

Pending Legislation

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Statement of

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Veterans of Foreign Wars of the United States

Before The

United States Senate
Committee on Veterans' Affairs

With Respect To

Pending Legislation

WASHINGTON, D.C.

Chairman Moran, Ranking Member Blumenthal, and members of the committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, I would like to thank you for the opportunity to speak on these subjects.

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S. 124, Restore VA Accountability Act

The VFW has previously supported legislation that would streamline authorities to suspend, demote, or fire Department of Veterans Affairs (VA) employees who have been determined to warrant such action. We also supported the *Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017* (Public Law 115-41) because we had seen examples of VA's inability to hold certain employees accountable. While this proposal would restore the original intent of the law that had technical gaps and was not implemented effectively, we would like to express our disappointment at how the recent dismissals of VA employees have been handled.

The VFW fully agrees that the Secretary of Veterans Affairs should be able to remove bad employees from their roles. Still, we do not agree with using the authority this proposal would provide to arbitrarily remove competent and capable employees simply as a cost-cutting measure. Reduction in Force efforts should not be bluntly used to satisfy an arbitrary budget goal. VA should always be fully staffed with competent and capable employees to serve the men and women who have earned their health care and benefits.

Secretary Doug Collins has fired more than 2,400 employees. Nowhere in his message on this action did it explain what warranted the firings. Members on this committee regularly say VA needs to weed out the bad actors, but the dismissal of employees was not done because it was warranted, instead it was done because it was easy. Among the employees who were let go were veterans and military spouses. Some of these firings have been rescinded because they were key positions, but that is not the case for all of the dismissals. Before this committee advances this bill, we believe there needs to be proper oversight to ensure the men and women who serve our veterans, caregivers, and survivors are not fired arbitrarily from their crucial roles.

S. 201, Aviator Cancers Examination Study (ACES) Act

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The VFW supports this legislation and its VA-brokered study by the National Academies of Sciences, Engineering, and Medicine on the prevalence and mortality rates of certain cancers in U.S. Armed Forces fixed wing aircrew members. This proposed study closely

parallels a National Academies' analysis conducted in conjunction with the Department of Defense (DOD) and authorized by the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021* (Public Law 116-283). In fact, the *ACES Act* lists this DOD effort as a possible data source for the VA investigation. The two-phased DOD study probed the incidence of several cancers in U.S. Armed Forces fixed wing aircrew members, personnel supporting the generation of the aircraft, logistics support personnel, and any other crew members who regularly flew in an aircraft or were required to complete the mission of the aircraft. The Phase I epidemiologic investigation finished in May 2024 after considering the cancers included in the *ACES Act*, as well as female breast cancer. The study indicated heightened rates of several cancers in both aircrew and ground crew/support personnel. Due to Phase I findings, the Secretary will commence a Phase II study to identify the causative carcinogens and environmental conditions. VA could presumably use its and DOD's study results in the Presumption Decision Process and evaluate specific health conditions attributable to aviation materials and operating environments for presumptions of service connection. Additionally, at the conclusion of these studies Congress should authorize a similar effort for rotary wing aviation.

S. 275, Veterans' ACCESS Act

The VFW supports this proposal that would provide overall enhancements to the VA Community Care program. Since the passage of the *VA MISSION Act of 2018*, VA has not implemented this program consistently across its entire network. Veterans deserve consistency in their care, and this is a good step toward providing it. While this proposal does not address VA direct care, we would be remiss to not remind this committee that some of the reasons community care appointments and costs are increasing is because VA cannot provide many of these vital services. Care in the community is VA care, but providing resources for care only in the community and not also for VA direct care can lead to a less capable VA, which would be detrimental.

Sec. 101 - The VFW supports the codification of access standards for the VA Community Care Network (CCN). These access standards have been in place for years and, although they were arbitrarily adopted from old TRICARE access standards for retirees, the standards have not changed and have not been problematic for veterans since the enactment of the *MISSION Act*. The issues with CCN we have heard from our members are not due to the geographic factors or wait times to access this type of care. Enough time has passed since the initial implementation that we are comfortable codifying these standards.

Sec. 102 - The VFW supports this portion of the bill that would require veterans to be notified of eligibility for community care. Too many veterans need to advocate on their own to access care in the community. If this care is to be provided appropriately to veterans, then it should be transparent and accessible, not hidden behind levels of bureaucracy.

Sec. 103 - We support this provision to include a veteran's preference in the determination for community care. We understand this addition does not mean a veteran's preference is the sole factor for accessing community care, but it should be part of the consideration.

Sec. 104 - We support this provision to provide a notification of denial to veterans.

Sec. 105 - We support this provision to discuss telehealth options that are acceptable to veterans.

Sec. 106 - We support this provision to extend by an additional six months the deadline for payment claims of providers. TITLE II of this bill addresses improvements to certain VA mental health treatment programs. The VFW is pleased to see language that would improve the policies and processes that govern access to VA's Mental Health Residential Rehabilitation Treatment Program (MH RRTP) as we recognize it needs serious attention. However, we would ask the standards for accessing these programs be thoughtfully considered due to their different nature. Priority admission standards should be developed differently than routine admission standards because many of these programs, whether VA-provided or in the CCN, are not local to veterans.

MH RRTP locations are often secluded and situated in rural areas as part of the provided treatments. The fact that they are often intentionally situated away from population centers means many veterans would automatically be eligible for referral to community-based services regardless of where they live. We believe a carefully considered combination of wait times and geographic boundaries must be considered for routine admissions, rather than arbitrary calculations based on entirely different treatment programs such as standard VA mental health care.

Veterans in crisis must receive timely, quality, and consistent care that aligns with their needs while also accounting for their individual preferences where feasible. We feel the proposed 48- hour deadline for residential treatment screening and admissions decisions has the potential to save lives and mitigate instances of veterans losing trust in VA's ability to provide or facilitate care when they need it most. As we collectively look to improve help-seeking behaviors among veterans, Congress and VA must ensure resources like these are equipped to meet veterans where they are without bureaucratic hurdles or inefficiencies undermining such efforts.

To that end, we would like this committee to consider including a provision that also prohibits barriers to accessing the breadth of community-based residential treatment programs that are available and commonly tailored to veterans. One VFW member recently sought but ultimately gave up on receiving residential mental health care through VA because the program the provider determined would best meet the care needs was in the wrong network. Other available programs that met treatment needs and preferences like gender-specific programming were similarly out of network.

With rare exceptions, veterans referred to residential treatment via CCN are able to access only programs that are physically located within their respective jurisdictions, each of which is managed by either Optum Serve or TriWest Healthcare Alliance. While this structure works relatively well for common needs like orthopedics and diabetes care, the same cannot be said for mental health and substance use disorder (SUD) programs that are limited in number, highly specialized, and variable in terms of medical expertise and treatment methods. Arbitrarily restricting program access based on administrator network boundaries limits VA's ability to coordinate timely and appropriate residential mental health and SUD care for veterans. While this is not in statute, it is in practice at VA and needs to be rectified.

Sec. 301 - The VFW generally supports the idea of this provision but would recommend instructing VA, to the extent possible, to purchase an existing platform instead of building its own. The existing language in this proposal directs VA to develop and implement a plan to establish an online interactive self-service module. However, VA is historically inept at developing its own IT platforms and a self-service module would be a great improvement for VA care, as long as it is done properly.

Sec. 302 – We support the concept of this proposal that seeks to implement a different pilot

program for accessing certain mental health services without a prior referral authorization if the veteran is enrolled in the VA health care system. This process is similar to the existing urgent care treatment models available to veterans. That system works for veterans because it allows quick access to treatment that could typically involve certain delays or overcrowded VA emergency rooms. However, that system also brings high costs and unknown budget impacts. VA does not know if ten veterans will use that system or if 10,000 veterans will do so. VA simply has to pay the bill when it arrives. The community care budget has grown in the past few years due to this uncoordinated care, and we predict this provision could have similar unpredictable increases in cost. We believe this provision could be beneficial, but we would like to warn against reductions in direct VA care in order to maintain these uncoordinated care options.

We support this proposal, and the community care provisions in the *Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act* because community care is a program that needs improvements. We would be remiss to not mention the underlying cause of some community care problems is VA's current inability to perform some of this care. VA direct care and community care can complement each other to provide a full suite of services for veterans. Often CCN is used to relieve the burden of care VA cannot directly provide. But providing additional resources only to the community care portion of VA care will continue to exacerbate the problems with VA internal capacity. We urge this committee to not only fund community care improvements but also continue to improve direct VA care so this "pressure relief valve" is not overused.

S. 410, Love Lives On Act

As a resolutions-based Veterans Service Organization, the VFW does not have a position on whether survivors should retain their benefits upon remarriage. However, we do support surviving spouses regaining their TRICARE benefits if they remarry and that marriage subsequently ends. A survivor whose subsequent marriage ends can regain Dependency and Indemnity Compensation (DIC), and Survivor Benefit Plan payments. Accordingly, they should also have TRICARE benefits reinstated.

S. 478, Veterans 2nd Amendment Protection Act of 2025

The VFW supports this legislation that would protect the constitutional rights and establish due process for a veteran whom VA has assigned a fiduciary prior to referral to the National Instant Criminal Background Check System (NICS). We supported this bill more than fifteen years ago when the VFW first realized this problem, and we will support this proposal until it becomes law.

VA administers a fiduciary program for veterans who cannot manage their VA benefits for a variety of reasons, one of which is mental incompetency that VA characterizes as an inability because of injury or disease to manage one's own affairs. VA bases its incompetency determinations on medical documentation from a variety of sources, such as a medical provider who conducted a routine, incidental medical or mental health examination, or a compensation and pension medical examiner during a veteran's application for VA disability compensation. Currently, VA does not order any additional medical or mental health examinations to determine the prospective incompetent veteran's propensity for self-harm or harm to others.

Upon incompetency determination and subsequent fiduciary assignment, VA will refer the veteran's name to NICS in compliance with the *Gun Control Act of 1968* (Public Law 90-618) and the *Brady Handgun Violence Prevention Act* (Public Law 103-159), effectively rescinding the veteran's Second Amendment rights. The VFW represents few veterans with fiduciaries in the VA disability claims process, and they rarely ask our accredited representatives to assist them in appealing the decision. Even though we understand the issue of fiduciaries likely affects a small percentage of veterans, we argue that all veterans deserve protection of their constitutional rights.

Unfortunately, because of the somewhat subjective VA incompetency determination process and related loss of Second Amendment rights, some veterans refuse to use VA health care for fear of inadvertently making a disqualifying statement or disclosing a temporary disabling condition that could lead to NICS referral. This stigma unnecessarily deprives veterans of their earned benefits and has created a barrier to care, which is a difficult perception to change. The VFW continues to encourage veterans to use their earned VA health care, including the world-class, veteran-specific mental health services that VA provides. The VFW has also been involved in numerous efforts to reduce veteran suicide, including urging veterans in distress to temporarily give their firearms to a trusted friend or consider using trigger locks to lessen the ease of using a firearm to harm themselves. Additionally, the VFW believes in looking at the economic factors veterans face that can put them at risk for death by suicide, as we know suicide is not solely a mental health or firearm

issue. The requirement of the *Veterans 2nd Amendment Protection Act of 2025* for a judicial review prior to NICS referral could assure veterans regarding unconditional medical and mental health care without jeopardizing their constitutional rights.

S. 607, Improving Veteran Access to Care Act

The VFW supports this legislation that requires VA to establish an integrated project team to improve the process for scheduling appointments for VA health care. The goal is to achieve efficiency, accessibility, and timeliness in appointment scheduling, which would modernize VA's scheduling process, and thus reduce wait times and improve access to timely health care. However, we recommend to the greatest possible extent that VA purchase off-the-shelf products to produce the desired results. VA's ability to develop new IT solutions has been suboptimal and we would encourage the use of alternate platforms if available.

S. 610, Ensuring VetSuccess On Campus

The VFW supports this proposal that would ensure the VetSuccess on Campus Program has a location in every state. Some of our members work with VetSuccess counselors at various campuses and have relayed to us the benefits of this program. These counselors have the ability to assist with education issues on campuses and also provide guidance and assistance for other Veterans Benefits Administration (VBA) benefits. This is a valuable program that should be expanded to the greatest extent possible.

While this bill does not change the duties of the VetSuccess counselors, we have heard that too many of them are being tasked by VA with additional duties that are not specific to student veteran issues. We urge this committee to ensure that VetSuccess counselors are not being diverted from their critical jobs simply to backfill other VA roles in their respective areas.

S. 611, Caring for Survivors Act

The VFW strongly supports the three provisions in this bill. In fact, we have been advocating for many components of this legislation for several years and accordingly support its swift passage.

The rate of DIC paid to survivors of service members who died in the line of duty or to veterans who died from service-related causes has only minimally increased since the benefit's inception in 1993. Currently, DIC pays 43 percent of the compensation of a 100 percent permanent and totally disabled beneficiary while all other federal survivor programs pay 55 percent. We strongly support this provision that would increase DIC to 55 percent, finally reaching parity with other federal programs.

Second, we support paying affected survivors the greater of this increased DIC or the amount of the older, rank-dependent compensation system in effect for deaths prior to 1993. This provision would equalize compensation across the rank structure, substantially increasing compensation of the survivors of all enlisted personnel and nearly all officer decedents. Stratifying compensation based on rank unfairly disadvantages certain survivors.

Third, the VFW supports halving the time requirement of service-connected total disability for veterans whose cause of death is unrelated to a service-connected disability. The current requirement is for the decedent to have had a service-connected total disability for at least ten years immediately preceding death. Reducing the requirement to five years would expand the number of eligible survivors while greatly assisting them in restarting their employment and other facets of their lives after caring for their totally disabled veterans.

Draft legislation to establish an external provider scheduling program

The VFW supports this legislation that would establish an external provider scheduling program to assist VA in scheduling appointments for care and services under the Veterans Community Care Program. We understand that this would streamline the scheduling process for veteran appointments. This bill would address wait times and access to care, but also current challenges related to technology integration, and data privacy and security.

We must consider the need for updated electronic health record and IT systems, which would contribute to the scheduling program's successful operation. There is a need for adequate staff who can serve veterans at VA Medical Centers. Updated technologies are required to allow VA schedulers, health care providers, and veterans to book appointments in real time. However, we recommend to the greatest possible extent that VA purchase off-the-shelf products to produce the desired results. VA's ability to develop new IT solutions has been suboptimal and we would encourage the use of alternate platforms if available.

Draft legislation, Representing VA with Accuracy (REP VA) Act

The VFW supports this proposal for VA to establish a single, well-known telephone number for reaching out to veterans. Additionally, ensuring each time zone has a call center would hopefully allow veterans to connect with VA at reasonable times all across the country.

Draft legislation, Veterans' Claims Act of 2025

The VFW supports this legislation as written. We appreciate the committee's effort to provide a compromise that provides necessary protections and allows for an expansion of accreditation to certain individuals who seek to provide claims assistance for a reasonable fee. This bill provides necessary guardrails for claims preparation, and preserves veterans' choice in seeking a reasonable free market alternative to the current processes.

The VFW has expressed to the committee our redlines regarding any comprehensive bill put forth seeking our support. Veterans should not have to pay future benefits, active duty service members should not have to pay for claims assistance prior to transition, and no one who prepares claims should have any financial affiliation with medical examiners who could possibly affect the outcome of a claim. These are commonsense concerns that we insist be in any bill that is advanced. We are grateful this committee has listened to our feedback and produced a bill that we believe offers a true compromise on this issue.

We support the provision in this draft to ensure veterans are fully informed of their options when filing claims. Notifying veterans of all the choices they have would hopefully result in more veterans accessing the care and benefits they have earned. Additionally, requiring VA to maintain a system through which a claimant may report unaccredited entities charging illegal fees is positive. Currently, the staff at the VA Office of General Counsel (OGC) is inept at dealing with this issue and needs assistance to perform this basic task. We urge this committee to provide that office with additional resources so it can be adequately staffed with competent employees who have 21st century tools to accomplish their day-to-day tasks.

We also support VA providing warnings to veterans in order to make them aware of unaccredited entities who are in violation of the law. The VA OGC has sent numerous cease and desist letters to individuals and companies, including multiple warnings to the same accredited attorneys, but never bothered to follow up with any further actions. That office and the staff who work at OGC abdicated responsibility for the past decade concerning this issue. The OGC has been unhelpful and unresponsive about this aspect of accreditation. We believe the responsibility for overseeing and maintaining accreditation should be removed from OGC, and instead placed under the authority of the Veterans Benefits Administration and tasked to an appropriate office that can competently carry out this mission.

We support individuals seeking accreditation to be allowed a conditional and temporary status that may be extended if necessary. The inefficient staff at OGC cannot process accreditation applications for agents in a timely manner. Providing flexibility would allow upstanding individuals seeking to become accredited agents the ability to still work with claimants under the law while they await the process to be completed.

We support extending accreditation to employees of non-profit organizations who are seeking to assist veterans, caregivers, and survivors but do not primarily work with VA claims. The VFW has worked with other organizations to provide accreditation under our authority so they can also assist people filing claims. We extended accreditation to case workers from Wounded Warrior Project before they were able to do so on their own. We have also offered a similar dynamic to our partners from Student Veterans of America and the Tragedy Assistance Program for Survivors. There are numerous organizations that could benefit from having accredited staff on board to help with claims assistance for the beneficiaries they represent. This proposal would be a step in the right direction.

We fully support the portion of this draft bill that would prohibit charging service members for claims through the Benefits Delivery at Discharge (BDD) process. BDD claims are processed separately and faster than other VA claims. Additionally, the claimants are still on active duty, so the conditions applied for are mostly incident to service and would automatically be service connected.

We support protecting veterans' legal option to terminate the representation agreement prior to a decision being rendered to the claimant. This is similar to the protection afforded to veterans who work with accredited agents and attorneys, and this is important to maintain. The VFW has worked with too many veterans who had severed relationships with Claim Sharks only to have them reappear years later seeking fees for work they did not perform. Additionally, we support prohibiting charges for existing claims and work that was not directly performed by said individuals.

One of our redlines is the prospective fees of any months of future benefits. Charging fees from future benefits is illegal and predatory and has the potential of putting veterans in debt. We would never support a paradigm that could put veterans in debt simply for accessing their earned benefits, and we are grateful this proposal does not either.

Charging future benefits is called "Assignment of Benefits" and it is prohibited by VA and the Social Security Administration. It is also prohibited in civil court case claims such as tort, workers' compensation, mesothelioma, and asbestos. According to VA, under Title 38 of the United States Code (U.S.C.), Section 5301(a), a contract with a claimant generally may not obligate that claimant to pay fees from their VA benefit payments. The only legal option for charging fees in these cases is from payments for retroactive benefits.

The reason for allowing fees only from retroactive benefits is because it is guaranteed the claimant has the money in hand to pay the bill. Every VA claim comes with a retroactive payment based on how long it took to process the claim. The current processing time for a claim is 146 days, which means a veteran would receive an average of 146 days' worth of benefits. If a claimant is charged a future amount of benefits, that individual might not have enough money to cover that cost when they are billed.

Some Claim Sharks state their average time to complete a claim is less than three months. That means a veteran who works with certain Claim Sharks would receive retroactive payment for three months of benefits from VA, but then get charged a fee of five to ten months of benefits by these sharks. Consequently, veterans could be in debt for months of benefits to companies such as this, in addition to late fees and penalties for not paying the full amount that some of them charge. This prospective fee structure is illegal, predatory, and could lead to veterans being in debt.

A percentage of fees charged out of the retroactive payment is the only guaranteed method to ensure the veteran has enough money to cover whatever fees may be assessed for services. Accredited agents and attorneys are allowed to charge 20 percent of a retroactive payment if VA processes the payment, and 33 percent of the retroactive payment if the client is billed directly by the accredited agent or attorney. This is the fee structure the VFW has been amenable to with other accredited individuals, and this is what we believe would be reasonable for initial claims as well. Putting veterans in debt is the last thing we should do, and the VFW and our allies would oppose any bill that financially harms veterans. We also would recommend this committee consider a reasonable fee cap be added to the fee structure. We do not have a specific amount to suggest, however, we would ask this committee to consider the factors in 38 CFR § 14.636 when making that determination.

To the VFW, this has never been about the money. Accredited agents and attorneys can make a healthy living operating within the ethical confines of the established, non-predatory fee structure. When payment comes from retroactive benefits, it is hard to consider it predatory since the veteran is guaranteed to be able to settle the debt.



Draft legislation, VetPAC Act of 2025

The VFW supports this legislation that would establish a commission to review VA operations and submit reports to Congress. This commission would be tasked with conducting a comprehensive review of Veterans Health Administration operations and is composed of members with significant expertise in various fields related to health care to facilitate informed decisions. The VFW believes the recommendations from these assessments would help Congress propose meaningful legislation to ensure veterans receive adequate care.

Draft legislation, Veterans Mental Health and Addiction Therapy Quality of Care Act

The VFW supports this proposal to require a study to identify the quality of care differences between mental health therapy provided by VA and that of community providers. More information about the practices and outcomes of mental health care would hopefully provide a better understanding of what is working and where resources should be focused.

Draft legislation, Servicemembers and Veterans Empowerment and Support Act

The VFW supports this legislation, particularly its overarching theme of enhanced training for claim processors and reviewers that emphasizes accuracy, completeness, and improved communications throughout the disability claims process. This aspect of the bill is especially compelling by seeking to increase the proficiency of claims processors in recognizing nuanced non-military sources of evidence, eliciting vital information without retraumatizing the survivor, and in correctly processing claims involving military sexual trauma (MST). The annual focused reviews should validate (or refute) the effectiveness of the training. Emphasizing their importance, these reviews will continue until claim processors for MST-related claims achieve a 95 percent accuracy rate for five consecutive years. Additionally, the VFW concurs with VA's aggressive outreach campaign pertaining to various facets of MST reporting and claim adjudication. However, we doubt VA's ability to achieve its laudable goal of providing MST claims information to disenrolled service academy students from the last 80 years unless Congress substantially resources VA for this purpose. Lastly, the VFW concurs with VA's updated definition of MST that includes trauma involving online or other technological communications.

Draft legislation, Veterans Fraud Reimbursement Act

The VFW supports this legislation that seeks to restore benefits to veterans and their families who are victims of abuse or fraud by fiduciaries. VA 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 the VA Office of Inspector General (OIG) Report Number 20-00433-168 dated July 21, 2021, VBA staff initiated approximately 12,000 allegations of misused benefits by fiduciaries between January 1, 2018, and September 30, 2019.

The VA 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 VA negligence determinations were a key inefficiency in the reimbursement process. These determinations should never delay veterans from receiving their reimbursements, as this could potentially create significant financial hardship for an already vulnerable population. Additionally, we support the provision to ensure whenever the Secretary of Veterans Affairs determines repayment of those funds must be issued to a veteran but that veteran has died, the funds would be paid per U.S.C., Section 5121. These benefits may be critical for the veteran's surviving spouse, next of kin, or caregiver.

Chairman Moran and Ranking Member Blumenthal, this concludes my testimony. I am prepared to answer any questions you or members of the committee may have.