

STATEMENT OF
HONORABLE BILL JOHNSON (OH-06)

BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
HOUSE VETERANS' AFFAIRS COMMITTEE

June 24, 2015

Chairman Abraham, Ranking Member Titus and Members of the Subcommittee:

I appreciate the opportunity to testify before you on H.R. 2605, important legislation I introduced to reform the Department of Veterans' Affairs (VA's) Fiduciary Program.

As many of you know, I served as the Oversight and Investigations Subcommittee Chairman on the House Veterans' Affairs Committee for the 112th Congress. An investigation into the VA's Fiduciary Program by my subcommittee revealed shocking behavior on the part of the VA's hired fiduciaries, and gross malfeasance on the part of the VA. Some fiduciaries – entrusted to manage the finances of our nation's heroes who are unable to do so themselves – were caught abusing the system by withholding funds, embezzling veterans' money and other egregious actions.

Furthermore, I chaired an Oversight and Investigations Subcommittee hearing held on February 9, 2012, that exposed that many of the VA's Fiduciary Program policies do not correspond with actual practices. For instance, the VA claims to have a policy stating preference for family members and friends to serve as a veteran's fiduciary. However, the investigation into the Fiduciary Program revealed instances where this is not the case. In one instance, the VA arbitrarily removed a veteran's wife, who served as her husband's fiduciary for ten years, and replaced her with a paid fiduciary. There are also many honest and hardworking fiduciaries that experience difficulty performing their duties due to the bureaucratic nature of the VA's fiduciary program. We owe it to America's heroes to provide them with a fiduciary program that is more responsive to the needs of the veterans it is supposed to serve.

I also had the opportunity to participate in this subcommittee's follow up hearing on the Fiduciary Program earlier this month. It was disheartening to hear that some of the same issues from 2012 are ongoing. Additionally, while the VA issued a proposed rule to modernize the Fiduciary Program in January 2014, the VA has yet to issue the final rule.

For these reasons, I am proud to sponsor H.R. 2605, the "Veteran's Fiduciary Reform Act." This important legislation, initially introduced in 2012, was drafted based on problems uncovered from

O&I's hearing an investigation, as well as valuable input from veterans' service organizations and individuals who have experienced difficulties with the program firsthand. It is designed to transform the VA's Fiduciary Program to better serve the needs of our most vulnerable veterans and their hardworking fiduciaries. And, most importantly, it will protect veterans in the program from falling victim to deceitful and criminal fiduciaries.

Specifically, the Veterans Fiduciary Reform Act would require a credit and criminal background check each time a fiduciary is appointed, and allow veterans to petition to have their fiduciary removed if problems arise. It would also decrease the potential maximum fee a fiduciary can receive to the lesser of 3 percent or \$35 per month, similar to Social Security's fiduciary program. This will help discourage those who enroll as VA fiduciaries with only a profit motive in mind.

Importantly, H.R. 2605 would enable veterans to appeal their incompetent status at any time. Additionally, it would allow veterans to name a preferred fiduciary, such as a family member.

This legislation also addresses the requirement of fiduciaries to obtain a bond. While proper in some settings, it is inappropriate when it causes unnecessary hardship, such as a mother caring for her veteran son. This legislation would require the VA to consider whether a bond is necessary, and if it will adversely affect the fiduciary and the veterans he or she serves. H.R. 2605 would also direct the VA's Under Secretaries for Health and Benefits to coordinate their efforts to ensure that fiduciaries caring for their loved ones are not overly burdened by redundant requirements.

Lastly, this bill aims to simplify annual reporting requirements. Currently, the VA does not have to review a fiduciary's annual accounting, and when it does, it places an onerous burden on those fiduciaries who are serving out of love, not for monetary gain. This bill will implement a straight forward annual accounting requirement, and give VA the opportunity to audit fiduciaries whose accounting is suspect.

These significant changes would strengthen the VA's standards for administering the Fiduciary Program, and increase protection for vulnerable veterans. Requiring background checks and lowering the fee a fiduciary can charge would also increase scrutiny of potential fiduciaries, and help root out potential predators. This legislation also adds a layer of protection for veterans with fiduciaries by incorporating the ability for veterans to petition to have their fiduciary removed and replaced.

I am proud that this legislation has passed the House of Representatives twice now – both in 2012 and in 2013 as part of larger legislation. Unfortunately, this important legislation has not been considered by the Senate, and therefore, the VA's Fiduciary Program is still in urgent need of reform.

Chairman Abraham, Ranking Member Titus, thank you again for the opportunity to speak on this important legislation. I am hopeful that this legislation will again be favorably considered by the Veterans' Affairs Committee, and this time become law. Our veterans were willing to sacrifice everything to serve our nation, and they deserve to receive the care, benefits, and respect that they have earned.