



**STATEMENT FOR THE RECORD
OF
THE AMERICAN LEGION**

TO THE

**SUBCOMMITTEE ON HEALTH
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

PENDING LEGISLATION

MARCH 29, 2017

Chairmen Wenstrup, Ranking Member Brownley and distinguished members of the Subcommittee on Health, on behalf of National Commander Charles E. Schmidt, the country's largest patriotic wartime service organization for veterans, comprising over 2.2 million members and serving *every* man and woman who has worn the uniform for this country, we thank you for the opportunity to submit this statement of The American Legion's positions on the following pending legislation.

H.R. 91: Building Supportive Networks for Women Veterans Act

To amend title 38, United States Code, to make permanent the pilot program on counseling in retreat settings for women veterans newly separated from service in the Armed Forces.

This bill makes permanent the Department of Veterans Affairs' (VA) successful pilot program, established under the *Caregivers and Veterans Omnibus Health Services Act of 2010*, to provide counseling and reintegration services in retreat settings for women veterans coping with Post-Traumatic Stress Disorder (PTSD) and other wounds of war who, are recently separated from service after a prolonged deployment.

Women veterans are the fastest growing demographic serving in the military, so we can expect the number of women veterans using VA care to increase dramatically. Resolution No. 147: Women Veterans, passed during our 2016 National Convention in Cincinnati, Ohio, calls on The American Legion to work with Congress and the VA to ensure that the needs of current and future women veteran populations are met. Just as women veterans have dedicated themselves to service, so should a grateful nation be dedicated to providing them with the specialized services they require.¹ The American Legion actively supported the legislation that introduced this program two years ago, and we support the continuation of the program now.

The American Legion supports H.R. 91.

H.R. 95: Veterans' Access to Child Care Act

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide child care assistance to veterans receiving certain medical services provided by the Department of Veterans Affairs.

In 2010 Congress established a childcare pilot program as part of the 2010 *Caregivers and Veterans Omnibus Health Services Act*, (Public Law 111-163), which was signed into law in 2011. The program was established so that veterans had access to child care while receiving health care services at a Department facility.

¹ American Legion Resolution No. 147 (Sept. 2016): [Women Veterans](#)

Currently, the pilot program is only available to the primary caretaker of a child or children receiving regular mental health care services, intensive mental health care services, or such other intensive health care services that the Secretary determines; that provision of assistance to the veteran to obtain child care would improve access to such health care services by the veteran; or in need of regular or intensive mental health care services from the Department, and but for lack of child care services, would receive such health care services from the Department.

The pilot program has been extended several times and is due to expire on December 31, 2017. This bill would make the VA's Child Care Pilot Program permanent and expanded so that all veterans, who are primary caretakers, have a safe, reliable, and cost-free option for child care when they use the services of the VA.

During The American Legion's System Worth Saving visits, our research tells us that failure to enact this legislation will discourage women veterans who lack access to reliable childcare, from maintaining and attending their healthcare appointments at VA. This is an unacceptable outcome and disproportionately disenfranchises women veterans who happen to be single parents, and women veteran spouses who live in regions where cultural norms expect woman to care for the dependent children absent paternal assistance during work hours.

The American Legion, by Resolution No. 43 (2016): Department of Veterans Affairs Child Care Program, supports legislation to provide child care services to veterans with children in order for the veteran to receive access to the quality care they have earned.²

The American Legion supports H.R. 95.

H.R. 467: VA Scheduling Accountability Act

To direct the Secretary of Veterans Affairs to ensure that each medical facility of the Department of Veterans Affairs complies with requirements relating to scheduling veterans for health care appointments, to improve the uniform application of directives of the Department, and for other purposes.

This bill would require the director of each VA health care facility to annually certify to the VA Secretary that their medical facility is in full compliance with VHA Scheduling Directive 2010–027, VHA Outpatient Scheduling Processes and Procedures, or any successor directive. It would also direct the VA Secretary on a yearly basis to report to both Veterans Affairs' Committees a list of medical centers that have certified compliance and a list that have not. VA would also have to provide an explanation of why those facilities did not meet the requirements set forth within the VHA directive.

A 2014 report issued by the VA Office of Inspector General found that a senior VA official in May 2013 waived a requirement that medical facility directors annually certify their compliance

² American Legion Resolution No. 43 (Sept. 2016): [Department of Veterans Affairs Child Care Program](#)

with the VA's scheduling policies. Waiving this requirement reduces accountability for facilities charged with caring for veterans and damages the integrity of wait time data.³

While The American Legion does not oppose this provision, we find it troublesome that Congress feels the need to pass a law to require VA to adhere to VA regulations. The American Legion has long been a supporter of VA accountability⁴ and if proper accountability measures were in place, then there would be no need to this legislation. We are also cognizant of the cost and employee burden these additional requirements consume, and while advocating for reduced middle management at VA in favor of committing more resources to providing direct healthcare, The American Legion calls on Congress to review the reams of reports required by statute in favor of a more digestible and streamlined oversight plan. The American Legion has called on Congress in the past and renews our call here to require VA to provide a quadrennial plan to Congress outlining VA's strategic plan for program implementation as well as program funding.⁵

The American Legion Supports H.R. 467.

H.R. 907: Newborn Care Improvement Act

To amend title 38, United States Code, to improve the care provided by the Secretary of Veterans Affairs to newborn children.

Currently, VA covers newborn care for the first seven days after birth in a non-department facility for eligible women veterans who are receiving VA maternity care. This bill would extend the time frame VA would be responsible for costs, up to 42 days.

Newborn care includes routine post-delivery care and all other medically necessary services according to generally accepted standards of medical practice. VA does not provide child delivery care in VA health care facilities, but rather refers women veterans outside the VA through contracted care. Under current law, VA only provides care for the first 7 days after birth, even if birth complications require continued care beyond that period.⁶ Beyond 7 days, the cost of care is the responsibility of the veteran and not VA.

In 2011, The American Legion conducted a Women Veterans Survey with 3,012 women veterans in order to better understand their healthcare needs through VA. The survey found while there were improvements in the delivery of VA healthcare to women veterans, challenges with service quality in the following areas remained:

- tangibles
- reliability
- responsiveness
- competence

³American Legion Resolution No. 3 (Sept. 2016): [Department of Veterans Affairs Accountability](#)

⁴ Ibid

⁵ American Legion Resolution No. 1 (Sept. 2016): [Department of Veterans Affairs Quadrennial Plan for Budget](#)

⁶ [VA Women's Health Care FAQ](#)

- courtesy
- communication
- credibility
- security
- access
- understanding

In 2012-2013, The American Legion’s System Worth Saving Task Force report focused on women veterans’ health care. The objectives of the report were to:

- Understand what perceptions and barriers prevent women veterans from enrolling in VA,
- Determine what quality-of-care challenges women veterans face with their VA health care, and to
- Provide recommendations and steps VA can take to mitigate access barriers and quality-of-care challenges.

While maternity and newborn care is primarily purchased outside VA, the Task Force found several medical centers had challenges finding hospitals in the area that would accept fee-basis for maternity care services due to VA’s required use of the Medicare reimbursement rate. At other medical centers, fee-basis expenditures on women veterans’ gender-specific services were not even available. We bold this section to highlight the disparity between the quality of care at VA, and readily available care at Medicare rates, which is often the foundation on which VA contracted care is based. Continued discussions surrounding VA outsourcing and Choice need to account for the cost associated without restrictions as established by Medicare rates. These differences were highlighted by The Commission on Care’s report on estimating costs part 3⁷, and 4 (⁸&⁹) and CBO’s report, Comparing VA’s cost with civilian care costs¹⁰

The Task Force report recommended that Business Office managers be required to track women veterans’ gender-specific fee-basis expenditures.¹¹ Furthermore, it was also recommended that these expenditures should be rolled up by VA Central Office and disseminated to stakeholders and the public to better facilitate planning for future needs within VA.

The American Legion is committed to working with VA in order to ensure that the needs of the current and future women veterans’ population are met and the VA should provide full comprehensive health services for women veterans department wide.¹²

The American Legion supports H.R. 907.

⁷ <https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/912/2016/04/Estimating-Costs-for-Veterans-Health-Part-3.pdf>

⁸ <https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/912/2016/05/Estimating-Costs-for-Veterans-Health-Part-4-Day-1.pdf>

⁹ <https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/912/2016/05/Estimating-Costs-for-Veterans-Health-Part-4-Day-2.pdf>

¹⁰ https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/49763-VA_Healthcare_Costs.pdf

¹¹ [The American Legion System Worth Saving Report: “Women Veterans Health Care”- 2013](#)

¹² American Legion [Resolution No. 147: \(Sept. 2016\) Women Veterans](#)

H.R. 918: Veteran Urgent Access to Mental Healthcare Act

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to furnish mental health care to certain former members of the Armed Forces who are not otherwise eligible to receive such care and for other purposes.

Being dismissed involuntarily from the military can have profound consequences for servicemembers, their families, and their future. The American Legion places a premium value on an honorably discharged status, but also recognizes that some veterans are wrongfully discharged with characterizations that are less than Honorable due to medical injuries incurred during their honorable military service. Former Secretaries of Defense Chuck Hagel and Ash Carter, as well as the President of the United States has called on the Department of Defense (DoD) to ensure that they properly screen service members for illness or injury, and especially PTSD before discharging them with less than honorable discharges, and further called on DoD to enjoin with veterans who have discharges characterized as less than honorable for the purposes of a generous review to ensure these veterans were not wrongly discharged due to medical complications that should have been addressed by DoD prior to discharge.¹³

This legislation seeks to minimize rewarding bad behavior by narrowing the eligibility to those veterans who had a higher propensity for being wrongfully discharged, because the story of former servicemembers who don't get help when their combat injuries fuel misconduct happens all too often when DoD fails to properly address these sustaining mental and physical health issues. The unfair result is that these veterans have been discarded with involuntary discharges that prevent them from receiving military retirement, medical care, disability and GI Bill benefits – all in the interest of speed and cost savings.¹⁴

Many of these veterans end up homeless and are at greater risk of suicide when they have no access to health care, even though VA has the discretion to provide medical benefits on a case-by-case basis. Veterans who were kicked out of the military for misconduct related to PTSD, TBI and other invisible wounds are also excluded from receiving help from many nonprofits.

Involuntary discharges have become an issue during the wars in Iraq and Afghanistan. A litany of negative media prompted Congress to order the military to carefully review the combat experiences of servicemembers before discharging them for misconduct. Yet another 22,000 soldiers have been involuntarily discharged since that 2008 legislation was passed, according to an investigation by National Public Radio¹⁵, and involuntary discharges for misconduct are only part of the problem. A significant number of U.S. servicemembers who are discharged for personality disorders or adjustment disorders are also diagnosed with combat-related mental health issues such as PTSD during military medical exams.

¹³ <http://archive.legion.org/bitstream/handle/123456789/2498/2013S026.pdf?sequence=1&isAllowed=y>

¹⁴ Olsen, K. (2016, May). Booted after battle. American Legion Magazine. Retrieved from <https://www.legion.org/magazine/232778/booted-after-battle>

¹⁵ <http://www.npr.org/2016/12/01/498557687/army-contests-npr-investigation-of-dismissed-soldiers-in-misleading-report>

Two weeks ago, VA Secretary Dr. David Shulkin announced that VA would begin providing “urgent care” mental health services for veterans with bad paper discharges. But these services will be very limited.

The American Legion is pleased to offer our support for H.R. 918, the *Veteran Urgent Access to Mental Healthcare Act*. This important bill would direct the VA to provide initial mental health assessment and urgent mental healthcare services to certain veterans at risk of suicide or harming others, even if they have an Other Than Honorable (OTH) discharge. We believe this bill targets a specific group of veterans that have possibly been wronged by DoD, and is in concert and theme with our Resolution No. 26: Mischaracterization of Discharges for Servicemembers with Traumatic Brain Injury.¹⁶

The American Legion Supports H.R. 918.

H.R. 1005

To amend title 38, United States Code, to improve the provision of adult day health care services for veterans.

State Veterans Homes are facilities that provide nursing home and domiciliary care. They are owned, operated and managed by state governments. They date back to the post-Civil War era when many states created them to provide shelter to homeless and disabled veterans.

Currently, there are only two Adult Day Health Care programs at State Veterans Homes in the United States. Both are located on Long Island, New York. However, these programs could easily be offered at the other 151 State Veterans Homes located throughout the country.

H.R. 1005 would provide no cost medical model Adult Day Health Care to veterans at State Veterans Homes who are 70 percent or more service-connected disabled. This bill is an extension of Public Law (P.L.) 109-461: Section 211, *Veterans Benefits Health Care, and Information Technology Act of 2006*, which currently provides no cost nursing home care at any State Veterans Home to veterans who are 70 percent or more for their service-connected disability and who require significant assistance from others to carry out daily tasks.

Adult Day Health Care is a daily program for disabled veterans who need extra assistance and special attention in their day to day lives. Adult Day Health Care programs provide disabled veterans and their families with a high quality alternative to nursing home care and quality outpatient services for those suffering from debilitating illnesses or disabilities. These programs provide a range of services, from daily activities such as bathing, to full medical services, like physical therapy. The focus of the program is on improving a disabled veterans’ quality of life, which is why we support expanding this great option of care for our veterans.¹⁷

¹⁶ Resolution No. 26 (2016): [Mischaracterization of Discharges for Servicemembers with Traumatic Brain Injury](#)

¹⁷ American Legion Resolution No. 377 (Sept. 2016): [Support for Veteran Quality of Life](#)

The American Legion Supports H.R. 1005.

H.R. 1162: No Hero Left Untreated Act

To direct the Secretary of Veterans Affairs (VA) to carry out a pilot program to provide access to magnetic EEG/EKG-guided resonance therapy to veterans.

In the wake of serious concerns about over prescription of medications by VA physicians, The American Legion agrees that VA can do more to ensure that veterans and servicemembers have the most dependable and precise treatment available to treat their combat-related illnesses and injuries with the least amount of negative side effects. The American Legion, like the rest of the nation is desperate to see the rate of suicide among our veteran population begin to decrease, and hopes that efforts by VA will help guide the rest of the nation in treating this epidemic.

The American Legion has recently learned that the Veterans Health Administration (VHA) has implemented a pilot program at approximately 23 VA Medical Centers across the country using Electromagnetic Therapy to treat veterans with depression. VHA is using Repetitive Transcranial Magnetic Stimulation, or RTMS therapy, which involves up to 30 sessions over a six-week period. The American Legion is following this pilot closely and is hopeful that this non-pharmaceutical noninvasive therapy will prove successful and provide VA with another tool to help deal with depression and Post Traumatic Stress Disorder.

The American Legion has long advocated for complementary and alternative medicines (CAM) to be further explored by VA and applaud this pilot. Additionally, The American Legion's PTSD/TBI Committee has reviewed several promising CAM treatments that include using EEG technology to help better determine the efficacy of certain medications on patients with correlating quantitative electroencephalogram (EEG) neurometrics, treatment with lesser toxic and addictive substances such as the drugs CBD and THC, both found in the cannabis plant, and Hyperbaric Oxygen Therapy (CBOT). The American Legion urges Congress to first review VA's current pilot program, monitor the strategic objectives and plans for evaluating how RTMS therapy will benefit veterans before embarking on a therapy that has not received FDA approval for the purposes that it is being suggested VA use it for.

Once the therapy outlined in H.R. 1162 is evaluated and approved by the FDA for this intended purpose, The American Legion will call on VA to compare a Magnetic EEG/EKG-guided resonance therapy program to determine which would be in the best interest of veterans and the most cost effective to American tax payers. Until that time, The American Legion is unable to support this bill

The American Legion opposes H.R. 1162.

H.R. 1545: VA Prescription Data Accountability Act of 2017

To amend title 38, United States Code, to clarify the authority of the Secretary of Veterans Affairs to disclose certain patient information to State controlled substance monitoring programs, and for other purposes.

In 2016, over 80,000 people died from drug overdoses or accidental drug toxicity caused by lethal combinations of opioids and benzodiazepines and Prescription Drug Monitoring Programs (PDMPs) are designed to combat these two public health epidemics. PDMPs ensure health care providers do not accidentally prescribe dangerous and potentially lethal combinations of drugs to patients who also see other healthcare providers. These state programs also have been proven to curb “doctor shopping” whereby people visit multiple health care providers to solicit more prescription medications than their original doctor has agreed to prescribe.

This bill would amend Title 38, U.S.C. Section 5701 by clarifying the authority of the Secretary of VA to disclose certain patient information to state controlled PDMPs. This bill also expands that group of individuals to anyone who is prescribed medication through the VA to include descendants of veterans, staff at VA, and individuals receiving disaster relief.

The American Legion supports the use of Electronic Health records as a method of coordinating care provided to veterans outside VA medical facilities and the controlled but widespread sharing of electronic medical records so that veterans can receive the highest possible quality healthcare available.¹⁸

The American Legion Supports H.R. 1545.

H.R.1662

To amend title 38, United States Code, to prohibit smoking in any facility of the Veterans Health Administration, and for other purposes.

Over the years, many hospitals across the country have been implementing smoke-free campuses in order to promote a healthy environment and their commitment to a person’s overall health. The draft bill would prohibit any person from using tobacco products on the grounds of any VA medical facility on or after October 1, 2022. The American Legion is unable to determine whether this bill seeks to provide a safe patient environment by protecting staff and patients from second hand smoke, is a proposed law to eliminate a perceived nuisance, or an overreach by government to legislate personal choices. The American Legion is holding this bill for further review before we offer any recommendation.

¹⁸ American Legion Resolution No. 83 (Sept. 2106): [Virtual Lifetime Electronic Record](#)

The American Legion currently has no position on this bill.

Draft Bill: Veterans Affairs Medical Scribe Pilot Act of 2017

To direct the Secretary of Veterans Affairs to carry out a pilot program on the use of medical scribes in Department of Veterans Affairs medical centers.

Veterans are experiencing long wait times for VA health care for a variety of reasons, but in part due to high patient load and not enough doctors to serve the population. This shortage is a nationwide problem in both government and nongovernment medicine.

A medical scribe is a paraprofessional who specializes in charting physician-patient encounters in real time, such as during medical examinations. Depending on which area of practice the scribe works in, the position may also be called clinical scribe, ER scribe or ED scribe (in the emergency department), or just scribe (when the context is implicit). A scribe is trained in health information management and the use of health information technology to support it. A scribe can work on-site (at a hospital or clinic) or remotely from a Health Insurance Portability and Accountability Act (HIPAA) secure facility. Medical scribes who work at an off-site location are known as virtual medical scribes and normally work in clinical settings.

A medical scribe's primary duties are to follow a physician through his or her work day and chart patient encounters in real-time using a medical office's electronic health record (EHR) and existing templates. Medical scribes also generate referral letters for physicians, manage and sort medical documents within the EHR system, and assist with e-prescribing. Medical scribes can be thought of as data care managers, enabling physicians, medical assistants, and nurses to focus on patient in-take and care during clinic hours. Medical scribes, by handling data management tasks for physicians in real-time, free the physician to increase patient contact time, give more thought to complex cases, better manage patient flow through the department, increase productivity to see more patients, help ease physician burnout, and can help incentivize physicians to come to work for, or stay at VA.

The draft bill would require VA to carry out a 2 year pilot program in no less than 10 VA medical centers located in rural areas, urban areas, and areas in need of increased access or increased efficiency. The draft bill would increase the use of medical scribes to assist VA physicians with their workload and would ensure doctors have more time to see patients rather than entering in medical data. By VA utilizing medical scribes in health care settings, it will serve as a recruitment tool for doctors who want an employment package comparable to the private sector.

The American Legion supports any legislation and programs within the VA that will enhance, promote, restore or preserve benefits for veterans and their dependents, including timely access to quality VA health care.¹⁹

¹⁹ American Legion Resolution No. 377 (Sept. 2016): [Support for Veteran Quality of Life](#)

The American Legion supports the draft bill.

Conclusion

As always, The American Legion thanks this subcommittee for the opportunity to explain the position of the over 2.2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Warren J. Goldstein at The American Legion's Legislative Division at (202) 861-2700 or wgoldstein@legion.org.