



# Pending Legislation

May 22, 2019

Statement of  
Carlos Fuentes  
Director, National Legislative Service  
Veterans of Foreign Wars of the United States

For the Record

United States Senate  
Committee on Veterans' Affairs

With Respect To

"Pending Legislation"

WASHINGTON, D.C .

Chairman Isakson, Ranking Member Tester, 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, thank you for the opportunity to offer our views on legislation pending before the committee.

## **S. 123, Ensuring Quality Care for Our Veterans Act**

The VFW supports this legislation which would require the Department of Veterans Affairs (VA) to conduct a clinical review of care furnished by VA health care professionals who had their licenses to practice terminated for cause.

It is unacceptable to endanger the lives of our nation's veterans by hiring health care professionals with suspended licenses. There have been several egregious examples of VA doctors who commit malpractice under VA's watch, but should never have been allowed to provide care to veterans. This bill would rightfully ensure VA health care professionals who had their licenses terminated in the past and are currently employed by VA are providing high-quality care. If not, VA would be required to provide a clinical disclosure of adverse

---

### **NATIONAL HEADQUARTERS**

406 W. 34th Street  
Kansas City, MO 64111  
Office 816.756.3390  
Fax 816.968.1157

### **WASHINGTON OFFICE**

200 Maryland Ave., N.E.  
Washington, D.C. 20002  
Office 202.543.2239  
Fax 202.543.6719

info@vfw.org  
www.vfw.org

events to impacted patients. Doing so would ensure patients know their rights and options for recourse.

### **S. 221, Department of Veterans Affairs Provider Accountability Act**

The VFW supports the intent of this legislation, which would codify VA's reporting requirements to the National Practitioner Data Bank and state licensing boards, and has suggestions to improve it.

Several instances of VA medical errors have been made public in the past couple of years, where VA health care providers have been held accountable or fired, but the instances were never reported to state licensing boards or the National Practitioner Data Bank. This legislation would ensure such providers are not allowed to continue to endanger the lives of their patients, whether it is at VA or outside of VA, by requiring VA to report all major adverse actions to the National Practitioner Data Bank within 30 days of such actions. This legislation would also prohibit VA from purging negative records from personnel files except in situations where the record is found not to be legitimate by the Office of Accountability and Whistleblower Protection.

The VFW urges the committee to amend the legislation to require VA to report incidents VA is investigating. It is common practice for private sector health care facilities to report incidents to state boards when the facility begins a medical error investigation and when adverse actions have been carried out. This legislation only requires VA to report medical errors after the adverse actions have taken place. This is a particular concern in instances where a provider may choose to retire before an adverse action is carried out. In such instances, the state medical board where the provider is licensed may investigate and discipline the provider even though VA has lost its opportunity to do so.

### **S. 318, VA Newborn Emergency Treatment Act**

The VFW supports this legislation which would expand VA's current authority to cover the cost of emergency transportation for eligible newborn babies. Under current law VA is authorized to provide seven days of medical coverage for newborn children, but that coverage does not include emergency transportation.

The VFW has long supported expanding the length of time a veteran's newborn child is provided medical coverage by VA, and believes also expanding current legislation to include emergency transportation is common sense. If a veteran gives birth to a child who then has an emergency medical situation which the birthing facility is unable to address, VA must be able to cover the cost of transporting such newborn to a facility that can provide the required care. Veterans in this situation are already under a great deal of stress, and it is unjust to then add the burden of emergency transportation costs.

During the first seven days, the transportation must be covered as it is part of the treatment. Medical services and surveillance would be needed during the transport as a matter of life or death to the infant. This legislation provides Congress with an easy way to increase the quality of care women veterans rightfully deserve. The VFW urges the committee to swiftly pass this bill.

### **S. 450, Veterans Improved Access and Care Act of 2019**

The VFW supports this legislation to require VA to assess the feasibility of expediting the process of onboarding new medical providers and require VA to create a plan to reduce the hiring process for health care professionals.

The VFW continues to hear that VA's licensing and credentialing process is excessively long and should be modified to make certain VA is able to hire high-quality doctors on a timely basis. The VFW has also heard from providers who work at VA that they face delays transferring to underserved areas because they are required to undergo burdensome onboarding processes again, even though VA policy authorizes streamlined transfers between VA medical facilities. Veterans want more doctors at their VA medical facilities. Requiring doctors who want to serve veterans to jump through hoops deters them from doing so.

#### **S. 514, Deborah Sampson Act**

The VFW supports this legislation to improve VA benefits and services for women veterans. The VFW has adamantly worked alongside Congress and VA to improve access, care, and benefits to women veterans. This legislation would address issues and concerns regarding access to care, recognition, and homelessness which the VFW has identified in direct feedback from women veterans.

As the women veteran population continues to grow, VA must ensure it provides care and services tailored to their unique health care needs. Women veterans deserve access to the best treatment and care this nation has to offer. That is why it is crucial VA outfit existing facilities with basic necessities, such as curtains for privacy in women's clinics. These clinics also need to maintain at least one primary care provider with expertise in women's health who is able to train others. However, the VFW recommends removing the option of one part-time provider. A part-time provider would limit access to care for women veterans and decrease the provider's ability to maintain gender-specific expertise.

For women veterans who rely on VA for postnatal care, the VFW urges Congress to extend the number of days newborn care is covered by VA. Currently, VA only covers newborn care for seven days. One week is not enough to provide coverage for critical care that may be necessary in the first weeks of a child's life -- especially in the relatively common instance

of false-positive newborn disease testing -- nor is it enough to ease the new mother of unnecessary stress. The VFW supports the provision of this bill which would expand newborn coverage for veterans who use VA while receiving maternity care.

In addition, this legislation would provide many other improvements to women veterans' needs within VA. Some of these improvements include analysis of staffing needs, the establishment of a women veteran training module for non-VA health care providers, expansion of legal services for women veterans, and information to be added to the VA website relating to women veteran programs.

### **S. 711, Care and Readiness Enhancement for Reservists Act of 2019**

The VFW supports this legislation to expand eligibility for VA Vet Centers for members of the reserve component of the U.S. Armed Forces.

According to the Department of Defense Suicide Events Report, members of the reserve component have higher rates of suicide than active duty service members. Lack of access to mental health care and possible impact on career are common reasons reserve component service members do not receive the care they need to cope with mental health conditions, despite their high frequency of deployment. This bill would ensure they have access to the high-quality and confidential care provided by VA's more than 300 Vet Centers around the country.

### **S. 746, Department of Veterans Affairs Website Accessibility Act of 2019**

The VFW supports this legislation which would require VA to ensure its websites and kiosks meet accessibility requirements. With VA's increased reliance on websites to communicate with veterans, and kiosks at VA medical centers to check in for appointments, VA must ensure all veterans have the ability to utilize such modalities.

### **S. 785, Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019**

The VFW supports this comprehensive legislation which would significantly improve VA's suicide prevention efforts.

Eliminating suicide among our nation's veterans continues to be a top priority for the VFW. The most recent analysis of veteran suicide data from 2016 found suicide has remained fairly consistent within the veteran community in recent years. An average of 20 veterans and service members die by suicide every day. While this number must be reduced to zero, it is worth noting that the number of veterans who die by suicide has remained consistent in recent years, while non-veteran suicides have continued to increase.

The Office of Inspector General report determining Veterans Health Administration staffing shortages continues to list psychiatry clinics as having the most need, with the fourth being psychology. Out of 141 facilities surveyed, 98 had a shortage for psychiatrists and 58 had a shortage for psychologists. By not adequately staffing VA, the capacity to serve veterans and provide the necessary access to mental health care needed by so many will continue to be limited. With the entire nation experiencing a critical shortage of mental health care providers, such need cannot be sufficiently addressed by simply increasing use of community care. This legislation would make improvements to VA's mental health care workforce to ensure veterans with mental health care concerns have timely access to high-quality care.

The VFW is proud to be part of the solution. Through Project Advancing Telehealth through Local Access Stations (ATLAS), the VFW has worked with VA and Philips to leverage VA's anywhere to anywhere authority to expand telehealth options for veterans who live in rural areas. In this partnership, VA has identified highly rural areas where veterans must travel far distances to receive VA health care. The VFW identifies posts in those areas to serve as access points for VA health care. Once the post is modified to VA's specifications, it is equipped with Philips-donated telehealth technology to provide veterans access to VA health care at a convenient veteran-centric location. More than 20 VFW posts have been identified as possible telehealth centers. The primary use for the first Project ATLAS site in Eureka, Montana, will be for mental health care. Veterans in Eureka must travel more than 70 miles to the nearest VA clinic for mental health care. The VFW is glad this legislation would expand such opportunities through a grant program. Doing so would provide veterans the ability to receive VA health care closer to home.

VA is making concerted efforts to ensure it appropriately uses pharmaceutical treatments when providing mental health care. Under the Opioid Safety Initiative, VA has reduced the number of patients to whom it prescribes opioids. Prescribed use of opioids for chronic pain management has unfortunately led to addiction to these drugs for many veterans, as well as for many other Americans. VA uses evidence-based clinical guidelines to manage pharmacological treatment of post-traumatic stress disorder and substance use disorder to ensure better health outcomes. However, many veterans report being abruptly taken off opioids they have relied on for years to cope with their pain management, without a proper treatment plan to transition them to alternative therapies. Doing so leads veterans to seek alternatives outside of VA or to self-medicate. VA must continue to expand research of non-traditional medical treatments, such as medical cannabis and other holistic approaches, for mental health care conditions. This bill would require VA to expand access to such therapies to ensure veterans are able to access care that works best for them.

## **S. 805, Veteran Debt Fairness Act of 2019**

The VFW supports this legislation which would improve the processing of veterans benefits by VA, limit the authority of the Secretary of Veterans Affairs to recover overpayments made by the Department and other amounts owed by veterans to the United States, and improve the due process afforded veterans with respect to such recovery.

While the VFW understands that overpayments must be recouped in order for benefit programs to work efficiently, it is important for debt notices to be clear and provide concise information regarding what steps veterans must take in order to resolve any outstanding debts as soon as possible. Ultimately, a veteran should be responsible for repaying the overpayment, if it is indeed legitimate. Due to the inconsistencies regarding communication of overpayments from VA, as well as the general lack of information regarding the nature of such debt, many veterans are simply unable to meet the deadline imposed on them by VA. To further complicate things, the VFW's interaction with VA's Debt Management Center personnel has made it very clear that VA employees lack a proper understanding of VA policy and procedures regarding debt recoupment. The VFW believes this legislation would address these concerns, and strongly urge members of this committee to support its passage.

### **S. 850, Highly Rural Veteran Transportation Program Extension Act**

The VFW strongly supports this legislation, which would expand the authority for VA to partner with veterans service organizations and state veterans agencies to provide transportation services for veterans in rural areas.

Lack of transportation is a significant barrier to accessing health care for veterans who live in rural and remote areas. Such veterans often do not have the opportunity to use public transportation like their fellow veterans who live in urban areas. While VA provides benefits for veterans who travel long distances for care, veterans may not have the resources to pay for the cost of travel up front. VFW posts and departments in North Dakota, Maine, California, and Texas have partnered with VA through the Highly Rural Transportation Grants to eliminate this barrier for veterans. The VFW supports a one-year expansion of this important program, but urges this committee to make it permanent.

### **S. 857, to increase the amount of special pension for Medal of Honor recipients**

This legislation would increase the Medal of Honor pension. The VFW supports this legislation and has a recommendation to improve it.

Veterans who have been awarded the Medal of Honor have made extraordinary sacrifices for our country and are rightfully awarded a special pension for those heroic acts. The special pension for Medal of Honor recipients has been increased to adjust to cost of living increases, but has not been significantly increased since 2002. The VFW agrees that it is



time to update this modest benefit for America's most cherished heroes.

The loved ones of our most honored heroes often forgo careers to become full time caregivers. This means they become dependent on the Medal of Honor pension to make ends meet. However, the Medal of Honor pension ends with the death of the recipient and their spouses often do not qualify for VA benefits upon that death. Our nation has continued pensions for surviving spouses in the past, such as pensions for members of the Grand Army of the Republic. It is fitting that our Medal of Honor veterans' spouses should continue to receive Medal of Honor pensions until their remarriage or death. The VFW recommends this committee authorize the continuation of the pension for the Medal of Honor recipient's surviving spouse until the surviving spouse remarries or dies.

### **S. 980, Homeless Veterans Prevention Act of 2019**

This legislation would improve benefits afforded to homeless veterans. The VFW supports this legislation and would like to offer a suggestion to strengthen section 3.

The VFW firmly believes that no veteran who has honorably served this nation should have to suffer the indignity of living on the streets. We praise the great progress that has been made in reducing veterans' homelessness in recent years as a direct result of coordinated efforts across multiple government agencies to provide transitional housing, rapid rehousing, and employment programs for veterans in need.

The VFW generally supports section 3 of the bill which would allow the Secretary to enter into partnerships with public or private entities to fund a portion of certain legal services for homeless veterans. While the VFW recognizes that legal issues are often a significant barrier to homeless reintegration and must be addressed, we are concerned that some for-profit legal entities would view this program as an opportunity to exploit the availability of government resources in exchange for poor or inadequate services. For this reason, we suggest that the language in this section be changed to allow VA to enter into partnerships with only public or non-profit private legal entities that provide services to homeless veterans.

### **S. 1101, Better Examiner Standards and Transparency for Veterans Act of 2019**

The VFW supports this legislation which would require VA to ensure contracted health care providers who perform VA compensation and pension examinations are qualified to conduct such important examinations.

Veterans are dependent on the medical opinion of contract physicians who perform their disability evaluations to access their earned VA care and benefits. To maximize the effectiveness of the contracted compensation and pension examinations, Congress authorized a national license to practice for such providers, similar to VA health care

providers. This means contracted providers may perform an examination in a state other than the one where they are licensed. This legislation would rightfully prohibit health care providers who have their licenses revoked in any state from conducting important compensation and pension examinations for veterans. Doing so would ensure veterans do not receive inaccurate examinations, which could lead to the wrongful denial of much-needed benefits.

### **S. 1154, Department of Veterans Affairs Electronic Health Record Advisory Committee Act**

The VFW supports this legislation, which would establish an Electronic Health Record Advisory Committee to oversee VA's Electronic Health Records Modernization.

This bill would authorize the advisory committee to conduct periodic risk assessments and evaluations, and develop recommendations to mitigate prominent risks. It would also require the committee to submit annual reports to the Secretary of Veterans Affairs and the House and Senate Committees on Veterans' Affairs. These would contain recommendations for legislative actions as they see appropriate. This legislation would also provide the ability for impacted stakeholders to participate in oversight of the implementation VA electronic health record modernization.

### **Draft Legislation, Janey Ensminger Act of 2019**

This legislation would require the Agency for Toxic Substances and Disease Registry (ATSDR) to conduct periodic literature reviews of the existing research regarding the relationship between exposure to toxic water at Camp Lejeune and adverse health conditions. The VFW supports the intent of this legislation, but has a serious concern with the threshold it sets for medical research, which we hope this committee will address before advancing this legislation.

The approximately 650,000 veterans and family members who served on Camp Lejeune between 1953 and 1987 deserve to know if their health conditions are related to water they drank that was contaminated with trichloroethylene, tetrachloroethylene, vinyl chloride, and other toxins. That is why the VFW fully supports periodic literature reviews of the existing body of research on the relationship between contaminated water at Camp Lejeune and the health conditions prevalent among veterans and family members exposed to such toxic substances.

However, this legislation would require the ATSDR to evaluate whether a health condition is caused by exposure to contaminated Camp Lejeune water, which is an unreasonably high bar for determining a relationship between adverse health conditions and toxic exposure. This legislation would require the ATSDR to place related health care conditions into three



categories: sufficient with reasonable confidence that the exposure is a cause of the illness or condition; modest supporting causation; or no more than limited supporting causation. This would mean that the majority of the health conditions the ATSDR considers to be associated with exposure to trichloroethylene, tetrachloroethylene and vinyl chloride in drinking water would fail to meet this threshold.

Research regarding toxic exposures has traditionally used the Institute of Medicine's (IOM) six categories of associations: sufficient evidence of a causal relationship; sufficient evidence of an association; limited/suggestive evidence of an association; insufficient evidence to determine whether an association exists; inadequate/insufficient evidence; and limited/suggestive evidence of no association. These six categories are aligned with the nature of epidemiological research and can be used to guide future research. The VFW strongly urges this committee to reduce the threshold from causation to IOM's six categories of association.