

STATEMENT OF
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BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS

WITH RESPECT TO

**H.R. 4360, H.R. 592, H.R. 1030, H.R. 4165, H.R. 4183, H.R. 628, H.R. 1424, H.R. 1911, and
Draft Legislation**

WASHINGTON, DC

October 22, 2019

Chairwoman Luria, Ranking Member Bost, and members of the subcommittee, on behalf of the women and men of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on legislation pending before this subcommittee.

H.R. 4360, VA Overpayment Accountability Act

This legislation would improve the Department of Veterans Affairs (VA) debt collection process, limit the authority of the Secretary of Veterans Affairs to recover overpayments caused by VA errors, and improve the due process afforded veterans with respect to such recovery. The VFW supports this legislation and has a recommendation to improve it.

The VFW understands that benefits overpayments must be recouped from veterans in order to ensure that VA programs are properly administered. However, many veterans who were not indebted to VA have had erroneous derogatory information submitted to consumer reporting agencies due to a VA mistake. It is unconscionable for a veteran to receive a negative credit rating as a result of VA's erroneous submission of information. Furthermore, correcting inaccurate credit reports entails a lengthy and burdensome procedure. Accordingly, the VFW supports legislation that requires VA to implement safeguards to prevent the erroneous submission of information to consumer reporting agencies, and to correct this information in a timely manner.

The VFW appreciates VA's acknowledging the importance of collaboration with the veterans service organization community regarding benefits or potential debts. The VFW was pleased to review and offer constructive feedback in the crafting of new, more simply worded letters and

notices regarding potential VA debts. We also request that VA collaborate with and inform veterans service organizations regarding any updates to the standardized format of debt letters. Due process requires that debt notices following overpayments are clear and provide concise information regarding the steps a veteran must take in order to resolve any outstanding debts in a timely manner.

Finally, the VFW urges this subcommittee to incorporate into this legislation the additional safeguards of subsections (a), (b), and (c) of section 3 of S. 805, *Veteran Fairness Act of 2019*. These provisions would grant additional protections to veterans concerning debt repayment and would provide more flexibility concerning the timing of repayment.

H.R. 592, Protect Veterans from Financial Fraud Act of 2019

The VFW supports this legislation, which would ensure that VA repays the misused benefits of veterans with fiduciaries. This is a common sense bill to protect some of our most vulnerable veterans. Veterans assigned a fiduciary need help and financial protection, and any individual who mistreats, preys upon, or otherwise causes them harm must be held accountable, and restitution must be made to make the veteran whole.

To further protect vulnerable veterans, the VFW recommends including a provision in this legislation to impose criminal and financial penalties on individuals found to maliciously prey on veterans for any financial gain, not just fiduciary fraud. Abusing the health and financial welfare of veterans in need must be punishable by law. The VFW supports legislation that protects all veterans from any individual who commits financial malfeasance, sets substantial penalties for doing so, and ensures veterans receive any owed compensation as a result of the crime.

H.R. 1030, Veteran Spouses Equal Treatment Act

The VFW supports this legislation, which would align the definition of “spouse” in title 38, United States Code, with the Supreme Court’s ruling in *Obergefell v. Hodges*. The statutory language of title 38 should be updated to conform to recent Supreme Court decisions regarding the federal recognition of same-sex marriage. The VFW believes that all veterans and their families deserve to be treated with dignity and respect.

H.R. 4165, Improving Benefits for Underserved Veterans Act

This legislation would direct VA to publish a report regarding veterans who receive benefits under laws administered by the Secretary, disaggregated by sex and minority group member status. The VFW supports this legislation and has a recommendation to improve it.

According to recent Department of Veterans Affairs data, more than 1.6 million veterans are women, which is roughly nine percent of the total veteran population. The percentage of women veterans has increased since the start of the Global War on Terrorism, and is expected to grow in the near future. Although VA has made vast improvements to address the needs of women veterans, more work is needed to ensure that female veterans utilize benefits at the same rate as males, especially in health care. More specifically, our members have routinely stated that VA

must improve privacy at women's health clinics, access to gender-specific health care, prenatal and maternity care, mental health care to treat military sexual trauma, and targeted outreach to women to ensure that no veteran is left to wonder what benefits she is eligible to receive. Accordingly, the VFW believes that the future needs of women veterans can only be met through continued research and studies specifically tailored toward women veterans.

Similarly, minority veterans face challenges when accessing VA benefits, particularly with health care. According to VA's Office of Research and Development, health care is distributed unevenly in the United States. Minority populations often receive less care or care of lesser quality compared to their Caucasian peers. The minority veteran population makes up 22 percent of all veterans and accounts for over 34 percent of the women veteran population. Unequal health outcomes faced by racial and ethnic minorities include higher rates of chronic illnesses such as diabetes and high blood pressure, higher rates of cancer, and mental illness diagnosis. These disparities are ubiquitous within the entire American health care system and are still prevalent within VA, where many financial barriers to receiving care are minimized. Therefore, more research is required to understand and eliminate racial and ethnic disparities in the VA health care system.

A study on veterans who receive VA benefits, disaggregated by sex and minority group member status will help identify disparities in usage of VA benefits. The VFW recommends that this subcommittee authorize a study to determine the cause of such disparities in addition to overall VA benefits usage. This will assist VA in ensuring that all veterans use the benefits to which they are entitled, and that access to health care and health outcomes remain consistent across all demographics.

H.R. 4183, Identifying Barriers and Best Practices Study Act

This legislation would require the Government Accountability Office to conduct a study on VA disability and pension benefits provided to members of the National Guard and Reserve components of the armed forces. The VFW supports this legislation and has a recommendation to improve it.

In the years since the terrorist attacks of September 11, 2001, National Guard and Reserve forces have consistently answered the call to service. The Department of Defense has increasingly relied upon these components for national security missions at home and overseas. Unfortunately, these service members face unique challenges when applying for VA benefits. National Guard and Reserve component members frequently have difficulty obtaining medical records, which tend to be scattered and are often incomplete. VA disproportionately denies reservists and guardsmen benefits because they cannot establish that a condition is service-connected due to missing Line of Duty (LOD) determinations. An LOD determination is an administrative tool for determining a member's duty status at the time of injury, illness, disability, or death, and is the gateway to VA benefits.

A comprehensive study on disability benefits provided to members of the National Guard and Reserve components will help identify barriers to filing successful claims and will ensure that these veterans receive the VA benefits to which they are entitled. The VFW recommends that

this subcommittee authorize a study on disability and pension benefits provided to members of these components for the entire period of the Global War on Terrorism. Furthermore, the VFW encourages this subcommittee to require VA to conduct an ongoing analysis of application for benefits and enrollment for members of the National Guard and Reserve components.

H.R. 628, Working to Integrate Networks Guaranteeing Member Access Now (WINGMAN) Act

This legislation would authorize congressional employees to easily access veterans' sensitive information with few restrictions. The VFW does not support this legislation.

Firstly, while we agree there should be a more efficient way for congressional constituent services staff to assist veterans, there are current privacy controls in place to limit access to veterans' records, and those controls must be preserved under any expansion of access due to the complexities of the compensation and benefits process. The VFW insists that the authorized congressional staff be required to obtain a VA-specific privacy release from veterans they seek to assist before accessing records for those veterans.

Secondly, access to veterans' records and any resulting action by the Department of Veterans Affairs due to congressional involvement must be shared with whomever holds power of attorney for such veterans. Doing so would mitigate duplication of efforts and ensure that congressional staffers are not abusing or otherwise exceeding their authority.

Lastly, VA must have a tracking system to ensure that congressional employees are assisting only their own congressional constituents. There are level-sensitive restrictions on most VA employees and accredited service officers, preventing access to files for which expressed consent has not been granted. These restrictions must extend to any proposed accredited staffers as well.

H.R. 1424, Fallen Warrior Battlefield Cross Memorial Act

The VFW supports this bill, which would require the Department of Veterans Affairs to permit fallen soldier displays in VA national cemeteries.

Two years ago, VFW members from VFW Post 3345 in Strongsville, Ohio, erected a battlefield cross by the Ohio Western Reserve National Cemetery chapel as a sign of respect for their fallen comrades. They were later disheartened to learn that the former director improperly removed the memorial, claiming that it depicted violence. To VFW members, all of whom have deployed into harm's way in a foreign land, the battlefield cross bears a sacred significance and is used to honor and remember our brothers and sisters who have made the ultimate sacrifice in service to our nation.

The VFW is pleased that VA reversed the Ohio Western Reserve National Cemetery director's decision and issued a notice to all national cemetery directors entitled "Acceptance of Donations Featuring the Fallen Soldier Display," which makes clear VA's policy to allow the display of the battlefield cross at any VA national cemetery. VFW Post 3345 members report that the unfortunate Ohio Western Reserve National Cemetery incident was resolved within three days

and has not reoccurred. To prevent similar incidents in the future, the VFW supports legislation that safeguards a veteran's right to honor fallen brothers and sisters.

H.R. 1911, SFC Brian Woods Gold Star and Military Survivors Act

This bill would expand survivors' benefits for spouses and children of service members who die in the line of duty. The VFW has consistently advocated for the expansion of child care benefits for military and veteran families, and encourages this subcommittee to do everything it can to ensure that survivors receive adequate support and assistance. Additionally, the VFW supports section 4 of this legislation, which would provide for the transportation of remains of fallen service members to no more than two locations if the second location is a national cemetery.

Draft Legislation to Permit Appellants to Appear in Disability Compensation Cases Before the Board of Veterans' Appeals by Picture and Voice Transmission from Locations Other Than Facilities of the Department of Veterans Affairs

The VFW supports this draft legislation, which would permit appellants in disability compensation cases before the Board of Veterans' Appeals to appear remotely by picture and voice transmission from locations other than VA facilities. VA programs such as Telehealth and Project Atlas already utilize similar remote access technology, which many veterans find incredibly convenient.

Currently, veterans may appear remotely from one of roughly 65 locations in Board of Veterans' Appeals cases. This legislation would undoubtedly improve access for veteran appellants in disability compensation cases and would permit a greater number of veterans to attend their own hearings. The VFW also strongly urges this subcommittee to ensure that adequate internet security measures are implemented in order to prevent data breaches and safeguard sensitive personal information.

Draft Legislation, Justice for ALS Veterans Act of 2019

This draft legislation would extend increased dependency and indemnity compensation paid to surviving spouses of veterans who die from amyotrophic lateral sclerosis (ALS), regardless of how long the veterans had such disease prior to death. Although the VFW cannot support this draft legislation, we recommend that this subcommittee consider legislation that would grant a similar exception for surviving spouses or family members of veterans who die from service-connected diseases or injuries.