

STATEMENT OF
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FOR THE RECORD

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

WITH RESPECT TO

Pending Legislation

Washington, D.C.

October 20, 2021

Chair Luria, Ranking Member Nehls, and members of the subcommittee, on behalf of the men and women 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. 2568, United States Cadet Nurse Corps Service Recognition Act of 2021

The Cadet Nurse Corps (CNC) was formed on July 1, 1943, to address the nation's nursing shortage during World War II. Nearly 180,000 women from across the United States responded to the call to serve their country in uniform for the CNC during this critical time of need. The VFW supports this legislation which would honor these service members as veterans, making them eligible specifically to receive a gravesite plaque and an American flag for their wartime, active duty service. This legislation would not grant Department of Veterans Affairs (VA) benefits, other financial benefits, or burial at Arlington National Cemetery. It is time to finally recognize these Americans for their honorable service during the Second World War.

H.R. 2724, VA Peer Support Enhancement for MST Survivors Act

The VFW has long advocated for the expansion of VA's peer support programs. The *VA MISSION Act of 2018* paved the way for peer support to be integrated into the patient-aligned care team of 30 VA medical centers. The care team is the foundation of veteran-centered health care. It provides an added touch point within the care team to which the veteran can relate, and gain encouragement and empowerment to live their best life.

Research published by *Implementation Science* in June 2021, reviewed the practice of peer support in the care team to provide insight into hiring and integration in accordance with the *VA MISSION Act of 2018*. The study compared peer support workload and veterans' involvement in

their care. Veterans stated their experiences were very positive and gave them a better impression of VA.

This legislation would require VA to provide veterans who file a disability claim related to military sexual trauma (MST) the option to be assigned a peer support specialist trained as a victim's advocate during the claims process. The VFW supports this legislation to assist MST survivors during this important part of their journey through the VA system. We suggest that language be added that identifies under which office the peer support specialists would fall and be managed, includes the necessary training on the claims process, and better outlines the duties and responsibilities of the peer support specialists.

H.R. 2800, WINGMAN Act

This legislation would direct the Department to give veterans the option to grant read-only access of their VA claim records to certain congressional staff. The individuals must be employed by a member of Congress who represents the veteran's district of residence and must satisfy the criteria of VA for recognition as a claims agent or attorney, though may not be formally recognized as a claims agent or attorney. This access may be desirable when a veteran requests assistance from a case worker within their elected representative's office.

The VFW supports the intent of this legislation and we are also encouraged that the subcommittee took many of the VFW's recommendations to improve this proposal from the last Congress. However, we continue to have concerns about accountability of staff members under this proposal as well as practicality for congressional offices when compared to other options.

Accredited service officers are subject to policies aimed at protecting the privacy of personal and medical records, and prohibiting access to certain records including that of friends or family members and files not pertaining to the service officer's determined responsibilities. We would like clarification on how covered employees would be held accountable for any mismanagement or abuse of this access to veterans' records.

H.R. 2827 Captain James C. Edge Gold Star Spouse Equity Act

The VFW does not have a position regarding this proposal.

H.R. 3402, Caring for Survivors Act of 2021

The rate of Dependency and Indemnity Compensation (DIC) paid to the survivors of service members who died in the line of duty or to veterans who died from service-related injuries or illnesses has only minimally increased since the benefit was created in 1993. Currently, DIC is paid at 43 percent of 100 percent permanent and total disability, while all other federal survivor programs are paid at 55 percent. The VFW supports this legislation to increase DIC payments to survivors, reaching parity with payments made to surviving spouses of other federal employees.

This legislation also addresses the need to protect survivors, who may also be caregivers, in cases where the veteran is totally disabled for less than the arbitrary period of ten years and dies

from a non-service-connected condition. Currently in those cases, the survivors would not receive DIC. The VFW supports this legislation to provide benefits in these situations, gradually starting at five years and increasing to the full amount at ten years. This would extend DIC eligibility to more survivors and ease some of the financial burdens with which they suddenly may be faced.

We do, however, have requests for clarification regarding the bill as it is currently written. As it is not explicitly stated, we want to ensure that the increase to DIC is the same for the base pay for all recipients of the benefit, even those receiving added amounts such as the 8-year provision, Aid and Attendance, Housebound allowance, transitional benefit, and the DIC apportionment rate. We would also like clarification that the date of January 1, 1993, included in the Individuals Described section would not exclude any current group of eligible DIC recipients from the increase.

Additionally, the VFW recommends making an exception to the ten-year time frame for payments to the surviving spouses of veterans who die from amyotrophic lateral sclerosis (ALS), as the average life expectancy following diagnosis is two to five years.

H.R. 3793, Supporting Families of the Fallen Act

The Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) maximum payouts have remained at \$400,000 for the last 16 years. The VFW supports this legislation which would increase the maximum payout to \$500,000 to adjust for inflation. Service members and their families should have peace of mind when selecting either of these insurance policies for the maximum amounts, anticipating what their needs might be in the event of the individual's passing while considering overall rising costs over time due to inflation.

H.R. 4191, Gold Star Spouses Non-Monetary Benefits Act

The VFW does not have a position regarding this proposal.

H.R. 4601, Commitment to Veteran Support and Outreach Act

The VFW supports the intent of this legislation to improve outreach to veterans regarding the VA benefits to which they are entitled. We see this as a duty of the Department, with the help of Veterans Service Organizations (VSOs) and partners, to continuously seek to improve communications and outreach to veterans regarding their earned benefits, health care, and other services.

This legislation would allow VA to award grants to states for outreach activities, to assist veterans in the development and submittal of VA claims, or to hire additional county or tribal veteran service officers, select state service officers, or publicly funded entities.

The VFW believes that language should be clarified in the legislation to ensure states have the flexibility to further allocate grant funds not only to state, county, and tribal service officers, but

also to service officers from private VSOs like the VFW and others that are recognized by VA for the preparation, presentation, and prosecution of claims before the agency.

The VFW appreciates the effort within this legislation to address shortages of accredited service officers in certain parts of the country and for the extra focus on areas where there are high veteran suicide rates. We look forward to working with the committee to make this proposal as inclusive as possible to meet the needs of the veterans' community.

The VFW strongly believes that ensuring veterans gain access to their earned VA health care and benefits can significantly impact a veteran's well-being and mental health. We support expanding access to accredited service officers and Vet Centers to provide additional mental health services in rural areas, as well as increasing funding for a variety of VA economic opportunity programs and housing programs. Improving outreach to veterans and informing them about VA resources is an important part of reducing risk factors of veteran suicide.

H.R. 4633, to amend title 38, United States Code, to improve the repayment by the Secretary of Veterans Affairs of benefits misused by a fiduciary

The VFW supports this legislation which would eliminate the requirement for the Veterans Benefits Administration (VBA) to make a negligence determination and would allow for automatic reimbursements to veterans in all cases of fiduciary fraud. VBA appoints fiduciaries on behalf of veterans who are unable to manage their financial affairs due to injury, disease, age, or other reasons. It also investigates reports of fiduciary misuse of these funds. According to a July 2021 Office of Inspector General (OIG) report, from January 1, 2018 through September 30, 2019, VBA staff initiated approximately 12,000 allegations of misused benefits by fiduciaries.

Historically, VA could make automatic repayments only to veterans defrauded by their fiduciaries in certain, but not all, cases. A provision within H.R.7105, *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, which was enacted on January 5, 2021, intended to correct this inequity and allow for automatic reimbursement in all instances of fiduciary fraud. An unintended consequence of this provision was that it created a requirement for VBA to make a negligence determination and for VA to investigate its own culpability in all cases of fiduciary misuse before reissuing payments to the beneficiaries. This has created an unnecessary and time-consuming process as VA's role in the appointment of the fiduciary or its lack of proper oversight does not change the outcome for the veteran.

The OIG report identified significant wait times for beneficiaries and delays in repayments. Of the 40 cases reviewed, it took an average of 228 days for VBA to complete the misuse determinations. Some cases took a year or longer. It also cited that negligence determinations were a key inefficiency in the reimbursement process. VA negligence determinations should never delay veterans from receiving their reimbursements, as this could potentially create significant financial hardship for an already vulnerable population.

H.R. 4772, Mark O'Brien VA Clothing Allowance Improvement Act

Veterans may qualify for the VA Clothing Allowance when they have prosthetics, orthopedic devices, or skin medicine that affects their clothing. Veterans must reapply for this benefit each year even though, in many cases, the circumstances which qualify them for the benefit will not change over time. The VFW supports this legislation which would require a veteran to apply for the clothing allowance only one time. Once granted, these payments would continue each year until VA determines that the veteran is no longer eligible for the benefit. This would remove the burden from the veteran of having to reapply each year.

Discussion draft to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to repay the estates of deceased beneficiaries for certain benefits paid by the Secretary and misused by fiduciaries of such beneficiaries

The VFW supports this legislation which would ensure that if a fiduciary misuses a veteran's VA benefits, whenever the Secretary determines repayment of those funds must be issued but the veteran has passed away, the funds would be paid to the veteran's estate. The VFW recommends clarifying that funds would never be reissued if the executor of the estate was the fiduciary who committed the fraud.

Discussion draft to amend title 38, United States Code, to improve the manner in which the Board of Veterans' Appeals conducts hearings regarding claims involving military sexual trauma and to direct the Secretary of Veterans Affairs to improve the language and practices of the Department of Veterans Affairs with respect to such claims

The VFW supports this legislation which would modify the practices and procedures at the Board of Veterans' Appeals (BVA) and within VA as they relate to claims for MST. The VFW appreciates adding trauma-informed language to communications with veterans. This a change we have already seen at VA with veterans suffering from post-traumatic stress disorder. This legislation would also offer veterans a choice in the gender of the judge conducting the hearing, prompt judges to identify their cases which involve claims for MST, and reduce requests for repetitive medical exams for MST when the file already includes the pertinent evidence. Avoiding unnecessary exams would not only save veterans from having to repeatedly explain their trauma, but eliminating this and any other unnecessary steps would inevitably cut down on the time needed to complete the appeals.

Discussion draft to amend title 38, United States Code, to extend increased dependency and indemnity compensation paid to surviving spouses of veterans who die from amyotrophic lateral sclerosis, regardless of how long the veterans had such disease prior to death

VA considers ALS a presumptive service-connected disease and, due to its progressive nature, automatically rates any diagnosed veteran at 100 percent once service connected. If a veteran with service-connected ALS then dies, their surviving spouse is eligible to receive DIC. In cases where a veteran had a VA disability rating of totally disabling for at least the eight full years leading up to their death and was married during those same eight years, the surviving spouse is then entitled to an additional monthly payment called the 8-year provision, also known as the

DIC Kicker. The VFW supports this legislation which would entitle these surviving spouses to the 8-year provision if married to the veteran during the eight years prior to their death, but regardless of how long the veteran had ALS. Taking into consideration the often full-time care needed for a person diagnosed with ALS and that the average life expectancy following diagnosis is from two to five years, we see this as an important add-on for these survivors.

Discussion draft to improve coordination between the Veterans Health Administration and the Veterans Benefits Administration with respect to claims for compensation arising from military sexual trauma, and for other purposes

The VFW supports this legislation to provide survivors of MST with information on VA resources to assist with treatment of their disabilities related to MST and overall mental health.

During or immediately after a veteran attends a VA Compensation and Pension Examination or a hearing at the BVA regarding a disability claim related to MST, VBA and the Veterans Health Administration (VHA) would have to provide outreach letters, and information on the Veterans Crisis Line, making appointments with mental health care providers, peer support specialists, and other resources related to MST.

We suggest also including information on Vet Centers and their resources, as well as providing literature on the VA claims process and benefits in waiting rooms at VA medical centers. Coordination between VHA and VBA should be creative and take into account all touch points that veterans may have with VA.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2021, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.