



# Draft Legislation to Improve the Authority of the Secretary of Veterans Affairs to Hire and Retain Physicians and Other Employees of the VA

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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEES ON HEALTH AND ECONOMIC OPPORTUNITY  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

**Draft legislation to improve the authority of the Secretary of Veterans Affairs to hire and**

WASHINGTON, D.C.

Chairmen Benishek and Wenstrup, Ranking Members Brownley and Takano and members of the Subcommittees, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I want to thank you for the opportunity to

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present the VFW's views on ways the Department of Veterans Affairs (VA) can improve recruitment and retention of high quality health care professionals and other employees.

The VFW thanks you for recognizing that VA's ability to hire and retain high quality employees is equality as important as its ability to fire or demote employees who put veterans' lives at risk. The VFW agrees with many of the ideas included in the draft legislation being discussed today. However, we would like to share an idea that we hope the Subcommittees will consider.

### **Expedited Authority to Hire Frontline Health Care Staff**

During our site visits of VA medical facilities, the VFW has noticed one constant struggle facilities face—hiring and retaining entry level clerks who help with answering phones, greeting patients, scheduling appointments, and other administrative tasks. During our visits, we often hear providers and facility leadership say that the lack of administrative support staff limits their ability to deliver health care to veterans, particularly when operating in a patient aligned care team (PACT) where team members are often left to backfill the duties of vacant positions. This contributes to attrition of existing employees who are overworked and underpaid because of vacancies that take too long to fill. Non-clinical VA employees, including frontline staff, are typically hired under title 5, United States Code (U.S.C.) authorities. Unfortunately, such authorities preclude VA from expeditiously hiring qualified candidates to fill vacancies.

Under section 7802 of title 38, U.S.C., the VA Canteen Service is exempted from title 5, U.S.C., competitive service, general schedule pay rates and classification requirements to ensure it is able to provide veterans reasonably priced merchandise and services essential to their comfort and well-being. Similar to VA medical facilities, the Canteen Service relies on entry level employees to operate and maintain its services. However, without the exemptions from competitive service requirements, the VA Canteen Service would not be able to operate its retail stores, cafes, and quality of life programs in VA medical facilities around the country.

The VA Canteen Service has the authority to bypass the USA Jobs process and hire employees through referral and traditional job search engines such as Monster, Indeed, and Career Builder. When it finds qualified candidates, the VA Canteen Service hires employees as contractors while they undergo the 30-60 day process to become a federal employee. This process provides the VA Canteen Service the latitude it needs to ensure its retail stores remain fully staffed despite high turnover rates. The VFW urges Congress to provide the Veterans Health Administration (VHA) similar authorities to quickly hire into high turnover positions at VA medical facilities.

### **Discussion Draft to improve the authority of the Secretary of Veterans Affairs to hire and retain physicians and other employees.**

The VFW strongly supports efforts to expand VA's authorities to hire and retain high quality employees. This legislation takes a multifaceted approach towards achieving that goal. The VFW supports sections 2, 3, 5, 7, 8, 12, 14, 15, 16 and 17; does not oppose sections 6, 10, 11 and 13; has concerns with section 9; and opposes section 4.

Section 2 would ensure VA has the authority to properly compensate medical center directors. The VFW generally supports this section and has two recommendations to improve it. Director positions are hard to fill positions because they are responsible for overseeing hundreds of employees delivering care and services to thousands of beneficiaries. Such a charge requires proper incentives, such as market-based compensation, which this legislation would address.

However, VA must also have the leeway to quickly hire a qualified candidate when one is identified. The best qualified person for a medical center position may not be searching for a job on USA Jobs, and if VA identifies a qualified candidate it should not be required to have that candidate apply for an opening through USA Jobs. This legislation would also preclude directors from appealing a decrease in pay resulting from an involuntary reassignment in connection with a disciplinary action. While the VFW fully supports the reduction in pay of VA employees who have committed malfeasants, we believe such individuals have the right to due process. For that reason, we suggest the Subcommittees clarify that the reduction in pay is final after the employee has been offered the opportunity to appeal the disciplinary action.

The VFW supports section 3, which would grant VA health care providers the ability to have flexible working hours that best suit the demand for health care by the veterans they serve. In response to the access crisis, VA has made a full-fledged effort to increase access for veterans who rely on VA for their health care needs. In the past year, VHA has increased clinic production by 10 percent, adopted best practices from the private sector, and increased the number of health care employees by more than 14,000. Yet, VA continues to face numerous challenges in meeting the growing demand on its health care system. One of those challenges is the statutory 40-hour work week limitation for title 38, U.S.C., employees. The VFW supports efforts to eliminate this access barrier and improve VA's ability to recruit and retain high quality health care professionals.

The VFW opposes section 4, which would amend the Yellow Ribbon Program to require VA to cover up to 66 percent of the full cost of an advanced degree in mental health care. The VFW is a strong advocate and proponent of the Yellow Ribbon Program and the Post-9/11 Educational Assistance Act, commonly referred to as the Post-9/11 G.I. Bill. The VFW also supports efforts to provide additional assistance for veterans who choose to advance their careers by obtaining a graduate or doctoral degree in mental health care. However, the VFW does not believe amending the Yellow Ribbon Program is the best option to do so.

The Yellow Ribbon Program was established to address the gap between the cost of tuition

and fees associated with approved degree programs and the amount VA is statutorily able to cover under the Post-9/11 G.I. Bill. To supplement the Post-9/11 G.I. Bill, VA is authorized to enter into an agreement with educational institutions to cover up to fifty percent of such gaps, which may be up to tens of thousands of dollars. While the VFW agrees that increasing the percentage VA is statutorily authorized to cover under the Yellow Ribbon Program would incentivize educational institutions to establish Yellow Ribbon agreements with VA, it does not provide much incentive for veterans to obtain degrees in mental health care.

Furthermore, the discussion draft fails to ensure veterans have enough Post-9/11 G.I. Bill eligibility to complete their degree program. This is a particular concern for veterans who use their Post-9/11 G.I. Bill benefits to obtain a bachelor's degree and would like to participate in this program. Given that the Post-9/11 G.I. Bill is limited to 36 months of eligibility, it is unlikely that these veterans would have enough eligibility remaining to complete an advanced degree in mental health.

The VFW is a proponent of public-private partnerships, but believes this program would be better suited under VA's Health Professionals Educational Assistance Program (HPEAP). VA operates six different educational assistance programs under its HPEAP authorities, including a debt reduction program and several employee scholarships. One of those programs is the Visual Impairment Education Assistance Program, which was created by Public Law 111-163, the *Caregivers and Veterans Omnibus Health Services Act of 2010*, to increase the supply of qualified blind rehabilitation specialists for the department and the nation.

This program authorizes VA to provide any person enrolled in a degree or certificate program in visual impairment or orientation and mobility up to \$45,000 to complete their educational program if they agree to serve as a full time VA employee after completing such program. The VFW urges Congress to consider a similar program that would authorize VA to cover the cost of a veteran's advanced mental health care degree, up to the post-9/11 G.I. Bill rate, for veterans who agree to serve as a VA mental health care professional.

Section 9 would amend veterans preference to ensure veterans who served in the Guard and Reserves are afforded the same hiring preferences as their active duty counterparts. Currently, veterans who served after September 11, 2001, are required to have served at least 180 consecutive days on active duty. Due to our all-volunteer military and the nature of the wars in Iraq and Afghanistan, the Guard and Reserves have been utilized much more than they have during past conflicts. However, not all Guard and Reserves service members receive active duty orders for more than 180 days. Thus, many veterans that deployed into harm's way in support of the wars in Iraq and Afghanistan are not eligible for veterans hiring preferences. The VFW supports correcting this inequity.

Section 9 would require VA to comply with title 5 competitive service requirements when hiring Senior Executive Service (SES) employees. While the VFW supports applying

veterans preference to the employment process for VA SES employees, we feel that Congress must streamline, not impede, VA's ability to hire qualified executives. That is why we recommend that the Subcommittees amend this section to exempt VA's SES employment process from title 5 competitive service requirement. To ensure VA hires qualified veterans as senior executives, Congress should amend title 38 to ensure VA properly considers veterans when hiring SES employees.

Mr. Chairman, this concludes my testimony and I will be happy to answer 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 2016, 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.