handgun Violence Prevention Act, as amended (Brady Act), does not apply, or no longer applies.

This bill would also require VA not to treat a person as having been adjudicated as a mental defective solely on the basis of determining that the individual is mentally incompetent under 38 U.S.C. § 3.353 or requires a fiduciary under 38 U.S.C. § 5502.

VA supports this bill, subject to the availability of appropriations, but has concerns with some aspects of it.

VA has concerns because the definition of "adjudicated as a mental defective" is implemented by DOJ under 27 C.F.R. § 478.11(a)(2). This definition includes a person who "lacks the mental capacity to contract or manage his own affairs," which is identical to the language VA uses in its regulations implementing the fiduciary statute. Furthermore, DOJ's definition is utilized when carrying out the Gun Control Act of 1968, as amended, which prohibits nine classes of persons to ship, transport, possess, or receive firearms and ammunition. Under 18 U.S.C. § 922(g)(4), this includes any person who has "been adjudicated as a mental defective or who has been committed to a mental institution." The Act does not propose amending 18 U.S.C. 922 to address a change as to how the prohibitions of 18 U.S.C. § 922(g)(4) are implemented.

VA notes this definition will still be problematic because a determination that a Veteran is mentally incompetent under 38 C.F.R. § 3.353 or requires a fiduciary under 38 U.S.C. § 5502 will not amend the definition of a mental defective in 18 U.S.C. § 922(g)(4) or its clarifying DOJ definition in 27 C.F.R. § 478.11. As such, VA recommends including legislative language that would clearly exempt an individual deemed incompetent for purposes of the VA fiduciary program under 38 U.S.C. § 5502 from being considered a mental defective under 18 U.S.C. § 922(g)(4) on the basis of VA's determination. Without this clarification, Veterans and other beneficiaries who need a fiduciary for VA purposes may face possible criminal liability if they purchase firearms, because this bill would only address VA reporting. Additionally, if retroactively applied, the Act would cause these records to be removed from the NICS Indices and unless the definition in 27 CFR § 478.11 is amended or superseded, this would create a separate standard for prohibiting veterans versus other persons who have been adjudicated by other lawful authorities as lacking the mental capacity to contract or manage their own affairs "as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease." This approach may create a litigation risk for the Department of Justice based on the lack of uniform treatment.

H.R. 1041 "Veterans 2nd Amendment Protection Act"

This bill would add a new section, 38 U.S.C. § 5501B that would prohibit VA from transmitting the personally identifiable information of a beneficiary solely based on a fiduciary determination under 38 U.S.C. § 5502 to DOJ for use by NICS, unless there is an order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such beneficiary is a danger to themselves or others.

VA supports this bill, subject to the availability of appropriations, but has concerns with some aspects of it.

VA notes that a person's entry in the fiduciary program is solely based on a finding that the person lacks the mental capacity to manage their VA benefits. The prohibition created by this bill would support a separate evaluative consideration regarding whether the beneficiary is a danger to themselves or others. Such consideration is not part of VA's determination to provide fiduciary services. Rather, VA's adjudication concerning the need for the appointment of a fiduciary is based on whether the beneficiary is capable of handling their own financial affairs. Under 38 C.F.R. § 3.353, a VA determination that a beneficiary cannot manage their own VA benefits is based upon a definitive finding by a responsible medical authority or medical evidence that is clear, convincing, and leaves no doubt as to the person's inability to manage his or her affairs, including disbursement of funds without limitation, or a court order finding the individual to be incompetent. This proposed legislation will amend the United States Code to codify the prohibitions for NICS reporting, which were instituted under the "Consolidated Appropriations Act of 2024."

Section 413 Division A of the Consolidated Appropriations Act, 2024, prohibits the use of funds by VA to report certain Veterans who are deemed mentally incapacitated, mentally incompetent, or to be experiencing an extended loss of consciousness to NICS without a judicial determination that the person is a danger to himself, herself, or others.

Prior to the policy within section 413 of Division A of the Consolidated Appropriations Act, 2024, VA was required to report to NICS all individuals determined unable to manage their funds based on regulations issued by the Bureau of Alcohol Tobacco, Firearms and Explosives (ATF) under 27 C.F.R. § 478.11(a), and guidance provided by DOJ in March 2013, entitled "Guidance to Agencies Regarding Submission of Relevant Federal Records to NICS."

This bill would relieve VA of determining when to provide a beneficiary's information to DOJ for the NICS database. However, as with **H.R. XXXX, [Unnamed Second Amendment Bill],** VA notes that VA's enforcement of the Brady Act is a requirement stipulated by DOJ, and any alteration to that process should include updates to DOJ's regulations or be clarified in this bill. The Brady Act prohibits nine classes of persons to ship, transport, possess, or receive firearms and ammunition. Under 18 U.S.C. § 922(g)(4), this includes any person who has "been adjudicated as a mental defective or who has been committed to a mental institution." The definition of "adjudicated as a mental defective" is implemented by DOJ under 27 C.F.R. § 478.11 and includes any individual who "lacks the mental capacity to contract or manage his own affairs." As such, VA recommends including legislative language that would clearly exempt an individual deemed incompetent for purposes of the VA fiduciary program under 38 U.S.C. § 5502 from being considered a mental defective under 18 U.S.C. § 922(g)(4) on the basis of VA's determination. Without this clarification, Veterans/beneficiaries determined to need a fiduciary for VA purposes may still face possible criminal liability if they purchase firearms. DOJ concurrence would also alleviate concerns that this bill may lead to an increased risk for VA and the public in situations where an incompetent person could be considered a mental defective under

DOJ's regulations but was not entered on the NICS database and, thus, could violate that regulation by improperly operating a firearm.

Additionally, VA understands that a beneficiary could still be considered a danger to themselves or others upon a finding or order provided by a judge, magistrate, or other judicial authority of competent jurisdiction. However, the bill does not specify timing, so it is unclear when a determination of the beneficiary's danger to themselves or others would need to be submitted by VA. VA requests clarity on when that information should be provided in relation to VA's determination to pay benefits to a fiduciary for the use and benefit of the beneficiary under 38 U.S.C. § 5502. VA reads the bill as currently drafted to require that an order or finding noting that a beneficiary is a danger to themselves or others at any point following a VA determination of incompetency would require VA to report that information to NICS.

H.R. 740 Veterans' ACCESS Act of 2025

This bill contains three titles; title I contains six sections, title II contains three sections, and title III contains three sections.

VA strongly supports the intent of this bill and many provisions throughout. This bill is an important step in reaffirming VA's commitment to providing timely access to care and prioritizing Veterans. We do recommend a number of technical and clarifying amendments to ensure successful implementation.

Title I

Section 101 would amend 38 U.S.C. § 1703B regarding VA's access standards to expand (by including mental health residential rehabilitation treatment program (MH RRTP) services) and codify (in law, rather than only in regulation) VA's existing access standards established in regulation at 38 C.F.R. § 17.4040. Specifically, it would create a new section 1703B(a) that would provide that covered Veterans would be eligible to elect to receive non-VA hospital care, medical services, or extended care services, excluding nursing home care, under section 1703(d)(1)(D) (the eligibility criterion for the Veterans Community Care Program (VCCP) based on VA's designated access standards) in certain situation. In general, enrolled Veterans would be eligible to elect to receive community care if VA determined, it could not schedule with respect to primary care, mental health care, or extended care services (excluding nursing home care) within certain parameters. VA could have to be able to not schedule an in-person appointment for the covered Veteran with a VA health care provider who could provide the needed service at a facility that is located within 30 minutes average driving time from the Veteran's residence (unless a longer average driving time has been agreed to by the Veteran in consultation with a health care provider of the Veteran) and within 20 days of the date of the request for such an appointment. These standards would apply unless a Veteran agreed to a longer average driving time or a later date, in consultation

with a health care provider of the Veteran (unless a later date has been agreed to by the Veteran in consultation with a health care provider of the Veteran).

With respect to specialty care, covered Veterans could elect to receive community care if VA could not schedule an in-person appointment with a VA health care provider at a facility that is located within 60-minutes average driving time from the Veteran's residence (with a similar exception for Veteran consent to a longer average driving time) and within 28 days of the date of request for such appointment unless a later date has been agreed to by the Veteran in consultation with a health care provider. The availability of telehealth appointments from VA would not be taken into consideration when determining VA's ability to furnish such care or services in a manner that complies with the access standards. VA could prescribe regulations that establish a shorter average drive time or period than those otherwise described above. Covered Veterans could consent to longer average drive time or later date, but if they did, VA would have to document such consent in the Veteran's electronic health record and provide the Veteran a copy of that documentation in writing or electronically. If a Veteran had an appointment cancelled by VA for a reason other than the request of the Veteran, VA would have to calculate the wait time from the date of the request for the original, canceled appointment.

Proposed section 1703B(b) would require VA to ensure that these access standards apply to all care and services within the VA medical benefits package to which a covered Veteran is eligible under section 1703 (except nursing home care) and to all covered Veterans, regardless of whether they are new or established patients.

Proposed section 1703B(c) would require not later than 3 years after the date of enactment of the Act and not less frequently than once every 3 years thereafter, VA to review the eligibility access standards established under the revised section 1703B(a) in consultation with such Federal entities VA determines appropriate, other entities that are not part of the Federal Government, and entities and individuals in the private sector (including Veterans who receive VA care, Veterans Service Organizations, and health care providers participating in the VCCP). It would also require VA to submit to Congress a report on its findings with respect to the review and such recommendations as VA may have with respect to eligibility access standards. Section 101 would also strike section 1703B(g), which allows VA to establish through regulation designated access standards for purposes of VCCP eligibility and would make other conforming amendments.

VA supports section 101, subject to amendments and the availability of appropriations.

VA notes that section 101 would require VA to engage in consultation with various stakeholders; this could invoke the Federal Advisory Committee Act (FACA) and require VA to form multiple new Federal Advisory committees. VA recommends amending the bill's language to clarify that consultation activities are exempt from

FACA. In the alternative, the consultation requirements could be removed, which would also address this concern.

Finally, we note that while the language is close to VA's current regulatory language, we believe this could be written more clearly but to have the same effect. Proposed section 1703B(a) would be phrased as a negative – a covered Veteran is eligible if VA cannot schedule an appointment that meets certain wait-time and average driving time elements. This is consistent with how VA's current regulations read. We believe this would be clearer if the bill established standards that VA must meet as a positive obligation, while still allowing Veterans to choose to receive community care if VA cannot meet those standards. This reaches the same outcome, but it does so more clearly. Similar changes could be made to section 104, which refers to Veterans not having "met such standards," as opposed to VA not meeting such standards. The standards established under this section also create some ambiguity in terms of their applicability given further language in section 202 regarding access to covered treatment programs. We would appreciate the opportunity to discuss this with the Committee to determine how to amend the language to best reflect Congress' intent.

VA is working on a cost estimate for section 101.

Section 102 of the bill would amend 38 U.S.C. § 1703(a) by adding a new paragraph (5) that would require VA to notify a covered Veteran in writing of the eligibility of the Veteran for care or services under this section as soon as possible, but not later than 2 business days, after the date on which VA is aware that the Veteran is seeking care or services and is eligible for such care or services under section 1703. VA would have to provide such Veterans periodic reminders, as it determines appropriate, of their ongoing eligibility under section 1703(d). VA could provide covered Veterans notice electronically.

VA supports section 102, subject to amendments and the availability of appropriations.

VA agrees that Veterans should receive timely notice of their eligibility. However, meeting a 2-day standard will not be possible in all cases and trying to meet the 2-day standard would likely require VA to focus resources on meeting this standard instead of focusing on improving the timely scheduling of appointments for care. Also, while the bill would allow VA to provide electronic notice, there are some situations where even that would not be possible, such as emergency care.

We are concerned the requirement to provide this notice could result in confusion for Veterans in several ways:

- First, Veterans may not want to receive multiple notifications (for each appointment for each episode of care), but the bill would require VA to provide these. We recommend the bill allow Veterans to choose what notices they receive.
- Second, Veterans often choose VA for care or treatment that is provided over a period of time, such as cancer treatment or physical therapy. Once they have chosen VA care, continuing to remind them of community care eligibility could be misinterpreted and unwanted.
- Third, many Veterans schedule multiple, different types of appointments on the same day. If VA had to provide notice of eligibility for community care for all of these appointments, or nearly all of these appointments, this could increase the chance that Veterans might make mistakes with their scheduling, which could delay their care.

We would welcome the opportunity to discuss these concerns with the Committee to make technical amendments to this section.

VA does not have a cost estimate for section 102.

Section 103 of the bill would amend 38 U.S.C. § 1703(d)(2) by adding new subparagraphs (F), (G), and (H). These amendments would require VA to ensure that criteria developed to determine whether it would be in the best medical interest of a covered Veteran to receive care in the community include the preference of the Veteran regarding where, when, and how to seek care and services, continuity of care, and whether the covered Veteran requests or requires the assistance of a caregiver or attendant when seeking care or services.

VA supports section 103.

VA agrees that providers should consider a range of issues that are important to Veterans when determining whether community care is in their best medical interest. VA welcomes the opportunity to meet with the Committee to better understand the concerns this section is intended to solve and how we can incorporate and consider these factors along with existing factors that Veterans and their providers have experience in using, such as how soon or how close to home care can be provided.

We want to ensure that amendments in this section do not cause confusion or result in worse clinical outcomes, and we seek ways to implement these factors in a way that would put Veterans first.

Section 103 is likely to result in additional cost for VA; these costs could be both discretionary and mandatory. However, VA does not have a way to accurately model or

forecast the preference of a covered Veteran for where, when, and how to seek hospital care, medical services, or extended care.

Section 104 of the bill would amend 38 U.S.C. § 1703 by adding a new subsection (o) that would require VA, if a request for care or services under the VCCP is denied, to notify the Veteran in writing as soon as possible, but not later than 2 business days, after the denial is made of the reason for the denial and how to appeal such denial using the Veterans Health Administration's (VHA) clinical appeals process. If a denial was made because VA determined the access standards under section 1703B(a) were not met, the notice would have to include an explanation of the determination. Notice could be provided electronically.

VA supports section 104, subject to amendments.

VA recognizes the concern underlying this section, and we are working to ensure we inform Veterans quickly when VA has made a decision that they are not eligible for community care.

We have technical concerns with some of the language in this section that could create confusion for Veterans. We would be happy to provide technical assistance to the Committee.

VA is working on a cost estimate for this section.

Section 105 of the bill would amend 38 U.S.C. § 1703 further by adding a new subsection (p) that would require VA to ensure that Veterans were informed that they could elect to seek care or services via telehealth, either through a VA medical facility or through the VCCP, if telehealth is available to the Veteran, is appropriate for the type of care or service the Veteran seeks, and is acceptable to the Veteran.

VA supports section 105, subject to amendments.

While VA supports this section, it is unclear whether this section is intended to establish that a Veteran's preference to not receive care via telehealth would also be binding on how they receive care through the VCCP. If that is the case, that could result in network adequacy issues, as VA currently allows Veterans who decline VA-administered telehealth to receive telehealth from a community provider. VA welcomes the opportunity to discuss recommended amendments to clarify this section.

VA does not anticipate additional costs for implementation of this section because it only requires additional information to be presented within discussions that are already occurring.

Section 106 of the bill would amend 38 U.S.C. § 1703D to extend (from 180 days to 1 year) the period of time for health care entities and providers can submit claims to VA for payment for furnishing hospital care, medical services, or extended care services under chapter 17.

VA supports section 106, subject to amendments.

VA generally supports a longer timely filing period, and VA would welcome the opportunity to discuss other potential amendments to section 1703D to clarify the scope of the applicability of this requirement. As written, section 1703D applies to all claims for payment under chapter 17; there are some variations in terms of timely filing for different programs under this authority, though. VA has also encountered situations where it has needed additional flexibility for these standards. VA's proposed amendments could provide VA enhanced authority to combat waste, fraud, and abuse. Consistency across these programs would also reduce administrative burdens on VA, while also creating parity with other Federal programs (such as Medicare and TRICARE).

VA notes that its contracts for community care generally include a 180-day timely filing requirement. If the time period is extended, VA would need to renegotiate this part of its contracts.

VA is working on a cost estimate for section 106.

Title II

Section 201 would define various terms for purposes of title II of this bill. It would define the term "covered treatment program" to mean a mental health residential rehabilitation treatment program (MH RRTP) of VA or a VA program for residential care for mental health and substance abuse disorders. The term would also include programs designated as domiciliary RRTPs, but it would not include Compensated Work Therapy Transition Residence programs. The term "covered veteran" would have the same meaning given in 38 U.S.C. § 1703(b) for purposes of the VCCP. The term "social support systems" would mean, with respect to a covered Veteran, a family member of the covered Veteran (including a parent, spouse, child, step-family member, or extended family member) or an individual who lives with the Veteran but is not a member of the Veteran's family; it would not include a facility-organized peer support program. Finally, the term "treatment track" would mean a specialized treatment program that is provided to a subset of covered Veterans in a covered treatment program who receive the same or similar intensive treatment and rehabilitative services.

VA has no objection to section 201 by itself, subject to amendments.

This section would only define terms used in later sections. VA notes that the definition of "treatment track" is too broad and not aligned to the formal structure of MH

RRTP services within VA, which includes bed sections formally defined for Domiciliary Substance Use Disorder, Domiciliary Care for Homeless Veterans, General Domiciliary, and Domiciliary Posttraumatic Stress Disorder. We would welcome the opportunity to discuss this concern with the Committee to make technical amendments to the bill.

VA does not anticipate additional costs for section 201.

Section 202(a) would require VA, not later than 1 year after the date of the enactment of this Act, to establish a standardized screening process to determine, based on clinical need, whether a covered Veteran satisfies criteria for priority or routine admission to a covered treatment program.

Section 202(b)(1) would provide that, under the standardized screening process, a covered Veteran would be eligible for priority admission to a covered treatment program if the covered Veteran meets criteria including certain identified symptoms or risk factors. In deciding under paragraph (1) that a covered Veteran meets criteria established by VA for priority admission to a covered treatment program, VA would have to consider any referral of a health care provider of a covered Veteran.

Section 202(c) would require VA, under the standardized screening process, to ensure a covered Veteran is screened not later than 48 hours after the date on which the covered Veteran (or a relevant health care provider) makes a request for the covered Veteran to be admitted to a covered treatment program. VA would also have to ensure a covered Veteran, if determined eligible for priority admission to a covered treatment program, is admitted to such program not later than 48 hours after the determination. VA would also have to ensure a covered Veteran is screened at an appropriate time for potential mild, moderate, or severe traumatic brain injury.

Section 202(d) would require VA, in making placement decisions in a covered treatment program for Veterans who meet criteria for priority admission, to consider the input of the covered Veteran with respect to the program specialty, subtype, and treatment track offered to the covered Veteran and the geographic placement of the covered Veteran. VA would also have to maximize the proximity of the covered Veteran to social support systems.

Section 202(e) states that if VA determined a covered Veteran was eligible for priority admission to a covered treatment program pursuant to the standardized screening process and VA was unable to admit the Veteran to a covered treatment program at a VA facility in a manner that complies with the requirements in subsections (c) and (d), VA must offer the Veteran the option to receive care at a non-VA facility that: (A) can admit the Veteran within the period required by subsection (c), (B) is a party to a contract or agreement with VA (or enters into a contract or agreement with VA) under which VA furnishes a program that is equivalent to a covered treatment program to a Veteran through such non-VA facility, (C) is licensed by a state; and (D) is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the

Joint Commission. If VA determined a covered Veteran was eligible for routine admission to a covered treatment program, and VA was unable to admit the Veteran to a covered treatment program at a VA facility in a manner that complies with the access standards for mental health care established under 38 U.S.C. § 1703B, as amended, VA would have to offer the Veteran the option to receive care at a non-VA facility that meets conditions (B)-(D), above.

VA supports section 202, subject to appropriations.

VA agrees with the intended outcomes of this section, and VA has already established policies that would satisfy several of the requirements of this section. We express some concern, relevant to both sections 202 and 203, about codifying current clinical practice into law, as this would likely limit VA's ability to incorporate new advancements that may be inconsistent with the letter, if not the spirit, of this language. We would appreciate the opportunity to speak with the Committee and provide technical assistance to ensure that VA's central focus – ensuring Veterans receive high-quality residential treatment – remains. For example, VA currently recognizes community facilities accredited by either CARF or the Joint Commission for programs in the community but requires both for VA direct care programs. CARF standards are typically more specific for residential treatment, and if section 202(e)(1)(D) were enacted, this could bar VA from requiring community facilities to meet the more specific CARF standards expected from VA MH RRTPs. As VA improves its network of providers, both in number and quality, it may be able to raise the bar even higher in terms of quality providers by instituting more stringent requirements that would not harm network adequacy; however, the bill's language would prohibit such efforts.

Residential treatment is specialized, intensive treatment that is typically not available in every community. Consequently, Veterans' access to this treatment in the community can be limited. In FY 2024, Veterans who receive such care from programs in the community typically traveled on average 255 minutes to access residential treatment services (compared with 150 minutes average driving time for VA facilities). For highly specialized services, Veterans can travel even further.

VA has several technical concerns with some of the language, and we would be happy to work with the Committee to address them. First, this section refers to Veterans requesting MH RRTP care. MH RRTP is a form of domiciliary care, and domiciliary care includes additional requirements that must be met to receive such care (see, for example, 38 U.S.C. § 1710(b); 38 C.F.R. § 17.47). While Veterans can unofficially self-refer for MH RRTP, verification of their eligibility occurs during the screening process. If this language is not modified, VA would interpret this phrase considering these requirements. Further, VA is concerned with language codifying criteria for priority admission, which is a clinical decision. As written, the criteria include non-responsiveness to outpatient treatment, which is a general consideration for any residential admission. The presence of any one symptom listed by itself may not indicate the need for priority admission. Further, subsection (d), which requires VA to

"consider" a range of factors in making placement decisions, is vague and would likely be very difficult to implement consistently or in a standardized fashion.

As noted above, it is difficult to read sections 101 and 202 together, and we would welcome the opportunity to discuss with the Committee how to most clearly state Congress' intent in this area.

VA recommends that if these requirements will continue to govern MH RRTP care (as appears to be the case) that this be codified in title 38, U.S.C., to allow for easier reference and amendment in the future.

VA does not currently have a cost estimate for section 202, but it is continuing to assemble the relevant data.

Section 203 would impose a number of requirements related to VA's MH RRTPs. Subsection (a) would require VA to develop metrics to track (and require VA to track) performance by VA medical facilities and Veterans Integrated Service Networks (VISN) in meeting requirements for screening Veterans for covered treatment programs (under section 202) and timely admitting Veterans to such programs under such screening. The metrics would have to track the performance of medical facilities and VISNs with respect to routine and priority admissions to covered treatment programs.

Subsection (b) would require VA to develop a process for systematically assessing the quality of care delivered by VA and non-VA providers treating covered Veterans under this section in several ways.

Subsection (c) would require VA, when a covered Veteran needs residential care under a covered treatment program, to provide the Veteran with a list of locations at which the Veteran can receive residential care that meets (A) the standards for screening under section 202 of this Act and (B) the care needs of the Veteran, including applicable treatment tracks. VA would have to provide transportation, or pay for or reimburse the costs of transportation, for any covered Veteran who is admitted into a covered treatment program and needs transportation assistance from the Veteran's residence, a VA facility, or an authorized non-VA facility that does not provide the care to another facility that provides residential care covered under a covered treatment program; VA would also have to provide transportation, or pay for or reimburse the costs of transportation, back to the residence of the Veteran after the conclusion of a covered treatment program, if applicable.

Subsection (d) would require VA to develop a national policy and associated procedures under which covered Veterans, their representatives, or a provider who requests they be admitted to a covered treatment program (including both VA and non-VA providers) may file a clinical appeal if the covered Veteran is denied admission into a covered treatment program or accepted into a covered treatment program but not offered bed placement in a timely manner. The national policy and procedures would

have to include timeliness standards for VA to review and make a decision on such an appeal; VA would have to respond to any appeal not later than 72 hours after receipt. VA would have to develop public guidance on how covered Veterans, their representatives, or their providers can file a clinical appeal if the Veteran is denied admission or the first date on which they could be admitted does not comply with the standards established under 38 U.S.C. § 1703B; the public guidance could include other factors as VA may specify. Paragraph (4) would provide that nothing in this subsection could be construed to grant a covered Veteran the right to appeal a decision to the Board of Veterans' Appeals.

Subsection (e) would require VA, to the extent practicable, to create a method for tracking availability and wait times under a covered treatment program across all VA medical facilities, VISNs, and non-VA providers throughout the U.S. VA would have to, to the extent practicable, make this information available in real time to VA mental health treatment coordinators, the leadership of each VA medical center and VISN, and the Office of the Under Secretary for Health.

Subsection (f) would require VA to update and implement training for VA staff directly involved in a covered treatment program regarding referrals, screening, admission, placement decisions, and appeals for such program, including all changes to processes and guidance under the program required by section 202 of this Act. This training would have to include procedures for the care of covered Veterans awaiting admission into a covered treatment program and communication with such Veterans and their providers. VA would have to ensure staff that are required to complete this training do so not later than 60 days after beginning employment in a position that includes work directly involving a covered treatment program and annually thereafter. VA would have to track the completion of this training. VA would have to review and revise oversight standards for VISN and VHA leadership to ensure that VA facilities and staff are adhering to the policy on access to care of each covered treatment program.

Subsection (g) would require VA to ensure each covered Veteran who is screened for admission to a covered treatment program is offered, and provided (if agreed upon), care options during the period between screening and admission to such program to ensure the covered Veteran does not experience any lapse in care. For covered Veterans being treated for substance use disorder, VA would have to ensure there is a care plan in place during the period between any detoxification services or inpatient care received by the covered Veteran and admission to a covered treatment program; this care plan would have to be communicated to the covered Veteran, the primary care provider of the Veteran, and the facility where the Veteran is or will be residing under the program. VA, in consultation with covered Veterans and their treating providers, would have to ensure the completion of a care plan before Veterans are discharged from the program. The care plan would have to include details on the course of treatment for the Veteran following completion of treatment under the covered treatment program, including any necessary follow-up care. The care plan would have to be shared with covered Veterans, their primary care providers, and any other providers with which the Veterans consent to sharing the plan. Upon discharge of a

covered Veteran from a covered treatment program at a non-VA facility, the facility would have to share with VA all care records maintained by the facility with respect to the Veteran and work in consultation with VA on the care plan.

Subsection (h) would require VA, not later than 2 years after enactment, to submit to Congress a report on modifications made to the guidance, operation, and oversight of covered treatment programs to fulfill the requirements of this section. Not later than 1 year after submitting this report, and not less frequently than annually thereafter during the period in which a covered treatment program is carried out, VA would have to submit to Congress a report on the operation of such programs. This annual report would have specific data elements that would have to be included, but VA would have to provide such data pursuant to applicable Federal law and in a manner that is wholly consistent with applicable Federal privacy and confidentiality laws.

Subsection (i) would require VA to update its guidance on the operation of covered treatment programs to reflect the requirements in subsections (b)-(h).

Subsection (j) would require VA to carry out each requirement under this section within 1 year of enactment, unless otherwise specified.

Subsection (k) would require the Comptroller General, by not later than 2 years after enactment, to review access to care under a covered treatment program for covered Veterans in need of residential mental health care and substance use disorder care.

VA supports section 203 subject to amendments and the availability of appropriations.

VA agrees with many of the intended outcomes of this section and has already established such requirements through policy. We again caution that codifying current policy may limit VA's ability to innovate and adapt to the needs of Veterans in the future.

Regarding subsection (b), VA has developed ways to assess the quality of VA care, and we are working to apply these same standards for quality to non-VA providers to include the ability to evaluate the clinical outcomes of Veterans receiving residential treatment from both Department and non-department programs. VA can generally evaluate non-VA care as a whole or at a regional level, but we may not be able to evaluate the quality of specific providers in each of the areas listed (for example, provision of evidence-based treatments, clinical outcomes, completion of training in military competence for all providers in a residential program), which this language would seem to require.

Concerning subsection (c), VA acknowledges that residential rehabilitation treatment often involves extensive travel; current data indicate that Veterans receiving community residential treatment care are traveling 255 minutes on average to access such care, so providing transportation support can be critical to ensuring Veterans are

able to access care. However, we do have technical concerns with this provision and would welcome the opportunity to work with the Committee to address them. For example, it is not clear that this language would allow VA to transport a Veteran, after the conclusion of a covered treatment program, to a location other than the Veteran's original residence. Some Veterans may choose to change their residence during their treatment, but this language may bar VA from transporting them, which we do not support.

VA also recommends clarifying subsection (d)(4), which only establishes a rule of construction for Veterans' appeals, although paragraph (1) would require VA to establish policy and procedures for appeals from Veterans, their representatives, and their providers. This could be interpreted to allow for appeals to the Board by representatives and providers, although it is not clear that is the intent.

VA also cites concerns with the reporting requirements in this section. First, there is no current mechanism to determine participation in a treatment track, as defined by section 201, as data are captured at the official program level only. Second, the requirement to include recommendations under this report could be duplicative of or conflict with the recommendations VA provided under section 503 of the STRONG Veterans Act (Division V of P.L. 117-328).

VA welcomes the opportunity to discuss this section with the Committee.

VA is working to assemble the necessary data, but VA does not have a cost estimate for this section at this time.

Title III

Section 301 would require VA, working with third party administrators (TPA) and acting through the Center for Innovation for Care and Payment (CICP), to develop and implement a plan to establish an interactive, online self-service module: (A) that would allow Veterans to request appointments, track referrals for care, and receive appointment reminders; (B) to allow Veterans to appeal and track decisions relating to denials of requests for care and services under VCCP and denials of requests for care and services at VA facilities; and (C) implement such other matters as determined appropriate by VA in consultation with TPAs. Within 180 days of enactment, VA would have to submit to Congress this plan. Following submittal of the plan, VA would have to submit to Congress quarterly reports for 2 years containing any updates on the implementation of the plan. This section could not be construed to be a pilot program subject to the requirements of 38 U.S.C. § 1703E. It would define TPA as an entity that manages a provider network and performs administrative services related to such network under 1703.

VA supports section 301, subject to amendments, and availability of appropriations.

VA agrees that an interactive, online self-service module would be helpful to Veterans. However, we do have a number of technical concerns regarding the specific language and would welcome the opportunity to provide technical assistance to the Committee. Additionally, we recommend against requiring VA to submit quarterly reports for 2 years, as this would be administratively burdensome and would divert resources from patient care. VA could instead provide briefings or updates as needed to Congress to ensure appropriate oversight at lower cost.

VA is working on a cost estimate for section 301.

Section 302(a) would amend the CICP's authority in 38 U.S.C. § 1703E in 10 ways. First, it would relocate the CICP to be within the Office of the Secretary. Second, it would require the CICP to carry out such pilot programs as VA determines to be appropriate to develop innovative approaches to testing payment and service delivery models to reduce expenditures while preserving or enhancing the quality of care furnished by VA. Third, it would expand the intended scope of the payment and service delivery models to require VA to also determine whether such models increase productivity, efficiency, and modernization throughout VA. Fourth, It would require VA to include in the budget justification materials submitted to Congress for each fiscal year specific identification, as a budgetary line item, of the amounts required to carry out this section. Fifth, it would amend VA's authority to waive provisions to extend beyond subchapters I-III of chapter 17 of title 38, U.S.C., to include all of title 38, U.S.C., all of title 38 of the Code of Federal Regulations, and any policy documents of the Department. Sixth, it would state that before waiving any provision of title 38, U.S.C., VA would have to submit a request for approval to Congress. Seventh, it would require VA to carry out not fewer than three pilot programs concurrently. Eighth, it would require the Secretary to obtain advice from the Under Secretary for Health, the Special Medical Advisory Group, Integrated Veterans Care, the Office of Finance, the Veterans Experience Office, the Office of Enterprise Integration, and OIT in the development and implementation of any pilot program. Ninth, it would also require VA consult representatives from non-profit organizations and other public and private sector entities, including those with expertise in medicine and health care management. Finally, it would require VA to submit to Congress annual reports with a full accounting of the activities, staff, budget, and other resources and efforts of the Center and an assessment of the outcomes of the efforts of the Center.

VA supports section 302(a), subject to amendments.

VA would appreciate the opportunity to discuss with the Committee the underlying intent and objective of this section. VA is open to changes to the organizational structure or purpose of the CICP, but some of the proposed changes would raise significant concerns.

For example, the apparently expanded scope of the Center's authority would still be constrained by the current statutory focus on testing payment and service delivery models to reduce expenditures while preserving or enhancing the quality of care furnished by VA. It seems unlikely that VA could test payment and service delivery models to determine whether these models (1) improve access, quality, timeliness, and satisfaction of care, (2) create cost savings for VA, and (3) increase productivity.

Further, the proposed amendments to CICP's waiver authority under § 1703E(f) create some ambiguity. The amendments to paragraph (1) would allow VA, subject to Congressional approval, to waive any requirements in title 38, U.S.C. (rather than only subchapters I-III of chapter 17), any requirement in title 38, C.F.R., and any handbooks, directives, or policy documents, but the amendments to paragraph (2) refer only to waiving "any provision of this title" (title 38, U.S.C.), leaving open the question of whether waivers of regulatory authority in title 38, C.F.R. or waivers of VA policies would not require a waiver approved by Congress. Given the importance and novelty of this authority, we recommend Congress be explicitly clear as to the limits of this authority.

Also, the bill would require VA to carry out a minimum of three pilot programs concurrently. VA has defined the term "pilot program" through regulation at 38 C.F.R. § 17.450(b) to mean pilot programs conducted under that section (and thus under § 1703E). These pilot programs are subject to Congressional approval, as noted earlier. To the extent Congress did not approve at least three pilot programs concurrently, VA would be in violation of this requirement (although the penalties for non-compliance are not clear). Additionally, the limitations imposed by section 1703E would still apply (such as the limitation on the total amount VA could expend in any FY), so the requirement to carry out at least three pilot programs could narrow the scope of programs the CICP could pursue given these other constraints. It is possible the drafters only intended the CICP to operate three programs concurrently, whether they were "pilot programs" that required Congressional approval or not; if that was the intent, we recommend revising the language to reflect that.

Finally, we note that, if the CICP is moved to the Office of the Secretary, the specific line item the bill would require for the CICP would need to be funded by the same account as the Office of the Secretary. This would either require a proportional increase to the budget for the Office of the Secretary or would require significant cuts to the existing Office infrastructure. We are also unsure how the shift from the Medical Services account to the General Administration account would affect the Center's ability to support the delivery of health care. We would appreciate the opportunity to discuss this and other issues further with the Committee.

Section 302(b) would require the Comptroller General, within 18 months of enactment, to submit to Congress a report on the efforts of the CICP in fulfilling the objectives and requirements under 38 U.S.C. § 1703E and containing such recommendations as the Comptroller General considers appropriate.

VA defers to the Comptroller General on section 302(b).

Section 302(c) would require the CICP, not later than 1 year from enactment, to establish a 3-year pilot program in not fewer than 5 locations to allow enrolled Veterans to access outpatient mental health and substance use services through the VCCP without referral or preauthorization.

VA supports section 302(c), subject to amendments.

VA requests clarifying amendments to address the following concerns with section 302(c).

First, section 302(c) would seemingly conflict with section 1703(a)(3), which requires that covered Veterans only receive care through the VCCP "upon the authorization of such care or services by the Secretary." If Veterans could self-refer for care, unless VA were to issue a blanket authorization (and it is not clear that doing so would satisfy the requirements of 38 C.F.R. § 17.38(b), that VA determines the care is necessary to promote, preserve, or restore the health of the Veteran), it would still need to authorize this care individually.

Second, VA may need additional time for bilateral negotiation of VA's contracts, which are structured to rely upon an authorization from VA for care (other than walk-in care under section 1725A). More time may also be needed to develop a care coordination system. Participating health information exchange providers can already obtain VA health information, but not all VCCP providers participate in health information exchanges. In these situations, it is not clear how VA could coordinate the care of such Veterans, or even if VA would know that such care was being sought until after it was received. It is similarly unclear whether this pilot program would be intended to cover the full range of services – walk-in, regularly scheduled, emergent care – and how the pilot program would interact with or supersede other statutory authorities in these areas. It seems very likely that in at least many cases, VA would only be able to monitor patient safety and outcomes retroactively, which would make implementation of a value-based model even more difficult.

Third, VA has concerns with the required metrics, as it is unclear whether community providers could report the metrics VA would use for its own programs or other metrics adopted within the industry (such as standards developed by the Centers for Medicare and Medicaid Services (CMS)).

Finally, section 302(c) would require the CICP to carry out a pilot program under section 1703E, but it is not clear whether this supersedes the waiver process required by section 1703E(f) or not. It is also not clear how this would interact with the other amendments proposed to the CICP authority under section 302(a).

VA is working on a cost estimate for this section.

Section 303(a) would require VA, within 1 year of enactment and not less frequently than once every 3 years thereafter, in consultation with Veterans Service Organizations, Veterans, caregivers of Veterans, employees, and other stakeholders, to submit to Congress a report containing recommendations for legislative or administrative action to improve the clinical appeals process of the Department with respect to timeliness, transparency, objectivity, consistency, and fairness. Section 303(b) would require VA to submit to Congress an annual report with information about Veterans' eligibility for and use of the VCCP, along with other data on the operations of that program.

VA supports section 303, subject to amendments.

While VA supports this section, VA does have technical recommendations for the Committee to ensure the report meets the apparent intent. Specifically, VA cites concerns with the proposed reporting of appeal volume and outcomes, which also appears to inaccurately describe some existing processes. For example, VA notes that requests for community care that are not approved do not amount to a denial of care – that care, so long as it is necessary, is still furnished directly by VA.

Subsection(a) would require VA to create an advisory committee subject to FACA, the National Records Act, the Privacy Act, the Freedom of Information Act, and the Government in the Sunshine Act. However, this section does not provide sufficient guidance to VA to establish, manage, or terminate this committee. The section would need to include an official name for the committee, the mission authority of the committee, the substantive objectives and scope for the committee, the size of the committee, the official to whom the committee would report, the reporting requirements for the committee, the meeting frequency of the committee, the qualifications for committee members, the types of committee members and their term limits, whether the committee is authorized to have subcommittees, the funding for the committee, and the record keeping requirements of the committee. Alternatively, the section could strike the requirement to establish an advisory committee, or specifically exempt the working group from FACA requirements, and avoid these issues altogether.

Further, the requirements in section 303(b) are duplicative of some of the required reporting under 38 U.S.C. § 1703(m). To the extent Congress needs this information, rather than creating a separate reporting requirement in a different law, we recommend amending section 1703(m) to include the new data elements Congress is seeking.

If amended, VA does not believe the costs would be significant.

H.R. 472 Restore VA Accountability Act of 2025

Position: VA supports, if amended.

VA supports additional statutory provisions to improve accountability, and VA supports this bill with modifications to address legal concerns, mitigate litigation risk, and ensure disciplinary actions taken are not overturned. VA has legal concerns regarding some of the language in the draft bill. As I will specifically address in my testimony today, VA is concerned that this bill will not resolve the extensive litigation and constitutional challenges that plagued the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017's disciplinary authorities and, therefore, will further uncertainty and a continued pattern of overturned disciplinary actions. VA's concerns are informed by the experience of implementing those authorities since 2017.

Section 2 would give VA another authority with its own set of procedures to remove, demote, or suspend supervisors and management officials for performance or misconduct. This section would require VA to treat all supervisors, regardless of grade and salary level, the same as members of the senior executive service when carrying out disciplinary and performance-based adverse actions. Under this authority, supervisors would not be entitled to review by the Merit Systems Protection Board (MSPB), and the statute sets limits on the information that agency officials may consider when selecting the penalty.

Having multiple authorities for taking disciplinary action against employees, each with its own unique procedures and requirements for addressing performance and conduct deficiencies, has led to confusion regarding their administration and application and adds additional risk to taking legally defensible actions.

Additionally, we would welcome continued engagement regarding Section 2 to address needed technical revisions for the leave language under the proposed 38 U.S.C. § 712.

Section 3 would amend 38 U.S.C. § 713 to establish that the VA official's burden of proof when taking an action under this authority would be substantial evidence. This section also sets forth exclusive factors to be considered when determining the appropriate penalty. The amendments also limit the scope of judicial review of VA's chosen penalty such that a court cannot review the penalty except when a constitutional issue is presented. They also establish that the amendments would apply retroactively to the date of enactment of the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017.

VA identified significant legal concerns with portions of these legislative amendments that carry significant legal risk. Those specific concerns are as follows:

- Substantial evidence as the statutory standard of proof, even with express statutory language, will be legally challenged and result in litigation. The Federal Circuit's discussion of the inappropriateness of that substantial evidence as a standard of proof for administrative decisions is legally problematic, as the Federal Circuit noted that there is no precedent for such a standard, citing

Supreme Court jurisprudence. *See Rodriguez v. Dep't of Veterans Affairs,* 8 F.4th 1290 (Fed. Cir. 2021).

- The limitations on the factors that VA officials can consider when determining a penalty may lead to legal challenges as to whether all relevant factors can be considered under the statute when making penalty determinations. *See, e.g., Sayers v. Dep't of Veterans Affairs,* 954 F.3d 1370 (Fed. Cir. 2020); *Brenner v. Dep't of Veterans Affairs,* 990 F.3d 1313 (Fed. Cir. 2021); *Connor v. Dep't of Veterans Affairs,* 8 F.4th 1319 (Fed. Cir. 2021).
- The limitations on judicial review of the penalty (other than constitutional challenges) poses a lesser litigation risk, but VA does not believe the limitation is necessary, as judicial review standards have not previously been an impediment to VA actions and such challenges are likely to be constitutional.
- The retroactivity clause is likely to face legal challenges both as to its scope or applicability. When such clauses impact substantive rights, which the Federal Circuit has already opined that section 714 does, they must further a legitimate legislative purpose and by rational means (and cannot be harsh/oppressive or arbitrary/irrational) to meet due process requirements. *See Sayers,* 954 F.3d at 1380-1381(application of substantial evidence and preventing penalty mitigation impact substantive rights).

Section 4(a) would amend 38 U.S.C. § 714 to address the limitations imposed by the U.S. Court of Appeals for the Federal Circuit, MSPB, and the Federal Labor Relations Authority, which have significantly reduced the differences between section 714 and pre-existing title 5 disciplinary authorities. The amendments clarify that hybrid title 38 employees are covered by this authority, establish that the VA official's burden of proof when taking an action under this authority is substantial evidence, and set forth exclusive factors to be considered when determining the appropriate penalty. The amendments establish that VA is not required to place a covered employee on a performance improvement plan prior to carrying out a performance-based action under section 714. The amendments also limit the scope of judicial review of VA's chosen penalty to only constitutional challenges; state that the authorities, as amended, would apply retroactively to the date of initial enactment of the Act; and clarify that the procedures of the entire section, rather than subsection (c), supersede any collective bargaining agreement if it is inconsistent with the authority.

VA has the same legal concerns with section 4 as identified in section 3, relating to (1) the substantial evidence standard of proof; (2) limiting factors for VA officials to consider when determining the penalty; (3) precluding judicial review of the penalty except for constitutional challenges; and (4) retroactive application of the authorities, as amended. VA has other legal concerns as well, including the effectiveness of the proposed language superseding collective bargaining agreements.

In summary, VA appreciates the support of its efforts to hold employees accountable and looks forward to working together to address the legal concerns presented to ensure disciplinary actions taken under the authority are not overturned. The legal concerns are impacted by *Loper Bright Enterprises v. Raimondo,* 144 S. Ct. 2244 (June 28, 2024), which established that courts will not defer to an agency's interpretation of ambiguous statutory language and will instead determine the best legal interpretation. Considering that decision, VA seeks as much clarity as possible in this bill, which will likely be interpreted in multiple judicial venues across the country given the judicial review provisions. It would be difficult for VA to continue to implement these authorities if Federal courts issued varying interpretations. VA seeks to avoid the legal risk, uncertainty, and litigation it experienced when implementing section 714 in 2017. The enactment of 38 U.S.C. § 712 as well as the proposed amendments to 38 U.S.C. §§ 713 and 714 will likely face the same gamut of legal challenges. VA's desired amendments would be aimed at limiting that litigation risk and ensuring clarity for implementation. VA would welcome the opportunity to engage in technical assistance to address these issues. VA will continue to take disciplinary action under applicable existing authorities, providing certainty and minimizing legal risk to VA, while working with Congress to address the legal risks identified in the draft bill.

Cost estimates are not available at this time.

Conclusion

This concludes my statement. We would be happy to answer any questions you or other members of the Committee may have.

Prepared Statement of Jim Whaley

MISSION ROLL CALL

WRITTEN TESTIMONY

OF

MR. JAMES WHALEY

CHIEF EXECUTIVE OFFICER

MISSION ROLL CALL

TO THE

HOUSE VETERANS AFFAIRS COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

"Legislative Hearing on: H.R. 472, The Restore VA Accountability Act of 2025; H.R. 1041, Veterans 2nd Amendment Protection Act; Discission Draft: To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system; H.R. 740, Veterans' ACCESS Act of 2025; and Discussion Draft: Student Veteran Benefit Restoration Act of 2025."

February 25, 2025

Good afternoon Chairman Bost, Ranking Member Takano, and distinguished members of the House Veterans Affairs Committee. On behalf of Mission Roll Call and the 1.4 million veterans whose voices we amplify, thank you for the opportunity to testify today on the important subjects under consideration at today's hearing.

At Mission Roll Call we strive to amplify veteran voices to policymakers and the public at the national, state, and organizational levels. Our sophisticated polling tools are targeted to the veteran community and their loved ones, the core constituency whose input truly matters. Mission Roll Call uses this polling data in several meaningful ways: to inform lawmakers and officials with ground truth on issues directly impacting veterans; raising public awareness through discussions on national and local news outlets; and incorporating the data into substantive research articles designed to help readers understand the issues of significance within the veteran community. Using this data, we advocate for meaningful improvements to help better the lives of all veterans and deliver the care and services they have earned through their dedicated service to our great nation.

HR 740: Veterans ACCESS Act of 2025

Mission Roll Call has long focused on community care as an area in need of improvement among veterans. The MISSION Act of 2018 made appreciable improvements in the VA's community care efforts, yet our polling indicates there is more work to be done to ensure veterans are afforded care in a manner that meets their needs. Mission Roll Call supports the Veterans ACCESS Act of 2025 to continue to build a community care system around the needs of the veteran.

In a Mission Roll Call poll[1] conducted in December 2024 of over 2500 veterans and their family members:

- 44% reported experiencing a delay or postponement of health care within the past year.

[1] See attached, "Polling Results Addressing Community Care," summarizing Mission Roll Call polling between 2021 and 2024 on the topic of Community Care.

- 27% did not receive a referral from the VA to a health care provider in the community after a delay in receiving care.
- 31% experienced a problem scheduling services through the VA.
- 12% were denied authorization to use a community care provider.

In this same poll, when asked what type of support would most benefit the veteran and their family, 31% responded that better access to healthcare would be most beneficial. This was second only to the 39% that responded that improved financial assistance and resources would most benefit their lives.

These findings underscore Mission Roll Call's position that significant improvements are still needed to ensure veterans receive care that meets their health care requirements. In particular, access standards based on time and distance should be a key determinant of a veteran's eligibility for community care. Our polling supports this, as 92% of respondents believe the VA should be mandated in law to have requirements that ensure veterans can access care within a certain time and distance of their home.

The Veterans ACCESS Act of 2025 includes a host of positive measures designed to improve the care veterans receive and address many of the issues veterans share with us in our polling:

- This act makes significant strides in incorporating reasonable travel time, distance, and wait time standards to help define when a veteran can access community resources for either primary care or specialty care.
- This act gives the veteran a voice to weigh in on the acceptability of telehealth as a means of providing care and incorporates the veteran's preference for where, when, and how to seek hospital care, medical services, or extended care services.
- This act clarifies the date of calculating wait times as being the original, canceled appointment.

- Perhaps most importantly, this act prioritizes priority admission to a covered treatment program for veterans in certain high-risk categories, including a high-risk for suicide.

HR 1041, Veterans 2nd Amendment Protection Act and Amending Title 38

As we have done in the past, Mission Roll Call continues to support HR 1041, the 2nd Amendment Protection Act, and to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system.

No American citizen, including veterans, should lose their constitutionally enshrined rights without proper judicial process. Unfortunately, the VA has taken an overly broad view of their responsibilities to assist veterans who either require or request a fiduciary to manage their financial affairs related to VA benefits, conflating this status with an administrative determination that they are mentally incompetent. Under this administrative determination, the VA is reporting veterans using a fiduciary to the FBI's NICS database at rates far greater than other agencies.

The VA's statistics on this category of reporting to the NICS list is staggering in scope. According to the FBI[2], as of December 2023, the VA has reported nearly 270,000 veterans to the NICS database under the category "adjudicated mental health" since the creation of the NICS database in 1998. The next highest federal agency's reporting figure over the same timeframe is the FBI itself with fewer than 2,000.

This disparity and the VA's frequent use of this administrative determination and subsequent reporting to the NICS list has a dampening effect on the veteran population's willingness to seek mental health care from the VA. Many veterans fear that mere mention in a VA-controlled

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[2] FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System (NICS), Active Entries in the NICS Indices as of December 31, 2023
https://www.fbi.gov/file-repository/download-active-entries-in-the-nics-indices-as-of-december-31-2023.pdf/view

clinical environment of struggles related to Traumatic Brain Injury (TBI) or PTSD or other mental health-related symptoms risks being reported to the NICS list and losing their 2nd Amendment rights. Comparatively, mental health clinicians in a non-VA facility do not have similar administrative and reporting tools that might land a patient on the NICS list.

This is not to say that no veteran should be on the NICS list for reasons associated with use of a fiduciary. Rather, it is imperative that where loss of a constitutionally protected right is concerned, there must be a judicial process involved to help ensure the system is being implemented in a fair and transparent manner. This is consistent with the principles under which veterans volunteer to defend and protect the constitution of the United States. Veterans should be afforded all protections their civilian counterparts enjoy.

The substance of this legislation was incorporated into the Fiscal Year 2024 Appropriations Bill. That provision sunset on September 30, 2024. Mission Roll Call believes this legislation should be made permanent during the 119th Congress.

Acknowledging the Challenges the VA Faces

The VA manages the largest integrated health care network in the United States, serving over 9 million veterans annually. When it comes to delivering health care services, the scale of the VA's mission is unmatched. Challenges in administering a program of this size are to be expected to some degree. However, when these challenges begin to overwhelm the VA's ability to deliver care to veterans in a timely and efficient manner, maintaining the veterans' needs and preferences as the overriding consideration, more must be done to effect positive change. The reality is that while the VA effectively meets the needs of millions of veterans, at the same time it falls short for millions of others. Mission Roll Call is particularly focused on the 30% of veterans who report needing improved access to care. These veterans deserve solutions that prioritize their health care requirements over institutional bureaucracy.

HR 472 Restore VA Accountability Act of 2025

As our polling shows, several million of the veterans the VA serves feel the VA could be doing a better job of delivering health care services to veterans, both in terms of required wait times as well as fair notification of being afforded access to community care options. The VA's Access to Care website shows critically long wait times in many health care categories at facilities all over the country. Despite the bipartisan passage of The VA Accountability and Whistleblower Protection Act of 2017, all indications are further improvements need to be made within the VA's culture to help motivate positive improvement in a veteran-centric capacity.

If there is something all veterans can identify with, it's the role rigorous standards play in achieving excellence. Given this, Mission Roll Call endorses the Restore VA Accountability Act of 2025. This act places a premium on results-driven outcomes and reduces the ever-growing bureaucracy that makes it challenging to replace underperforming employees. Serving veterans through the VA is a privilege, and every day, the VA's workforce should strive to provide care that meets the highest standards.

Common to any large organization, a measurable percentage of employees will fail to meet expectations, and at the VA, this means a failure to deliver the best services and care possible to the 9 million veterans the VA serves. Underperforming employees should be afforded opportunities to correct their performance within a reasonable period and to receive substantive review without excessive means by which to stymie the system. The VA needs the agility to release underperforming employees quickly and replace them with higher performers in order to deliver the best care possible to veterans. This act provides VA leadership the flexibility to meet both competing requirements.

Discussion Draft: Student Veteran Benefit Restoration Act of 2025

Last, but by no means least, Mission Roll Call endorses the Student Veteran Benefit Restoration Act of 2025. This simple yet important piece of legislation helps ensure veterans do not lose any or all of their VA educational benefit under those circumstances where the educational institution

selected either does not have State approval or has their approval revoked. The earned VA educational benefit is simply too important to the long term professional and financial success of veterans to be placed at risk through no fault of the veteran themselves.

Myself and the team at Mission Roll Call appreciate the opportunity to weigh in on these important issues and appreciates the hard work of this committee to craft solutions to these challenges.

MISSION ROLL CALL

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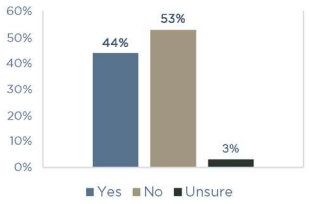
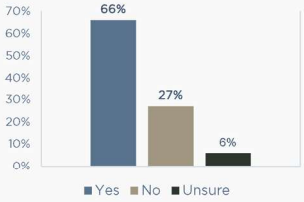
POLLING RESULTS ADDRESSING COMMUNITY CARE

The following are recent and historic poll results Mission Roll Call has conducted that directly or indirectly speak to the issue of the VA and community care. Polling results from December 2024 are based on an online survey of a sample of 2,583 U.S. adults who are Veterans (2,080) or have Veterans (503) as immediate family members. This poll's margin of error is 2%.

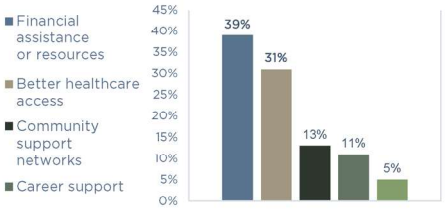
In the past year, have you or the veteran in your family experienced a delay or postponement related to health care services at a VA facility?





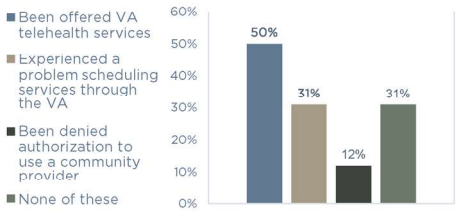
Following a delay in receiving care at a VA facility, the VA is required to offer a referral to a health care provider in the community. Did the VA make you (or the veteran in your family) aware of this policy?

As a veteran or military family, what type of support would most benefit your family?



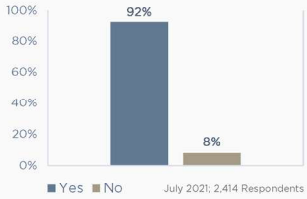
MISSION ROLL CALL

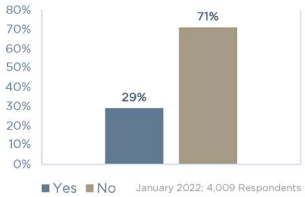
Have you or a loved one... (select all that apply)



The following are older polling results from **2021 through 2022**

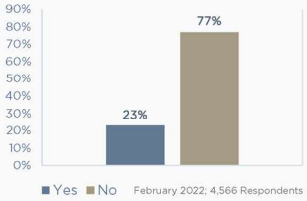
Should the VA be mandated in law to have requirements that make sure veterans can access care within a certain time and distance of their home?



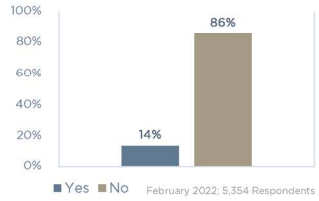


Following a delay in extended services such as inpatient or outpatient mental health care, residential substance use treatment, or other specialty care at a VA facility, has your VA provider referred you for treatment in the community?

Have you experienced a problem scheduling community care services through VA, or getting denied authorization to use the community provider?

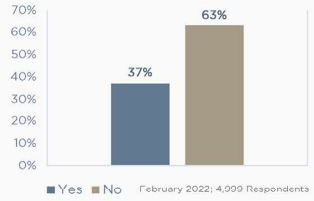


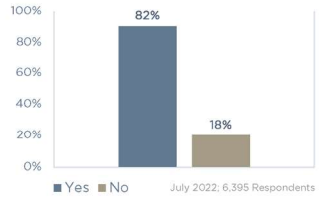
MISSION ROLL CALL



In the past year, has the VA referred you to healthcare providers in the community under best medical interest but your referral was later denied by administrative staff upon review?

In the past year, have you or a veteran you know experienced a delay or postponement of any healthcare at a VA medical center?





VA Secretary Denis McDonough recently testified that the cost of veterans seeking healthcare by private providers outside of the VA system now accounts for 33% of the VA's total healthcare budget. Because of this, the VA has said it may alter the rules for accessing community care, effectively making it harder for veterans to get the care they need in a timely fashion. Should Congress make the current rules permanent before the VA tries to make changes to access standards?

Mission Roll Call believes that Veterans deserve the best care possible and that includes better access to community care. In line with this belief, we strongly support Congress' efforts to strengthen community care access through legislation.

For further information on this subject please email **Mike Desmond** at **mdesmond@missionrollcall.org**

MISSION ROLL CALL

Prepared Statement of Patrick Murray

Chairman Bost, Ranking Member Takano, and members of the committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide remarks on this proposed legislation.

H.R. 472, Restore VA Accountability Act of 2025

The VFW has previously supported this legislation that would streamline authorities to suspend, demote, or fire employees of the Department of Veterans Affairs (VA) who have been determined to warrant such action. We had also supported the *Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017* (Public Law 115–41) because the VFW had seen examples of VA's inability to hold certain employees accountable. While this proposal would restore the original intent of the law that had technical gaps and was not implemented effectively, we would like to express our disappointment at how the recent dismissals of VA employees have been handled.

The VFW fully agrees that the VA Secretary should have the ability to remove bad employees from their roles, but we do not agree with using authorities this proposal would provide to arbitrarily remove competent and capable employees simply as a cost-cutting measure. Reduction in Force efforts should not be bluntly used at VA in order to satisfy an arbitrary budget goal. VA should always be fully staffed with competent and capable employees in order to serve the men and women who have earned their VA health care and benefits.

Two weeks ago, Secretary Doug Collins announced VA fired more than one thousand employees. Nowhere in his message did it explain what warranted that action. Members on this committee regularly say VA needs to weed out the bad actors, but the dismissal of more than one thousand employees was not done because it was warranted, instead it was done because it was easy. Among the employees who were let go were veterans and military spouses. Some of these firings have been rescinded because they were key positions, but that is not the case for all of the dismissals. Before this committee advances this bill, we believe there needs to be proper oversight to ensure the men and women who serve our veterans, caregivers, and survivors are not fired arbitrarily from their crucial roles.

H.R. 740, Veterans' ACCESS Act of 2025

The VFW supports this proposal that would provide overall enhancements to the VA Community Care program. Since the passage of the *MISSION Act of 2018*, VA has not implemented this program consistently across its entire network. Veterans deserve consistency in their care, and this is a good step toward providing it. While this proposal does not address VA direct care, we would be remiss to not remind this committee that some of the reasons community care appointments and costs are increasing is because VA cannot provide many of these vital services. Care in the community is VA care, but providing resources for care *only* in the community and not also for VA direct care can lead to a less capable VA, which would be detrimental to veteran care.

Sec. 101-The VFW supports the codification of access standards for the VA Community Care Network (CCN). These access standards have been in place for years and, although they were arbitrarily adopted from old TRICARE access standards for retirees, the standards have not changed and have not been problematic for veterans since the enactment of the MISSION Act. The issues with CCN we have heard from our members are not due to the geographic or wait times to access this type of care. Enough time has passed since the initial implementation that we are comfortable codifying these standards.

Sec. 102—The VFW supports this portion of the bill that would require veterans to be notified of eligibility for community care. Too many veterans need to advocate on their own to access care in the community. If this care is to be provided appropriately to veterans, then it should be transparent and accessible and not hidden behind levels of bureaucracy.

Sec. 103—We support this provision to include a veteran's preference in the determination for community care. We understand this addition does not mean a veteran's preference is the sole factor for accessing community care, but it should be part of the consideration.

Sec. 104—We support this provision to provide a notification of denial to veterans.

Sec. 105—We support this provision to discuss telehealth options that are acceptable to veterans.

Sec. 106—We support this provision to extend the deadline for payment claims of providers by an additional 6 months. TITLE II of this bill addresses improve-

ments to certain VA mental health treatment programs. The VFW is pleased to see language that would improve the policies and processes that govern access to VA's Mental Health Residential Rehabilitation Treatment Program (MH RRTP) as we recognize it needs serious attention. However, we would ask the standards for accessing these programs be thoughtfully considered due to their different nature. Priority admission standards should be developed differently than routine admission standards because many of these programs, whether VA-provided or in the CCN, are not local to veterans.

MH RRTP locations are often secluded and situated in rural areas as part of the provided treatments. The fact that they are often intentionally situated away from population centers means many veterans would automatically be eligible for referral to community-based services regardless of where they live. We believe a carefully considered combination of wait times and geographic boundaries must be considered for routine admissions, rather than arbitrary calculations based on entirely different treatment programs such as standard VA mental health care.

Veterans in crisis must receive timely, quality, and consistent care that aligns with their needs while also accounting for their individual preferences where feasible. We feel the proposed 48-hour deadline for residential treatment screening and admissions decisions has the potential to save lives and mitigate instances of veterans losing trust in VA's ability to provide or facilitate care when they need it most. As we collectively look to improve help-seeking behaviors among veterans, Congress and VA must ensure resources like these are equipped to meet veterans where they are without bureaucratic hurdles or inefficiencies undermining such efforts.

To that end, we would like this committee to consider including a provision that also prohibits barriers to accessing the breadth of community-based residential treatment programs that are available and commonly tailored to veterans. One VFW member recently sought but ultimately gave up on receiving residential mental health care through VA because the program the provider determined would best meet the care needs was in the wrong network. Other available programs that met treatment needs and preferences like gender-specific programming were similarly out of network.

With rare exceptions, veterans referred to residential treatment via CCN are able to access only programs that are physically located within their respective jurisdictions, each of which is managed by either Optum Serve or TriWest Healthcare Alliance. While this structure works relatively well for common needs like orthopedics and diabetes care, the same cannot be said for mental health and substance use disorder (SUD) programs that are limited in number, highly specialized, and variable in terms of medical expertise and treatment methods. Arbitrarily restricting program access based on administrator network boundaries limits VA's ability to coordinate timely and appropriate residential mental health and SUD care for veterans. While this is not in statute, it is in practice at VA and needs to be rectified.

Sec. 301—The VFW generally supports the idea of this provision but would recommend instructing VA, to the extent possible, to purchase an existing platform instead of building its own. The existing language in this proposal directs VA to develop and implement a plan to establish an online interactive self-service module. However, VA is historically inept at developing its own IT platforms and a self-service module would be a great improvement for VA care, as long as it is done properly.

We support this proposal, and the community care provisions in the *Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act* because community care is a program that needs improvements. We would be remiss to not mention the underlying cause of some community care problems is VA's current inability to perform some of this care. VA direct care and community care can complement each other to provide a full suite of services for veterans. Often CCN is used to relieve the burden of care VA cannot directly provide. But only providing additional resources to the community care portion of VA care will continue to exacerbate the problems with VA internal capacity. We urge this committee to not only fund community care improvements but also continue to improve direct VA care so this "pressure relief valve" is not overused.

H.R. 1041, Veterans 2d Amendment Protection Act

The VFW supports this proposal to protect Second Amendment rights for veterans and to establish due process for those who have been assigned fiduciaries by VA before referring them to the National Instant Criminal Background Check System (NICS). We supported this bill over 15 years ago when this issue was brought to the VFW's attention and will continue to support this proposal until it is passed into law.

The VFW hears from veterans that a negative consequence of VA's current practice is that they are hesitant to seek mental health care because they fear their firearms will be taken away. This has created a significant stigma surrounding mental health and has created a barrier to care for many. This perception is difficult to change. The VFW continues to encourage veterans to use their earned VA health care, including the world-class, veteran-specific mental health services that VA provides. The VFW has also been involved in numerous efforts to reduce veteran suicide, including urging that veterans in distress temporarily give their firearms to a trusted friend or consider using trigger locks to lessen the ease of using a firearm to harm themselves. The VFW also believes in looking at the economic factors veterans face that can put them at risk for death by suicide, as we know suicide is not solely a mental health or firearm issue.

Few veterans that the VFW represents in the VA disability claims process are assigned a fiduciary, and of those it is very rare that our accredited representatives are asked to assist in appealing the decision. Even though we understand the issue of fiduciaries likely affects a small percentage of veterans, we argue that every veteran deserves protection of their constitutional rights.

H.R. XXX To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system

The VFW does not support this legislation. As written, the bill does not contain safeguards to reasonably ensure that beneficiaries with VA-assigned fiduciaries are not a danger to self or others prior to removal from NICS.

Between January 1, 2009, and March 14, 2024, VA referred more than 258,000 incompetent veteran beneficiaries for inclusion in the NICS index. Of this number, nearly 40 percent of these veterans were diagnosed with serious conditions like dementia or schizophrenia. Accordingly, automatic and unconditional NICS removal of beneficiaries with VA-fiduciaries could include people whose underlying injury or disease may indicate a heightened threat of harming themselves or others. We ask this committee to carefully restore veterans' rights while not inadvertently causing them harm.

H.R. XXX, Student Veteran Benefit Restoration Act of 2025

The VFW supports this legislation to protect student veterans and their earned education benefits from schools that commit fraud. Instances of fraud could include United States Code, Title 38, Section 3696 violations of substantial misrepresentation through advertising, marketing, recruiting, and enrollment practices. It would also include programs without approval by a State Approving Agency (SAA) and schools found guilty of fraud by a court of competent jurisdiction.

This legislation would require VA to restore the education entitlements to the student, and the school would be required to repay VA the associated funds it had received. As written and if passed into law, the protections would apply to future violations of fraud. We recommend including retroactive restoration of education entitlements for students who could be affected prior to enactment.

We also recommend that the provision regarding programs not approved by SAAs be clarified. Currently, schools without SAA approval do not receive VA education funding. However, if clarified this could be a useful protection to students who are unable to complete their programs if SAA approval were removed due to fraud after they had begun.

Chairman Bost, Ranking Member Takano, thank you for the opportunity to present our views today. I am prepared to answer any questions you may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any Federal grants in Fiscal Year 2025, nor has it received any Federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.

Prepared Statement of Max Rose

Chairman Bost, Ranking Member Takano, and distinguished members of the Committee, thank you for the opportunity to testify today on these important pieces of legislation affecting our Nation's Veterans. It is an honor to appear before you, as a senior advisor for Vet Voice Foundation, representing nearly 2 million Veterans and military families across the country, and drawing on my experience serving in the U.S. Army and my ongoing commitment to those who have worn the uniform of our Armed Forces.

People join the service for many reasons and share a common experience that those who have not served cannot always understand. Themes of dedication, sacrifice, embracing the suck and resilience are common among veterans. I witnessed the challenges they encounter upon transitioning to civilian life, being suddenly disconnected from those they served with. Everything feels harder without your battle buddy, but there is a familiarity that comes with Department of Veterans Affairs (VA) encounters that can feel a little like being back in the ranks, at least that's how it feels to me. But besides just feeling good, I want those encounters to work for me and my Veteran peers.

Like millions of my fellow Veterans, I use the Department of Veterans Affairs for my healthcare. My personal experiences with the VA have been overwhelmingly positive. I have received high-quality care from dedicated professionals who understand the unique needs of those who have served. I strongly believe that investing in VA direct care should be an imperative, not an afterthought, and must be central to any discussion about caring for Veterans. The Veterans community is largely united in this view; in a recent VFW survey, Veterans indicated overwhelming support for VA to remain our primary deliverer of care.[1]

We shouldn't lose sight that the VA is more than just a healthcare provider; it is a system built to serve Veterans in ways no private sector model can fully replicate. The goal should not be to shift resources away from the VA, but to maintain capacity in-house to ensure it remains strong, effective, and capable of meeting Veterans' needs now and in the future. I support Veterans' choice and the Community Care system as important options to access unique specialties or capacity that local VA clinics cannot provide. But I don't believe that community care or veteran choice should outweigh the VA system at face value because we cannot assume that choice automatically increases provider capacity. Many local providers are already backlogged and overwhelmed with local patients, resulting in long wait times for veterans using community appointments.

I am gravely concerned by the lack of transparency and uncertainty surrounding recent policy changes that directly impact the VA workforce. While some positions at the VA were exempted from the recent round of personnel reductions, military-centric news agencies have reported that employees supporting the Veterans Crisis Line and Vet Centers were fired.[2] Veterans employed by VA, many of them disabled, have reported receiving confusing messages about their employment status. Some have been "fired for performance problems", despite receiving consistently excellent performance reviews.[3] Others accepted the deferred resignation offer, and were later told they were ineligible, and then fired.

Veterans make up 30 percent of the Federal workforce—far higher than their representation in the private sector. More than half of the Veterans employed by the Federal Government – about 340,000 – are disabled. Federal workforce policy and Veterans policy are thus one and the same. Policies that impact the Federal work-

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[1] Statement of Patrick Murray, Director National Legislative Service Veterans of the Foreign Wars of the United States, before the House Veterans Affairs Committee. 17 December 2024. https://www.vfw.org/advocacy/national-legislative-service/congressional-testimony/2024/12/pending-legislation.

[2] "VA Crisis Line Employees Among Those Fired Amid Federal Workforce Purge." Patricia Kime, Military.com, 19 February 2025. https://www.military.com/daily- news/2025/02/19/va-crisis-line-employees-among-those-fired-amid-Federal-workforce-purge.html

[3] Examples of Veterans fired by DOGE (not comprehensive list): "Disabled vet says he was laid off from Department of Veterans Affairs." WPTV News, 18 February 2025. https://www.youtube.com/watch?v=u8fgLmbCUQU. "Veteran speaks out after job at VA terminated in DOGE purge." CNN, 19 February 2025. "He Served Four Tours in Iraq and Afghanistan. DOGE Just Fired Him." Newsweek, 20 February 2025. https://www.newsweek.com/he-served-four-tours-iraq-afghanistan-doge-just-laid-him-off–2033503 "Disabled veteran shares emotional story about being fired from Federal job." CNN, 19 February 2025. https://www.cnn.com/2025/02/19/us/video/disabled-veteran-fired-Federal-job-digvid

force disproportionately impact Veterans, and disabled Veterans in particular.[4] Policies that harm the VA workforce are doubly harmful, impacting both the Veterans employed by VA, and the Veterans who rely on VA.

The men and women who serve our Veterans deserve clarity, stability, and support. It is incumbent upon this Committee, and every elected representative, to demand greater information from the administration, to consult closely with your Veteran constituents, and to fully assess the potential consequences of the externally directed staff reductions before moving forward with the legislation under consideration today. I urge great caution before taking any action that could undermine the VA's ability to serve those who rely on it.

I would like to offer some brief comments on the legislation before the Committee today.

H.R. 472, The Restore VA Accountability Act of 2025

H.R. 472 purports to ensure that VA leadership can take necessary action to address poor performance and misconduct within its workforce while maintaining fairness and due process – a laudable goal, and one we all share.

Unfortunately, if enacted into law as written, H.R. 472 would be counterproductive. VA already has the authorities it needs to discipline employees and it uses those authorities every day. This bill is a counterproductive attempt to make it "easier" to fire employees, but it will only result in lengthy litigation over its unconstitutionality. Litigation arising from VA's use of one section of the Accountability and Whistleblower Protection Act of 2017 resulted in more than $130 million taxpayer dollars in settlements with former employees and the reinstatement of over 100 employees who had been terminated using that law.[5] H.R. 472 arguably raises even more constitutional questions than the 2017 Accountability Act, putting VA at risk of lengthy, costly litigation and undermining its ability to take effective disciplinary action.

This bill would also undermine the due process and collective bargaining rights of VA employees compared to other Federal employees.[6] This would have the effect of driving talented, committed professionals away from the VA, and subjecting more Veterans to diminished quality of care. The VA's ability to recruit and retain skilled professionals is already a challenge, and weakening workplace protections will only exacerbate this issue. Ensuring accountability within the VA is critical, but it must be done in a way that strengthens, rather than weakens, the institution's ability to serve Veterans effectively. One wise step, for example, would be to invest in VA's ability to train HR employees and managers in how to effectively use tried and true Title 5 disciplinary authorities, which already enable VA to remove poor performing employees while respecting civil service protections.

H.R. 1041, The Veterans 2d Amendment Protection Act

As a Veteran, I take the Second Amendment and the rights of those who served very seriously. Protecting the constitutional rights of Veterans is a responsibility we all share, but H.R. 1041 is not the right approach. Under current law, certain VA determinations regarding a Veteran's ability to manage their own finances can lead to their information being reported to the National Instant Criminal Background Check System. This safeguard exists to prevent those who may be at risk of harming themselves or others from accessing firearms. While due process concerns deserve attention, this bill eliminates an important mechanism that helps prevent tragedies, without offering a meaningful alternative to protect Veterans in crisis.

Veterans are at a higher risk of suicide than the general population, and firearm-related deaths account for the vast majority of Veteran suicides. Of the 18

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[4] Employment of Veterans in the Federal executive branch, Fiscal Year 2021. U.S. Office of Personnel Management, November 2023. https://www.opm.gov/fedshirevets/hiring-officials/vedfy21.pdf

[5] "VA reinstated 100 employees fired under widely challenged law, paid $134M to hundreds more." Jory Heckman, Federal News Network, 29 October 2024. https://Federalnewsnetwork.com/workforce/2024/10/va-reinstated–100-employees-fired-under-widely challenged-law-paid–134m-to-hundreds-more/

[6] National Fraternal Order of Police letter opposing the Restore VA Accountability Act, 18 July 2023. https://fop.net/letter/h-r–4278-the-restore-va-accountability-act/National Federation of Federal Employees, Statement for the Record, 12 July 2023. https://docs.house.gov/meetings/VR/VR08/20230712/116186/HHRG–118-VR08–20230712-SD003.pdf American Federation of Government Employees, Statement for the Record, 12 July 2023. https://docs.house.gov/meetings/VR/VR08/20230712/116186/HHRG–118-VR08–20230712-SD005.pdf

Veteran deaths by suicide every day, 13 are from a self-inflicted firearm injury, according to a 2023 VA suicide prevention report.[7] Weakening protections designed to identify those at risk could have devastating consequences. Ensuring due process is important, but this bill goes too far by stripping away an essential safeguard without providing any replacement to ensure Veterans who need help receive it.

Instead of passing legislation that could put more Veterans at risk, Congress should focus on improving mental health services, expanding access to crisis intervention by protesting the recent firing of suicide hotline operators, and ensuring Veterans have the resources they need. Protecting Veterans' rights must go hand in hand with protecting their lives.

Discussion Draft: To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system

Like H.R. 1041, this proposal shows reckless disregard for Veterans' lives, especially in the context of diminishing support from the administration for VA's suicide prevention programs. This bill would remove an essential safeguard by preventing the VA from reporting veterans who have a disability rating for mental illness to the background check system. The background check system is not about infringing on Second Amendment rights—it is about ensuring that firearms do not fall into the hands of individuals who have been legally determined to be a danger to themselves or others. I support the right to bear arms, but with that right comes responsibility. Responsible gun ownership means recognizing that mental health crises must be taken seriously and that preventing tragedies is more important than rhetoric.

Regrettably, recent policy changes have resulted in the firing of staff for VA's Veterans Crisis Line. I fear that cuts to VA resources, combined with advancing these proposals, would send a dangerous message to Veterans: that suicide prevention is not a priority. Rather than advancing these proposals, Congress should focus on improving mental health care for veterans, reducing the stigma around seeking help, and ensuring that due process is followed when making determinations about competency. We must not allow a well-intentioned but misguided bill to undo necessary protections that help keep Veterans, their families, and the public safe.

H.R. 740, Veterans' ACCESS Act of 2025

I strongly support ensuring that Veterans have the freedom to choose among healthcare services and providers. However, I have grave concerns that this bill would significantly weaken the Veterans care system by diverting critical funding from VA direct care to the private sector, ultimately reducing Veterans' access to the specialized, high-quality care they rely on. The VA was built to serve Veterans with complex, service-related conditions—injuries and illnesses that many private providers are neither equipped nor trained to handle. By allowing Veterans to bypass the VA system without oversight, this bill would accelerate the shift from the VA as a provider of care to merely a payer for private sector services, undermining the very institution designed to serve those who have worn the uniform.

The consequences of this approach are clear: fewer resources for VA hospitals and clinics, staff reductions, and the closure of vital programs and facilities. Veterans—especially those with service-connected disabilities—will see their choices diminish as the services they depend on disappear. Additionally, the VA plays an essential role in medical research, provider training, and emergency response, all of which will suffer if its funding is drained. Instead of dismantling the VA in the name of choice, Congress should focus on strengthening and modernizing it to ensure Veterans continue to receive the best care possible—care that is tailored to their unique needs and experiences.

H.R. 1391, Student Veteran Benefit Restoration Act of 2025

The Student Veteran Benefit Restoration Act, as drafted, is a sound proposal and important step in protecting the benefits Veterans earned through their service. The GI Bill has long been one of the most successful programs in helping Veterans tran-

[7] 2023 National Veteran Suicide Prevention Annual Report. Department of Veterans Affairs, November 2023. https://www.mentalhealth.va.gov/docs/data-sheets/2023/2023-National-Veteran-Suicide-Prevention-Annual-Report-FINAL–508.pdf

sition to civilian life, but it must be protected from bad actors who seek to exploit those who have served. Unfortunately, too many Veterans have been cheated by predatory for-profit schools that take their benefits while providing little or no real education in return. This bill ensures that those who were defrauded can have their GI Bill benefits restored so they can continue their education and pursue the opportunities they earned through their service – a commonsense measure that aligns protection for Veterans with those already provided to non-Veteran students under Federal loan forgiveness programs.

As you deliberate on these bills, my guiding principle remains steadfast: our Veterans deserve policies that honor their service, protect their rights, and provide them with the support they need to thrive. I look forward to working with this Committee to ensure your legislative efforts achieve our common goals while upholding the trust and well-being of our Veterans.

Supporting and improving the VA is not just a policy decision—it is a sacred obligation. This Committee has the weighty responsibility of ensuring that obligation is met with the greatest care, diligence, and commitment.

I thank you for your time and look forward to your questions.

STATEMENTS FOR THE RECORD

Prepared Statement of Disabled America Veterans

Chairman Bost, Ranking Member Takano and Members of the Committee:

Thank you for inviting DAV (Disabled American Veterans) to submit testimony for the record of this legislative hearing. As you know, DAV is a congressionally chartered and Department of Veterans Affairs (VA) accredited veterans service organization. We provide meaningful claims support free of charge to more than 1 million veterans, family members, caregivers and survivors. We are pleased to provide our views on the bills under consideration by the Committee.

H.R. 472, the Restore VA Accountability Act of 2025

DAV has consistently advocated for a culture of accountability within the VA, where VA employees are held to the highest standards of performance and conduct. We applaud the committee for its efforts to address longstanding issues within the VA and to ensure that Federal employees are responsible for their actions. We concur that bad employees must be held accountable to ensure that the best Federal employees are serving veterans; however, accountability must include due process principles, protecting the rights of employees, including veterans, who make up nearly 30 percent of VA's workforce.

H.R. 472, the Restore VA Accountability Act of 2025, makes several changes to the due process of appeals for employees at the VA. The Act would allow for expedited disciplinary actions for certain categories of VA employees based on substantial evidence of misconduct or poor performance. Specifically, the bill would remove the Performance Improvement Plan (PIP) requirement and the appellant's review by the Merit Systems Protection Board (MSPB).

Although the goal of the Restore VA Accountability Act is to increase accountability by streamlining the disciplinary process and ensuring that VA employees who do not meet performance standards or engage in misconduct can be held accountable more swiftly and effectively, DAV asks the committee to give careful consideration to our concerns, which may have an indirect impact on the high quality of care and benefits services provided to veterans.

DAV's major concern is the exclusion of the MSPB from the appeals process for Federal employees. The MSPB has historically served as an independent and impartial body that reviews agency decisions and safeguards employees from arbitrary or unjust actions. By removing the MSPB from the appeals process, we risk depriving employees of a crucial avenue for redress and oversight.

Additionally, DAV has concerns with provisions that eliminate the necessity for PIPs before any disciplinary measures are taken. PIPs provide employees with a fair opportunity to address and correct performance issues before facing more severe consequences. Eliminating this critical step could lead to unjust disciplinary actions.

DAV wholeheartedly supports the Committee's commitment to accountability within the VA. However, striking a balance between holding civil servants accountable for their performance while maintaining the VA as an employer of choice for the best and brightest to ensure veterans receive the best care and timely services remains our priority.

We firmly believe that due process must not be compromised in pursuit of these goals, which has been reiterated within DAV's Resolution No. 138 that notes any bill enacted by Congress should include standards by which accountability can be measured while ensuring due process and fairness for VA employees subject to such standards.

H.R. 740, Veterans' ACCESS Act of 2025

The VA health care system is vital to millions of service-disabled veterans, offering comprehensive primary care and specialized programs tailored to their unique needs. While community care should be available as a supplement when the VA

cannot provide timely, accessible, or high-quality care, it should not replace the VA's primary role in delivering and coordinating integrated care for enrolled veterans. The lack of expansion in the VA's capacity to meet the increasing demand for care has led to an over-reliance on external providers. The growing reliance on community care in recent years presents significant challenges to this comprehensive, evidence-based care model.

The VA MISSION Act of 2018 (P.L. 115–182) introduced a new process for integrating community care with the VA's hospital care, medical care, and extended care services, ensuring veterans receive the highest standards of care regardless of limitations within the VA health care system. The legislation aimed to expand access to non-VA care when necessary while strengthening the VA direct care system to meet the growing needs of enrolled veterans.

The Act established the Veterans Community Care Program (VCCP), setting wait time and travel distance standards. The goal was to ensure the VA maintained overall responsibility for veterans' care by coordinating their treatment and requiring community providers to meet the same quality standards as VA providers. Unfortunately, the VA has yet to implement the intended quality standards for non-VA providers or establish a robust care coordination program for veterans receiving both VA and community care.

The Act also included provisions to enhance the VA's internal capacity by improving the recruitment, hiring, and retention of qualified clinicians and addressing the longstanding neglect of the VA's aging health care infrastructure. Without sufficient infrastructure and capacity to meet the rising needs of veterans, the VA has turned increasingly to community care, which has seen more rapid growth than VA services. Despite significant increases in the VA's workforce over the past 6 years, the Department's health care infrastructure remains critically under-funded.

H.R. 740, the Veterans' Assuring Critical Care Expansions to Support Servicemembers (ACCESS) Act of 2025, aims to improve the provision of care and services under the VCCP and enhance veterans' health care with defined eligibility standards, mandatory notification of eligibility and denial of requests, consideration of veterans' care preferences, and extension of claim submission deadlines. It also seeks to streamline specialized mental health treatment programs with a standardized eligibility process and make improvements to the Mental Health Residential Rehabilitation Treatment Program (RRTP). The legislation also includes provisions to establish an interactive online self-service module for care, change requirements for the Center for Care and Payment Innovation (CCPI), and mandate pilot programs and reports to ensure effective implementation.

The ACCESS Act stands to bring substantial changes to the VCCP, potentially impacting the VA's mission of delivering timely, high-quality, veteran-focused health care and services to enrolled veterans. As we move forward with proposed program changes, we believe that it is essential to appropriately balance the role community care plays in the VA's provision of specialized health care and support to our Nation's ill and injured veterans.

The Independent Budget for Fiscal Year 2026–2027—coauthored by the DAV, Veterans of Foreign Wars and Paralyzed Veterans of America, calls on Congress to ensure that VA remains the primary provider and coordinator of care for veterans and that community care is available and accessible to veterans as needed to support and supplement VA care. With this background and context, DAV offers the following comments and recommendations regarding H.R. 740.

Section 101: Codification of Requirements for Eligibility Standards for Access to Community Care from the Department of Veterans Affairs

Section 101 of the bill would codify the minimum access standards for community care from the VA including all extended care services, except for nursing home care and mandate the VA to review these standards with an expanded stakeholder group and report to Congress triennially. Provisions in this section would prohibit telehealth appointments from fulfilling access standards if an in-person VA appointment is unavailable within the standards. It would also require that canceled VA appointments restart the wait time calculation from the original request date, and any deviations in wait time or distance agreed upon by a veteran and their provider must be documented and provided to the veteran and apply to all VA care and patients, whether new or established.

DAV has no concerns with codifying the eligibility standards for access to community care from VHA, while emphasizing the need for thorough and periodic reviews of these standards. However, we strongly recommend amending the provision that the Secretary shall not take into consideration the availability of telehealth appointments from the Department when determining whether the VA is able to furnish such care or services. We believe that a telehealth appointment should be consid-

ered as an option if agreeable with a veteran. Additionally, if a veteran is eligible and opts for an in-person community care appointment because VA only had a telehealth appointment available, that appointment in the community should be for an in-person appointment only. Telehealth services would have already been offered or provided by the VA under Section 105 of this act, which requires the VA to discuss telehealth with veterans as an option for care, both in the VA health care system and in the community, if telehealth is available, appropriate, and acceptable to the veteran.

We endorse the mandate in this section of the bill to document medical records and make them accessible to veterans through digital platforms such as VA.gov, email, and mobile text, except where veterans specifically request them and lack digital access.

Section 102: Requirement that Secretary Notify Veterans of Eligibility for Care under Veterans Community Care Program

Section 102 mandates the VA to promptly notify veterans of their eligibility for community care. To ensure clarity, we propose that the 2-day notification requirement includes digital methods, as traditional mail may not meet the deadline. We recommend expeditious deployment of the External Provider Scheduling (EPS) system within the Community Care Network (CCN) to facilitate real-time scheduling when the VA cannot provide direct care or meet access standards, thereby enhancing more timely and effective communication and care coordination for veterans.

Section 103: Consideration of Veteran Preference for Care, Continuity of Care, and Need for Caregiver or Attendant

Section 103 of the Veterans ACCESS Act would require the VA to consider various factors when determining if it is in the best medical interest of a veteran to seek care in the community. These factors include the veteran's preference for when, where, and how to receive care, continuity of care, and the veteran's need or desire for a caregiver or attendant to accompany them.

We have concerns with the definition of veterans' preference for where, when, and how to seek hospital care, medical care, or extended care services. While we want the veteran's preference to be considered when determining the best option for care, the best medical interest including the distance to care, the frequency of care, and the availability of appointments, should be the primary factors considered, as provided in the MISSION Act.

Section 104: Notification of Denial of Request for Care under Veterans Community Care Program

Section 104 mandates that if the VA denies a veteran's request for community care, it must provide the veteran with the reason for the denial and instructions for appealing the decision through the Veterans Health Administration's clinical appeals process. DAV has no concerns with this section. In fact, our benefits advocates stand ready to assist any veteran with filing a clinical appeal.

Section 106: Extension of Deadline for Submittal of Claims by Healthcare Entities and Providers under Prompt Payment Standard

Section 106 extends the deadline for health care entities and providers to submit claims for reimbursement for community care services from the current 180 days to up to 1 year after service, aligning with industry standards.

DAV has no concerns with this section, as it provides a more flexible timeframe for providers without compromising the timely processing of claims or the quality of care for veterans.

Section 202: Standardized Process to Determine Eligibility of Covered Veterans for Participation in Certain Mental Health Treatment Programs

Section 202 would require the VA to establish a standardized screening process to determine, based on clinical needs, whether a covered veteran satisfies criteria for priority admission to a covered residential rehabilitation treatment program (RRTP). As part of the evaluation process a veteran must be screened and admitted into a program within 48 hours if determined eligible for RRTP. Either a veteran or relevant health care provider can make the request for admission into a treatment program if they meet criteria for priority admission.

We recommend that the language in this section be amended to require that a VA clinician make the determination if the veteran meets the eligibility criteria for priority admission within 48 hours of the request.

We appreciate the provision in this section of the bill that requires non-department RRTP facilities to be properly licensed by a State and accredited by the Com-

mission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission.

Section 203: Improvements to Department of Veterans Affairs Mental Health Residential Rehabilitation Treatment Program

We appreciate that Section 203 includes requirements for the VA to develop a process for assessing the quality of specialized RRTP care delivered by both VA and non-VA providers, including the use of evidence-based treatments, cultural competency, clinical outcomes and oversight, and referral of billing practices.

The VA is advancing efforts to give veterans faster and simpler access to its mental health RRTPs, which provide around-the-clock support for substance use disorders, posttraumatic stress disorder, depression, and other mental health conditions common among veterans. Over 27,000 veterans were treated at VA RRTPs in Fiscal Year 2024, and we urge the department to increase its bed capacity to expand these critical services.

The VA's national RRTP conference in September 2024 underscored the high priority the VA is giving to fostering more timely access for veterans who need these programs. The VA is focused on implementing a new centralized screening process for each region. However, there are still limits to timely access to these specialized services, and we want to ensure veterans do not have barriers to accessing this life-changing care. Accountability and oversight are paramount to ensure facilities meet the quality of care standards, include veteran-centric programming, and demonstrate effective patient outcomes.

Section 301: Plan on Establishment of Interactive, Online Self-Service Module for Care

Section 301 mandates the VA to create an interactive, online self-service module to help veterans schedule appointments, track referrals, appeal care denials, and receive reminders for both VA and community care appointments.

DAV is supportive of this effort but suggests that alternative methods and adequate support be provided to bridge the digital divide and guarantee equitable access to care for all veterans, including those living in rural and remote communities.

Section 302: Modification of Requirements for the Center for Innovation for Care and Payment of the Department of Veterans Affairs and Requirement for Pilot Program

Section 302 would require the VA to establish and report to Congress on a 3-year pilot program allowing enrolled veterans to access outpatient mental health and/or substance use services through community care network providers without referral or pre-authorization. This pilot program would be conducted in areas with varying degrees of urbanization, locations with high rates of veteran suicide, overdose deaths, calls to the Veterans Crisis Line, and long wait times for VA mental health and substance use disorder services. The VA would also be required to develop a care coordination plan with appropriate oversight and patient safety plans to monitor and support veterans participating in the pilot.

The bill requires development of robust metrics and measures to track and oversee the program's implementation, patient safety, and patient outcomes. Annual reports would be required to the Committee on Veterans' Affairs, detailing the number of participating veterans and health care providers, program effectiveness, costs, and other relevant matters.

We appreciate the intent behind the proposed pilot program aimed at improving access to outpatient mental health and substance use services for veterans. However, we have significant concerns about the bill's lack of a requirement for clinical authorization for such care from the VA.

While we fully support the goal of enhancing access to critical mental health and substance use services, the absence of a clinical authorization requirement raises serious questions about the quality and coordination of care. Clinical authorization is a key element in ensuring that veterans receive appropriate, evidence-based treatment that is tailored to their individual needs. Without this oversight, there is a risk of fragmented care, potential overuse or misuse of services, and the potential for insufficient monitoring of treatment outcomes.

The VA has a comprehensive understanding of veterans' unique health care needs and a robust system for coordinating care across the system. By bypassing clinical authorization, the bill may undermine the VA's ability to properly manage and oversee the delivery of care effectively. This could result in inconsistent treatment plans, gaps in care continuity, and ultimately, negative impacts on veterans' health outcomes.

We recommend that the bill be amended to include a requirement for clinical authorization from the VA for all services provided under the pilot program. This would ensure that veterans receive high-quality, veteran-centric, coordinated care that aligns with best practices and leverages the VA's expertise in managing veterans' health care and these specialized services. Incorporating this requirement will strengthen the program's effectiveness and safeguard the well-being of our veterans.

In conclusion, while we understand and support the intent of the pilot program, we urge the Committee to address the critical concern of clinical authorization. Ensuring that the VA retains a central role in authorizing and coordinating care will enhance the program's success and better serve our Nation's veterans. We appreciate the opportunity to submit this statement and welcome further discussion on this important matter.

H.R. 1041, the Veterans 2d Amendment Protection Act
and
Discussion draft to prohibit the VA Secretary from transmitting certain information to the Department of Justice for the NICS list.

The Federal Gun Control Act of 1968, as amended, prohibits certain classes of persons from purchasing or possessing firearms and ammunition. One of the classes of prohibited persons are those who have been "adjudicated as a mental defective." A person may be "adjudicated as a mental defective" if a court, board, or commission finds that they are a danger to themselves or others.

Under the provisions of the Brady Handgun Violence Prevention Act of 1993, the Federal Bureau of Investigation (FBI) administers the National Instant Criminal Background Check System (NICS) that allows federally licensed firearms dealers to perform a required background check on potential buyers to ensure they are not prohibited from purchasing firearms and ammunition.

Historically, it has been the VA's policy to submit the names of all beneficiaries determined to be incompetent to the Attorney General for inclusion in NICS. However, incompetency within VA regulatory provisions (38 C.F.R. 3.353) defines a mentally incompetent person as someone who because of injury or disease lacks the mental capacity to contract or to manage his or her own affairs, including disbursement of funds without limitations. It does not address the requirement of a finding that they are a danger to themselves and others.

On March 15, 2024, VA announced that through the remainder of Fiscal Year 2024, VA would only report to the FBI NICS in instances when VA was aware that a mentally incompetent beneficiary had been found by a judicial authority to be a danger to themselves or others. While VA implemented this change and updated its electronic reporting, on March 11, 2024, VA stopped all weekly reporting to the NICS of mentally incompetent beneficiaries.

These bills focus on two main provisions that are essential to protecting veterans from unjust stigmatization and the loss of their Second Amendment rights without proper due process:

- The VA Secretary must notify the Attorney General that the basis for transmitting personally identifiable information of a beneficiary to the Department of Justice (DOJ) for use by NICS does not apply, or no longer applies, if such transmittal was solely based on a determination to pay benefits to a fiduciary.
- The VA Secretary shall not treat a person as having been adjudicated as a mental defective solely on the basis of requiring a fiduciary.

Additionally, the draft bill would require notification of lack of basis for the VA to have transmitted a veteran's information to the DOJ on or after November 30, 1993, for placement on the NICS solely on the basis of a determination by the VA to pay benefits to a fiduciary.

DAV supports these bills, to ensure that veterans are not unfairly stigmatized or deprived of their Second Amendment rights based on VA determinations without judicial oversight. Our veterans have dedicated their lives to defending the freedoms we hold dear, and it is our responsibility to safeguard their constitutional rights in return.

Discussion Draft, Student Veteran Benefit Restoration Act of 2025

Veterans have selflessly served our country, and it is our duty to ensure they receive the benefits they have earned. Unfortunately, some educational institutions have taken advantage of veterans, defrauding them of their well-deserved educational assistance.

This draft bill, the Student Veteran Benefit Restoration Act of 2025, would restore educational entitlements of those veterans who have fallen victim to fraudulent practices and would not be charged against their benefit entitlements. This includes periods when the institution was not approved or engaged in fraudulent activities. Additionally, educational institutions found guilty of fraud would be required to repay the VA Secretary any funds received fraudulently. This ensures that the burden of fraud is placed on the institutions rather than the veteran.

DAV supports this draft bill based on DAV Resolution No. 238, which calls for legislation that reduces and removes barriers to a service-disabled veteran continuing their education. We must ensure that we are protecting veterans and their hard-earned education benefits from fraud and deceptive acts.

Mr. Chairman, this concludes DAV's statement for the record.

Prepared Statement of Veterans Healthcare Policy Institute

Chairman Bost, Ranking Member Takano, and distinguished members of the committee:

On behalf of the Veterans Healthcare Policy Institute, we thank you for inviting us to submit a statement for the record for today's Full Committee Legislative Hearing on improving the care and services for veterans. Many members of our organization are veterans or have family members who are veterans. Many of us have had long careers serving veterans, published papers on veterans' healthcare in peer-reviewed journals, or presented testimony to your committee. In today's statement, we wish to convey our appreciation for your leadership and commitment to ensuring that veterans receive the highest level of health care within the Veterans Health Administration (VHA) and supplementary care in the private sector when it's both needed and authorized by the VHA.

While today's hearing considers five bills, we limit our comments to only one of them——H.R. 740, the "Veterans' Assuring Critical Care Expansions to Support Servicemembers (ACCESS) Act of 2025." We are concerned especially about Section 302 of the bill, which puts ideology before veterans, and in so doing, will imperil their ability to access the full range of health care and services through the VHA system. Modifications are recommended. Otherwise, it may be harmful to veterans because:

1. By granting veterans unfettered access to community care, large sums of funding will be diverted from the VHA to the private sector. This will drain VHA coffers, **forcing reductions of VHA staff, curtailment of in-house programs, and closures of inpatient units, emergency rooms, and entire facilities.**

2. By allowing veterans' access to private sector healthcare without VHA referral or pre-authorization, the VHA's foundational model of integrated healthcare will be replaced. **The VHA healthcare system will transform from its current primary role as a provider of healthcare into a payer for private sector care.**

3. In the name of offering more preference and choice, healthcare options will diminish for veterans. Draining VHA funds means that **veterans – especially service-connected veterans who depend on VHA as a provider of high-quality care that is tailored to their needs – will be denied that choice** when their preferred programs and facilities are defunded and close.

4. **This bill will make it difficult for the VHA to continue to collect data and conduct research on veterans' complex health conditions.** Every VHA patient and their electronic health record is available for analysis, which, for decades, has enabled researchers to make impressive big data breakthroughs on veterans' complex healthcare problems. Those innovations will fade if veterans' care becomes scattered across the private sector where there is no dependable way to study veterans. The bill will also jeopardize the critical role the VHA plays in the training of future healthcare professionals. Further, there will be fewer ER and inpatient beds so that the VHA will be unable to fulfill its Fourth Mission as backup for national emergencies.

Below, we elaborate on the ramifications of Section 302, as well as three other sections of important consequence.

Section 302: Modification of requirements for Center for Innovation for Care and Payment of the Department of Veterans Affairs and requirement for pilot program.

This section turbocharges the privatization of the VHA via a pilot program that dramatically alters how veterans access mental health and substance use disorder (SUD) care. It poses an irreversible threat to VHA's survival as an integrated healthcare system.

Veterans would be allowed to receive unfettered Veterans Community Care Program (VCCP) outpatient mental health or SUD care **without VHA referral and pre—authorization**. VHA's primary role would shift to paying invoices. Though initially a pilot program, the bill also mandates that after 3-years, the VHA develop measures to make the program universal for all health conditions across the entire VHA.

A comprehensive report released last year by six healthcare experts warned that community care utilization was endangering the VHA. VCCP care has been relentlessly increasing 15–20 percent year after year, and by 2022, its share of VHA health dollars reached 44 percent. The report concludes that even if no additional changes are made as to who is eligible to receive private sector care, the VHA system's future is at risk due to this unsustainable growth. Section 302 worsens the very issues that concerned the report's authors. By significantly expanding VCCP eligibility, it accelerates spending and threatens the long-term viability of the VHA.

Eliminating VHA are as the authorizer of care means that over time there will be fewer, not more, options for veterans. When VHA funds are diverted to the private sector, millions of **veterans who depend on the VHA—especially those with service-connected conditions who rely exclusively or near exclusively on the VHA for all their health care needs—will be deprived of the freedom to choose** the VHA when units and programs they depend on vanish. Many have catastrophic war-related ailments, such as lost limbs, traumatic brain injuries, or a variety of toxic exposures, which civilian providers are ill-equipped to recognize, much less treat.

A recent summary of research confirmed yet again that the quality of care veterans receive from the VHA is as good as or better than what they receive in the community. When the VHA is transformed from primarily providing integrated healthcare to an insurance payer for care, veterans will be deprived of high quality, patient-centered care delivered in a system that has amassed decades of expertise understanding, recognizing, and treating their complex health conditions. In this new insurance system, everything that is indispensable and unique to the VHA will fade–integrated and coordinated team-based care, comprehensive prevention screenings, wrap-around services, veteran-centric specialization, training of providers with veteran expertise, and research on veterans' conditions that helps all Americans. VHA social work connecting patients to veteran-specific follow-up resources for legal, transportation, home health, and housing services would wane. Bypassing VA oversight also eliminates traditional utilization review functions, which would make the care more expensive to taxpayers.

Siphoning VHA funds will also make it nearly impossible to upgrade existing infrastructure required to address the demand for services. That demand is continuing to grow. Between August 2022 and 2024, VHA experienced a 33 percent increase in enrollment over the previous 2-year period. The PACT Act of 2022 alone contributed to an influx of 400,000 newly enrolled veterans with serious toxic exposure-related medical conditions.

Unfettered community care is hugely expensive, and as such, **a CBO score for this section, and others, is urgently needed**.

Section 103: Consideration of veteran preference for care, continuity of care, and need for caregiver or attendant.

This language, for the first time, would allow veterans the option to obtain care in the private sector if they express that's their "preference" and it's in their own best interest. The percent of VHA veterans potentially eligible for the VCCP will increase from ~133 percent to 100 percent. The extant standards of the VCCP eligibility standards – travel time to or wait time for a VHA appointment – would become moot.

This stipulation violates the core agreement that went into drafting the VA MISSION Act language. According to the Independent Budget's analysis of the MISSION Act at that time, the "best medical interest" criterion "is to be considered when a veteran's health and/or well-being would be compromised if they were not able to be seen in the community for the requested clinical service. When using this community care eligibility criteria, the ordering provider should include the following considerations: nature or simplicity of service; frequency of service; need for an attendant; and potential for improved continuity of care. **'Best medical interest' is not to be used solely based on convenience or preference of a veteran**" (bold emphasis added).

The proposed legislative language will predictably increase the proportion of VHA funds flowing to the VCCP. For all the reasons noted above, increased spending through the VCCP means that, over time, veterans will lose their preferred VHA options that are shuttered.

Many veterans deeply appreciate the convenience of being referred to community care close to home rather than traveling long distances to VHA facilities. But when they are polled about preserving the VHA system, veterans' priorities are clear. A VFW survey of its members 2 months ago revealed "overwhelming support for VA to remain the primary deliverer of care for veterans." A prior VFW report involving 10,000 members found that 92 percent explicitly prefer that the VHA to be "fixed not dismantled."

A Veterans Healthcare Policy Institute report noted that many veterans who live in rural areas will have no choice of care providers should the VHA be turned into an insurance provider. This is due to a long-standing crisis in rural healthcare that now deprives rural residents of primary care, mental health care, as well as access to hospital, emergency, and pharmacy services. Last month, The Center for Healthcare Quality and Payment Reform reported that nearly 200 rural hospitals have folded, and over 700 more–a third of all rural hospitals in the country–are on the brink of collapse.

Section 202: Standardized process to determine eligibility of covered veterans for participation in certain mental health treatment programs.
and
Section 203: Improvements to Department of Veterans Affairs Mental Health Residential Rehabilitation Treatment Programs (RRTPs).

The VA MISSION Act of 2018 mandated uniform quality standards across VHA and VCCP providers, as outlined in Section 104 of § 1703C: "The Secretary shall establish standards for quality regarding hospital care, medical services, and extended care services furnished by the Department pursuant to this title, including through non-Department health care providers pursuant to section 1703 of this title." The phrase "Community Care is VA Care" captures this intended equivalency between these two settings–from provider training to preventative screenings to overall quality of care. Yet, despite this explicit requirement for parity between VA and VCCP services (including Residential Rehabilitation Treatment Programs (RRTPs)), that has not occurred.

The ACCESS Act takes an important step to address this gap. A key provision requires community RRTPs to obtain accreditation from either the Commission on Accreditation of Rehabilitation Facilities (CARF) or The Joint Commission (TJC) – bringing them in line with VHA's operating RRTP standards. We strongly commend this important step that recognizes that there must be one, not two, standards of care.

That said, achieving true parity across both VHA and community RRTP settings requires additional requirements. Those include:

VHA and VCCP program requirement and certification of:

- A scientific peer-reviewed, evidence-basis for its treatment program
- Standardized ratios of licensed practitioners (LPs) to residents
- Semi-annual LP peer review quality assurance
- Mandatory VHA training for mental health and substance use disorder LPs: 4 hours in relevant patient population care and 4 hours in military culture
- Discharge planning commencement within first week after veterans are admitted to the program
- Mental health and substance use assessments for veterans at program entry, exit, and 6-months post-discharge
- Submission of veterans' outcome data to VHA for analysis and public reporting on the Access to Care website

Further, this section has no mandated utilization review and approval once a veteran enters a VCCP RRTP. The default length of VCCP RRTP stays should not be 90 days, which this section tacitly abets. Regular utilization review by VHA and approval for extended care, as is standard medical practice, should be required.

Finally, the section's requirement for real-time tracking and public reporting of RRTP wait times, for both VHA and community facilities, will empower veterans to make informed healthcare decisions. However, veterans also deserve transparent information about their providers' qualifications, training, and competency in addressing specific health concerns. We recommend that VHA gather and publicly share this information too.

Section 101: Codification of requirements for eligibility standards for access to community care from Department of Veterans Affairs.

Among its key provisions, this section would prohibit VHA from considering the availability of a telehealth appointment as satisfying the access standards.

We fully support giving veterans who prefer in-person care the option of in-person community care when VHA cannot meet access standards. However, for veterans who seek telehealth appointments, community care telehealth should only be offered if VHA cannot provide telehealth care within the standard timeframe. Such an approach manages resources fairly and effectively.

When establishing the VA MISSION Act eligibility rules, the VHA made a significant oversight: they did not include the availability of VHA telehealth when calculating distance or wait times for care. This was a shortsighted decision that has had serious negative consequences. By not considering telehealth options, the VHA has unnecessarily limited veterans' access to quality healthcare while wasting taxpayer money. Telehealth is a valid means of providing health care to veterans who prefer that option. In a survey of veterans engaged in mental health care, 80 percent reported that VHA virtual care via video and/or telephone is as helpful or more helpful than in-person services. And yet, because of existing regulations, VHA telemental health does not qualify as access, resulting in hundreds of thousands of visits being outsourced yearly to community practitioners that could be expeditiously and beneficially furnished by VHA clinicians. The best action that Congress can take is to stipulate that VHA telehealth care constitutes "access to treatment." If implemented, this correction would save taxpayers a vast sum—up to 1.1 billion dollars annually according to a VA's September 2022 *"congressionally Mandated Report: Access to Care Standards."*

Our organization is happy to support legislation that encourages the judicious use of the private sector to "support, not supplant" VHA healthcare. We also back legislation that ensures VHA has robust resources needed to care for current and future cohorts of veterans.

We respectfully thank you for the opportunity to provide our perspectives on these essential matters. We look forward to working with the committee to ensure that veterans can receive timely, high-quality compassionate care in the VHA and the community now and in the future.

Prepared Statement of Whistleblowers of America

Chairman Kiggans and Ranking Member Ramirez:

Whistleblowers of America (WoA) appreciates the opportunity to provide this statement for the record. WoA has worked with this committee since 2019 on issues related to the Department of Veterans Affairs' (VA) employees and the Office of Accountability and Whistleblower Protection (OAWP). We are grateful for the opportunity to review and respond to legislative efforts so that the voices of so many can be heard. WoA, incorporated in 2017, has connected with thousands of whistleblowers seeking peer support from government agencies across the country and varies Federal positions. They provide medical care in clinics and hospitals. They are scheduling appointments or operating x-ray equipment. They are police patrolling facilities or managers operating voluntary services.

The WoA primary mission is focused on mental health because retaliation is a traumatic stressor that can lead to posttraumatic stress disorder, depression, and anxiety– and as you are aware, suicide. This is the Committee that also passed the *Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017*. Today, I ask you to call upon Dr. Kirkpatrick's memory and his VA experience as a psychologist turned whistleblower who shot himself in his living room after experiencing some of the same maltreatment that this Committee is now calling for in the *Restore Department of Veteran Affairs Accountability Act 2025*. Dr. Kirkpatrick should have known about his appeal rights. He should have been afforded the due process opportunity that the laws would have provided him when he raised concerns about his patients being overly prescribed psychotropic drugs. Dr. Kirkpatrick might still be alive today if he had been supported through the process and not vilified. How many other VA employees are like Dr. Kirkpatrick? I have jointly written to this Committee with the brother of Dr. Kirkpatrick asking for a full accountability for the enactment of this act, but we have seen no real action to prevent staff from dying by suicide or to report on the suicides by employees.

There is no doubt that there is fraud, waste, and abuse at VA. WoA has called out wrongful deaths, substandard care, fraudulent data, sextortion, discrimination, and contract manipulation. We have advocated for better oversight by the Office of

Inspector General (OIG) and greater independence for the OAWP to assist claimants, but for the Office of Special Counsel (OSC) to take over the investigative mission. There is wasteful duplication between OAWP and OSC, with the OSC having greater authority to assist. During previous hearings, I have raised issues related to the lack of timeliness, unclear processes, misaligned staffing, and poor performance in assisting whistleblowing employees as well as the disconnect between the OAWP, OIG and the OSC. I have previously suggested that VA be mandated to:

1. Publish a whistleblower policy and be transparent with data requested from the veteran community;

2. Utilize properly trained, independent, and unbiased staff for investigations; and have timely sanctions for retaliators;

3. Track OIG recommendations and hold accountable VA leaders for implementing those recommendations, which can otherwise be shelved and ignored ;

4. Abolish OAWP investigations and transfer resources to the Office of Special Counsel (OSC);

5. Allow VA employees to take their cases to civilian Federal courts and provide them with access to legal counsel and/or support when they file retaliation claims;

6. Remove VA Police from the Department and transfer their authority to the Department of Justice similar to other Federal agents. Police should not have to get permission from medical center directors to investigate crimes or be obstructed in their pursuit of justice.[1]

Additionally, according to 38 U.S. Code § 5103A, the VA has a duty to assist claimants. The law states that, *"The Secretary shall make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate the claimant's claim for a benefit under a law administered by the Secretary."* A claimant is defined as any individual submitting a claim for benefits under the law administered by the Secretary. In creating the OAWP, there should be an inherent duty to assist the claimant, which would mean that an employee filing a claim should be entitled to the same assistance as veterans. This should include:

1. Explaining the level of evidence necessary to substantiate a claim against an alleged perpetrator;

2. Assisting with obtaining the necessary evidence to substantiate the violation of laws, rules, court opinions or regulations;

3. Helping document retaliation by using the Occupational Safety and Health Administration (OSHA) description;

4. Offering options and transparency for remedies and settlement agreements, which this Committee has also previously advocated during hearings;

5. Establishing an independent mentor program with training and education in peer support and a trauma-informed framework as described by the Substance Abuse Mental Health Services Administration (SAMHSA).

WoA understands the frustrations that this Committee feels when dealing with the wrongs at VA, but the removal of due process rights outlined in *Restore Department of Veteran Affairs Accountability Act of 2025* is not the most effective means to confront these problems. As we have seen since the *Accountability and Whistleblower Protection Act of 2017* passed, its implementation has been highly controversial, marked by the use of "hit lists," and OSC/MSPB reversals and as POGO observed in 2020,[2] a "terrified" workforce is not effective. Removing appeal rights harms those individuals and the veteran programs that they championed. We have seen dozens of these cases, and once adjudicated, it is often discovered that the whistleblower was not the problem – it was a supervisor or a senior leader covering up crimes. Property stolen from VA is a crime, drug diversion is a crime, and contract steering is a crime. Let the OIG and VA police have the power to investigate and charge criminals. Make these systems more effective and mandate that the VA ensures that perpetrators (employees and contractors) are not only terminated but

[1] Retired Special Agent Bruce Sackman describes the impact of Medical Center Directors who have control over the investigative process as potentially obstructive and impairing to investigations to protect their reputations and bonuses in his book, "Behind the Murder Curtain."

[2] https://www.pogo.org/investigations/terrified-of-retaliation-inside-veterans-affairs-whistleblower-office

also pay their fines to the Department of Treasury Judgement Fund, which they do not currently do. That is millions of dollars being lost to the Treasury.

The US Surgeon General Framework [3] on **Workplace Mental Health and Well-being Report** describes these attributes as facilitating workplaces which *protect from harm, have opportunities for growth, encourage work-life harmony, support connection and community, and engage employees with dignity and meaningful work*. These are not novel ideas. They are based on decades of research on organizational safety and development. They come from business management leaders like Edward Deming [4], Donald Berwick [5], Kurt Lewin [6] and of course Malcolm Baldridge and the National Quality Award [7] that VA competes in. These are the types of tools needed to manage an effective workforce. Treating every employee like a criminal will disincentivize initiative, create more bystanders, and will distract them from the mission of caring for my fellow veterans. Every day, there are VA employees who go the extra mile to provide care, listen to problems, assist with appointments, and adjudicate benefits. Most of the problems veterans encounter at VA occur when employees are hamstrung by policies and procedures that do not allow them to think or act outside the box. They must clear computer alerts before listening to a patient's problems, cancel appointments because there are staffing shortages, and deny benefits because the record is unavailable. Suicidal veterans are prescribed medication and sent home when there are not enough VA beds available for admission and the community is already on diversion. Community Care has created new levels of access but also dysfunction when community providers cannot see VA records. As a result, care is denied or repeated tests and treatments that are unnecessary and wasteful are prescribed. To quote The American Legion, VA is a "*system worth saving*," but the system is only as strong as its workforce. We must protect and assist those employees who dedicate their professional selves to it. There is no "*us/them*." VA employees are often veterans themselves or the spouses, sons, daughters, grandchildren, or siblings of a veteran or active duty service member. They are Reservists, Guardsmen, former VA interns, or individuals who have undergone a prolonged hiring process to get the jobs that they hold dear. Many of these employees have participated in the Department of Defense SkillBridge program, taken college courses on Military/Veteran Cultural Competency, and/or have been active in VA Voluntary Services. They have been trained by the Veterans Experience Office (VEO) to ensure veterans are satisfied customers. The VEO tools are available within VA to improve employment engagement and ensure organizational effectiveness. Let's trust that process and those teaching tools.

Finally, above all else, lets uphold the 5th Amendment of the US Constitution, which states that no person shall be "...deprived of life, liberty, or property without due process of law." This provision protects Federal employees from discriminatory practices that include terminations and other adverse employment decisions without due process of law including judicial review. Federal employees are afforded these protections as an incentive for a speak up culture that can call out corruption without fear of retribution. VA employees take an oath to *"support and defend the Constitution."* They should not be excluded from these most basic constitutional rights, especially since so many of them fought for these rights and their families sacrificed to protect America. Now is not the time to alienate them from those lawfully protected rights. President Lincoln once called upon this Nation to be *"Highly resolve that these dead shall not have died in vain – that this Nation, under God, shall have a new birth of freedom – and that the government of the people, by the people, for the people, shall not perish from the earth."* (Gettysburg, November 19, 1863). These are our people. These are their rights.

Thank you.

Prepared Statement of Paralyzed Veterans of America

Chairman Bost, Ranking Member Takano, and members of the committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to submit our views on some of the pending legislation impacting the Department of Veterans Affairs (VA) that is before the committee. No group of veterans understand the full scope of benefits and care provided by the VA better than PVA members—veterans who have incurred a spinal cord injury or disorder (SCI/D). We appreciate

[3] https://www.hhs.gov/surgeongeneral/reports-and-publications/workplace-well-being/index.html
[4] https://deming.org/explore/fourteen-points/
[5] https://hcp.hms.harvard.edu/people/donald-berwick
[6] https://practicalpie.com/lewins-change-theory/
[7] https://asq.org/quality-resources/malcolm-baldrige-national-quality-award

the opportunity to offer our observations on some of the legislation being discussed during today's hearing.

VA's SCI/D system of care is the crown jewel of the VA's health care system. It is unequaled in the care it provides to paralyzed veterans. There are no comparable systems of such care in either the private sector or the world. PVA's number one priority is to protect this system of care. Access to the care it provides is the difference between life and death for our members. We will strongly oppose any efforts that seek to dismantle the VA's SCI/D system of care. This includes starving the system through efforts that prevent proper staffing, ignoring critical infrastructure needs, and limiting available financial resources that are crucial for purchasing items, such as wheelchairs and other assistive devices that support PVA members' independence and well-being. PVA members want to receive their care at the VA because it is the best care available for them.

H.R. 472, the Restore VA Accountability Act of 2025

PVA supports efforts like the Restore VA Accountability Act to ensure proper accountability at all levels of the VA. Throughout the years, there have been unfortunate instances where those serving in leadership positions at the department have failed to fulfill the responsibility of their positions and steps should have been taken to remove them. We believe the VA Secretary should have the ability to remove bad actors from the department; however, we would not support abusing authorities like this proposal to arbitrarily remove competent and capable employees simply as a cost-cutting measure or in furtherance of any discriminatory purpose. If the VA or any other Federal agency needs to remove someone from their position, they must follow established procedures designed to protect the rights of workers and the government alike. It also ensures that veterans' access to care and benefits is not harmed due to inappropriate removals of staff who support these crucial services.

H.R. 740, the Veterans' ACCESS Act of 2025

PVA supported the passage of the VA MISSION Act of 2018 (P.L. 115–182), which reformed VA's ability to provide timely access to care and modernize its health care infrastructure. Of particular importance to PVA were the bill's provisions that increased VA's internal capacity to provide care by improving the recruitment, hiring, and retention of highly qualified clinicians; expanded eligibility for VA's Program of Comprehensive Assistance for Family Caregivers; and established a process to address the department's aging health care infrastructure.

While the MISSION Act also allowed greater numbers of veterans to receive care in the community, it was never intended to replace or undermine VA's health care system. Also, PVA firmly believes VA is the best health care provider for disabled veterans, particularly those with catastrophic disabilities. More importantly, our members consistently choose VA's SCI/D system of care, because it provides a coordinated life-long continuum of services that has increased the lifespan of these veterans by decades.

Beyond the loss of use of arms and legs, SCI/D can affect other body systems, including skin, bowel, bladder, and breathing. SCI/D demonstrates the interconnectedness of our body's systems, where damage to one part of the body can affect other aspects of it. Because SCI/D has profound and lasting effects, disrupting both physical and neurological functions, seeing a provider who understands the impact on each body system is a vital necessity. Most community care providers lack the knowledge, expertise, and time to properly understand the impact of SCI/D on body systems. While the overwhelming majority of our members rely on VA's SCI/D system of care, PVA supports the Veterans' ACCESS Act but we offer some thoughts on its individual sections as follows:

Section 101: Although we do not believe codifying access standards would improve veterans' access to care, lower wait times, improve quality, or produce better health outcomes, particularly for veterans with catastrophic disabilities, we do not oppose formalizing the access standards for care received in the community.

Section 102: We support requirements for the VA to notify veterans of their eligibility for care under the Veterans Community Care Program. However, under no instances should a veteran be forced to accept care in the community if they request care at a VA facility.

Section 103: We support the requirement that a veterans' preferences in regard to how, when, and where they receive their health care be considered, including whether they require the assistance of a caregiver, whenever they are seeking hospital care, outpatient care, or extended care services. We understand that the veteran's preference is not the sole factor in determining a veteran's access to community care, but it should be part of the consideration. Many of our members require

the assistance of a caregiver, and we are pleased to see that recognition included here.

Section 104: We strongly believe that the VA should provide denials in writing not only when requests to access care in the community are denied, but also for all other decisions that affect veterans' access to care.

Section 105: As health care delivery evolves, we believe veterans should be afforded access to telehealth options. Therefore, we support requirements for VA to better inform veterans about telehealth appointment availability, but veterans should not be required to use telehealth if they would prefer an in-person appointment.

Section 106: PVA does not object to extending the deadline for health care entities and providers to submit claims.

Section 202: PVA supports efforts like those described in this section to improve and standardize VA's processes to determine a veteran's eligibility for priority or routine admissions into a covered treatment program.

Section 203: We agree with the intent of this section. However, homogenizing policies and procedures for VA's mental health Residential Rehabilitation Treatment Programs (RRTP) should be carefully thought out, and must include an assessment of its availability within VA's health care system and community health care facilities. Unfortunately, for veterans with SCI/D, such care is non-existent within VA and the community if they require assistance with other health conditions, such as regular bowel and bladder care. It is a well-established fact that depression is strongly associated with poor health outcomes and exposure to higher pain levels often trigger depression among members of the SCI/D community. Having a history of mental illness or substance abuse, current mental illness other than depression, and current abuse of alcohol or illegal substances are also risk factors for depression among the SCI/D community. Substance use disorders are prevalent and associated with poor outcomes in individuals with SCI/D, with 14 percent of individuals with SCI/D reporting significant alcohol-related problems and 19.3 percent reporting heavy drinking. With its expertise in SCI/D care, the VA is uniquely positioned to provide this level of care for these veterans and should be directed to do so as part of this legislation.

Section 301: We agree that VA should establish an interactive, online self-service module to allow veterans to request and track their appointments and their referrals for VA community care. Any such system, however, must meet disability access standards to ensure veterans with visual, hearing, cognitive, dexterity, and other impairments are able to independently use it.

Section 302: PVA believes that VA-direct care is the best care for veterans who need specialized health care services. However, we support improved access to community outpatient mental health and substance use services for veterans, when appropriate. Any efforts to extend the pilot program in (c), following its completion, must carefully consider any protections that would be required to ensure there is no degradation of care provided in the VA for these or any other conditions on which veterans, including those with the most significant disabilities, rely. VA is a coordinated care system and how expanded access to community care fits into that system must be well thought out. The pilot program at (c) could begin to explore several of these potential issues by including provisions that address elements like whether treated conditions must be service-connected, the veteran's prior use of VA health care, how and whether other payment remedies must be attempted first, defining reasonable values for reimbursement, and setting standards for notifying VA about when community-based care has been scheduled or received. [Many of these factors have been established in the statute (38 U.S. Code § 1725) and regulation (38 CFR § 17.120) that govern veteran use of non-VA emergency care facilities.

Based on outreach from our members, most veterans with SCI/D want to receive their care at a VA facility. So, if Congress is sincere about improving access to care, this committee must also take meaningful steps to strengthen VA's internal capacity, in particular, the department's specialized services like SCI/D and blind rehabilitation. Also, there must be meaningful discussions about what can be done to address VA's infrastructure backlog, which was a primary goal of the MISSION Act.

H.R. 1041, the Veterans 2d Amendment Protection Act

PVA supports the Veterans 2d Amendment Protection Act. We believe the VA's current practice of reporting veterans who need assistance managing their VA benefits and finances to the FBI's National Instant Criminal Background Check System, without a court of law finding that the veteran is a danger to themselves or others, violates their constitutional rights because of a disability.

H.R. 1391, the Student Veteran Benefit Restoration Act of 2025

PVA supports this legislation which would restore benefits to students who were using their VA education benefits at an institution of higher learning if they were victims of fraudulent activities, including substantial misrepresentation through advertising, marketing, recruiting, and enrollment practices. However, we feel the bill could be improved by amending the language so the change is applied retroactively, and clarifying which programs would not be eligible for reimbursement.

PVA would once again like to thank the committee for the opportunity to submit our views on some of the bills being considered today. We look forward to working with you on this legislation and would be happy to take any questions for the record.

Information Required by Rule XI 2(g) of the House of Representatives

Pursuant to Rule XI 2(g) of the House of Representatives, the following information is provided regarding Federal grants and contracts.

Fiscal Year 2025

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events——Grant to support rehabilitation sports activities—$502,000.

Fiscal Year 2023

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events——Grant to support rehabilitation sports activities—$479,000.

Fiscal Year 2022

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events——Grant to support rehabilitation sports activities—$ 437,745.

Disclosure of Foreign Payments

Paralyzed Veterans of America is largely supported by donations from the general public. However, in some very rare cases we receive direct donations from foreign nationals. In addition, we receive funding from corporations and foundations which in some cases are U.S. subsidiaries of non-U.S. companies.

Prepared Statement of National Association of Veterans' Research and Education Foundations

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February 24, 2025

The Honorable Mike Bost
Chairman
House Committee on Veterans' Affairs

The Honorable Mark Takano
Ranking Member
House Committee on Veterans' Affairs

RE: "Legislative Hearing on: H.R. 472, The Restore VA Accountability Act of 2025; H.R. 1041, Veterans 2nd Amendment Protection Act; Discission Draft: To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system; H.R. 740, Veterans' ACCESS Act of 2025; and Discussion Draft: Student Veteran Benefit Restoration Act of 2025."

Dear Chairman Bost and Ranking Member Takano,

The National Association of Veterans' Research and Education Foundations (NAVREF) represents over 75 VA-affiliated nonprofit corporations (also known as NPCs) and is committed to advancing the VA's mission through fostering innovative public-private partnerships, investing in groundbreaking research, and enhancing veterans' healthcare. Each year, our members drive over $300M in external research investments across the VA. Within our congressionally authorized infrastructure lies a powerful opportunity to boldly enhance VA's capacity to forge strategic industry partnerships with biomedical and biotechnology sectors for the advancement of veteran healthcare.

We are grateful for the opportunity to submit this statement to the Full Committee Legislative Hearing on February 25, 2025. As the hearing examines the future of veterans' care, NAVREF wishes to express its concern regarding the proposed HR 740 and its potential ramifications for veterans' healthcare and research.

Community care remains a critical component of the VA healthcare system; however, issues persist related to the continuum of care once a veteran is seen outside the VA. Access to clinical trials, emerging treatments, and cutting-edge research is one of the most significant benefits the VA can offer veterans, and it is imperative that these opportunities are safeguarded within the framework of community care. Currently, the lack of integration and coordination between VA and community care providers places these advancements at risk, jeopardizing veterans' access to innovative therapies that could improve their health outcomes.

A key area of concern is the absence of structured pathways for veterans receiving community care to participate in VA clinical research. *The Red Team Executive Roundtable Report* highlighted this concern, emphasizing that without reliable data-sharing mechanisms, veterans treated in the private sector may be inadvertently excluded from groundbreaking medical advancements. This data, integral to the advancements in veterans' healthcare, has enabled impressive strides in understanding and treating conditions unique to veterans. NAVREF believes there are opportunities for third-party administrators (TPAs) managing community care contracts to establish clear mechanisms to ensure veterans remain connected to VA research opportunities, even when seeking care outside the VA.

Kizer, K.W., Perlin, J.B., Guice, K., Granger, E., Friesen, D., & Safran, D.G. (2024). *The urgent need to address VHA community care spending and access strategies – Red Team Executive Roundtable Report.*

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NAVREF urges Congress to carefully consider the implications of HR 740 and the potential disruption it will cause to the VHA's ability to provide high-quality care and conduct research. The integration of care and research is fundamental to advancing veterans' healthcare and ensuring their needs are met in a comprehensive and effective manner.

Sincerely,

Rashi Romanoff
Rashi Romanoff
Chief Executive Officer
National Association of Veterans' Research and Education Foundations

Kizer, K.W., Perlin, J.B., Guice, K., Granger, E., Friesen, D., & Safran, D.G. (2024). *The urgent need to address VHA community care spending and access strategies – Red Team Executive Roundtable Report.*

Joint Letter from the U.S. Department of Veterans Affairs Labor Unions

February 24, 2025

The Honorable Mike Bost
Chairman
House Veterans Affairs Committee
United States House of Representatives
Washington, DC 20510

The Honorable Mark Takano
Ranking Member
House Veterans Affairs Committee
United States House of Representatives
Washington, DC 20510

Dear Chairman Bost, Ranking Member Takano, and Members of the House Veterans Affairs Committee,

We, the undersigned unions representing hundreds of thousands of bargaining unit employees at the Department of Veterans Affairs, stand united in our opposition to H.R. 472, the "Restore VA Accountability Act."

As the duly appointed representatives of VA frontline workers – a third of whom are veterans themselves – we unequivocally support collective bargaining and due process rights of VA employees. In turn, we firmly believe that disciplinary actions handed out by federal agencies, including the VA with its mission to "promise to care for those who have served in our nation's military and for their families, caregivers, and survivors," must respect traditional civil service protections to help recruit and retain its dedicated workforce.

The "Restore VA Accountability Act" will directly undermine this recruitment and retention goal with its proposed changes to 38 U.S.C. 714 in Section 4 of the bill. Specifically, we oppose the proposed language that overrides collective bargaining agreements (CBA) on disciplinary matters covered by this section. Negotiating is a cornerstone of all CBAs that require give-and-take by both labor and management. Undermining the agreements that cover the VA clinicians who care for veterans, the VA police officers and firefighters who keep veterans safe, the claims processors who ensure veterans get the benefits they have earned, and the electricians, plumbers, and janitors who keep facilities running is a red line.

In terms of civil service protections, we also strongly object to the proposed legislation that treats VA employees like second-class federal employees. Specifically, this includes the reinstatement of the "Substantial Evidence Standard" instead of the widely used "Preponderance of the Evidence Standard," a prohibition on the Merit Systems Protection Board's or an arbitrator's ability to mitigate excessive penalties and limiting which "Douglas Factors" can be considered when determining the appropriateness of a penalty. We also oppose the bill's proposed retroactive coverage for issues that may have occurred up to eight years ago when the 2017 Accountability Act was enacted.

We urge you to vote no on this bill and instead allow the VA to continue using the disciplinary statutes in Title 5 that are used throughout the vast majority of the federal workforce, including those at the Department of Defense taking care of the nation's active duty military, and provide the VA the resources it needs to effectively train managers on Title 5 laws and procedures to hold bad actors accountable.

Respectfully,

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Federation of Government Employees (AFGE)
American Federation of State, County, and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
International Brotherhood of Teamsters (IBT)
International Association of Firefighters (IAFF)
Laborers' International Union of North America (LIUNA)
National Association of Government Employees, SEIU (NAGE)
National Federation of Federal Employees (NFFE)
National Nurses United (NNU)
National Veterans Affairs Council, AFGE (NVAC)
Service Employees International Union (SEIU)

Prepared Statement of American Federation of Government Employees, AFL-CIO

CONGRESSIONAL TESTIMONY

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

HEARING ON

"PENDING LEGISLATION"

FEBRUARY 25, 2025

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
80 F Street, N.W., Washington, D.C. 20001 (202) 737-8700 www.afge.org

Chairman Bost, Ranking Member Takano, and Members of the Committee:

The American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's legislative hearing on "Pending Legislation." AFGE represents more than 800,000 federal and District of Columbia government employees, 310,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. These include front-line providers at the Veterans Health Administration (VHA) who provide exemplary specialized medical and mental health care to veterans, the Veterans Benefits Administration (VBA) workforce responsible for the processing veterans' claims, the Board of Veterans' Appeals (Board) employees who shepherd veterans' appeals, and the National Cemetery Administration Employees (NCA) who honor the memory of the nation's fallen veterans every day.

With this firsthand and front-line perspective, we offer our observations on the following bills being considered at today's hearing:

H.R. 472, the "Restore Department of Veterans Affairs Accountability Act of 2025"

AFGE strongly opposes H.R. 472, the "Restore Department of Veterans Affairs Accountability Act of 2025." As AFGE wrote in its statement for the record when this bill was considered in the 118th Congress, AFGE strongly objected to the design and implementation of the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017. Specifically, AFGE has long objected to the VA's use of the disciplinary authority in 38 U.S.C. 714 (§714) of the law and how it has harmed hardworking and dedicated employees. Additionally, through this experience AFGE is also aware of the failure of VA leadership to hold managers accountable under other provisions of the law. AFGE has supported efforts to amend

the law to restore fairness to VA employees, including the bi-partisan H.R 932, the "Protecting VA Employees Act."

Contrary to this, H.R. 472, the "Restore Department of Veterans Affairs Accountability Act" will again counterproductively diminish the due process and collective bargaining rights of VA employees compared federal employees in other agencies, including those in the Department of Defense who take care of the nation's active-duty military. In particular, the bill's proposed abrogation of collective bargaining agreements, reinforcing the use of the "Substantial Evidence Standard," restating the prohibition on the Merit Systems Protection Board to mitigate penalties, limiting the use of the "Douglas Factors," and using this bill retroactively go out of their way to treat VA employees like second class federal workers, despite their noble mission. AFGE strongly opposes the bill.

Background

Public Law 115-41, the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 (Accountability Act or Act), was signed into law on June 23, 2017. At the time of its passage, supporters claimed the Act was intended to simplify and expedite the disciplinary process at VA so that it could better hold bad employees accountable. The Act is divided into two parts, Title I, which established the Office of Accountability and Whistleblower Protections (OAWP) and Title II, which governs Accountability and Adverse Actions for Senior Executives, VA Employees, and Supervisors disciplinary procedures. Within Title II, the bill enacted 38 U.S.C. §714 which changed the following disciplinary procedures for bargaining unit employees (38 U.S.C. §713 is for managers in the Senior Executive Service):

- Required management to make a final decision within 15 business days of proposing an adverse action (i.e., suspension of more than 14 days, demotion, or removal);

- Reduced the time period for an employee to respond to a proposed adverse action to 7 business days;
- Reduced the time period for an employee to appeal the final adverse action to 10 business days;
- Lowered the standard of proof necessary to sustain an adverse action before a third party, such as arbitrators and the Merit Systems Protection Board (MSPB), from preponderance of the evidence to substantial evidence;
- Prevented third part adjudicators from mitigating unreasonable penalties assigned by VA.

Oversight

Since the Act's enactment, there has been robust oversight over the Act's implementation, and its effect on the workforce in multiple venues:

Congressional Oversight

The House Veterans' Affairs Committee held an oversight hearing in July 2018 before the Committee on Veterans' Affairs entitled "*The VA Accountability and Whistleblower Protection Act: One Year Later*."[1] The committee's goal was to address problems caused by the VA's implementation of the Act. In his opening statement, then-Ranking Member Mark Takano addressed the VA's penchant to use the Act to disproportionately discipline rank and file employees as opposed to supervisors and other management officials stating:[2]

> "[Of] the 1,086 removals during the first five months of 2018, the majority of those fired were housekeeping aides…I also find it hard to believe that there are large numbers of housekeeping aides whose performance is so poor that it cannot be addressed. If that is truly the case, then it stands to reason that there are also management issues behind their poor performance. But of those 1,096 removals, only fifteen were supervisors which is less than 1.4 percent. Firing rank and file employees does nothing to resolve persistent management issues." He continued "it is not possible to fire your way to excellence."

[1] *The VA Accountability and Whistleblower Protection Act: One Year Later: Before the H. Comm. On Veterans Affairs*, 115th Congr. (2018), https://republicans-veterans.house.gov/calendar/eventsingle.aspx?EventID=2212.
[2] *The VA Accountability and Whistleblower Protection Act: One Year Later: Before the H. Comm. On Veterans Affairs*, 115th Congr. (2018) (statement of Mark Tano, ranking member), https://republicans-veterans.house.gov/calendar/eventsingle.aspx?EventID=2212.

AFGE also testified at this hearing citing how the law disproportionately harmed lower paid federal workers and not the managers who supervised them, and also further explained many of the structural problems with the law that continue to exist today.[3] AFGE has also commented on the Accountability Act at other House Veterans' Affairs Committee hearings including before this subcommittee on May 19, 2021 at hearing titled "*Protecting Whistleblowers and Promoting Accountability: is VA Making Progress*?"[4] citing the problems with the current law and the need to pass reforms.

Inspector General Investigation

In response to requests for an investigation from multiple legislators, the Office of Inspector General (OIG) highlighted VA's failure to properly implement the portion of the Act pertaining to whistleblower protection. The OIG issued a report, which explained, "in many instances, [OAWP] focused only on finding evidence sufficient to substantiate the allegations without attempting to find exculpatory or contradictory evidence."

Further, while VA front-line employees were being disciplined more often and more harshly under §714 of the Accountability Act, the OIG report found that VA "struggled with implementing the Act's authority to hold executives accountable." OIG explained that despite statements from then-Secretary Shulkin, as of May 22, 2019, VA had only removed one covered senior executive employee under 38 U.S.C. 713. Further, of thirty-five cases involving senior

[3] *The VA Accountability and Whistleblower Protection Act: One Year Later: Before the H. Comm. On Veterans Affairs,* 115th Congr. (2018) (statement of then-AFGE National President J. David Cox). https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=108516.

[4] *Protecting Whistleblowers and Promoting Accountability: is VA Making Progress? Before the H. Comm. On Veterans Affairs Subcommittee on Oversight and Investigations,* 117th Congr. (2021) (AFGE Statement for the Record).

executives, VA deciding officials mitigated the discipline of thirty-two before issuing a final decision.

The OIG investigation revealed unlawful whistleblower retaliation by OAWP itself, noting that after an OAWP employee made a whistleblower complaint, Executive Director O'Rourke instructed a subordinate to remove the employee. Finally, the OIG found that the VA did not comply with reporting and training requirements of the Act and failed to adequately report to Congress regarding the outcomes of disciplinary actions.

Freedom of Information Act

In an attempt to learn more about the VA's use of its authorities under the Accountability Act, on May 31, 2022, AFGE submitted a Freedom of Information Act (FOIA) Request to the VA. This request asked the VA to share, without violating the privacy of employees, the VA's use of Section 204 of the Veterans Affairs Accountability and Whistleblower Protection Act of 2017, 38 U.S.C. §721, which authorizes the Secretary to issue an order, under certain circumstances, directing an employee to repay an award or bonus paid to the employee. This request covered the period from June 23, 2017, through May 31, 2022. In response to the AFGE's request, the VA responded on June 2, 2022, and stated that "This is a recently enacted VA policy and there are no responsive records." This is evidence that the VA has not utilized all of the tools at its disposal to hold employees accountable, and that the VA does not need additional tools for accountability. Instead, for the last six years, VA abused its authority under 38 U.S.C. §714 to remove thousands of front-line employees and service-connected veterans while failing to hold senior executives and management officials to the same standard.

Challenges in Federal Court

Since the enactment of the Accountability Act, several parts of the law have been successfully challenged in federal courts, resulting in multiple rebukes from the United States Court of Appeals for the Federal Circuit (Federal Circuit or Court) finding that VA violated the law and fundamental civil service protections through its abuse of 38 U.S.C. §714. One line of cases is related to the restrictions on the MSPB or third party adjudicators to consider the reasonableness of a penalty or to mitigate that penalty. In *Sayers v. Dep't of Veterans Affairs*, the Federal Circuit determined that, contrary to VA's contentions, the MSPB was permitted to review the reasonableness of the penalty imposed by deciding officials in light of the facts of a particular case under §714. The Court explained that "[d]eciding that an employee stole a paper clip is not the same as deciding that the theft of a paper clip warranted the employee's removal." It is clear that prior to *Sayers*, the Agency promoted a limited review and harshly disciplined employees under §714, often for similarly trivial acts.

The perceived inability to consider the reasonableness of VA's chosen penalty led judges to affirm decisions where even a single charge was proven by substantial evidence. Where the harshest available penalty, removal, was used liberally, this led to a loss of employee resources for relatively minor infractions. VA's rush to remove employees was clear in performance cases as well. As Administrative Judges believed they could not consider the reasonableness of the penalty in those instances, employees were removed for easily remedied performance failures. [5]

Another key element of the law examined by the courts is the VA's mistaken claim that the Accountability Act eliminated the preponderance of the evidence standard at the administrative level and replaced it with the new substantial evidence standard that applies to

[5] *Brenner v. Dep't of Veterans Affairs*, 990 F.3d 1313, (Fed. Cir. 2021)

third party review. In *Rodriguez v. Dep't of Veterans Affairs,* the Court held that the "preponderance of the evidence, rather than substantial evidence was the correct standard for management to apply at the administrative level in conduct cases under [§]714."[6] The Court explained that when determining whether conduct justified discipline under §714, preponderance of the evidence was the correct evidentiary burden, and the MSPB's standard of review should be substantial evidence. Consequently, the Court found that VA had applied the wrong evidentiary standard in its §714 conduct cases. The Court held in August 2021 that VA and MSPB must apply the *Douglas Factors* in deciding and reviewing the imposed penalty.[7]

By subjecting management's decisions to additional scrutiny, the Court demonstrated VA's overreach in its use of the Accountability Act. The use of §714 has proven to have had its greatest impact on lower-level employees, many of whom are veterans themselves, compounding a chronic staffing crisis while doing little to address systemic problems such as inadequate training and hostile managers. Thus, while the reviewing arbitrators, Administrative Law Judges, and Federal Circuit Judges have done much to curtail VA's broad interpretation of the law, the law itself must be amended if it is to accomplish its stated goal of improving systemic flaws in the Agency.

Furthermore, in the recent case *Richardson v. Department of Veterans Affairs*, the MSPB further limited the applicability of the law.[8] In *Richardson*, the MSPB ruled that an employee appointed under 38 U.S.C 7401(3), a "hybrid" Title 38/Title 5 employee, could not be terminated

[6] *Ariel Rodriguez v. Department of Veterans Affairs*, 8 F.4th 1290 (Fed. Cir.) (2021).
[7] *Stephen Connor v. Department of Veterans Affairs*, 8 F.4th 1319 (Fed. Cir.) (2021).
[8] *Richardson v. Department of Veterans Affairs*, Docket No. AT-0714-21-0109-I-1 (MSPB) (2023).

under §714 as the text of 38 U.S.C. 7403(f)(3) dictated its reliance on "the procedures" of chapter 75 of Title 5.[9]

As a result of these and other legal rulings and determinations, the VA announced on March 5, 2023, that the VA will prospectively "cease using the provisions of 38 U.S.C. § 714 to propose new adverse actions against employees of the Department of Veterans Affairs (VA), effective April 3, 2023."

Specific Objections to the "Restore Department of Veterans Affairs Accountability Act"

In response to the court rulings since the enactment of the Accountability Act, H.R. 472 the "Restore Department of Veterans Affairs Accountability Act of 2025" was introduced to reverse these decisions and expand the powers of the original Accountability Act. AFGE strongly objects to several provisions in the bill that will infringe upon the rights of VA employees, and harm recruitment and retention:

Abrogation of the Collective Bargaining Agreement

On Page 14, line 22 of the legislation, the bill states "[t]he procedure in this section shall supersede any collective bargaining agreement to the extent that such agreement is inconsistent with such procedures." The VA workforce is second largest workforce in the federal government, second only to the Department of Defense. AFGE is proud to represent more than 310,000 bargaining unit employees, making the union contract that is scheduled to be signed by AFGE and Secretary McDonough on August 8, 2023, the largest collective bargaining agreement in the government. To say that any procedures that were meticulously negotiated at the

[9] *Id.*

bargaining table in this and prior contracts are now out the window is grossly unfair, as both parties compromised to arrive at this agreement given the state of the law at the time. This would also provide the VA the opportunity to cease using Performance Improvement Plans (PIPs) prior to disciplining an employee for performance, which is a common practice within the federal workforce. Additionally, while members of both parties proudly support rank and file union members at other agencies and in the private sector, including law enforcement officers, firefighters, electricians, and plumbers, the choice to hold these employees at the VA to a standard not used for similarly situated employees at other departments is unnecessary, and only serves to dissuade potential employees from working at the VA when they could similar if not identical jobs with better protections at another agency.

Reinforcing the Use of the "Substantial Evidence Standard"

38 U.S.C. § 714 established by the Accountability Act mandates that the MSPB uphold management's decision to remove, demote, or suspend an employee if the decision is supported by substantial evidence. While not defined in the law, management guidance defined substantial evidence as "relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree, or evidence that a reasonable mind would accept as adequate to support a conclusion."

As discussed in *Rodriguez v. Dep't of Veterans Affairs*, VA improperly read §714 to mean that its burden of proof at the administrative level in justifying discipline was lowered to the substantial evidence standard. The Federal Circuit disagreed with the Agency's position, finding that the Agency conflated burden of proof and standard of review. Consequently, the Court found that the VA still had to meet the preponderance of the evidence burden of proof in its decision to discipline for conduct.

With the proposed text on Page 12, lines four through 10, the bill is plainly trying to overturn *Rodriguez v. Dep't of Veterans Affairs*, and force the VA, even in cases where the balance of evidence favors the employee, the opportunity if not obligation to dismiss the employee. This is especially prevalent in "he said, she said" cases based on allegations of misconduct. For example, if 10 individuals were witnesses to an incident and seven sided with the employee's story, but three sided with the VA's, the VA would meet its burden under "Substantial Evidence" and could dismiss the employee. This is unfair and deprives VA employees of the same protections enjoyed in other departments in the federal government.

Restating the MSPB's Inability to Mitigate Unreasonable Penalties

Under current statute established by the Accountability Act, the law provides that where the Agency's decision is supported by substantial evidence, the MSPB or an arbitrator may not mitigate the penalty. Thus, the MSPB or an arbitrator could only reverse an Agency decision it determined was unreasonable. MSPB had an extremely high rate of affirming Agency decisions even before the enactment of the Accountability Act. MSPB's affirmance rate of VA decisions was 83.7 percent, of the years recorded since, 2019 was the highest rate of affirmance at 89.44 percent. Few cases were mitigated prior to 2017, however, mitigation was available to reviewing entities, saving the time of sending back a case, causing needless delay.

The text on page 14, lines seven through 10 of the legislation is a doubling down on a bad policy of letting the MSPB or a third-party arbitrator from righting obvious abuses by the VA. Not only should this provision be stricken, but the ability to mitigate a penalty should be restored to the MSPB. This change would ensure fair determinations and restore basic notions of due process and fairness to the workforce by treating similarly situated employees in a consistent manner.

Limiting the Use of the Douglas Factors

Connor v. Department of Veterans Affairs, spoke to the issue of mitigation. In that case, on appeal, the MSPB sustained only one of the 27 charges against the employee. On appeal to the Federal Circuit, the Agency argued it need not consider the *Douglas Factors* in §714 proceedings. [10] In its ruling, the Court ruled that the "[t]here is no basis for the government's argument that the statutory ban on penalty mitigation by the Board eliminated the obligation to consider and apply the Douglas factors."[11] In response to this, the "Restore Department of Veterans Affairs Accountability Act" would require that only five of the Douglas Factors be considered when determining the reasonability of discipline, but goes out of its way to actively exclude the other seven Douglas Factors. This is counter to the opinion in *Connor*, where the court referenced *Douglas v. Veterans Administration* and wrote while citing to *Douglas* "While not all of the factors will be pertinent to every case, the Board in Douglas explained that the agency must 'consider the relevant factors' and 'strike a responsible balance' in selecting a penalty."[12] In turn, by excluding seven "Douglas Factors" the legislation goes out of its way exclude reasonable reasons why an employee should have a penalty reduced, including the sixth Douglas Factor which considers "consistency of the penalty with those imposed upon other employees for the same or similar offenses."[13] AFGE urges that every deciding official and third party adjudicator have the obligation to consider all 12 Douglas Factors that may be relevant, not just the five which the bill considers important. Not only should the agency be required to use

[10] Stephen *Connor v. Department of Veterans Affairs*, 8 F.4th 1319 (Fed. Cir.) (2021).
[11] *Id.*
[12] Stephen *Connor v. Department of Veterans Affairs*, 8 F.4th 1319 (Fed. Cir.) (2021); *Douglas v. Veterans Administration*, 5 M.S.P.B. 313 (1981) at 332-33.
[13] *Id.*

the Douglas factors, but appellate bodies should be able to review the agency's appropriate consideration of these factors governing the severity of discipline.

Retroactive Application of the Bill

Beyond each of the individual policy objections AFGE has with the bill, the text proposed on page 15, lines one through five stating that "[t]his section shall apply to any performance or misconduct of a covered individual beginning on the date of enactment of the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 (Public Law 115-41)." Considering the significant discipline and litigation that has occurred over the past six years, the idea that old disciplinary actions, including the possibility of those already resolved could now be subject to new rules after the fact only creates more tumult for a workforce that has had its fill. Retroactivity is not only unjust but creates chaos and should be stricken.

H.R. 740, the "Veterans' Assuring Critical Care Expansions to Support Servicemembers (ACCESS) Act of 2025."

AFGE specifically opposes the following sections:

Sec. 101. Codification of requirements for eligibility standards for access to community care from the Department of Veterans Affairs.

This section codifies the drive-time and wait-time standards that the VA must meet for a veteran to be eligible for referral to private care through the Veterans Community Care Program (VCCP). For primary care, mental health care, or long-term care other than home care, a veteran is eligible for private care within a 30-minute average drive time from the veteran's home, unless the veteran agrees to a longer drive time in consultation with a health care provider. For primary

care, mental health care, or long-term care other than home care, a veteran is eligible for private care if the VA cannot schedule an appointment with a VA provider within 20 days of a veteran's request for a visit unless the veteran agrees to a longer wait time in consultation with their provider. The legislation allows the Secretary of the VA to reduce the number of days but not to increase the number of days for access to the community.

For specialty care, a veteran is eligible for private care within a 60-minute average drive time from the veteran's home, unless the veteran agrees to a longer drive time in consultation with a health care provider. For specialty care, a veteran is eligible for private care if the VA cannot schedule an appointment with a VA provider within 28 days of a veteran's request for a visit unless the veteran agrees to a longer wait time in consultation with their provider. This would apply to all covered veterans, regardless of whether a veteran is a new or established patient.

This legislation would prohibit the Secretary from counting VA telehealth in determining whether the VA meets wait-time and drive-time access standards. AFGE believes that access and quality standards should be equalized for VA and non-VA. Also, one-size-fits-all access standards are problematic. VA leaders believe that the 28-day wait time for specialty care is too long for some specialties like oncology and too short for some stable patients who may prefer to book appointments further out. Specialty-specific access standards should be developed. The language allowing the Secretary to shorten but not lengthen access standards is obviously biased toward privatization; otherwise, why not provide the Secretary the flexibility to create the access standard best indicated by evidence?

Sec. 103. Consideration under Veterans Community Care Program of veteran preference for care, continuity of care, and need for caregiver or attendant.

This section modifies 38 USC 1703(d)(2) to make veteran preference to go to a private provider a criterion for what constitutes best medical interest. AFGE opposes this provision as it would undermine the VA's ability to review community care referrals.

It is difficult for a physician to challenge a veteran who may want to go out of network even when it is not in the patient's best medical interest and as a result, this provision directly weakens the VA's ability to coordinate care. A large body of research indicates that the VA provides care that is as good and often better than private care. If a clinician cannot direct a veteran to VA care when VA care is clinically indicated, it impedes a clinician's ability to provide the veteran with the best quality care. The VA will ultimately have to pick up the cost of poorer care a veteran receives outside the VA if it causes the veteran to need more services down the road.

Further, no healthcare network can afford to cover any services outside its network that its members desire while simultaneously meeting obligations to directly provide services on demand for all its members. All viable healthcare networks need to be able to reasonably limit outside referrals to effectively coordinate care, avoid unnecessary or ineffective treatments, and manage costs.

Sec. 302. Modification of requirements for Center for Innovation for Care and Payment of the Department of Veterans Affairs and requirement for pilot program.

This section creates a three-year pilot program in at least five locations where veterans could access outpatient mental health and substance use services without referral or preauthorization. AFGE opposes this provision as it would circumvent the VA's ability to coordinate care and is unsustainable for the VA in the long term, for the same reasons discussed under section 103. AFGE opposes provisions that undermine the VA's authority to authorize care to private care.

AFGE has recommendations for improving the following section:

Sec. 104. Notification of denial of request for care under Veterans Community Care Program.

This section imposes a 2-day written notification requirement to inform veterans of community care denial. AFGE appreciates the desire to ensure that veterans receive timely notification of denial for a referral to private care. AFGE would prefer to see minimum scheduling efforts and communication methods aligned to what the VA does internally to ensure that there are adequate attempts to notify a veteran.

Background

H.R. 740, the "Veterans' Assuring Critical Care Expansions to Support Servicemembers (ACCESS) Act of 2025," would significantly accelerate the privatization of the VA. The VA is currently at a tipping point. According to the expert Red Team panel that the VA assembled in January 2024, referrals to private care "threaten funding needed to support VA's direct care system." [14] Forty-four percent of the services that the VA provides have now been diverted to privatized care, known as "Community Care."[15]

[14] Kizer KW, Perlin JB, Guice K, Granger E, Friesen D, Safran DG. The Urgent Need to Address VHA Community Care Spending and Access Strategies – Red Team Executive Roundtable Report. March 30, 2024

[15] *Id.*

Referrals to private care have already been rising by 15-20 percent a year, a clearly unsustainable trend for the direct care system. Our members feel the effects of rapid privatization in the form of unpredictable staffing and closures of operating beds related to widespread VA facility budget problems. Gaps in staffing and fewer beds make it difficult to provide veterans with the care they deserve. These gaps, in turn, feed privatization as the VA must send veterans outside the VA when staff or beds are unavailable. Providers are not required to meet the same quality standards as VA providers. The VA has cited rapid privatization as one of the causes of the VHA budget shortfall.

It is clear that the direct care system is already fragile and can ill afford the impact of legislation such as the Access Act that will only lead to further privatization.

We appreciate the opportunity to submit this statement and look forward to working with the members of the committee to bolster and support the VA workforce so it can best serve veterans.

Prepared Statement of Concerned Veterans for America

Statement for the Record

of

John Vick
Executive Director, Concerned Veterans for America

on

H.R. 472, The Restore VA Accountability Act of 2025

and

H.R. 740, The Veterans' ACCESS Act of 2025

before the

House Veterans Affairs Committee

Legislative Hearing

February 24, 2025

Thank you to Chairman Bost, Ranking Member Takano, and the Members of the Committee for the opportunity to submit this statement on behalf of Concerned Veterans for America (CVA). CVA is a grassroots network of thousands of veterans, family members, and patriotic citizens that advocates for and defends policies to preserve freedom and prosperity for all Americans. Our organization builds engaged communities of veterans, elevating their unique experiences and perspectives to help improve American lives.

CVA is commenting in support of two of the bills under consideration today: **H.R. 472, The Restore VA Accountability Act of 2025**, and **H.R. 740, The Veterans' ACCESS Act of 2025**. Both bills address long-standing CVA priorities in empowering veterans to be in greater control over their own health care. Passage of both will help ensure that the VA upholds the previously established will of Congress regarding both VA personnel accountability and veterans' treatment choices.

CVA's History in Veterans' Health Care Reform

Concerned Veterans for America has a thirteen-year track record as a leading advocacy organization for empowering veterans to seek the care that best meets their needs. CVA helped elevate the voices of VA whistleblowers who revealed that veterans had died while waiting for care on secret wait lists during the Phoenix VA scandal of 2014. In the aftermath of Phoenix, CVA also supported early reform efforts like the Veterans Access, Choice, and Accountability Act of 2014, which created the first options for veterans to seek care outside the VA. CVA also helped secure passage of the 2017 VA Accountability and Whistleblower Protection Act to change the perverse incentives that created the Phoenix scandal to begin with.

These early efforts culminated in the VA MISSION Act of 2018, which CVA helped shape and support in Congress. The legislation passed with overwhelming bipartisan support, incorporating many of the recommendations of CVA's 2015 Fixing Veterans' Health Care Task Force—namely by creating the Veterans Community Care Program (VCCP).[1] By consolidating existing choice programs into an easier-to-use VCCP and simplifying access standards, the MISSION Act has been a game-changer for millions of veterans' access to timely and quality care.

Over the past four years, CVA has fought for additional congressional oversight as the Department of Veterans Affairs prioritized its bureaucratic interests over the well-being of veterans it exists to serve. Veterans have suffered because the VA has not properly followed the requirements of the MISSION Act, particularly when it comes to ensuring veterans have access to community care when eligible. This status quo has hurt veterans and must change under the new administration. Fortunately, the Restore VA Accountability Act and the Veterans ACCESS Act offer important opportunities for Congress to course correct.

H.R. 472, The Restore VA Accountability Act of 2025

In their responsibility to care for our veterans, VA employees hold an important public trust. In any organization, personnel incentives can make or break a culture. VA employees who perform their jobs poorly or engage in misconduct need to face rapid accountability to ensure our veterans get the quality care that they have earned and that colleagues performing their roles effectively are not disillusioned.

H.R. 472 would restore previous authorities that the VA Secretary held to discipline, suspend, demote, or terminate subpar VA employees, addressing prior textual issues that led to the law being undermined in a variety of court and administrative decisions. The Restore VA Accountability Act of 2025, sponsored by

[1] "Fixing Veterans Health Care: A Bipartisan Policy Task Force," *Concerned Veterans for America*, 2015. https://cv4a.org/wp-content/uploads/2016/01/Fixing-Veterans-Healthcare.pdf

Chairman Bost, would reinstate expedited disciplinary procedures and require a greater burden of proof for personnel decisions to be overturned. While the bill would still protect employee's due process rights, it would ensure frivolous appeals do not delay otherwise warranted personnel decisions unless an appeal is supported by substantial evidence. The bill would also eliminate the requirement to institute a performance improvement plan (PIP) prior to disciplinary action being taken. At its worst, the PIP process can allow employees who clearly need to be disciplined to linger prior to formal action being possible.

Finally, the Restore VA Accountability Act more evenly applies accountability standards across the VA workforce. It ensures that expedited disciplinary processes can be employed on Senior Executives, supervisors, and employees alike. The bill requires that Senior Executives, whose greater policymaking authority warrants greater scrutiny, appeal any decisions about them directly to the Secretary rather than through the Merit Systems Protection Board. The need for the Secretary to provide greater accountability for his senior deputies was clear last summer, when the former VA Undersecretary for Health, Shereef Elnahal, improperly awarded $11 million in bonuses to Senior Executives from funds meant to support PACT Act implementation yet kept his job.[2]

H.R. 740, The Veterans' ACCESS Act of 2025

The Department of Veterans Affairs has systematically failed to faithfully carry out the VA MISSION Act, particularly during the Biden administration. Passing the Veterans ACCESS Act, sponsored by Chairman Bost, is essential to right this wrong. Evidence obtained via Freedom of Information Act (FOIA) requests reveals that the VA directly undermined the MISSION Act through guidance that contradicted the law's implementing regulations covering community care access.[3]

VA training documents recommended that schedulers not inform veterans of their community care eligibility unless veterans directly asked for it.[4] On top of this, VA scheduling scripts instructed employees to actively try to dissuade veterans from choosing community care instead of VHA facilities.[5] Veterans who knew about and wanted community care nevertheless faced a variety of obstacles for access.

FOIA-obtained VA training documents also revealed that officials added an additional approval layer for community care requests. Despite appearing nowhere in the MISSION Act or its implementing regulations, the VA created a new standard for determining whether a veteran's community care request was "clinically appropriate," which in practice functioned as an additional opportunity to improperly deny referrals despite no legal basis for the VA to do so.[6]

Lastly, FOIA evidence confirms that, in contravention of MISSION Act implementing regulations, the VA uses obsolete "patient indicated date" (PID) wait time criteria—a measurement dating from the earlier 2014 Choice Act.[7] In practice, PID measurements were usually set by a scheduler sometime after the

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[2] Linda Hersey, "House lawmakers urge VA undersecretary for health to resign amid bonus scandal," *Stars and Stripes*, June 4, 2024. https://luttrell.house.gov/media/in-the-news/house-lawmakers-urge-va-undersecretary-health-resign-amid-bonus-scandal

[3] "Records confirm VA's use of inaccurate wait time numbers," *Americans for Prosperity Foundation*, October 1, 2021. https://americansforprosperity.org/blog/records-confirm-va-inaccurate-wait-time-numbers/

[4] "Unless the patient requests to review their other eligibility, no additional [community care] eligibility is required to be reviewed other than wait time." See: "Standard MISSION Act Guidance: Patient Eligibility and Scheduling Reference Sheet," *Department of Veterans Affairs*, October 28, 2020, pg. 2. https://americansforprosperity.org/wp-content/uploads/2021/09/03-Mission-Act-Guidance-Oct.-2020.pdf

[5] "Referral Coordination Initiative Implementation Guidebook," Veterans Health Administration, *Department of Veterans Affairs*, March 10, 2021. https://americansforprosperity.org/wp-content/uploads/2021/09/Referral-Coordination-Initiative-Guidebook.pdf#page=62

[6] VA training flowcharts obtained via FOIA: https://americansforprosperity.org/wp-content/uploads/2022/01/21-06268-F_Responsive_Records_1-Part-1.pdf#page=347

[7] See examples of VA training materials using PID wait time measurements in: ""More Evidence the VA is Improperly Delaying or Denying Community Care to Eligible Veterans," January 28, 2022, Americans for Prosperity Foundation, https://americansforprosperity.org/blog/va-denying-delaying-care/

veterans' initial appointment request and could dramatically reduce the appearance of wait times for reporting and community care eligibility purposes. This broken wait time system—eerily reminiscent of the conditions that created the Phoenix VA scandal—was criticized by the Government Accountability Office for being too subjective and prone to manipulation.[8] In practice, the VA has used these incorrect, outdated wait time measurements to artificially deny thousands of veterans access to the community care options they should be legally entitled to.[9]

H.R. 740 addresses these ongoing MISSION Act implementation issues by ensuring that less of the law is up to the VA's administrative whims to carry out. The Veterans' ACCESS Act codifies community care access standards into statute, while still allowing flexibility for Congress to consider periodic recommendations for updating. The bill also requires the VA to notify veterans of their eligibility for community care, and mandates that wait times are calculated from the veteran's date of request for an appointment. Finally, the legislation creates a pilot program allowing veterans to seek mental health care and substance use treatment—for which timely access is paramount—in the community without VA pre-approval. This "full choice" pilot would mirror existing practices for urgent care treatment as well as community care referrals in certain TRICARE plans such as TRICARE Select and TRICARE for Life.

Conclusion

Lawmakers have an important opportunity to reassert the will of Congress over a Department of Veterans Affairs that has been far too unaccountable for years. The Restore VA Accountability Act would give the VA Secretary the tools needed to hold poorly performing VA employees to account while respecting due process and cutting down on frivolous delays that undermine veterans' care. The Veterans' ACCESS Act would hold the VA accountable for honoring Congress' promise to offer community care choices to veterans. By codifying the VA MISSION Act's community care access standards, ensuring veterans are aware of their eligibility, and offering crucial additional choices for veterans in need of mental health and substance use treatment, the legislation would reduce opportunities for the VA to misinterpret the law and compel the agency to prioritize veterans' health care outcomes over their bureaucracy. For these reasons, I urge you to support **H.R. 472, The Restore VA Accountability Act of 2025**, and **H.R. 740, The Veterans' ACCESS Act of 2025.**

Sincerely,

John Vick
Executive Director
Concerned Veterans for America

[8] Comptroller General Gene Dodaro to Secretary Denis McDonough, *U.S. Government Accountability Office*, May 10, 2021. https://www.gao.gov/assets/720/714332.pdf

[9] "Delayed and Denied Care: Transparency and Oversight Needed for VA Wait Times," *Concerned Veterans for America*, February 2022. https://cv4a.org/wp-content/uploads/2022/02/22_298900_VAPolicyBriefingHandout.pdf

Prepared Statement of National Association for Gun Rights

Chairman Bost, Ranking Member Takano, and Members of the Committee:

The National Association for Gun Rights (NAGR) appreciates the opportunity to submit this statement for the record in strong support of the Veterans 2nd Amendment Protection Act. Our organization is dedicated to defending the constitutional rights of all Americans, and we are particularly concerned with ensuring that those who have honorably served our nation in uniform are not unjustly stripped of their Second Amendment rights.

According to the most recent figures published by the FBI [1], nearly 200,000 veterans and VA beneficiaries have been improperly reported to the National Instant Criminal Background Check System (NICS) simply because the Department of Veterans Affairs (VA) has appointed a fiduciary to assist them in managing their benefits. This practice, which lacks due process and fails to account for an individual's actual competency to exercise their constitutional rights, is an unacceptable infringement upon the freedoms these brave men and women fought to protect.

One example of just how abusive this policy is for our veterans is the story of National Association for Gun Rights member Christopher Hawley. Mr. Hawley served his country in the United States Navy, suffering an injury that would eventually lead to multiple back surgeries.

Despite that injury, upon being honorably discharged, Mr. Hawley continued his career of public service with nearly 30 years in law enforcement and public safety. He has worked for the City of North Miami Police Department, G4S Secure Solutions, the Broward County Sheriff's Office, and more. He has served as an armed transportation security officer and still holds a Law Enforcement Officer Certification in the state of Florida.

Mr. Hawley was also a certified firearms and pistol instructor and a gunsmith. He was licensed to carry in Florida and is an asset to his community and state.

Despite all that, the VA decided Mr. Hawley should not be allowed to carry a gun – despite no court finding of dangerousness.

This determination came when Mr. Hawley applied for additional VA benefits following two surgeries. While the VA granted him the benefits increase with one hand, they stripped away his gun rights with the other. They instructed him to select a fiduciary to handle his financial benefits and informed him that his Second Amendment rights had been taken away.

Mr. Hawley has never been accused of being a danger to himself or others and no court has ever determined that he was unfit to bear arms. Like many veterans in similar circumstances, he did not realize that his increased VA benefits had the side effect of losing his Second Amendment rights, and by the time he was aware, the appeal period had already expired.

As a result of the VA bureaucracy's decision to strip away his gun rights, Mr. Hawley can no longer seek or hold employment as a firearms instructor or gunsmith. He has accordingly been denied multiple employment opportunities, including as a range officer and armorer with a sheriff's office. He has also been unable to renew his licenses and certifications.

Mr. Hawley is only one of many, many American heroes who, instead of being honored by their country for their service, have had their rights trampled by the very agency tasked with caring for them. This is not what America stands for, and it is not what the Second Amendment stands for.

The Veterans 2nd Amendment Protection Act is a necessary and long-overdue step toward restoring justice by preventing the VA from reporting veterans to NICS without a judicial determination that they are a danger to themselves or others. However, while this legislation is a critical reform, we urge the committee to take further action to correct past injustices by implementing a process to retroactively remove veterans from NICS who were improperly added without due process.

Specifically, we urge the committee to consider provisions that:

1. **Mandate the Removal of Veterans Names from NICS** – Direct the VA and the FBI to automatically remove the names of veterans and other VA beneficiaries who were added to NICS solely due to fiduciary appointments where no **judicial** finding of mental incompetency exists.

2. **Create an Appeals Pathway** – Establish a clear and expedited **judicial** mechanism for veterans to contest their inclusion in NICS and have their Second Amendment rights restored, ensuring their cases are heard fairly and efficiently. Current appeals processes rely on "appealing" these rulings to through internal VA procedures with limited time windows. This is not due process. A court of law must be involved.

3. **Prohibit Future Unjust Reporting** – Strengthen statutory language to prevent any future policies or administrative actions that would allow a government agency to strip veterans or any law-abiding American of their rights without proper legal adjudication. Specifically, we ask for the removal of the phrase "*board, commission, or other lawful authority*" found in 27 CFR § 478.11 - Meaning of terms - Adjudicated as a mental defective – paragraph (a).

We recognize and appreciate the committee's efforts to address this critical issue, and we stand ready to assist in implementing legislative solutions that not only prevent future rights violations but also correct past wrongs. Our nation's veterans deserve nothing less than full restoration of the rights they have risked their lives to defend.

Thank you for your attention to this urgent matter. We look forward to working with the committee to ensure that justice is served for all veterans affected by this unconstitutional policy.

Sincerely,

Hunter M. King
Director of Political Affairs
National Association for Gun Rights

Footnotes:

1 = Active Entries in the NICS Indices as of December 31, 2024

https://www.fbi.gov/file-repository/download-active-entries-in-the-nics-indices-as-of-december-31-2023.pdf/view

Letter from the Everytown for Gun Safety Submitted by Mark Takano

EVERYTOWN
FOR GUN SAFETY

January 23, 2025

The Honorable Morgan Luttrell
Chairman
Subcommittee on Disability Assistance & Memorial Affairs
Committee on Veterans' Affairs
United States House of Representatives
Washington, DC 20003

The Honorable Morgan McGarvey
Ranking Member
Subcommittee on Disability Assistance & Memorial Affairs
Committee on Veterans' Affairs
United States House of Representatives
Washington, DC 20515

Dear Chairman Luttrell and Ranking Member McGarvey:

Everytown for Gun Safety thanks the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs for holding a hearing on the urgent need to reduce veteran suicide deaths, including those involving firearms. To that end, we write to provide the Subcommittee with our own expertise and recommendations, which we respectfully ask the Subcommittee to keep in mind as the Subcommittee considers legislative proposals in the 119th Congress. In addition, we write to reiterate and reaffirm our own commitment to protecting veterans from this preventable epidemic.

The Crisis of Veteran Suicide Deaths

Last month, the Department of Veterans Affairs (VA) released the 2024 National Veteran Suicide Prevention Annual Report. The report is sobering and confirms what we have long known—that our nation is experiencing an epidemic of suicides among the brave men and women who have served and sacrificed for the United States, and that most of these suicide deaths involve firearms.[1] In 2022, there were 6,407 veteran suicide deaths - an average of more than 17 per day. Firearms were used in 73.5 percent of those deaths.[2] Every state suffered from veteran suicide deaths in 2022. According to the VA, the state that suffered the most deaths—582—was Texas.[3] Of those deaths, 434 involved a firearm.[4] But no state was spared from this epidemic. And as the VA has found, "[f]irearms are the most lethal form of suicide, with a 90% fatality rate compared to other methods, which are far less likely to result in death."[5] Accordingly, the VA has stated that "[t]he lethality of firearms makes secure storage and controlled access a critical element in reducing [v]eteran suicides."[6]

Statistics alone do not begin to cover the devastating impact of these suicide deaths on families and communities. Each suicide death of a veteran is an undeniable tragedy. The loss of 17 veterans every single day to suicide is an urgent call to action. We can, and must, make it a national priority to reduce this epidemic. To do so, the VA must be able to use all available tools

[1] Department of Veterans Affairs, "2024 National Veteran Suicide Prevention Annual Report, Part 2 of 2: Report Findings" (Dec. 2024).
[2] Id. at p. 4.
[3] Department of Veterans Affairs, Texas Veteran Suicide Data Sheet, 2022.
[4] Id.
[5] Department of Veterans Affairs, "2024 National Veteran Suicide Prevention Annual Report, Part 1 of 2: In-Depth Reviews" (Dec. 2024), at p. 7.
[6] Id.

to protect veterans, including from the irreversible harm that can occur when someone in crisis has access to a firearm.

Though there are multiple contributing factors and events that lead to a suicide death, there is a strong association between veteran suicide and mental illness. According to the VA's latest report, around 40 percent of veterans who died by suicide in 2022 had received health care through the Veterans Health Administration (VHA) in 2022 or 2021,[7] and of that population, 60.2 percent—1,548 veterans—had been diagnosed by the VHA with mental health or substance use disorders.[8] Of those 1,548 veterans:

- 992 had been diagnosed with depression;
- 671 had been diagnosed with anxiety;
- 640 had been diagnosed with PTSD;
- 209 had been diagnosed with bipolar disorder;
- 77 had been diagnosed with schizophrenia; and,
- 98 had been diagnosed with other psychoses.[9]

In other words, the VA's report shows that at least 24 percent (1,548 out of 6,407) of the veterans who died by suicide in 2022 had recently used VHA facilities and had been diagnosed by the VHA with a mental health or substance use disorder, and that many of these diagnoses involved severe mental health conditions.[10] This 24 percent in 2022 represents an increase over 2021, when 23 percent (1,495 out of 6,404) of veteran suicide deaths involved veterans who had recently used VHA services and had been diagnosed with mental health or substance use disorders.[11] The bottom line is that there is a clear link between veteran suicide deaths and veterans who have been diagnosed with mental illnesses, and the number of such suicides appears to be growing.

Bipartisan Action to Prevent Veteran Firearm Suicide

Both political parties have long shared the goal of preventing veteran firearm suicides. For example, in his first term, President Trump issued an Executive Order creating a "National Roadmap to Empower Veterans and End Suicide." In it, he directed the VA and other agencies to develop a comprehensive plan to end veteran suicide.[12] The Executive Order noted that "[o]ur collective efforts must begin with the common understanding that suicide is preventable and prevention requires more than intervention at the point of crisis."[13] President Trump's first administration also released a toolkit on safe firearm storage for veterans that the VA had developed in partnership with the American Foundation for Suicide Prevention and the National

[7] Id. at p. 23, Figure 16. As noted in Footnote 12 of the report, "Recent Veteran VHA Users were defined as Veterans who received inpatient or outpatient health care (in person or via telehealth) at a VHA facility in the year of interest or the prior year (here, in 2022 or in 2021). Health care received from non-VHA facilities, including such care that was funded by VA (i.e., Community Care) was not included."
[8] Id. at p. 32 and p. 33, Table 6.
[9] Id. at p. 33, Table 6. Note that veterans may have been diagnosed with multiple conditions.
[10] These statistics do not include any potential mental health diagnoses among the 60 percent of veterans who died by suicide in 2022 and who had not recently used VHA services prior to their death. To that end, the statistics likely understate the annual number of suicides of veterans who had been diagnosed with mental health conditions.
[11] Again, the VA report's focus on veterans who were recent users of VHA services likely undercounts the total number of mental health diagnoses among all veterans who died by suicide in 2021.
[12] Executive Order 13861 (Mar. 5, 2019).
[13] Id.

Shooting Sports Foundation.[14] This toolkit acknowledged that "environmental factors such as access to lethal means increase the risk for suicide," and noted that firearms, specifically, "were used in nearly half of all suicides among Americans in 2016, and nearly 70 percent of all [v]eteran suicide deaths."[15]

The Biden Administration, too, took significant steps to reduce veteran firearm suicides. For instance, in 2021, the Biden Administration announced a comprehensive military and veteran suicide prevention strategy,[16] and in 2023, the VA established a policy allowing veterans free emergency suicide prevention care at no cost in VA facilities.[17] As President Trump begins his second term, it is critical that this bipartisan work to reduce veteran firearm suicides continues at the VA and other federal agencies, in Congress, and with outside stakeholders.

At the same time, Congress must undo the dangerous and misguided rider that it enacted last March in the Consolidated Appropriations Act, 2024, which has undermined one important tool in the VA's toolkit to prevent firearm suicides: the FBI's National Instant Criminal Background Check System (NICS).

The NICS Background Check System and the VA

There has long been a debate over how the VA's rules and processes related to mental illness should interact with NICS. This debate, unfortunately, has often taken place without a full public understanding of VA processes and without the context of the urgent national imperative to reduce veteran suicides. As a result, there has been a perception that the decades-long and legally-required coordination between the VA and NICS when it comes to mental illness has violated due process and Second Amendment rights and has harmed veterans—evidenced by the title of this hearing, "Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights." That is not the case.

The VA's rules and processes related to mental illness and coordination with NICS have extensive due process protections built in, as Congress has required, and are fully consistent with the Second Amendment. In addition, these rules and processes have helped reduce the risk of harm that results when those with serious mental illness get access to guns. To continue to impede or, worse, permanently end this coordination, as some have proposed, would set us backwards. It would make it more difficult to reduce veteran suicide deaths and spare families and communities from the pain of these gun tragedies.

NICS keeps firearms from being sold to individuals who are not allowed under federal law to buy or possess them—also known as "prohibited persons". Since 1968, these prohibited persons have included anyone who has been "adjudicated as a mental defective,"[18] which has been defined to mean someone who has been found by a lawful authority to either be a danger to himself or others or to lack the mental capacity to manage his own affairs as a result of the person's mental illness, incompetency, condition or disease.[19] The VA, in the course of awarding

[14] Press Release, Department of Veterans Affairs, "VA releases safe firearm storage toolkit in suicide prevention effort" (Apr. 12, 2020).
[15] Department of Veterans Affairs, American Foundation for Suicide Prevention, and National Shooting Sports Foundation, "Suicide Prevention is Everyone's Business: A Toolkit for Safe Firearm Storage in Your Community," at p. 2.
[16] Kate Sullivan, "Biden announces new military and veteran suicide prevention strategy," CNN (Nov. 2, 2021).
[17] Kathryn Watson, "Nearly 50,000 veterans used free emergency suicide prevention in first year of program, VA says," CBS News (Jan. 17, 2024).
[18] 18 U.S.C. §§ 922(d)(4) and (g)(4).
[19] 27 C.F.R. § 478.11.

benefits to veterans and other VA beneficiaries, may determine through a comprehensive process that an individual is "mentally incompetent." Under VA regulations, "[a] mentally incompetent person is one who because of injury or disease lacks the mental capacity to contract or manage his or her own affairs."[20] The key language is that the mental incompetency determination is "because of injury or disease" — not, as some have suggested, solely because the VA may also appoint a fiduciary to manage the veteran's benefits. The types of "injury or disease," also called "mental disorders," at issue include diagnoses for major depressive disorder, panic disorder, schizophrenia, bipolar disorder, and more.[21]

Until March 2024, the VA, for three decades, had provided information to NICS on those who the VA had determined to be "mentally incompetent" because such individuals are prohibited from buying or possessing guns under federal law. As the Supreme Court recognized in *District of Columbia v. Heller* in 2008, prohibitions on the possession of firearms by the "mentally ill" are consistent with the Second Amendment.[22] And the VA process for making mental incompetency determinations also includes strong due process protections that Congress has reviewed and refined twice in recent years on a broadly bipartisan basis with the NICS Improvement Amendments Act of 2007 and the 21st Century Cures Act. These protections include:

- **Notice and the right to a hearing, to present evidence and witnesses, and to have legal representation:** When the VA is made aware that a veteran or other VA beneficiary may be unable to manage his or her own affairs, the VA makes a proposed rating of incompetency and provides the individual with notice of the proposed rating and information about the their right to request a hearing, have representation, and present evidence and witnesses.[23]
- **High standard of proof:** The VA may only make a determination of mental incompetency where the medical evidence is clear, convincing, and leaves no doubt as to the individual's incompetency.[24] Where there is reasonable doubt, such doubt must be resolved in favor of competency.[25]
- **Avenues for appeal of the VA's determination:** An individual who objects to a final determination that he or she is "mentally incompetent" has the right to a hearing before the Board of Veterans Affairs, and the right to judicial review by the Court of Appeals for Veterans Claims, whose decisions may be appealed to the Court of Appeals for the Federal Circuit.[26]
- **Avenues to appeal being considered a prohibited person from firearms possession:** The VA also has a program to provide individuals determined to be "mentally incompetent" with an opportunity to request that their information be removed from NICS with clear criteria for considering requests. These decisions are subject to judicial review in federal district court.[27]

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[20] 38 C.F.R. § 3.353(a).
[21] 38 C.F.R. § 4.130.
[22] *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).
[23] 38 C.F.R. § 3.103.
[24] 38 C.F.R. § 3.353(c).
[25] 38 C.F.R. § 3.353(d).
[26] 38 C.F.R. § 3.353(e).
[27] See Congressional Research Service, "Gun Control, Veterans' Benefits, and Mental Incompetency Determinations" at pp. 7-8 (July 14, 2023). In Fiscal Year 2022, the VA processed 33 petitions under this process, 11 of which involved beneficiaries who were removed from NICS because they successfully appealed their determination of mental incompetency.

NICS is only effective in keeping prohibited persons from obtaining guns when NICS contains updated and accurate information on prohibited persons. It is especially important that NICS contain accurate *and complete* mental health records given the increased risks of suicide and gun violence when guns are in the hands of those with mental illness. At the end of 2023, there were 264,893 active records in NICS of persons who had been determined "mentally incompetent" by the VA.[28] The VA's submission of mental health records to NICS is particularly important in light of the veteran suicide crisis and the fact that veterans are three times more likely to die by gun suicide than non-veterans.[29]

Unwarranted Restrictions on Information Sharing Between the VA and NICS

Even though records of VA mental incompetency determinations are mission-critical for the FBI NICS system to work effectively to deny gun sales to prohibited purchasers, and even though the longstanding system of VA mental incompetency determinations has many due process safeguards built in, and even though Congress has come together twice in recent years to add further due process safeguards though broadly bipartisan laws like the NICS Improvement Amendments Act and the 21st Century Cures Act, there nonetheless has been an effort by certain Members of Congress since 2008 to impede or stop the VA from providing mental health information to NICS. These efforts came to a head in 2024 when a dangerous and misguided rider was added to the Fiscal Year 2024 Military Construction, Veterans Affairs, and Related Agencies Appropriations Act that prohibits the VA from using Fiscal Year 2024 funds to report mental health records to NICS unless the VA is aware that a judge, magistrate, or other judicial authority also determined that the person in question poses a danger to themselves or others.[30] This rider was included in the final legislation, the Consolidated Appropriations Act, 2024, and went into effect in March.

However, in enacting this rider, Congress failed to provide the VA with funding, guidance, support, or time to establish a new process for seeking or obtaining such a court determination. As a result, the VA has stopped all reporting of its mental incompetency determinations to NICS. There are now a growing number of veterans and other VA beneficiaries who have been diagnosed by the VA with serious mental disorders, who have been found by the VA determination process to be "mentally incompetent," and who are at increased risk of suicide—but who the NICS system knows nothing about. Such persons with serious diagnosed mental illnesses and post-March 2024 mental incompetency determinations–likely thousands–can walk into a gun store and purchase a gun because a NICS background check will not stop them. In addition, because the rider included in the Consolidated Appropriations Act, 2024, did not change the underlying law on prohibited persons, but rather *just* restricted VA funds from being used to report records to NICS, those whose names have been withheld from NICS are still prohibited from buying or possessing firearms and are subject to felony penalties for those actions even though they can clear a background check. Congress does not seem to have thought these issues through.

Other legislation has been proposed in this Committee's jurisdiction, including one bill—the Veterans 2nd Amendment Protection Act—that was passed out of Committee in the 118th Congress on a party-line vote that would take this rider even further. This legislation would make

[28] FBI Criminal Justice Information Services Division, National Instant Criminal Background Check System (NICS), Active Entries in the NICS Indices as of December 31, 2023.
[29] See also Everytown for Gun Safety Support Fund, "Those Who Serve: Addressing Firearm Suicide Among Military Veterans" (Mar. 7, 2024).
[30] See Section 413 of the Consolidated Appropriations Act, 2024.

the rider permanent and do so without providing any funding, resources, or even a path for the VA to seek judicial determinations of dangerousness. It would further increase the risk of suicide and self-harm to our most vulnerable veterans. This Committee has also considered legislation to make this rider retroactive—which would result in the removal of hundreds of thousands of mental health records that have been reported to NICS regardless of how long those records have been in NICS. It would be deeply irresponsible for the Committee to make the rider permanent or retroactive without even assessing how many VA records have been blocked from NICS since March 2024 and how many of those veterans may have obtained guns and used them to harm themselves or others. While we know from the VA's latest report that suicides by veterans diagnosed with serious mental disorders increased from 2021 to 2022, we do not yet know what has happened since the rider took effect. Before Congress takes steps to extend or expand it, this Committee should find out.

If Congress believes that more process needs to be added to how the VA determines that someone is "mentally incompetent" and coordinates with NICS, then Congress should provide the VA with the funding, resources, and time to do so. There are numerous credible options to set up an appropriate and efficient process that would include judicial findings of dangerousness. For example, the VA could enlist Veterans' Treatment Courts, the Board of Veterans' Appeals, the Court of Appeals for Veterans Claims—or some combination thereof—to serve as the "judicial authority." Such a straightforward process could leave the current mental incompetency determination process as it has stood for decades, but add an additional evaluation by one of these judicial authorities immediately after the VA makes a mental incompetency determination. In this new step of the process—a final step before the record is ultimately shared with NICS—the judicial authority could evaluate the evidence presented and make a determination whether the newly-prohibited individual presents a danger to themselves or others. While establishing such a process would take resources and time for the VA to implement, those are manageable hurdles—especially if Congress is serious about reducing veteran firearm suicides. However, much of the legislation that has been proposed in this space ignores the question of how judicial findings of dangerousness should be obtained, and amendments that have been offered in the past by Democratic Members of this Committee that would have done so were rejected on party-line votes. At a time when everyone agrees that reducing veteran suicides should be a national focus, it is hard to understand why these proposals fail to address this issue.

Conclusion

It is a national tragedy that we lose 17 veterans to suicide every single day in the United States, and that most of these deaths involve a gun. We know from the VA's latest report that there were at least 1,548 veterans in 2022 who died by suicide after having been diagnosed by the VA with mental health or substance abuse disorders—more than four veterans each day, and that is likely an undercount. We have to do more to reduce veteran suicides, and it is clear that doing so means we have to address how mental disorders and firearm access increase the risk of harm.

Until last March, the VA had established and used a comprehensive process for sharing mental health records with NICS that respected the Second Amendment and that provided robust due process protections with multiple avenues for appeal through the VA and the courts. It was not a perfect system—no system is—but Congress had acted on two separate occasions in recent years to improve it on a bipartisan basis. Congress acted again in March, but rather than build on it, Congress shelved it. In doing so, Congress has removed a critical tool from the VA's suicide prevention toolbox—leaving NICS in the dark about a population of veterans who are at high

risk of self-harm. That is a serious problem that this Committee should be working to correct—not considering legislation that would make it worse.

We hear, time and again, that the way to reduce gun deaths in the United States is to enforce the gun laws on the books and to treat gun violence as a mental health problem. But Congress undermined both of these approaches with last year's rider and some have proposed to go further. That would be unacceptable and dangerous. Instead, this Congress must fix this rider so that it does not take our veteran suicide prevention efforts even further backwards.

Sincerely,

Monisha Henley

Monisha Henley
Senior Vice President for Government Affairs
Everytown for Gun Safety

Letter from the National Fraternal Order of Police Submitted by Mark Takano

NATIONAL FRATERNAL ORDER OF POLICE
PATRICK YOES NATIONAL PRESIDENT JIM PASCO EXECUTIVE DIRECTOR
328 Massachusetts Ave NE | Washington DC 20002
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25 February 2025

The Honorable Michael J. Bost
Chairman
Committee on Veterans Affairs
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mark A. Takano
Ranking Member
Committee on Veterans Affairs
U.S. House of Representatives
Washington, D.C 20515

Dear Mr. Chairman and Representative Takano,

I am writing on behalf of the members of the Fraternal Order of Police to advise you of our opposition to H.R. 472, the "Restore VA Accountability Act," which is being considered by the Committee.

This legislation would take the unprecedented step of amending 38 U.S.C. 714 to allow existing Collective Bargaining Agreements (CBA)—contracts between Federal employees and the U.S. Department of Veterans Affairs (VA)—to be abrogated. This would include the recent CBA ratified and approved by former VA Secretary Denis R. McDonough after the Department elected to suspend the use of its §714 authority, which gutted the due process protections for VA employees—including the officers of the VA Police.

Contracts represent an agreement between employers and employees to ensure that the agency's mission—serving the needs of our nation's veterans and protecting its facilities from crime and violence—is a success. If H.R. 472 is enacted, it would set a terrible precedent that existing contracts could be ignored and threaten the right to bargain collectively for all Federal employees—not just those at the VA. If CBAs can be set aside or ignored, then the bargaining process has no real value for employees or their employers.

The legislation would also reinforce the continued use of the "substantial evidence" standard in disciplinary review and prevent the United States Merit Systems Protection Board (MSPB) or any arbitrator from mitigating any punishment they consider excessive—which is exactly why the VA suspended its §714 authority in the first place. We expect our laws to protect due process rights, not undermine them. Should this bill become law, Federal employees in the VA would lose their voice in the workplace, leaving us to wonder—who will be next? The FOP cannot support the legislation as currently drafted.

On behalf of the more than 377,000 members of the Fraternal Order of Police, and especially our VA Police members, I urge the Members of this Committee to reject H.R. 472. If I can provide any additional assistance or information, please do not hesitate to contact me or Executive Director Jim Pasco in our Washington, D.C. office.

Sincerely,

Patrick Yoes
National President

cc: Chris Southwood, President, Illinois State Lodge
Robert Nowaczyk, National Trustee, Illinois State Lodge
Roger Hilton, President, California State Lodge
Matt Heady, National Trustee, California State Lodge