



NATIONAL ASSOCIATION OF STATE VETERANS HOMES

“Caring for America’s Heroes”

TESTIMONY OF

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NATIONAL ASSOCIATION OF STATE VETERANS HOMES (NASVH)

BEFORE THE

HOUSE VETERANS’ AFFAIRS SUBCOMMITTEE ON HEALTH

HEARING ON

***“Oversight of State Veterans Homes During
the COVID-19 Pandemic”***

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Chairwoman Brownley, Ranking Member Dr. Dunn and Members of the Subcommittee:

Thank you for inviting the National Association of State Veterans Homes (NASVH) to testify on the quality of care and infection control practices at State Veterans Homes during the Coronavirus Disease 2019 (COVID-19) pandemic. I currently serve as President of NASVH, an all-volunteer organization dedicated to promoting and enhancing the quality of care and life of veterans and families in State Veterans Homes through education, networking, and advocacy. However, my full-time job since 2011 has been as Chief Executive Officer of the Vermont Veterans' Home, which has a 130-bed skilled nursing care facility, as well as a small domiciliary care program. I am pleased to be here today on behalf of NASVH to discuss VA's role in overseeing State Veterans Homes, how State Veterans Homes responded to the pandemic, what role the Department of Veterans Affairs (VA) has played, how NASVH assisted Homes throughout this national health emergency, and what Congress can do to help us protect and care for the heroes who reside in our Homes.

Overview of State Veterans Homes and NASVH

Chairwoman Brownley, the State Veterans Home program dates back to the post-Civil War period when the first State Veterans Home was established in 1864 at Rocky Hill, Connecticut. Today, there are 157 State Veteran Homes located in all 50 states and the Commonwealth of Puerto Rico, with over 30,000 authorized beds providing a mix of skilled nursing care, domiciliary care and adult day health care, which accounts for over half of all federally supported institutional long care for our nation's veterans. However, as VA's FY 2021 budget submission makes clear, State Veterans Homes will consume less than one quarter of VA's FY 2020 total obligations for long term institutional care. Furthermore, VA's calculation of the institutional per diem for State Veterans Homes skilled nursing care is 40% lower than rates paid for private sector community nursing homes and less than one-sixth the cost of VA's own community living centers (CLCs).

The State Veterans Homes program is a partnership between the federal government and state governments. State Homes receive basic per diem payments from VA for providing skilled nursing care, domiciliary care, and adult day health care (ADHC) to eligible veterans. Although VA is authorized to provide per diem payments up to 50 percent of the cost of care, the average per diem rate in recent years has averaged about 30 percent; however, that percentage has dropped dramatically during the COVID-19 pandemic, as I will explain later in this testimony. Since enactment of Public Law 112-154, VA pays a higher prevailing rate for veterans who need nursing home care due to a service connected disability or for veterans with service-connected disabilities rated at 70 percent or higher. This prevailing rate per diem varies among the states and is considered payment in full.

VA also provides Grants for State Extended Care Facilities, commonly known as State Home Construction Grants, which provide states with up to 65 percent of the cost to build, renovate and maintain Homes, with states required to provide at least 35 percent in matching funds. As a condition of receiving these grants, states must continue to operate the program for at least 20 years or be subject to recapture provisions in federal law.

The National Association of State Veterans Homes (NASVH) was conceived at a New England organizational meeting in 1952 because of the mutual need of State Homes to promote strong federal policies and to share experience and knowledge among State Home administrators to address common problems. NASVH's primary mission is to promote and enhance the quality of care and life of veterans and families in State Veterans Homes through education, networking, and advocacy. NASVH is a voluntary association committed to caring for our nation's heroes with the dignity and respect they deserve. NASVH does not exercise any control or in any way govern or regulate the member Homes in the association.

Inspections of State Veterans Homes and VA's Oversight Role

As a condition of providing federal funding, VA certifies and closely monitors the care and treatment of veterans in State Veterans Homes. Although VA does not have statutory "*...authority over the management or control of any State home.*" [38 USC 1742(b)], federal law provides VA the authority to "*...inspect any State home at such times as the Secretary deems necessary.*" and to withhold per diem payments if VA determines that the Home fails, "*to meet such standards as the Secretary shall prescribe...*" [38 USC 1742(a)]

As required by law, VA performs a comprehensive inspection survey of each State Veterans Home annually to assure resident safety, high-quality clinical care and sound financial operations. This inspection survey is typically an unannounced week-long comprehensive review of the Home's facilities, services, clinical care, safety protocols and financial operations.

In fact, VA has extensive regulations covering every aspect of State Veterans Homes' operations. 38 C.F.R. Part 51, Subpart D, sections 51.60 through 51.210, provides a description of the standards for skilled nursing facilities that every State Veteran Home must comply with to ensure resident rights, quality of life, quality of care, nursing services, dietary services, physician services, specialized rehabilitative services, dental services, pharmacy services, infection control, and the physical environment of the Homes. In total, there are more than 200 clinical standards reviewed during VA's annual inspection survey, in addition to dozens of fire and life safety standards, which are outlined in the National Fire Protection Association (NFPA) Life Safety Codes and Standards. Finally, VA surveys and inspections conduct a financial audit concerning the Homes financial operations and to ensure proper stewardship of residents' personal funds. There are also similarly detailed regulations for domiciliary and adult day health care programs run by State Veterans Homes.

When these inspections find deficiencies, State Veterans Homes are required to resolve or rectify them as a condition of maintaining their recognition as a State Veterans Home and continue their eligibility to receive VA per diem. As GAO confirmed in its July 2019 report (GAO-19-428), "*...VA required SVHs to produce corrective action plans and tracked the SVH's progress until they were resolved.*" The local VA Medical Center (VAMC) of jurisdiction will normally re-inspect State Veterans Homes to ensure that all necessary corrections were properly completed and that the Home is in full compliance with all VA regulations.

The GAO report also noted that VA does not include data and ratings for State Veterans Homes on its *Access to Care* website, which is intended to provide veterans and their families with comparative information to make decisions about the best care settings for veterans needing skilled nursing care. NASVH has repeatedly asked VA to include State Veterans Homes on such comparison websites. Recently, VHA has released data and rankings specific to the State Veterans Homes called *State Veteran Home Analytics*, which provide specific quality indicators and a ranking for each Home among peer facilities.

Chairwoman Brownley, about 60 percent of State Veterans Homes are also certified to receive Medicare support for their residents and must undergo annual inspections by the Centers for Medicare and Medicaid (CMS) to assure safety and quality care. The CMS inspection survey processes are more than 90 percent identical to the clinical life and safety sections of the VA inspection survey. It is also a week-long inspection that is not announced in advance, and all deficiencies identified by the CMS inspection must be corrected as a condition of continuing to receive CMS financial support.

In addition to the VA and CMS inspections, State Veterans Homes are also subject to both regular and periodic inspections and audits from the Inspector General of the Department of Veterans Affairs, and the Civil Rights Division of the Department of Justice, among other inspectors. State Veterans Homes generally function within a state's department or division of veterans' affairs, public health, or other accountable agency, and typically operate under the governance and oversight of a board of trustees, a board of visitors, or other similar accountable public bodies. State Veterans Homes have regular inspections from state and local authorities examining their fire safety preparedness, pharmaceutical practices, health and sanitary protocols, food safety practices and other public health and sanitization protocols. Moreover, State Veterans Homes are held accountable to the general public through oversight by Congress, veterans service organizations and the media.

Finally, State Veterans Homes hold themselves accountable for the quality of care through a myriad of internal management controls aimed at achieving continuous quality improvement of their programs of care for sick, elderly and disabled veterans, along with veterans in need of rehabilitation and counseling services. NASVH is committed to working with Congress and VA to ensure that all veterans who choose to reside in a State Veteran Home receive the highest quality of care.

How COVID-19 Impacted State Veterans Homes

Chairwoman Brownley, as COVID-19 began to show up in locations throughout the United States, State Veterans Homes were among the first institutions to take significant precautions to protect our residents. Battling communicable viruses is already a regular part of our operations and our Homes have strong infection control regimes which are utilized every year as we seek to prevent and mitigate the spread of influenza and other viruses in our facilities.

It is important to note that our residents are primarily older men who have significant disabilities and comorbidities. As we have learned, COVID-19 has disproportionately impacted older men with underlying health conditions. While community nursing homes have a greater percentage

of women compared to men, State Veterans Homes are overwhelmingly male due to the historic composition of the military. Moreover, according to VA's FY 2020 budget submission, almost half (46%) of veterans in State Veterans Homes are 85 years of age or older compared to about one-quarter of the veterans in VA's CLCs (22%) or community nursing homes (25%).

Like the rest of the nation's health care system, as COVID-19 emerged as a threat, State Veterans Homes quickly found themselves on the frontlines of this pandemic. Although each state set its own policies for its State Veterans Homes regarding how to prepare and respond to COVID-19, when VA announced on March 10th that it would suspend all visitation to veterans in its CLCs, some State Veterans Homes had already taken that same precaution, and the rest would soon follow, with most allowing exceptions for end of life family visitation. When COVID-19 began to enter State Veterans Homes in March, a number of Homes suspended new admissions, a practice that almost all Homes established at some point over the past five months. Early on, Homes began screening staff and residents for symptoms of COVID-19, however as we have learned since, the significant level of asymptomatic spread of the virus made it almost impossible to keep the virus out of any facility or location in the country. As the importance of social distancing became clear, Homes had to end group activities, stop communal dining and increase supervision of residents with dementia and other behavioral issues to limit their exposure to and from other residents. Many State Veterans Homes also invested in new infection control systems, such as negative air flow rooms and ionization systems.

From the onset of the pandemic, State Veterans Homes sought to procure sufficient personal protective equipment (PPE) in an effort to protect veterans and staff. However, inadequate national inventory and stockpiles of PPE – particularly N95 masks, isolation gowns and face shields – was a tremendous problem. Some Homes became creative, finding N95 masks through painting supply companies, goggles for face shields through scuba and swimming suppliers, and reusable body gowns made by hockey equipment manufacturers. When one State Home found a reliable supplier of PPE, they shared their sources with other Homes.

Another critical challenge was the inability to quickly and accurately test for COVID and receive timely, valid results for both residents and staff. As a result, when one resident or staff member tested positive, Homes would often quarantine other staff or residents who might have come in contact with the person who tested positive. This resulted in large numbers of staff in some State Veterans Homes being required to remain out of work until they passed a 14-day quarantine period or had one or more negative test results to indicate they did not carry the virus. Homes developed and implemented plans to cohort their residents and staffs between those who cared for COVID positive residents and those who cared for veterans without the virus. Almost all Homes were forced to increase overtime for remaining staff or to bring in additional temporary staff, significantly increasing costs.

One of the main functions of NASVH is to help share information and best practices among the Homes, and this has been particularly important during the pandemic. On March 17th, a VA-NASVH Town Hall was held to discuss the steps that VA was taking to prevent and prepare for the threat of COVID-19, and to answer questions from the Homes. On April 17th, NASVH organized another Town Hall in conjunction with the National Association of State Directors of Veterans Affairs (NASDVA) to share the experiences from a few of the first State Veterans

Homes forced to deal with COVID-19 in their facilities. On May 5th, a second VA-NASVH Town Hall meeting was conducted to update the latest guidelines and practices to prevent and mitigate the spread of COVID-19.

In addition, NASVH quickly established a “Coronavirus – Infection Control” page on its website to share the latest information about COVID-19 from VA, CMS, the Centers for Disease Control (CDC), Federal Emergency Management Agency (FEMA), the World Health Organization (WHO) and other public and private health organizations. Individual State Veterans Homes also shared their infection control policies, protocols and administrative procedures, as well as other practical information and tools. NASVH has served as a clearinghouse to help State Veterans Homes throughout this national health emergency.

How VA Has Supported State Veterans Homes During the COVID-19 Pandemic

In March, NASVH began talking with this Committee and its counterpart in the Senate about the impact the COVID-19 was having on State Veterans Homes, and how Congress could help. In response, several provisions to address challenges facing State Veterans Homes were adopted into the CARES Act (P.L. 116-136), which was enacted on March 27, 2020. First, the law included temporary waivers from occupancy rate and veteran percentage requirements in recognition that many State Veterans Homes were not admitting new veterans, and thus their rates and percentages might drop during the pandemic. Second, the law included a provision that authorized VA to provide PPE to State Veterans Homes during this public health emergency. On behalf of NASVH and the veterans we serve, I want to thank you, Chairwoman Brownley and Ranking Member Dr. Dunn, as well as your staffs, for your leadership that helped secure these important provisions in the CARES Act. After the CARES Act was signed into law, NASVH leaders and some State Home administrators reached out to VA to ask if they would be able to support State Veterans Homes with PPE pursuant to the new authority. At that time, VA officials responded that the provision in the CARES Act was only a discretionary authority, that VA would not be able to provide any PPE to State Veterans Homes, but that they would have to continue working through their States and FEMA for such assistance.

However, several weeks later, as the deadly threat of the pandemic to all nursing homes became increasingly clear, VA began a very rapid and effective outreach effort to State Veterans Homes. Secretary Wilkie and other senior leaders began call governors and other state officials asking how VA could support their State Veterans Homes. In the weeks and months that have followed, VA has provided significant support to dozens of Homes, providing critical PPE, testing supplies and processing, clinical staffing and support as well as accepting COVID-positive veterans from some State Veterans Homes. I have heard from dozens of NASVH members about how VA has supported their efforts during these challenging times, and I can say that VA has been a responsive and supportive partner to State Veterans Homes during this pandemic.

How Congress Can Support Veteran Residents and State Veterans Homes

Looking forward, there a few ways that Congress can help State Veterans Homes as we care for the men and women who served our nation in uniform. The CARES Act also included \$150 million in emergency appropriations for State Home construction grants to prevent, prepare for

and respond to the COVID-19 pandemic. However, due to the timing of the annual VA grant cycle, only a few State Veterans Homes were able to submit grant applications, leaving most of the emergency funding unused. In order to fully utilize this funding as intended, we have asked to amend this provision so that grants can be received and awarded on a rolling basis; allow grants to reimburse states for modifications or alternations already initiated or completed before grant applications are initiated or completed; and eliminate the requirement that State Veterans Homes provide matching funding to receive these COVID-19 emergency grants. We would ask all Members to support these changes.

As the pandemic continues with no certain end in sight, we are also asking Congress to provide direct emergency financial relief and support to State Veterans Homes to compensate for the extraordinary costs expended by Homes during this national health emergency. Every State Veterans Home has had to significantly increase the amount of PPE, cleaning and sanitizing supplies, and laundry services. Depending on the level of COVID-19 spread in a facility, Homes have had enormous increases for personnel costs for wages, overtime, hazard pay, sick leave and temporary staffing. In addition, a number of Homes have made modifications to buildings and rooms for isolation and sanitization, including the purchase of new equipment.

At the same time, Homes to varying degrees have seen the number of veteran residents decline due to COVID and non-COVID related deaths, while new admissions were suspended. This has led to a significant decrease in the level of VA per diem support provided to State Veterans Homes at a time when our fixed costs remained and new costs for COVID prevention have increased. During this pandemic, State Veterans Homes have lost significant VA per diem support, creating serious financial challenges for Homes to remain solvent at a time when their state budgets are also in crisis. As previously discussed, VA has typically provided basic per diem for skilled nursing care at a rate that covered about 30 percent of the total cost of care. However, at present with average cost of care increasing, while VA support is declining, the basic VA per diem has fallen dramatically as a percent of the total cost of care has fallen dramatically during this pandemic. NASVH has proposed several ways that the Congress and the federal government could help provide financial relief, such as temporary per diem supplements during the public health emergency. However, as this pandemic continues, we now ask that you consider a new proposal that would not require any new appropriations, just existing funding in VA's FY 2020 budget for State Veterans Homes.

Essentially, we would ask that VA continue providing the same total amount of per diem financial support to each State Veteran Home throughout this pandemic as was provided before the start of the national health emergency. The full amount of VA per diem funding for State Veterans Homes has already been appropriated in FY 2020 appropriations, as well as in the FY 2021 advance appropriation, based on pre-COVID levels. Allowing State Veteran Homes to continue receiving VA financial support at pre-COVID levels would respect the unique impacts on each facility, particularly those Homes that realized a greater decline in veteran residents due to COVID-19 and therefore had a greater loss of VA per diem support. Under this proposal, VA would use the average of January 2020 through March 2020 monthly per diem payments as claimed on each State Veteran Home's VA 10-5588 form and continue this average payment reflective of pre-COVID funding levels through the duration of the pandemic. A similarly structured financial relief program from the Department of Health and Human Services provided

support to tens of thousands of private nursing homes, and to a smaller degree to the approximately 60 percent of State Veterans Homes who participate in Medicare and Medicaid programs. However, the HHS funding formula was much less impactful for State Veterans Homes because our utilization of Medicare and Medicaid funding is significantly lower on average than private nursing homes and provided no relief to the 40% of State Homes who do not participate. Our proposal to authorize the continuation of already-appropriated VA per diem funds would offer significant support to State Veterans Homes without requiring any new supplemental appropriations.

Finally, State Veterans Homes are once again having increasing challenges with testing and PPE, particularly as schools and businesses are reopening and competing for these limited supplies and services. One of the lessons that we have learned from this pandemic is that by far the most vulnerable people to COVID-19 are elderly men with underlying health conditions, and nursing homes, particularly State Veterans Homes, are particularly at risk. As such, we would ask that Congress consider ways to ensure that federally supported State Veterans Homes have timely and sufficient access to both PPE and testing.

Chairwoman Brownley, Ranking Member Dunn, that concludes my testimony. Thank you again for the opportunity to appear before the Subcommittee. I look forward to working with you to help protect and care for the men and women who served, and I would be happy to answer any questions that you or other Members may have.