

Pending Legislation

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Statement of
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Veterans of Foreign Wars of the United States

Before the

United States House of Representatives
Committee on Veterans' Affairs
Subcommittee on Disability Assistance and Memorial Affairs

With Respect To

Pending Legislation

WASHINGTON, D.C.

Chairman Luttrell, Ranking Member Pappas, 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.

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H.R. 234, Gerald's Law Act

Currently, the Department of Veterans Affairs (VA) plot allowance benefit for veterans who die from non-service-connected injuries or illnesses is primarily available for eligible veterans who die at VA medical facilities. Veterans who choose to spend their final days at home do not receive this benefit. The VFW supports this bill that would allow terminally ill veterans who have been hospitalized at VA but then choose to spend their final days in hospice at home to receive the full VA burial allowance. This commonsense legislation would ensure that veterans under VA care can make the best choice for themselves during their last days without the fear of losing this important benefit.

H.R. 854, Captain James C. Edge Gold Star Spouse Equity Act

The VFW neither supports nor opposes this legislation that would continue Department of Defense Survivor Benefit Plan payments and VA Dependency and Indemnity Compensation for certain surviving spouses even if they choose to remarry. The VFW does not currently have a resolution from our membership regarding this suggested change, therefore, we do not have a position on this proposal. However, we have heard from various surviving spouses that removing remarriage restrictions would enable them to move forward after the death of their service member or veteran, and not experience a financial disadvantage. The pros and cons of this change should be weighed diligently, and we hope to continue to have discussions about the best way forward for Gold Star spouses and all survivors.

H.R. 984, Commitment to Veteran Support and Outreach Act

The VFW supports efforts to expand outreach to provide benefits to underserved communities. VA has been attempting to provide more services in rural areas and on tribal lands. The VFW has been and is willing to assist this effort by providing training to tribal veteran service officers to ensure that those serving Native American veterans are providing competent and reliable representation. The VFW supports this legislation to provide states and Indian tribes grants to enhance outreach activities regarding VA benefits, increase the number of county and tribal veteran service officers, and expand existing VA programs within states and tribal lands.

The VFW is concerned that simply providing grant funding, as written in this proposal, would not overcome the cultural barriers that contribute to the disparity in benefits sought by Native Americans. Mistrust in the United States government needs to be addressed by

ensuring that veterans on tribal lands have accredited representatives from their tribes. The VFW suggests including Veterans Service Organizations as eligible grant recipients to enable them to hire and train more tribal veteran service officers to operate in underserved areas.

In addition, the VFW supports the provision in this legislation to provide VA's Office of General Counsel (OGC) with additional staff to timely process new accreditations. Past efforts with grant programs of this nature have not proven effective, therefore, we do not expect a significant workload increase on OGC from this group of veterans. The VFW supports increasing full-time OGC employees to address the current workload of processing accreditations combined with enforcing accreditation standards and penalties.

H.R. 1139, Governing Unaccredited Representatives Defrauding (GUARD) VA Benefits Act

The VFW strongly supports this legislation that would reinstate penalties for charging veterans and survivors unauthorized fees related to claims for VA benefits. We believe that unaccredited claims consultants should be subject to penalties in the same manner as accredited representatives.

With the passage of the PACT Act, the VFW has observed an increase in online advertisements from predatory claims consultants we call "Claim Sharks" that target veterans' earned VA benefits. These groups promise to increase veterans' VA disability ratings. They argue that the high fees they charge in some way make them more effective in assisting veterans than the free services offered by VA-accredited Veterans Service Organizations. Under VA regulations, fees charged for claims assistance are capped and usually apply only to a percentage of retroactive benefits. However, many of these unaccredited consultants use contracts that include a commitment by the veteran to pay the Claim Shark all or a significant portion of their increased benefits. If a veteran receives a disability percentage increase years later, these companies often return seeking more money.

Several of these predatory companies have made statements that there is no avenue for them to seek VA accreditation, but this is completely untrue. There are no restrictions for these consultants to be accredited by VA, but they refuse to do so because they would no

longer be able to charge exorbitant fees. They would also be subject to oversight by VA's OGC. Currently, these predatory companies have no accountability, no oversight, and no penalties. Companies that prey upon veterans and flagrantly disregard congressional oversight authority should be held accountable.

H.R. 1329, To amend title 38, United States Code, to provide for an increase in the maximum number of judges who may be appointed to the United States Court of Appeals for Veterans Claims

Veterans are filing VA claims at higher numbers than ever before, in part due to having information regarding benefits and services easily accessible online. VA has also experienced a surge in filed claims following last year's passage of the PACT Act. As such, there will continue to be an increased workload at VA's Board of Veterans Appeals (BVA), and predictably some cases will be taken to the United States Court of Appeals for Veterans Claims. BVA has hired more judges in order to address the increased volume of cases.

The VFW supports this proposal to increase the number of judges from seven to nine in order to ensure timely decision making at the Court of Appeals for Veterans Claims. This would be a positive step for veterans appealing cases before the court and would help streamline operations. An additional point to consider when adding judges is the need to hire additional support staff, law clerks, and administrative support. The VFW suggests adding language to this proposal that includes appropriate support staff for these judges and necessary staff for the overall operations of the court.

H.R. 1378, Veterans' Appeals Backlog Improvement Act

The VFW supports this legislation to incentivize high performing law students to seek internships and employment within the Department of Veterans Affairs. Interns would specifically be assigned to work at BVA to assist with reducing the current appeals backlog. The employment program would offer student loan forgiveness for those who agree to a three-year employment duration. It would also include a mandatory period of four to six months working for VA's OGC. Although the three-year employment requirement would ensure that these new attorneys stay at VA for this duration, we recommend the employment tenure to be commensurate with the cost of student loan forgiveness.

The VFW is also in favor of VA providing veterans the ability to attend hearings virtually from the comfort of their homes or from a location with the necessary technology. During the COVID-19 pandemic lockdowns, VA initiated the use of video teleconferencing in lieu of in-person hearings, which previously required claimants to travel to VA Regional Offices. VFW employees at BVA have witnessed almost twice the number of hearings scheduled largely due to the addition of virtual options. This efficient use of technology is helping BVA more quickly address the appeals backlog. The VFW supports directing VA to report on the feasibility and advisability of improving veterans' access to virtual hearings in their homes, and to consider travel reimbursements for veterans to access the appropriate technology at other locations.

H.R. 1529, Veterans' Compensation Cost-of-Living Adjustment Act of 2023

The VFW supports this legislation that would provide a cost-of-living increase for wartime disability compensation, additional compensation for dependents, clothing allowances, and Dependency and Indemnity Compensation for surviving spouses and children. These benefits would receive the same percentage increase as is granted for Social Security benefits. The VFW would like to see cost-of-living increases for these benefits every year so that veterans, dependents, and survivors are able to maintain financial stability.

H.R. 1530, Veterans Benefits Improvement Act

This legislation would require the Secretary of Veterans Affairs to publish all disability benefits questionnaires (DBQs) on a publicly available VA website. The VFW supports this legislation and has a recommendation to improve it.

DBQs were introduced in 2010 to facilitate the collection of evidence for veterans' disability benefits claims. For more than a decade, DBQs were used internally by VA physicians and private medical providers to supplement evidence in support of disability claims. VA removed public-facing DBQs from its website, thereby preventing private medical providers and veterans from accessing these forms. VA providers still maintain access to DBQs on an internal agency server.

Since the COVID-19 pandemic, the use of telehealth appointments has expanded significantly both at VA and in the private sector, becoming a regular practice for modern

health care. The VFW recommends that language be added to this legislation that expressly authorizes the use of DBQs in private telehealth appointments.

The VFW also supports the portions of this proposal to improve matters for veterans seeking disability examinations outside the borders of the United States, and to update permissions for contract examiners. VA is shifting many of its disability examinations to non-VA providers, and it may eventually move one hundred percent of them to outside examiners. The VFW believes it is imperative to ensure contract examiners are provided the same permissions and are held to the same standards as their VA counterparts.

We have minor concerns about section six of this proposal. We believe the intent of this section is to ultimately provide more information and transparency to veterans who have VA claims. The VFW supports changes to ensure veterans have more information about their claims, and adding the permission for read-only access to accredited representatives would accomplish that mission. We support adding read-only access to individuals in the VA OGC accreditation database in order to allow any accredited representative to share the status of claims with individuals, even if those individuals are not represented by the accredited representative. However, safeguards need to be established to ensure that sensitive information is not accessible by unauthorized individuals and that privacy is maintained. If these concerns are addressed more clearly, the VFW believes this could be a positive step to help veterans be more knowledgeable about their claims. We look forward to working with the committee to address our concerns.

Chairman Luttrell, this concludes my testimony. Again, the VFW would like to thank you and Ranking Member Pappas for the opportunity to testify on these important issues before this subcommittee. I am prepared to take any questions you or the subcommittee members may have.

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 2023, 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.