



NATIONAL ASSOCIATION OF STATE VETERANS HOMES

“Caring for America’s Heroes”

TESTIMONY OF

**MARK BOWMAN, PRESIDENT
NATIONAL ASSOCIATION OF STATE VETERANS HOMES (NASVH)**

**BEFORE THE
HOUSE VETERANS’ AFFAIRS SUBCOMMITTEE ON HEALTH**

**HEARING ON
*“The Silver Tsunami: is VA Ready?”***

MARCH 3, 2020

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 future of the State Veterans Home program and veterans long term care in general. 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 is Executive Director of the Office of Kentucky Veteran Centers, which oversees the operation of four State Veterans Homes among other responsibilities. I am pleased to join you today on behalf of NASVH to discuss the State Veterans Home program, the current challenges we face and future opportunities to better meet the long term care needs of America's aging and ill veterans and their families.

The State Veterans Home program dates back to the post-Civil War period, when there were a large number of indigent and disabled veterans unable to earn their own livelihood who needed care. While the federal government already operated national homes for disabled union volunteer soldiers, the total number of veterans needing care was overwhelming. In recognition of this need, and the debt that a grateful nation owed its defenders, a number of states independently established State Veterans Homes to help care for those who had borne the battle.

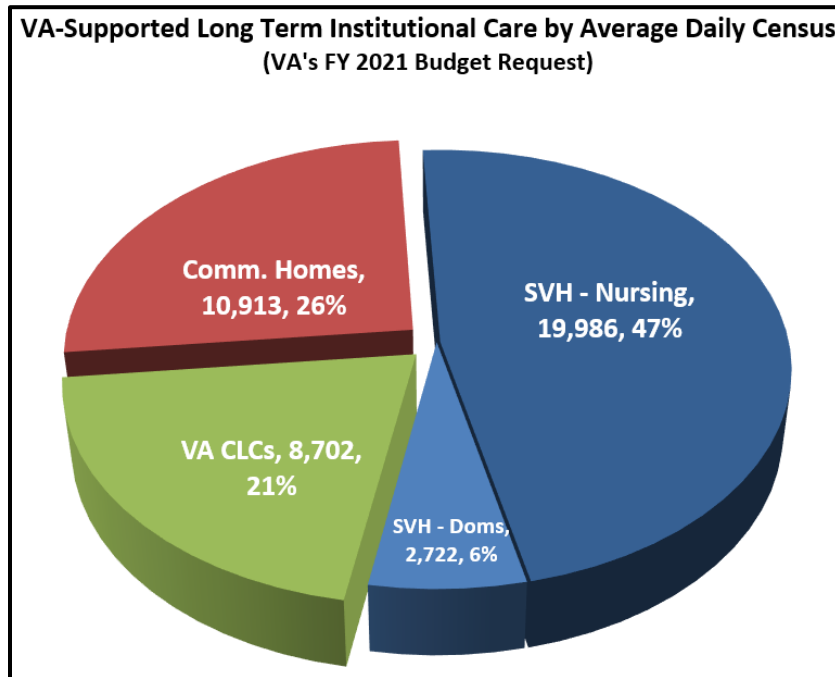
The first State Veterans Home was established in 1864 at Rocky Hill, Connecticut. In 1888, Congress enacted legislation to provide federal aid (\$100/year) to help alleviate the burden placed upon states. With the establishment of the Veterans Administration in 1930 to care for an ever-increasing number of veterans, the State Veterans Home program was expanded to include additional levels of care as well as a federal grant program to support the construction of State Veterans Homes.

Madame Chairwoman, as the title of the hearing implies, and the Government Accountability Office (GAO) confirms, the number of aging Vietnam Veterans seeking long term care options from VA will continue increasing over the next decade. In order to address the 'coming tsunami,' VA is going to need all its resources and creativity to provide veterans the long term services and supports they desire and have earned.

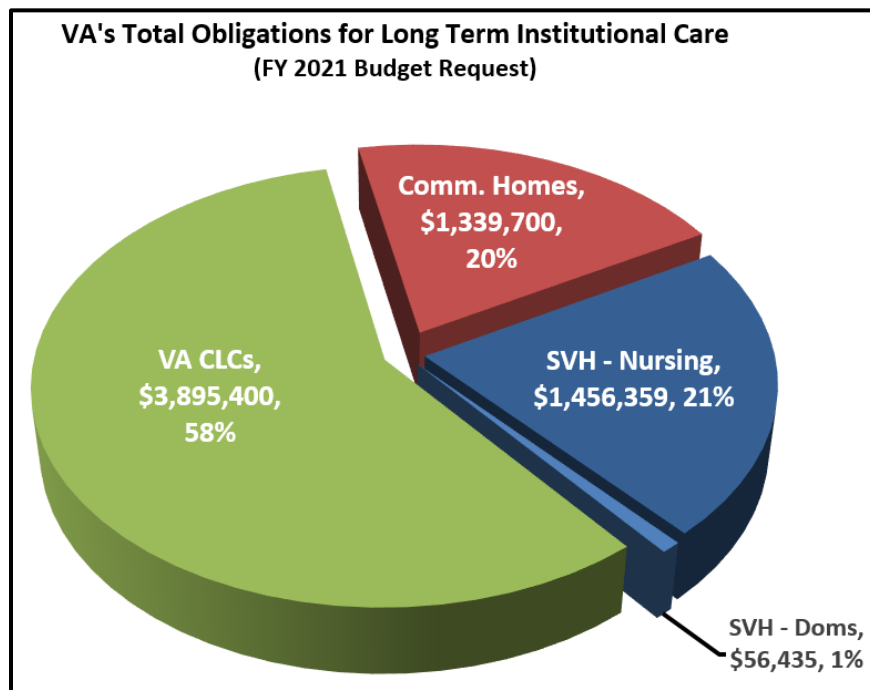
The State Veterans Home program offers two distinct advantages as Congress and VA seek innovative solutions. First, by partnering with states, VA can leverage its long term care dollars to serve more veterans through the State Veterans Home program than by directly providing the services or paying for private sector care. Second, the structure of the State Veterans Home program allows each state to tailor long term care solutions to the unique characteristics and preferences of its veterans. As I have heard many NASVH members say: "If you have seen one State Veterans Home you have seen one State Veterans Home." States can serve as the laboratories of innovation, and then allow VA and other states to take advantage of their best practices, which NASVH strongly encourages.

Today, there are 157 State Veteran Homes located in all 50 states and the Commonwealth of Puerto Rico, with over 30,000 authorized beds available, making the State Veterans Home program the largest provider of long term care for our nation's veterans. As the recent GAO

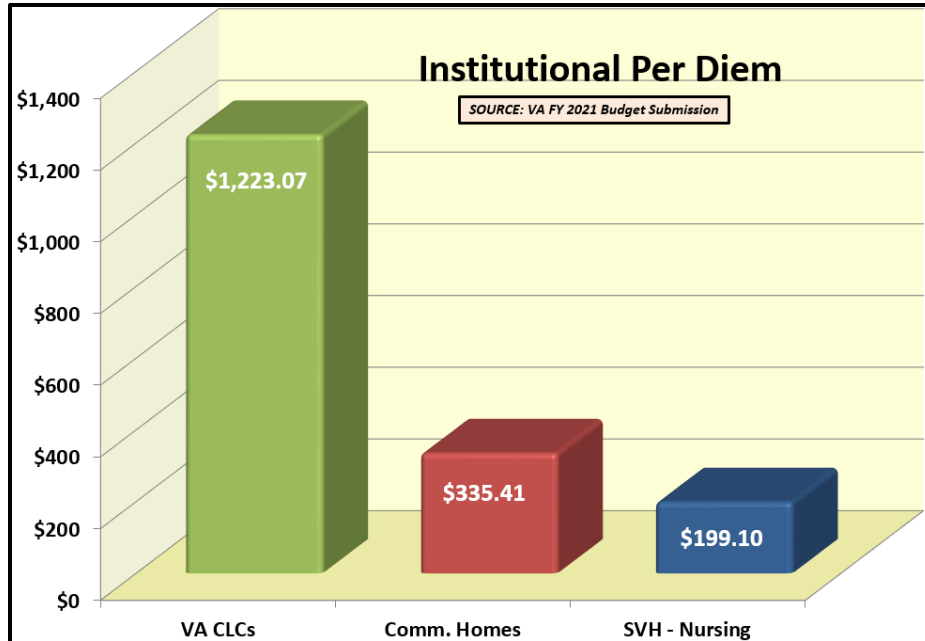
report confirms, “State Veterans Homes had the highest average daily census and provided over half of all institutional care based on the average number of veterans for which VA funded nursing home care on any given day during the year.”



However, as VA’s FY 2021 budget submission makes clear, State Veterans Homes will account for 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 for veterans' nursing home care is 40% lower than for private sector community nursing homes and less than one-sixth the cost of VA's own community living centers (CLCs).



As both GAO and VA's budget make clear, investing in State Veterans Homes is the most cost-effective way to maximize VA's federal dollars to provide convenient, high-quality institutional care for those sick and elderly veterans who have no home-based care options.

Skilled Nursing Care Program

The primary program offered by most State Veterans Homes is skilled nursing care, which provides nursing home care for aging and ill veterans; in some states, widows, spouses, and Gold Star Parents may also be eligible for admission. To support this program, VA provides a per diem payment for each eligible veteran, as well as grants for the construction, expansion, renovation and repair of the Homes.

The basic VA per diem rate for nursing home care is currently \$112.36, which covers approximately 30 percent of the total cost of care, although VA is authorized to provide up to 50 percent. State Veterans Homes make up the balance differently in each state, using a variety of other funding sources, including state support, Medicare and the veterans themselves who share in the cost. As a result of Public Law 112-154, VA also pays a higher prevailing rate for veterans who needs 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 by VA.

Insufficient Construction Grant Funding

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.

State Home Construction Grant requests are categorized into 8 groups, as well as additional subgroups, reflecting statutory priorities. The highest priorities are accorded to life-safety projects as well as the construction of new Homes in states with an insufficient number of beds according to federal statute. Once a grant request secures its matching state funding it is placed into Priority Group 1 in the order of sub-priority groups and by the date the grant request moved onto the Priority Group 1 List.

Although VA has not yet released the FY 2020 Priority Group List, as a result of more States providing new matching funding over the past year, the new Priority Group 1 List is expected to grow to almost \$500 million or more. With an estimated \$700 million worth of grant requests in Priority Groups 2 to 8 awaiting State matching funds, the total federal share to fulfill all of the pending construction grant requests is estimated to be approximately \$1.2 billion.

Unfortunately, for FY 2020, the Construction Grant Program was only appropriated \$90 million, which would allow VA to fund just the first 14 projects on the Priority Group 1 List, leaving a growing backlog for future years. And with further state matching funding expected to move even more grant requests into Priority Group 1 next year, it is imperative that Congress provide sufficient funding to address the growing backlog. NASVH recommends that Congress appropriate \$250 million for the State Home Construction Grant Program to fund at least half of the pending Priority Group 1 grant requests. We urge this Subcommittee and the full Committee on Veterans' Affairs to include this recommendation in its Views and Estimates to be provided to the Budget Committee this year.

Duplicative External Inspection Surveys

As a condition of receiving federal funding, VA certifies and closely monitors the care and treatment of veterans in State Veterans Homes. 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 a week-long top-to-bottom review of the Home's facilities, services, clinical care, safety protocols and financial operations. VA also performs inspection surveys of states include Domiciliary Care and Adult Day Health Care programs. If deficiencies are found at a State Veterans Home, it is required to rectify the deficiency as a condition of keeping its certification.

In addition, about 60 percent of State Veterans Homes are also certified to receive Medicare support for their residents. Just like VA, the Department of Health and Human Services, through the Centers for Medicare and Medicaid (CMS), requires an annual inspection survey for the same purposes of assuring safety and quality care. In fact, the CMS survey is more than 90

percent identical to the clinical life and safety sections of the VA inspection survey. It too is typically a week-long inspection that is not announced in advance. Because these two federal agencies do not coordinate their inspections, many State Homes have had these two virtually identical inspections occur over consecutive weeks; some have even occurred simultaneously, seriously disrupting the State Veteran Home and its veteran residents. In our view, requiring State Homes to undergo two separate and duplicative federal inspections surveys – when the federal standard is one annual survey – is not only disruptive to State Homes, but also financially inefficient for the federal government and taxpayers.

To address this problem, NASVH worked with Congressman Tom Suozzi (NY) who introduced legislation in the House to require CMS to use the results of the VA survey to satisfy their annual inspection survey requirements, similar to how CMS uses and accepts the results of certifications by the Joint Commission for hospital accreditation. H.R. 4138, the State Veterans Home Inspection Simplification Act, has growing bipartisan support in the House; companion bipartisan legislation, S. 3350, was recently introduced in the Senate by Senators Mike Crapo (ID) and Jon Tester (MT). These bills would not prevent CMS from investigating any complaints in State Veterans Homes, but would simply prevent unnecessary duplication of annual federal inspections. Furthermore, the legislation contemplates CMS working out an agreement with VA to add any inspection items or questions to the VA inspection survey that CMS determines necessary. NASVH strongly supports passage of the State Veterans Home Inspection Simplification Act and asks for the support of all members of the Subcommittee.

It is important to understand that in addition to the VA and CMS inspections, State Veterans Homes are also subject to both regular and periodic inspections and audits from state agencies, the Inspector General of the Department of Veterans Affairs, and the Civil Rights Division of the Department of Justice, among other inspectors. Moreover, they are held accountable to the general public through oversight by Congress, veterans service organizations and the media.

Each State is also accountable for ensuring veterans in its State Veterans Homes receive quality long term and other health care services, and are focused on achieving high patient satisfaction in comfortable and safe conditions. 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. Finally, State Veterans Homes hold themselves accountable for the quality of care through myriad internal management controls, state and federal long term care regulations, and integration of model policies, practices and standards advocated by the NASVH and other standards bodies, for the continuous quality improvement of their programs of care for sick, elderly and disabled veterans

Mental Health and Behavioral Issues

The VA nursing home per diem provided to State Veterans Homes covers, among other items, basic primary care for veteran residents; specialty care is not considered part of the per diem. However, VA has been treating all mental health care as an obligation of the Homes, despite the fact that mental health care is a form of specialty care. Psychiatrists and psychologists are medical specialties, not part of basic primary care. Yet, VA has taken the position that State

Veterans Homes must bear the full cost of providing mental health care to their resident veterans. Given the high costs for psychiatrists and psychologists, many State Veterans Homes may not be able to continue admitting veterans with significant mental health issues, leaving these veterans with fewer options at a time when veteran suicide is a national crisis and top VA and Congressional priority. NASVH believes VA should be responsible for providing eligible veterans with their mental health care, in the same manner as VA provides enrolled veterans all other necessary specialty care, and asks for support from the Subcommittee for this position.

In fact, a number of State Veterans Homes have indicated that they would be willing and capable of providing care for veterans with severe behavioral issues or serious mental illness if a higher per diem or other cost subsidization were made available, since such veterans require intensive supervision, often one-to-one, as well as more direct care that is significantly more costly. NASVH is interested in exploring potential programs or similar models of care that State Veterans Homes might be able to offer for this very challenging veterans population.

Domiciliary Care Program

State Home Domiciliary Care programs provide alternative long term support for veterans who are not in need of skilled nursing care, but who need shelter and supportive services. There are approximately 6,000 Domiciliary Care beds in 50 State Veterans Homes in 30 states, including California, Florida, Illinois, Michigan, Pennsylvania, Ohio, Illinois and Virginia. The State Home Domiciliary Care program can play an integral role in VA's mission of helping the homeless and providing a safety net for veterans in their communities. The level of care in Domiciliaries varies from state to state, with some providing only basic food and shelter, and others offering more enhanced levels of support that may include social, vocational and employment services.

Based on a recent NASVH survey, the average age of Domiciliary residents is about 75 and the average length of stay is 3.5 years. The average daily total cost per Domiciliary resident was reported by State Homes as \$187; however that cost will rise as the financial burden of the new regulations takes full effect. VA provides a Domiciliary per diem of \$48.50, which is roughly 25% of the total daily cost reported by State Homes.

In November 2018, a decade after first initiating a rule-making process for State Veterans Homes Domiciliary and Adult Day Health Care programs, VA finally promulgated new regulations (RIN-2900-AO88) governing these programs; full enforcement of the new regulations began in May 2019. Unfortunately, the decade-long delay in finalizing the Domiciliary regulation resulted in a number of unintended problems for States who currently operate such programs. The most significant change is unexpected increases to the minimum staffing requirements and other care changes that have significantly increased the costs to State Veterans Homes, without increasing the VA per diem. As a result, many states are considering closing the programs, leaving hundreds, perhaps thousands, of veterans at greater risk of becoming homeless. NASVH calls on Congress to work with VA to provide relief to these Domiciliary Care programs either by increasing the VA per diem rate to a more realistic amount or by making significant corrections to the regulations in consultation with State Veterans Homes.

Another negative impact of the new regulations has been VA's inconsistent enforcement of eligibility requirements. Previously, VA had not strictly enforced Domiciliary eligibility requirements, allowing veterans who had some challenges in performing all the activities of daily living (ADLs) to qualify for a Domiciliary per diem, if the State Veteran Home was providing adequate support using non-VA resources. However, since promulgation of the new regulations, local VA facilities who oversee the Homes began precluding a number of current Domiciliary residents from being eligible for VA per diem because they were unable to perform all ADLs independently, without even minor assistance. VA also began enforcing a work requirement for Domiciliary residents, even though such requirements are not allowed in many states. In addition, some State Homes – with the full knowledge and support of VA – have been operating higher levels of Domiciliary Care programs for veterans, such as for dementia care or assisted living, and could be forced to shut down if the new enforcement continues. It is important to make clear that the Domiciliary programs referenced above are providing a higher level of care than what the Domiciliary per diem covers, all at the state's expense.

Recognizing the problems created by the recent Domiciliary regulation, VA encouraged State Veterans Homes who had current residents excluded from the Domiciliary per diem program to apply for equitable relief. This past December Secretary Wilkie granted equitable relief for 190 current Domiciliary residents, allowing them to continue receiving the VA per diem support. However, a renewed request for these veterans will have to be made annually and – most importantly – these Domiciliary programs will not be able to admit similarly situated veterans in the future, further threatening the sustainability of Domiciliary Care programs.

To address the known problems with the recent Domiciliary regulations, VA has indicated it intends to initiate a new rulemaking process, however NASVH is concerned that this could take years to be finalized, just as it took over a decade for the current regulation. Furthermore, there is no certainty that the new regulations will actually fix the current problems or strengthen the program. NASVH calls on Congress to work with VA to address the known problems and explore possible legislative remedies. For example, Congress could authorize enhanced levels of Domiciliary care, such as care for dementia, which would better address the current and future needs of veterans who need less than Skilled Nursing Care. Such a program could start initially as a pilot program to test different models of enhanced domiciliary care.

Adult Day Health Care (ADHC) Program

Adult Day Health Care is a non-institutional alternative to a skilled nursing facility for aging veterans who have sufficient family support to remain in their own homes, but who need or will benefit from a day program at a State Veterans Home to promote wellness, health maintenance, and socialization. In addition, ADHC can help to maximize the participant's independence and enhance their quality of life, as well as provide much-needed respite for family caregivers. A higher level of ADHC, known as medical supervision model Adult Day Health Care, also provides comprehensive medical, nursing and personal care services combined with social activities for physically or cognitively impaired adults. The medical supervision model ADHC program is staffed by caring and compassionate teams of multi-disciplinary healthcare professionals who evaluate each participant and customize an individualized plan of care specific to their health and social needs. A medical supervision model ADHC program can help veterans

remain in their own homes for additional months or years, thereby improving their quality of life. It can also lower the cost and burden on VA by deferring or delaying their use of more expensive skilled nursing care and can help frail, elderly veterans avoid unnecessary emergency room admissions and hospitalizations as well.

Over the past several years there have only been three State Veterans Homes operating ADHC programs – New York, Minnesota and Hawaii – in large part due to an inadequate per diem rate for most states to make it financially viable. Fortunately, in March 2018, Congress passed and the President signed the State Veterans Home Adult Day Health Care Improvement Act (P.L. 115-159) which established a higher per diem for medical supervision model ADHC for veterans who have a service-connected disability rated at 70 percent or more, or who needs medical supervision model ADHC care for a service-connected disability. The law requires VA to enter into agreements with State Veterans Homes to, “...adequately reimburse the State home for the care provided by the State home, including necessary transportation expenses.” In fulfillment of this requirement, VA has recently consulted with several members of NASVH who operate or are considering operating medical supervision model ADHC programs. We are hopeful that VA will offer a path forward that allows other states who have shown interest to open their own programs in the coming years. We encourage the Subcommittee to remain engaged with VA as it finalizes these new ADHC per diem rates so that more veterans – and their family caregivers – can benefit from the higher level of assistance offered by medical supervision model ADHC.

To further encourage State Veterans Homes to operate ADHC programs, VA and Congress should modify the Construction Grant program so that funding can be used to support the construction of new, or modification or expansion of existing facilities for ADHC programs. Given the small size of some of these programs, the Construction Grant program should also support State Homes seeking to establish satellite ADHC programs within existing medical space that is more conveniently located in areas with higher concentrations of veterans.

Future Opportunities for State Veterans Homes

Madame Chairwoman, State Veterans Homes are a trusted and valuable partner for VA to help meet the evolving needs of aging and ill veterans, through both existing and potentially new institutional and non-institutional programs. State Veterans Homes already have an existing infrastructure as well as knowledge and experience operating safe, high-quality long term care programs. Give the flexibility and financial benefits to VA from partnering with State Veterans Homes, there are myriad possibilities for better addressing the changing demographics, needs and preferences of veterans today and in the future. As previously discussed above, many State Veterans Homes would have interest in providing additional levels of care that are higher than allowed under Domiciliary Care, but lower than required for Skilled Nursing Care. Such “enhanced” Domiciliary Care could help to fill gaps between these two programs and better meet the needs of veterans and their families.

State Veterans Homes could also be used to expand non-institutional care by encouraging greater usage of Adult Day Health Care, as well as additional home-based programs. For example, a State Veteran Home that provides medical supervision model ADHC might also be able to operate a Home Based Primary Care program that would be able to fulfill all of the needs of a

veteran to allow him or her to remain in their home. Such an integrated non-institutional program could begin as a pilot program, with different states customize its pilots to meet local circumstances. NASVH recommends that the Subcommittee consider establishing such pilot programs to explore new arrangements for providing integrated non-institutional care programs through and in partnership with State Veterans Homes.

Creating a True Partnership with VA

Finally, in order to fully maximize State Veterans Homes' resources and capabilities. VA must commit itself to a true partnership. Too often, State Veterans Homes are an afterthought in VA's planning and budgeting processes. For example, the GAO report presented today relies on incomplete VA data projections for State Veterans Homes. The report notes that in looking at VA's future long term care utilization, "VA projection data... do not include projections for State Veterans Homes or State Adult Day Health Care programs..." because State Veterans Homes are not incorporated into VA's Enrolled Health Care Projection Model. By contrast, private sector community nursing homes are included in VA's projections.

Another example is the lack of representation by State Veterans Homes on VA's Geriatrics and Gerontology Advisory Committee (GGAC), despite NAVSH nominating three highly qualified State Veteran Home administrators. By contrast, the GAO report notes that the, "... committee members included a member from a nursing home industry group..." despite the fact that the State Veterans Home program being larger and more cost effective. State Veterans Homes need a seat on the GGAC and at the table whenever VA is engaged in long term care planning.

Finally, to be a true partner with VA, the State Veterans Homes need to have a single responsible office inside VA which oversees all aspects of the program. Currently, State Veterans Homes are overseen by at least three major program offices: Geriatrics and Extended Care; Central Business Office; and the Construction Grant Program Office. While VA has designated a lead point of contact, the lack of true programmatic leadership has resulted in a lack of visibility and lack of advocacy within VA for the State Veterans Home program. With a VA budget for State Veterans Homes per diem topping \$1.5 billion, it is time for VA and Congress to consider establishing an Office for State Veterans Homes within VA.

Chairwoman Brownley, while there has been rebalancing inside VA between institutional and non-institutional care in recent years, a trend that is projected to continue in the future, we must remind the Subcommittee that the need for traditional nursing home care is neither diminishing nor will it ever go away. The total average daily census for all VA-supported nursing home, both long stay and short stay, is about 40,000 total; this is just a fraction of a percent of the total number of veterans over the age of 65, a population that is expected rise in the coming decade. NASVH and our member State Veterans Homes will continue to seek new and innovative ways of delivering long term services and supports to aging and ill veterans, however it would be a grave mistake to neglect the existing infrastructure provided by State Veterans Homes. That concludes my statement and I would be happy to respond to any questions you may have.
