

**STATEMENT OF
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PATIENT CARE SERVICES
VETERANS HEALTH ADMINISTRATION (VHA)
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
U.S. HOUSE OF REPRESENTATIVES**

MARCH 25, 2026

Chairwoman Kiggins, Ranking Member Ramirez, and Members of the Subcommittee, thank you for the opportunity to testify today on 12 bills focused on various VA programs and benefits. Accompanying me today are Mr. Rondy Waye, Executive Director for Human Capital Programs, the Office of Human Resources and Administration, and Mr. Jeffrey Neill, PMP, CFCM, Associate Executive Director, Technology Acquisition Center, Office of Acquisition, Logistics, and Construction.

H.R. 6654 The Veterans Affairs Management and Oversight of Software Assets (VAMOS) Act

Summary: Section 2(a) of this bill would amend title 38, United States Code, by adding a new section 534 titled, "Department-wide software asset management policy." New section 534 (a) establishes that the VA Secretary shall ensure coordination between the Chief Information Officer (CIO) and such other officers as the Secretary considers appropriate to establish and implement a comprehensive policy for managing software assets.

New section 534 (b) provides for minimum policy elements, including: (1) maintaining a comprehensive inventory of software assets; (2) assessing interoperability and license restrictions with respect to those assets; (3) identifying and eliminating waste, fraud, and abuse, by regularly comparing the inventory maintained under (b)(1) against purchase records, subscription records, vendor billing records, and contract files to identify discrepancies, over-procurement, redundant purchases, unauthorized use, and under-utilized licenses; (4) requiring that the CIO coordinate with the relevant VA officials regarding any significant acquisition of a software asset; (5) adopting cost effective licensing strategies including enterprise-wide agreements where practicable; and (6) measuring and enforcing compliance with license terms.

New section 534 (c) requires that the CIO, in consultation with the Chief Financial Officer (CFO) and any other appropriate VA officials, review and update the policy not less than once every 3 years.

New section 534(d) details a training requirement, in that the Secretary shall ensure that each VA employee responsible for acquiring, managing, or implementing software assets receives training no less often than annually on matters relevant to their duties. Such duties include: (1) negotiating contract terms to minimize vendor-imposed restrictions on deployment, data access, and transferability; (2) the differences between acquiring commercial software and custom software development; and (3) evaluating cost models for seat-based, consumption-based, enterprise, or scalable license structures.

New section 534 (e) requires that existing personnel, systems, and funds are used in implementing this Act. This section does not authorize additional appropriations or the establishment of a new program, office, or organizational entity.

New section 534 (f) details an annual reporting requirement to Congress under 38 U.S.C. § 529. The annual report will contain: (1) a description of any

substantive updates to the policy made during the preceding year; and (2) an estimate of cost savings realized from implementation of the policy during the preceding year.

New section 534 (g) provides definitions for the terms “comprehensive inventory of software assets” and “software assets.” “The definition for comprehensive inventory of software assets includes (A)(i) the comprehensive inventory of software licenses required by section 2(b)(2)(A) of the Making Electronic Government Accountable By Yielding Tangible Efficiencies Act of 2016 (P.L. 114–3 210; 40 U.S.C. 11302 note) and any directive issued by the Director of the Office of Management and Budget under that Act; and (ii) a comprehensive inventory of all other software assets (as defined in this section); and (B) reflects all accounts, subscriptions, tenants, deployments, and associated license or usage entitlements. The definition of ‘software asset’ means any software, software-as-a-service product, cloud-based service, platform service, or application programming interface service for which VA incurs a cost to acquire, license, subscribe, operate, or maintain, whether hosted on Government-managed or vendor-managed infrastructure. The term includes any associated software license, subscription, usage right, seat entitlement, capacity allocation, or consumption-based entitlement that governs access to or use of such software functionality.

New section 534 (h) provides a sunset period, in which the requirements and authorities of section 534 shall terminate on the date that is 5 years after the date the VAMOS Act is enacted.

Section 2(b) would amend the Table of Sections by adding the title “534. Department-wide software asset management policy,” after section 533.

Section 2(c) contains a Government Accountability Office reporting requirement for the Comptroller General to submit to the Committees on

Veterans' Affairs of the Senate and the House of Representatives a report not later than 3 years after the date of the enactment of this Act. The report will evaluate: (1) VA's implementation of section 534; (2) the cost savings achieved and duplication reduced; and (3) the degree of operational independence and conflict avoidance in any contractor support used to perform inventory management or entitlement reconciliation.

Position: VA supports the intent of this bill but cites the following concerns.

The intent of this act is already accomplished by the Making Electronic Government Accountable by Yielding Tangible Efficiencies (MEGABYTE) Act of 2016 as well as VA Notice 20-09-Interim Policy on Complying with the Federal Information Technology Acquisition Reform Act (FITARA) & Standard Operating Procedure (SOP) (2020) and memorandum titled, "Modernizing Department of Veterans Affairs Office of Information and Technology (OIT) Federal Information Technology Acquisition Reform Act (FITARA) Procedures (February 2026). The MEGABYTE Act requires each agency CIO to establish a comprehensive inventory of software licenses, track and maintain such licenses, analyze software usage to make cost-effective decisions, provide software license management training, establish goals and objectives of the agency's software license management program, and consider the software license management life cycle phases to implement effective decision-making and incorporate existing standards, processes, and metrics. Given the directive of the MEGABYTE Act, VA implemented VA Notice 20-09-Interim Policy on Complying with FITARA & SOP (2020) and memorandum titled "Modernizing Department of Veterans Affairs Office of Information and Technology (OIT) Federal Information Technology Acquisition Reform Act (FITARA) Procedures (February 2026). The existing policy accomplishes the inventory, training, and reporting goals of the proposed legislation.

H.R. XXXX The Veteran Data Accountability for Third-Party Actions Act or the Veteran DATA Act

Summary: This bill would amend title 38, United States Code, to prohibit the VA Secretary from entering into a contract pursuant to which the contractor may sell sensitive personal information maintained by the VA Secretary and to ensure the protection of personal information in certain contracts of VA.

Section 1 of this bill provides that this Act may be cited as the “Veteran Data Accountability for Third-party Actors Act” or the “Veteran DATA Act.”

Section 2 of this bill would amend 38 U.S.C. § 5725 to require VA to: (1) change the heading, by striking “for data processing or maintenance” and inserting “involving sensitive personal information”; and (2) add a new subsection at the end titled (d) PROHIBITION OF SALE OF SENSITIVE PERSONAL INFORMATION.—The Secretary may not enter into a contract that permits the contractor to sell (or otherwise disclose for consideration) sensitive personal information to another entity.”

Section 3(a) of this bill would require VA to: (1) ensure that each covered contract either includes, or is modified to include, a clause prohibiting covered information from being monetized, sold, or otherwise misused by any contractor, including any subcontractor or affiliate thereof, or other non-VA entity; and (2) issue a directive or other policy providing guidance to employees and contractors of VA on how to identify the monetization, sale, or misuse of covered information in order to ensure contractors are in compliance with clauses in covered contracts. These aforementioned measures must be completed no later than 1 year after the enactment of this Act.

Section 3(b) contains a reporting requirement for the VA Secretary to submit to the appropriate Congressional committees, which are defined in Section 3(c)(1) as the Committees on Veterans' Affairs of the House of Representatives and the Senate. The report will be submitted no later than 1 year after the date of the enactment of this Act. The report will include (1) a copy of the contract clause required by subsection (a)(1); (2) the guidance required by subsection (a)(2); and (3) a summary of any other actions taken to comply with subsection (a).

Section 3(c) provides definitions for the terms "appropriate congressional committees," "covered contract," and "covered information." The definition for "appropriate congressional committees" means the Committees on Veterans' Affairs of the House of Representatives and the Senate. The definition for covered contract means a VA contract that provides for the handling of covered information and is entered into—(A) after the date of the enactment of this Act; or (B) before the date of the enactment of this Act and does not expire before the date of the enactment of this Act. The definition of covered contract means (A) protected health information or personally identifiable information, including such information that has been anonymized; and (B) includes information protected under— (i) 5 U.S.C. § 552a; (ii) 38 U.S.C. §§ 5701 or 7332; (iii) 45 C.F.R. Parts 160, 161, and 164; and (iv) any other provision of law, as determined by the Secretary.

Position: VA's evaluation of this bill is ongoing but cites the following concerns.

VA believes that the proposed legislation is duplicative because the Department of Veterans Affairs Acquisition Regulations (VAAR) clause 85.204-71 already covers the DATA Act and is scheduled to be strengthened in the Revolutionary Federal Acquisition Regulation (FAR) Overhaul. While the Veteran DATA Act is specific in its prohibition of the sale of sensitive and personal

information, the VAAR Clause 85.204-71 does, in fact, cover data custodial requirements by limiting use of such information only for the contract purpose and stipulating that it may not be used in any other way without prior approval (VAAR 85.204-71(f)(1)). The DATA Act includes a provision that requires training on helping employees to identify the monetization of sensitive information, which presents a future revision to be included in the FAR Overhaul.

H.R. XXXX The Reinvesting in Our Veterans Health Act

Summary: To improve the efficiency of the recovery and collection of revenue for the VA Medical Collections Fund.

Position: **VA supports this bill but cites the following concern.**

VA supports this bill as it closely aligns with one of VA's legislative proposals included in the fiscal year (FY) 2026 President's Budget request, specifically section 105 of the Veterans Health, Benefits, and Administration Programs Act of 2026, as submitted by VA to Congress in December. Consolidating collections under this authority directs all reimbursed funds into clinical care, enhancing service quality for Veterans and aligning with core goals of health, housing, and economic well-being. Streamlining financial workflows will allow VA to improve fund allocation and better honor its commitment to Veterans. Placing all collections into the Medical Care Cost Recovery Fund (MCCF) will improve tracking, reporting, and accountability, supporting data-driven decisions and operational excellence.

The proposed amendment to 38 U.S.C. § 1729A would authorize VA to deposit funds collected under the 31 U.S.C. § 3711 and 31 U.S.C. §§ 3729-3733 known as the False Claims Act, into the MCCF to the extent that recoveries are based on medical care, services, or medication provided or paid under this chapter. The amended language also authorizes VA to deposit funds recovered for the costs of care under the Civilian Health and Medical Program of the

Department of Veteran Affairs (38 U.S.C. § 1781) as well as amounts reimbursed to VA for care provided to TRICARE beneficiaries by the Department of Defense under 38 U.S.C. § 8111.

The amended language provides that the Secretary's authority to deposit amounts associated with care provided under 38 U.S.C. § 1781 and 38 U.S.C. § 8111 would expire on September 30, 2028. VA would appreciate the opportunity to discuss the rationale for including an expiration date for these specific authorities.

H.R. XXXX The VA Bonus and Relocation Recovery Act

Summary: The bill amends 38 U.S.C. §§ 721 and 723 to explicitly grant the Secretary the authority to recoup awards, bonuses and relocation expenses from former VA employees and establishes authority to collect these monies.

Position: **VA's evaluation of this bill is ongoing but cites the following concerns.**

Current statutes (38 U.S.C. §§ 721 and 723) allow the Secretary to recoup awards, bonuses, and relocation expenses from VA employees under certain circumstances. VA policy and Office of Personnel Management regulation related to the appeals process already provide for awards, bonuses, and relocation expenses to be recouped from former VA employees as this interpretation is consistent with the application of other statutory language. For example, certain provisions of title 5 reference the right of employees to file an appeal with the Merit Systems Protection Board and provisions of title 38 reference the right of certain employees to obtain judicial review of major adverse actions. However, these statutes do not specifically include the term "former employees" despite the provision applying to those employees who have been removed from Federal service and are categorized as former employees. Therefore, while VA has no

position on this bill, VA is concerned that this bill may have unintended impacts for former employees in other contexts.

The amended statutes also provide a method by which VA can collect monies from former employees for whom a determination is made that an award, bonus, or relocation expense should not have been paid. The amended language allows VA to collect these monies as it would any other type of debt due to the United States. VA does not need this bill to collect debts due to the United States by former employees. VA has and uses current authorities and processes already in place (including referral to the Department of Treasury for delinquent debts).

VA has concerns whether section 5302 is the relevant section for preventing the Secretary from waiving recovery of a debt due to the United States, as that section applies specifically to benefits under any law administered by the Secretary. Waiving overpayments of pay, allowances, travel, transportation, or relocation expenses is generally covered under title 5 section 5584. Other statutes and regulations may require revision, particularly travel regulations to conform with the authority in this bill.

Once a debt is created, the individual has 10 days to repay the debt or respond to the notice of indebtedness before VA will initiate collection. The person can respond to the debt letter by paying the debt (in full or in installments), requesting a hearing (if applicable), or seeking a waiver or compromise through established processes for employee debts. The preclusion of waiver is a departure from applicable law and existing debt recovery processes, and VA would appreciate the opportunity to work with Congress on these changes.

H.R. XXXX Veterans Care Protection Act

Summary: Section 2(a) would create a new 38 U.S.C. § 1730D, which would generally address VA's authority to seek guardians or other representatives for health care decisions for certain Veterans. Specifically, proposed section 1730D(a) would authorize VA, if a Veteran admitted to a VA medical center lacked the capacity to give informed consent under 38 U.S.C. § 7331 and lacked a guardian or other representative with authority to provide such consent, to bring an appropriate action in a court of appropriate jurisdiction to obtain the appointment of a person to serve as a guardian or representative. VA could incur necessary court costs and other expenses incident to such actions. Proposed section 1730D(b) would require VA to authorize VA attorneys to bring such actions; it would also authorize VA to acquire the services of non-VA attorneys to bring such actions. The activities of attorneys in bringing such actions would be subject to the direction and supervision of the Attorney General and to such terms and conditions as may be prescribed. Nothing in this subsection would derogate from the Attorney General's authority under 28 U.S.C. §§ 516 and 519 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party. Proposed section 1730D(c) would authorize VA, in an action described in subsection (a), to disclose the identity of the Veteran and any other information about the Veteran necessary to facilitate the determinations to be made by the court, without regard to 38 U.S.C. § 7332 (generally addressing the confidentiality of certain medical records) or any other provision of law.

Position: **VA strongly supports the intent of this bill, subject to amendments and the availability of appropriations.**

VA strongly supports this bill, subject to amendments and the availability of appropriations. The bill is very similar to one of VA's legislative proposals from the FY 2026 President's Budget request, specifically section 302 of the Veterans Health, Benefits, and Administration Programs Act of 2026, as submitted by VA

to Congress in December 2025. VA recommends amending the bill to match its legislative proposal, while including appropriate protections for Veterans that ensure the appointment of a legal guardian or conservator is necessary and that safeguard their information from misuse.

Some Veterans in receipt of VA care lack a legal guardian or conservator, which is necessary in cases where a legal decision maker is required for post-acute transitions of care or decisions about medical care not otherwise covered by 38 U.S.C. § 7331. VA lacks clear authority to petition state courts to appoint a legal guardian or conservator for these patients. This proposal would allow VA, through its attorneys or those contracted to perform this function, to petition courts for the appointment of a legal guardian or conservator of the person for qualified Veteran patients in cases where a legal decision maker is required for certain post-acute transitions of care or decisions about medical care.

VA would appreciate the opportunity to work with the Committee to amend the bill to match VA's proposal with appropriate protections for Veterans.

H.R. XXXX The Veterans Affairs Subcontractor Competition and Opportunity Network Act or the VA SUBCON Act

Summary: The SUBCON Act directs the Secretary of Veterans Affairs, acting through the Office of Small and Disadvantaged Business Utilization (OSDBU), to build and maintain a database of Small Business Administration-certified small business concerns owned and controlled by Veterans, clearly distinguishing between Veteran-Owned Small Businesses (VOSB) and Service-Disabled Veteran-Owned Small Businesses (SDVOSB). The database is intended to help VA meet statutory small business contracting goals under 38 U.S.C. § 8127 and to support existing review mechanisms, thereby enhancing transparency and accountability in VA small business subcontracting performance.

The bill focuses the database on independently performing, proven small business subcontractors by excluding firms in mentor-protégé programs (MPP) or joint ventures, and those without at least two past prime contracts with Satisfactory or better Contractor Performance Assessment Reporting System (CPARS) ratings. It requires that the database be made available to other-than-small offerors at appropriate acquisition stages so they can develop more robust and compliant small business subcontracting plans, potentially increasing demand for qualified VOSBs and SDVOSBs. The Act also mandates a report to the House and Senate Veterans Affairs Committees within 180 days of database establishment and sunsets the authority on December 31, 2028, limiting long-term budget exposure while allowing assessment of effectiveness before any consideration of permanent authority.

Position: VA supports the overall intent of this legislation but cites concerns.

The SUBCON Act establishes a targeted and time-limited database that seeks to advance VA's statutory Veteran small business contracting goals while relying on existing personnel, systems, and funds rather than creating a new program or requiring additional appropriations. The bill's goal is to enhance transparency, improve prime contractors' ability to identify qualified VOSB/SDVOSB subcontractors, and strengthen oversight of Veteran small business participation in VA subcontracting.

VA supports the intent of the SUBCON Act because it aligns with VA's mission to expand opportunities for VOSBs/SDVOSBs; however, VA has concerns on the drafted legislation.

The Small Business Administration is responsible for tracking SDVOSB/VOSB vendors, through the VetCert program. In addition, VA

contracting officers currently work with VA's OSDBU to ensure compliance with limitations on subcontracting. Furthermore, the bill, as written, is not clear regarding the intent to exclude certain businesses. For instance, there does not appear to be a logical reason to exclude small business concerns of an MPP or any joint venture, or a small business that has not had at least two past prime contracts for which the concern received an evaluation rating of "Satisfactory" or better. Additionally, companies may form a joint venture for one specific acquisition without being part of the MPP. The bill's current text reads if a company has ever been part of a joint venture, even if for one isolated acquisition, then they would be excluded from the database. It is not clear if that is the true intent behind this exclusion.

Lastly, the limited inclusion of ratings to qualify for inclusion in the small business database is also a concern. During the life of an acquisition, a company may receive 15 or more ratings within CPARS (3 or more elements rated per year for up to 5 years of performance). As the bill reads, the small business would only need to receive two "Satisfactory" or better ratings to be included in the database, meaning that all other ratings for that acquisition could be below "Satisfactory." In sum, a small business can have multiple poor ratings, but as long as the company has two "Satisfactory" ratings, it is included on the list. One of the goals of this database is to assist large businesses in finding quality subcontractors for the purposes of meeting the limitations on subcontracting clause, which this bill, as currently drafted, fails to do.

H.R. XXXX Sterile Processing Technicians Certifications

Summary: This bill aims to amend title 38 of the United States Code to mandate that sterile processing technicians within VHA must hold appropriate professional certifications. Specifically, the bill requires that individuals appointed to the position of sterile processing technician (excluding entry-level positions as

determined by the Secretary) must be certified by an accredited institution that offers sterile processing technician training.

Additionally, for current sterile processing technicians employed by VHA on the enactment date of this legislation, the certification requirement will not apply until 2 years after the enactment date. This provision allows current employees time to obtain the necessary certification.

Position: VA supports the intent of the bill, but legislation is not required.

Views: The Medical Supply Technician (MST) (Sterile Processing) occupation is a hybrid title 38 occupation under 38 U.S.C. § 7401(3). The Secretary of VA has authority under 38 U.S.C. § 7402 to prescribe qualifications for occupations identified in 38 U.S.C. § 7401(3).

VA supports the intent to ensure high quality sterile processing practices and recognizes the value that nationally accredited certification can bring to workforce competency, patient safety, and standardization across facilities. However, legislation is not required to achieve these outcomes. VA already possesses the authority to establish and enforce certification or training requirements for sterile processing technicians through internal policy. The Office of Sterile Processing does offer nationally, internally recognized VA sterile processing certification that is available for all sterile processing staff. In addition, per VHA Directive 1116(2), Management of Critical and Semi-Critical Reusable Medical Devices, VA medical facility Sterile Processing Service (SPS) Chiefs, Assistant Chiefs, and those in SPS Supervisory positions, must obtain a VA-recognized sterile processing certification no later than 1 year after appointment and annually maintain VHA SPS Certification by completing continuing education units or obtain annual certification through a nationally recognized sterilization organization. This allows VHA to strengthen professional standards, align with

accreditation expectations, and promote technician development without mandating statutory changes that may limit the Department's ability to adjust requirements as clinical practices, workforce needs, and industry standards continue to evolve.

Moreover, implementing a legislative mandate would introduce several challenges that are better addressed through administrative action. Certification fees, pay disparities with the private sector, variations in facility capabilities, and the need for transitional pathways for current staff all require careful workforce planning and resource assessment. VA is already able to evaluate these factors and institute additional certification expectations as needed in a phased, equitable, and operationally feasible manner. Retaining policy control ensures that VHA can tailor implementation to local conditions, maintain flexibility in hiring and staffing, and adapt quickly as the sterile processing field advances—capabilities that a statutory requirement could inadvertently constrain.

H.R. XXXX Supplemental Period of Unpaid Parental Leave for Department of Veterans Affairs Employees

Summary: This bill would provide VA employees with an additional 4 administrative workweeks of leave without pay (LWOP) for the birth or placement of a son or daughter during the first 12 months following the date of birth or placement.

Position: **VA's evaluation of this bill is ongoing but cites the following concerns.**

VA supports employees taking the time needed for childbirth and placement for adoption or foster care. However, VA is concerned about the establishment of an additional blanket entitlement to unpaid absence beyond

existing statutory and negotiated frameworks due to the impact on mission readiness, staffing, and loss of management flexibility, especially in a 24/7 healthcare delivery environment.

VA is concerned that creating an additional LWOP entitlement without defined parameters may adversely affect mission readiness and service delivery. Under current law, employees are already entitled to 12 weeks of leave under the Family and Medical Leave Act (FMLA), including paid parental leave, without undue operational disruption because the unpaid entitlement already exists.

An added entitlement increases the likelihood of extended, job-protected absences across critical occupations (such as nursing, pharmacy, police, and imaging) in VHA which may result in coverage and scheduling gaps in hard-to-fill roles. This bill would likely result in an increased reliance on overtime, premium pay, contract staffing, and temporary details to provide the coverage necessary for maintaining continuity of care. It may indirectly affect access to care and increase wait times.

VA employees have access to 12 administrative workweeks of job-protected leave for qualifying events under FMLA, paid parental leave authorities (such as the Federal Employee Paid Leave Act) where applicable, plus existing leave options such as sick leave, annual leave, donated leave where eligible, and other forms of paid time off. Adding 4 additional weeks of LWOP could extend absences to nearly 6 months within a calendar year, creating significant workforce gaps, increased workload for remaining staff, and potential overtime costs to maintain service levels.

VHA must often evaluate requests for extended absences with respect to unit staffing conditions, clinical coverage risk, local recruitment realities, and impact on small services or single-incumbent positions. Expanding an entitlement to additional leave results in the approval no longer being a management decision, even when a service is at a critical staffing threshold.

The bill also does not establish sufficient guardrails to mitigate operational risks. Specifically, VA would continue to pay the Government's share of health insurance premiums during the additional LWOP period, with no repayment requirement if the employee does not return. Further, the bill does not require mutual agreement for intermittent use of additional 4 weeks of LWOP, unlike existing FMLA provisions for birth or placement, potentially limiting supervisors' ability to effectively plan staffing and workload coverage.

For most federal employees, Paid Parental Leave is administered by the Office of Personnel Management (OPM), and the statutory provisions are regulated in 5 CFR part 630 subpart Q. The bill creates a carveout for VA resulting in a disparity in access to parental leave benefits between VA and other Federal agencies. Given the complexity of the Federal leave administration under title 5, coordination with OPM is recommended to ensure alignment with existing FMLA and parental leave regulations.

H.R. XXXX FMLA Expansion for VA Employees

Summary: This bill would amend 5 U.S.C. § 6382(a)(1)(C) to provide that, for VA employees, a parent of an employee's spouse shall be deemed to be a parent of the employee for purposes of determining eligibility for leave under FMLA.

Position: **VA defers to the Office of Personnel Management.**

The bill defines "parent" using the definitions provided in 5 U.S.C. § 6381, which is defined as "the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter." This definition does not include the parents of an employee's spouse.

VA notes that the sick leave regulations, as issued by OPM, already include a provision for employees to use sick leave to provide care for a family

member with a serious health condition. Under these regulations, the definition of family member is expanded and includes a spouse's parents.

OPM is responsible for the regulations and administration of FMLA for Federal agencies under the title 5 leave system. By creating a carveout for VA, this bill would create a disparity in the application of FMLA between VA and other Federal agencies. Given OPM ownership of the regulations and broader Government-wide policies for FMLA and the title 5 leave system, VA defers to OPM regarding this bill.

H.R. XXXX VA Police Recruitment and Retention Act of 2026

Summary: This bill aims to prohibit the downgrading of law enforcement positions within VA. The bill would prohibit any official in VA, OPM, or any other Department or agency from proposing, initiating, or carrying out a "position downgrade" for any "covered [law enforcement] VA position." Additionally, it bars the use of Federal funds to support any such downgrades.

The bill also includes section 2(b), a retroactive clause, that would nullify any position downgrades that were proposed, initiated, or carried out between October 1, 2025, and the enactment date of this legislation. If enacted, any positions downgraded during this period would be restored to their prior status, and any employees impacted would be compensated for any loss in pay they would have otherwise received. Section 2(c)(1) defines a "covered VA position" as one carrying out law enforcement functions within VA, whether permanent, temporary, full-time, part-time, or intermittent, and without regard to funding source. Section 2(c)(2) defines "position downgrade" broadly, including various classification actions that may result in a lower grade or pay associated with a position or set of positions, and without regard to any entitlements to retained grade or pay.

Position: **VA does not support this bill.**

The proposed bill creates a direct and significant conflict with title 5 classification and pay frameworks. As drafted, the bill conflicts with core principles of chapter 51 (classification) and chapter 53 (Federal pay rates and pay systems) and requires coordinated conforming updates to statute, regulation, and VA policy. These updates are necessary to codify the bill's statutory protections, preserve the integrity of the Federal classification system and ensure compliance with the "equal pay for substantially equal work" requirements in 5 U.S.C §§ 5101 and 5301.

VA, following OPM instruction based on prescribed legal requirements, has proposed, initiated, and carried out numerous downgrades across a wide range of occupational series over several years, and the work is ongoing. This bill should clarify how long VA is prevented from following OPM prescribed legal requirements, for how long this work should be paused, and how downgrades prior to October 2025 should be handled. This bill creates a significant disparity within VA and across the Federal Government on how legally mandated and prescribed classification reviews and the outcomes of those reviews are carried out. Is this bill intended as a carve out from classification standards for certain occupations at VA? If so, which occupational series are receiving the carve out, for how long, and why?

Without clear direction, VA risks inconsistent application of classification decisions, running afoul of OPM oversight responsibilities and the risk of losing classification authority, conflicts with the statutory equal-pay framework, and commission of prohibited personnel practices reportable to the Office of Special Counsel (OSC).

VA Handbook 5007 governs pay administration, including how downgrades trigger or end grade and pay retention under 5 U.S.C. § 5301 and related provisions.

The bill's requirements to restore downgraded positions to their prior grade and pay create a conflict with title 5 statute and regulation and VA policy; specifically, the following questions need to be addressed before enactment:

- How will grade and pay retention rules operate when downgrades are prohibited or reversed?
- How should retroactive pay restoration be calculated and administered, including interactions with locality pay, special salary rates, and retention rules and the Back Pay Act (5 U.S.C. § 5596)?

Without clear guidance, VA may face inconsistent pay outcomes, overpayments, or audit vulnerabilities.

Recommendations:

The draft bill does not provide legal authority to establish classification and/or qualification standards for law enforcement positions to overcome the statutory inconsistency with title 5. The bill, without conforming changes to statute, would create a conflict in law as written and would result in VA committing prohibited personnel practices, OPM reporting VA to OSC, and VA losing its delegated classification authority because the agency would knowingly pay employees above the grade for the work they perform.

VA recommends clarifying the timeframes of applicability and that the bill explicitly state that covered positions remain subject to chapter 51 and 5 U.S.C. § 5101. This ensures VA can continue to classify positions based on actual duties

and protects the core principles of equal pay and consistent grading across the agency.

VA recommends the bill more clearly define “covered position” and “position downgrade,” which VA law enforcement positions are protected, and which types of downgrade actions are restricted under 5 U.S.C. Ch. 51. This will help avoid unintended effects on other pay or staffing actions governed by chapter 53 and 5 U.S.C. § 5301.

The bill should specify how restored grades and pay should be calculated including treatment of locality pay, special salary rates, and grade/pay retention as well as treatment of employees hired into properly graded positions as a result of consistency review outcomes being implemented.

This bill should clarify the restricted periods and must address how OPM-directed classification actions apply during the restricted period. Because OPM holds Governmentwide authority for consistency reviews and binding classification decisions under chapter 51, the bill should clarify whether OPM downgrade decisions are also suspended and how VA must respond if OPM identifies classification discrepancies during the restricted period.

VA would welcome an opportunity to collaborate with the Committees on legislation to support VA’s police force efforts.

H.R. XXXX Clarify and Expand Assistant Secretary for Management Authority

Summary: The bill would amend title 38, United States Code, to add sections 309 and 729.

Section 309 would establish the Office of Management (OM) and clarify and expand the authority of the Assistant Secretary for Management (ASM) of

VA. The Secretary would be required to designate the ASM as the VA CFO. Section 309 would also establish the duties for the position of ASM/VA CFO and create two Deputy Assistant Secretary positions: the Deputy Assistant Secretary for Management for Financial Strategy and Budget and the Deputy Assistant Secretary for Management for Financial Operations and Internal Controls. VA would also be required to create a Legislative and Congressional Budget Information Office (LCBI), with no more than 15 full-time employees (FTE) assigned to the LCBI office.

Section 729 would establish the requirement that CFOs of VA administrations or Veterans Integrated Service Networks (VISN) report directly to the ASM/VA CFO. Further, the Secretary may not establish positions performing functions similar to the LCBI outside of the office.

The Secretary would have to execute the requirements in sections 309 and 729 within 180 days of enactment.

The bill also includes a technical amendment to 38 U.S.C. § 308 that increases the total number of Assistant Secretary and Deputy Assistant Secretary positions in VA to accommodate the ASM and Deputy Assistant Secretary positions.

Position: VA supports the intent of this bill, subject to amendments and the availability of appropriations. VA is unable to assess the impact to budgetary resources and therefore will follow-up with the Committee once this evaluation is complete or CBO has provided a score.

The authorities and duties of an agency CFO are established in 31 U.S.C. § 902, "Authority and functions of agency Chief Financial Officers." External stakeholders, including Congress and the VA Inspector General, have repeatedly criticized the Department for the VA CFO holding accountability for budget and finance but not holding the responsibility or authority to manage the related resources including its budget and finance employees. VA proposes stronger language to explicitly state that all employees performing budget and finance

functions in the Department, irrespective of where they reside and how they are funded, shall be aligned under, and shall report to, the VA CFO. The proposed section 729 should be modified to explicitly state that “all employees performing functions under 31 U.S.C. § 902 will report to the VA CFO irrespective of how they are funded and the administration or staff office where they reside.” Additionally, to prevent the creation of shadow CFO budget and finance functions, administration and staff offices should be precluded from hiring or performing 31 U.S.C. § 902 functions unless explicitly approved by the VA CFO.

VA recommends modifying the bill for the titles of Deputy Assistant Secretary positions from Deputy Assistant Secretary for Management for Financial Strategy and Budget to Deputy Assistant Secretary for Strategic Financial Planning and Budget, and from Deputy Assistant Secretary for Financial Operations and Internal Controls to the Deputy Assistant Secretary for Strategic Infrastructure Management. VA is fully supportive of establishing LCBI within OM with modification of FTE assignment from 15 to 6.

H.R. XXXX Modifying the Rate of Pay for Care or Services Provided under the Veterans Community Care Program

Summary: Section 1(a) would amend 38 U.S.C. § 1703(i), which generally sets forth requirements for payment rates for care and services under the Veterans Community Care Program (VCCP). Specifically, this bill would amend section 1703(i)(1) to require VA, not later than January 1, 2027, to establish rates for payments to providers of care or services that would be specific to the following sites of service at which the care or service was actually provided (regardless of the physical location of the provider): (1) a hospital outpatient department (OPD); (2) an ambulatory surgical center; (3) the office of a physician; or (4) such other sites as VA may deem useful. VA would have to ensure that a claim for payment included a separate unique health identifier that identified the specific site of service of the provider. In the case of “OPD services”

(as defined in 42 U.S.C. § 1395l(t)(1)(B)), that are provided on or after January 1, 2027, by a provider that is an off-campus outpatient department of a provider (as defined in 42 U.S.C. § 1395l(t)(21)(B), disregarding clauses (ii) and (iv) of such subparagraph and as though those clauses did not exist), VA would have to ensure that such department was treated as a subpart of such provider and assigned a unique health identifier. Further, VA would have to ensure that such provider included such identifier on any claim form it submitted, and that the provider could not hold a Veteran liable for such items or services unless the care or services were billed using the separate unique health identifier established for such department. VA would be required to reduce by 30%, from the applicable Medicare rate, a payment amount for outpatient department care or services provided by a dedicated emergency department that is an off-campus outpatient department of a provider and is located six or fewer miles from another hospital, critical access hospital, or rural emergency hospital (including the parent hospital of such emergency department). Nothing in this paragraph could be construed to prevent VA from determining the appropriate amount of a facility fee, and nothing in this paragraph could be construed to require VA to pay an independent physician the same amount as it would pay a hospital-based physician, or to pay a hospital-based physician less than it would pay an independent physician, for the same item or service.

Section 1(b) would state that the amendments made by subsection (a) would take effect on January 1 of the first calendar year beginning after the date of enactment.

Position: VA cites the following concerns.

VA has no position on this bill but has significant concerns with this bill as written. First, the bill seems to misunderstand how VA pays for care and services under VCCP. Under VCCP, VA authorizes eligible non-VA providers to furnish care and services to eligible Veterans pursuant to contracts and agreements.

These contracts and agreements may be directly between VA and the provider or may be with a third-party administrator (TPA), which in turn has contracts or agreements with health care providers. Under all situations, though, the contracts or agreements set forth the payment rates and payment rules. These rates and rules are consistent with the requirements of section 1703(i). The bill appears to assume, instead, that VA simply reimburses providers for care and services. To implement any change to section 1703(i), VA would need to renegotiate or enter into new contracts or agreements with all participating providers (and with the TPAs, who would likely need to modify their contracts or agreements with their providers); literally thousands of contracts and agreements would need to be renegotiated. Additionally, VA would need significant time to develop the necessary new rate schedules, upgrade its information technology systems and to amend or recomplete the Community Care Network (CCN) and CCN Next Generation Contracts, while also preparing detailed policy guidance and educating hundreds of thousands of community providers. This would present a significant risk to payment timeliness and network stability if not matched by sufficient implementation resources and time. Amending and recompeting the CCN and CCN Next Generation contracts would involve significant delays in the procurement timeline and would likely result in significant additional costs. VA's current community care payment environment would need significant upgrades to support the bill's requirements that each service be tied to a specific site of service with a unique identifier and be priced using a corresponding, site-specific schedule. This would include (but not be limited to) enhancing provider systems to properly maintain every off-campus emergency department, updating the system to create and track new identifiers based on both code and specific site, and creating new reporting tools that could identify mislabeled sites and ensure Veterans are not liable for bills that do not follow the new requirements. Consequently, VA urges caution in any effort to modify payment rates given the logistical work and costs that would be involved.

Second, the specific rules and requirements this bill would establish are very complicated, overly prescriptive, and unclear. For example, the bill would require VA to require that providers include certain information, but it is unclear whether failure to include that information would require VA to deny claims for payment or if some other consequence (or if no consequence at all) would result. The bill would also require VA to reduce payments by 30% in certain situations if a hospital is located six or fewer miles from another facility, even if these other facilities are not part of VA's network (they do not have a contract or agreement with VA or a TPA to furnish care under VCCP, for example). The bill is also unclear as to how these rules would work for telehealth care, as it is not evident where such care "is actually provided," as it could be the provider's location, the provider's assigned facility, the patient's location, or some other location. These specific rules and requirements could easily result in absurd outcomes that might result in providers leaving VA's network and reducing Veterans' access to quality care.

Third, in further specifying and detailing payment rates, and particularly in requiring VA pay certain rates simply based on the setting in which care was furnished, the bill would thwart VA's and Congress' efforts to adopt value-based payment rates. Since the enactment of the VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (P.L. 115-182), which established VCCP, Congress has authorized VA to incorporate value-based models to promote the provision of high-quality care. More recently, in section 107 of the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act (the Dole Act; P.L. 118-210), Congress required VA to establish a working group on value-based care, develop a strategic plan to implement value-based care, and to carry out a pilot program to implement certain elements of that strategic plan. Section 109 of the Dole Act required VA to submit to Congress a report on the use of value-based payment models under VCCP. The bill's focus on payment simply based on the setting in which care is furnished would run counter to these efforts and could actually result in perverse

incentives that could reduce access to care for Veterans if providers chose to not furnish certain services at locations that might be more accessible to Veterans, but where VA would pay lower rates.

Fourth, the bill creates unnecessary uncertainty that could result in a dramatic shift in how VCCP operates. Specifically, the bill includes language stating that providers “may not hold a veteran liable for such item or service unless such care or services are billed using the separate unique health identifier established for such department” (emphasis added). Currently, Veterans are not liable to providers for care or services under VCCP; VA is solely liable (although Veterans may owe copayments to VA, and VA may be able to collect from third parties for certain care). As written, the bill seems to authorize providers to bill Veterans for charges in certain situations. This would represent a dramatic break in law and practice, and it would also conflict with section 1703(k), which prohibits an eligible Veteran from paying a greater amount for receiving care or services under VCCP than the amount the Veteran would pay for receiving the same or comparable care or services at a VA medical facility or from a VA health care provider. VA opposes making Veterans liable for care under VCCP.

Finally, the bill is unclear as to the effective dates. Several places in the bill clearly establish a requirement that certain requirements would apply beginning January 1, 2027, but section 1(b) states the amendments would take effect on January 1 of the first calendar year beginning after enactment. If the bill were not enacted by January 1, 2027, this would create an internal conflict in the bill language as to which effective date would control. Further, and as noted above, VA would need to renegotiate contracts and agreements to give effect to any change in payment rates, which could further delay implementation. Requiring renegotiation by a certain date would weaken VA’s negotiating position and could result in higher costs to VA as a result. The January 1, 2027 implementation date would not provide enough time to make such consequential changes to VA’s systems, contracts, and processes.

Conclusion

VA appreciates the opportunity to present its views on these bills. I am happy to answer any questions.