



Pending Legislation

Jun 29, 2016

STATEMENT OF
CARLOS FUENTES, DEPUTY DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO

Pending Legislation

WASHINGTON, D.C.

Chairman Isakson, 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 our Auxiliaries, I would like to thank you for the opportunity to testify on today's pending legislation.

S. 244, A bill to require an independent comprehensive review of the process by which the Department of Veterans Affairs assesses cognitive impairments that result from Traumatic Brain Injury for purposes of awarding disability compensation.

The VFW supports this legislation and its efforts to address incorrect assessments of cognitive impairments suffered by veterans with Traumatic Brain Injury (TBI).

With the current shallow understanding of TBI, it is of utmost importance we properly handle and treat the portions we do comprehend. If underqualified Department of Veterans Affairs (VA) doctors have possibly misdiagnosed thousands of veterans who may have

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

cognitive impairments from TBI, then that issue must be addressed and those veterans need to be given the opportunity to receive treatment and disability compensation. VA must be sure it is delivering the highest quality of care to veterans. By bringing in an outside source such as the Institute of Medicine, there will be opportunity for unbiased assessment of protocols for VA psychologists carrying out physiological exams related to TBI.

S. 603, Rural Veterans Travel Enhancement Act of 2015

The VFW strongly supports this legislation, which would authorize VA to continue a number of successful transportation programs to help veterans travel to their VA health care appointments. The lack of reliable transportation is a significant barrier to access for veterans throughout the country, especially in rural areas. The VFW strongly supports efforts to eliminate such barriers.

Section 2 would permanently extend VA's authority to administer the Veterans Transportation Service (VTS). This program was commissioned by the Veterans Health Administration's Office of Rural Health in 2010, and greatly improved access to care for rural and severely disabled veterans by allowing VA facilities to establish and coordinate networks of local transportation providers, including community, commercial and government transportation services.

VTS suffered a major setback in 2012 when it was temporarily suspended following a determination by the VA Office of General Counsel that VA lacked the statutory authority to hire paid drivers to transport veterans. Congress has passed one-year authorizations of the VTS program since January 2013, but a long term fix is still needed. The VFW supports permanently expanding this successful program.

Section 3 would authorize VA to reimburse veterans for travel to Vet Centers. With the significant shortage of culturally competent and evidence-based mental health care available to veterans, we must do what is needed to ensure veterans have access to programs tailored to their unique needs. The combat-specific readjustment services offered at Vet Centers makes them a great source for mental health care for veterans struggling to readjust back to civilian life after their experiences during war. Unfortunately, accessing such readjustment centers may be difficult for certain veterans who cannot afford the transportation to and from Vet Centers. This bill would rightfully remove that barrier by expanding eligibility for VA beneficiary travel benefits.

Section 4 would reauthorize grants which enable Veterans Service Organizations to transport veterans who live in highly rural areas to their VA and community care appointments. VFW posts and departments in California, Texas, Maine and North Dakota use these grants to help thousands of veterans access the health care and services they need. The VFW supports reauthorizing such grants to allow these successful programs to

continue.

S. 2210, Veterans PEER Act

The VFW supports this legislation, which would require VA to integrate peer support specialists into Primary Care Patient Align Care Teams (PACT).

Peer support specialists provide a valuable service to veterans coping with mental health conditions. Such veterans often look for guidance from fellow veterans who have successfully completed treatment and have learned to cope with conditions they are experiencing. While current law requires each VA medical center to hire a minimum of two peer support specialists, it does not require VA medical facilities to incorporate them into the clinical settings. As a result, many peer support specialists are not used to their full potential. Many peer support specialists currently lead successful mental health care programs and services. The VFW supports efforts to expand such best practices. The VFW is glad to see this legislation would require each medical center that participates in the pilot program to consider the gender-specific needs of women veterans when carrying out the pilot program. In our survey of women veterans, survey participants identified the lack of gender-specific services as the greatest need in VA health care facilities. Survey participants also indicated their desire to select a provider of the same gender, specifically for veterans who have mental health conditions that may be a result of military sexual trauma. The VFW supports efforts to hire women peer support specialists to ensure women veterans have the opportunity to seek guidance from women veterans who have learned to cope with military sexual trauma related mental health conditions.

S. 2279, Veterans Health Care Staffing Improvement Act

This legislation would improve the transition of health care providers between the Department of Defense (DOD) and VA, streamline the process for transferring health care professionals between VA facilities and expand the practice authority for certain health care providers. The VFW supports sections 2 and 3 and takes no position on section 4.

Section 2 would streamline the VA hiring process for transitioning service members who practice medicine in the Military Health System. Service members with years of clinical experience with the Military Health System have the skills and cultural competency needed to treat service-connected injuries as VA health care providers. The VFW believes veterans who choose to continue serving their country and their fellow veterans must have access to expedited hiring authorities that enable them to seamlessly transition from military service to the civil service. This legislation would rightfully ensure applications for VA health care employment from transitioning service members are given priority.

Section 3 would eliminate the requirement for VA health care professionals to undergo

credentialing every time such employees transfer to a new VA medical facility. During our site visits of VA medical facilities throughout the country, the VFW has heard from VA physicians that VA credentialing requirements delay their ability to begin treating veterans when they transfer between VA medical facilities. The VFW does not see a reason for VA physicians to endure the VA credentialing process every time they transition to a new VA medical facility. We support efforts to streamline this process to ensure VA is able to seamlessly transfer its health care professionals to areas of greatest need.

Section 4 would grant independent practice authority for advanced practice registered nurses and physician assistants employed by the Department. VA recently published a proposed rule to grant its advance practice nurses full practice authority. The VFW does not take a position on scope of practice issues. The VFW defers to VA in determining the most efficient and effective scope of practice of its providers. However, we will hold VA accountable for providing timely access to high quality health care, regardless if such care is provided by an advance practice registered nurse or a physician.

S. 2316, A bill to expand the requirements for reissuance of veterans benefits in cases of misuse of benefits by certain fiduciaries.

This legislation would ensure a veteran who is defrauded by his or her fiduciary can be fully reimbursed, regardless of VA negligence or the amount the fiduciary manages. Today, veterans can only be made whole if VA does not respond to the notification of fraud within 60 days. For all other beneficiaries who have been defrauded, they can only be reimbursed the amount VA can collect back through fines placed on the fiduciary. This legislation would ensure that every veteran who has been defrauded can be made whole.

This legislation would also require all fiduciaries to provide authorization for the Secretary to obtain the financial records of all accounts held by a fiduciary. This measure will provide VA with enhanced access to bank accounts held by fiduciaries for beneficiaries in its oversight function of safeguarding veterans' benefits.

The VFW supports this legislation.

S. 2791, Atomic Veterans Healthcare Parity Act

When service members answer the call of duty without hesitation, it is our duty to take care of the repercussions of their military service. The VFW supports this legislation, which would expand VA disability compensation to veterans who were exposed to nuclear radiation from 1977 to 1980 during the atomic cleanup of Enewetak Atoll. The VFW sees this as one more example of military toxic exposure causing adverse health conditions which has been ignored for far too long.

S. 2958, A bill to establish a pilot program on partnership agreements to construct new facilities for the Department of Veterans Affairs.

This legislation would authorize a pilot program for VA to enter into five public-private partnerships (P3) for the funding and construction of major construction projects. This bill will allow “entities” to apply for and enter into a contract with VA. These entities would be made up of a board of directors that will submit an application to the Secretary that will describe the name and experience of the project manager; the proposed contributions and how funding will be secured; a description of the management plan and monitoring process that will be used; and finally the total cost and timeline for completion.

The VFW has called on Congress to allow VA to enter into P3s for several years and fully believes that these partnerships are the future for VA major construction projects. That is why we fully support this legislation.

S. 3021, A bill to authorize the use of Post-9/11 Educational Assistance to pursue independent study programs at certain educational institutions that are not institutions of higher learning.

Post-secondary education comes in various forms and is vital to the successful transition from military to civilian life. The VFW supports this legislation to expand the Post-9/11 Education Assistance Program. Current legislation does not allow veterans to use their education benefits to earn accredited certificates through independent study programs at institutions that are not deemed those of higher learning. Yet, there are institutions that offer these accredited programs for areas such as career and technical education. Allowing veterans to use their education benefits to earn such certificates would incentivize veterans to pursue secondary education and open more windows of opportunity for their futures.

S. 3023, The Arla Harrell Act

During WWII, 60,000 service members were human subjects of the military’s chemical defense research program—some 4,000 of those service members were exposed to high levels of mustard agents. Until the early 1990s, these veterans were forbidden to speak of the experiments, even though the program was declassified in 1975.

Because of the classified nature of these exposures and the reliance on incomplete and conflicting data, the ability to accurately determine the level of exposure to mustard gas and Lewisite each veteran endured is difficult at best. Because of these facts, the VFW believes those veterans who have previously applied for benefits related to exposure to mustard gas and Lewisite and were denied because the evidence of “full body” exposure could not be proven, should be given the benefit of the doubt and have their claims adjudicated with the presumption of full body exposure.

The VFW supports requiring VA to reconsider previously denied claims for mustard gas and Lewisite exposure with the presumption that the exposure was full body, unless available evidence proves otherwise.

S. 3032, Veterans' Compensation Cost-of-Living Adjustment Act of 2016

The VFW strongly supports this legislation, which would increase VA compensation for veterans and survivors, and adjust other benefits beginning December 1, 2016.

Disabled veterans, along with their surviving spouses and children, depend on their disability and dependency and indemnity compensation to bridge the gap of lost earnings and savings caused by service-connected injuries and illnesses. Each year, veterans wait anxiously to find out if they will receive a cost-of-living adjustment (COLA). There is no automatic trigger that increases these forms of compensation for veterans and their dependents. Annually, veterans wait for a separate Act of Congress to provide the same adjustment that is automatically granted to Social Security beneficiaries.

The VFW thanks the Committee for providing veterans the opportunity to receive their full COLA increase, by not including a “round down,” which is nothing more than a money-saving gimmick that asked veterans and their survivors to bear the burden of budget austerity measures.

S. 3035, Maximizing Efficiency and Improving Access to Providers at the Department of Veterans Affairs Act of 2016

The VFW supports this legislation, which would require VA to carry out a pilot program to evaluate the efficacy of using medical scribes.

A recent VA study evaluating common challenges faced by clinicians in their day-to-day environments, conducted by VA's Emerging Health Technology Service, concluded that burdensome non-clinician-centered electronic health care systems have a significant impact on morale and retention of VA physicians and the veteran's experience due to reduced facetime with providers. This legislation would reduce the time physicians spend on the keyboard and maximize face to face time with their patients.

This legislation requires VA to contract with a nongovernmental entity that specializes in the collection of medical data and data entry into electronic health care records. The VFW urges the Committee to require the contractors to undergo training on VA's Computerized Patient Record System or the Enterprise Health Management Platform, including training on how to research required medical documents, such as labs and non-department health care records which have been scanned into a veteran's electronic health care record. The

“Day in the Life” assessment determined that searching and navigating disparate data systems consumes vast amounts of time that VA clinicians can spend interacting with their patients. The VFW believes medical scribes could assist VA providers in locating necessary medical records and spend less time navigating electronic health care records and more time treating veterans.

S. 3055, Department of Veterans Affairs Dental Insurance Reauthorization Act of 2016

This legislation would reauthorize the VA Dental Insurance Program (VADIP) for five years. While the VFW believes dental must be included in the health care benefits package for all veterans enrolled in VA health care, we support expanding the current program to ensure current beneficiaries do not have a gap in dental coverage.

Dental care is a vital aspect of general health care. According to the Mayo Clinic and a myriad of peer-reviewed medical studies, oral health has a direct impact on severe diseases and conditions, such as heart disease and adverse birth conditions. Conversely, several health conditions which are prevalent among veterans, such as diabetes and Alzheimer’s disease, have been found to directly impact oral health. Until the VADIP was implemented in January 2014, veterans enrolled in VA health care had little to no options for receiving dental coverage.

Additionally, there is a large disparity between VA and DOD dental coverage, which can have a significant impact on the health care and quality of life for veterans. While in uniform, veterans were required to maintain a high level of dental readiness, to the extent that they would be placed on a non-deployable status if they failed to receive a dental evaluation every year. However, only veterans who were 100 percent service-connected disabled, certain homeless veterans, and those who had a service-connected dental condition were eligible for VA dental care.

While the VADIP provides dental care options for 100,000 veterans and their eligible families, VFW members consider this program as “better than nothing.” The VFW believes veterans have earned and deserve the best, not “better than nothing.” According to VFW members who have used or currently use this program, it provides lower coverage for higher costs than most dental plans, including dental plans available through TRICARE and the Affordable Care Act health care exchanges. Like many of my peers, I decided to terminate my VADIP coverage as soon as I became eligible for the VFW’s dental coverage. I now pay lower monthly premiums and cost shares and have better dental coverage than when I participated in the Delta Dental’s Comprehensive VADIP plan, which is the highest plan Delta Dental offers under the VADIP contract.

However, similarly to the 100,000 veterans and eligible family members who participate in

the VADIP, my dental records are not integrated into my VA electronic health care record. Thus, VA health care providers are unable to determine whether veterans who participate in the VADIP have dental conditions that may impact their overall health care conditions. Such disparate care could have a negative impact on the health care and quality of life of the veterans who participate in the VADIP program. That is why the VFW fully supports expanding eligibility for VA dental care to all veterans who are eligible for VA health care. Doing so would ensure veterans have access to needed dental care without having to bear the full cost of such care.

The VFW understands the need for some form of dental coverage while Congress and VA work to expand VA dental care, thus we support expanding the current program for an additional five years to allow VA to rebid the contract and hopefully negotiate better coverage options than the current contract.

S. 3076, Charles Duncan Buried with Honor Act of 2016

The VFW support this legislation, which would ensure deceased veterans without a next of kin who are buried in a state or tribal cemetery receive the same benefits as those buried in a national cemetery.

The National Cemetery Administration's (NCA) strategic goal is for 96 percent of all veterans to have interment options within 75 miles of their home. This includes viable burial options at cemeteries that have been built, expanded, or improved through NCA cemetery grants.

When the demand exists, NCA proposes the construction of new national cemeteries. However, NCA also uses agreements and grants with states, United States territories and federally recognized tribal organizations to establish, expand, or improve veterans' cemeteries in areas where NCA has no plans to build or maintain a national cemetery. Cemeteries assisted by an NCA grant are required to be exclusively reserved for veterans and eligible family members and maintained by the same standards as an NCA managed national cemetery—meaning that veterans interred in NCA assisted state, territorial, or tribal cemeteries must be afforded the same honors as those interred in a national cemetery.

However, VA can only furnish a casket or urn for veterans without a next of kin and without the means to purchase a casket or urn who are buried in a national cemetery. This bill would rightfully extend the right to a dignified burial to veterans who are buried or inurned in a tribal or state cemetery.

S. 3081, WINGMAN Act

The VFW does not support this legislation at this time. While we agree there should be a more efficient way for congressional constituent services staff to assist veterans, there are current controls in place to limit access to veterans' records, and those controls must be preserved under any expansion of access.

The VFW would insist that a release must still be signed before any access to records can be granted. There must be a limitation on access to only veterans who are constituents of the member of Congress. When a Power of Attorney (POA) is held by an individual or organization, that POA must be notified of the request. Any "accredited" congressional employee must be viewed as an "agent" regardless of that employee's status with a State Bar Association. This will ensure the employee's certification includes passing a certification test. Currently, VA provides background checks at no cost to Veterans Service Organizations. If this will also be the case with accredited employees, funding must be provided. If the intent is for congressional offices to reimburse VA for the cost of such background checks, it must be explicitly defined in legislation.

Under current law, there are level-sensitive restrictions on most VA employees, preventing them from viewing certain files without expressed consent. These restrictions must extend to these accredited employees as well. Lastly, VA must have a tracking system to ensure these employees are only assisting their congressional constituents. Additionally, there must be a consequence for congressional staff found to have abused any aspect of their authority.

Discussion draft to clarify the scope of procedural rights of members of the uniformed services with respect to their employment and reemployment rights, to improve the enforcement of such employment and reemployment rights, and for other purposes.

When service members receive orders to deploy or for active duty responsibilities, they should not be burdened with the stress factor of not knowing if they will still be employed when they return home. Unfortunately, some employers have found ways to avoid current law protecting veterans from repercussions from job providers due to completion of orders. The VFW supports this legislation to protect employment rights of service members by closing legal loopholes some employers have chosen to exploit. More specifically, this would allow service members who signed forced arbitration agreements with their employers to not forgo their work contract, but still be able to void any forced arbitration written in. Also, if investigating attorneys general find wrongdoings by employers trying to evade the Uniformed Services Employment and Reemployment Act of 1994, this legislation lays out the groundwork for appropriate damages and compensation of service members. Employers should not be able to require service members to forgo their rights as a condition of employment. Those affected by this injustice should have the option to void this portion of these contracts, as well as receive compensation for punitive damages.

Draft bill to expand eligibility for readjustment counseling to certain members of the

Selected Reserve of the Armed Forces.

This legislation would expand eligibility for Vet Centers to members of the Selected Reserve who have not deployed in support of combat operations. While the VFW acknowledges the need for more mental health care and services for our Guard and Reserve service members, we cannot support expanding Vet Center eligibility to non-combat veterans.

Vet Centers have a sacred mission to assist combat veterans in coping with their experiences at war. These veterans face readjustment issues and concerns that are not faced by their non-combat veteran peers, and necessitates the confidential and high quality services provided at Vet Centers— especially service members who are still in uniform and fear seeking mental health care could impact their careers. That is why the VFW has supported efforts to expand eligibility to service members, including Guardsmen and Reservists, who have deployed to combat zones.

The VFW agrees that suicide rates in our armed forces are equally as troubling as veteran suicides. While the DOD's suicide prevention programs have successfully reduced the rate of suicides among our active duty forces, it has not be able to replicate such efforts with its reserve components. Recent data from the Defense Suicide Prevention Office shows an increase in the number of suicides among Guardsmen and Reservists in the past year. This is due in large part to the fact that Guard and Reserve units often operate in rural and remote areas, without access to military treatment facilities. To address this need, the VFW urges Congress and DOD to devote more effort and resources to combat the rate of suicides among DOD's reserve components. To assist DOD in reducing the rate of suicide among Guardsmen and Reservists, the VFW would support authorizing DOD to enter into sharing agreements with VA to provide mental health care to Guard and Reserve service members who live too far from a military treatment facility, but near a VA medical facility with excess mental health care capacity. To be clear, such agreements must not limit or erode the mental health care and services VA provides eligible veterans.

Draft legislation to authorize payment by the Department of Veterans Affairs for the costs associated with services by medical residents and interns at facilities operated by Indian tribes and tribal organization.

The VFW supports this legislation, which would expand partnership opportunities with medical facilities administered by tribal organizations.

For more than 75 years, VA has partnered with medical schools around the country to train and teach America's health care workforce. This legislation would require VA to establish a pilot program to evaluate the feasibility of developing similar relationships with tribal health care facilities to incentivize health care professionals to practice medicine in tribal areas. The VFW believes this legislation would expand access to high quality care to our

Native American veterans.

Discussion draft to authorize the American Battle Monuments Commission to acquire, operate and maintain the Lafayette Escadrille Memorial in Marne-la-Coquette, France.

The Lafayette Escadrille Memorial was built to honor U.S. pilots who flew combat missions with the French military prior to U.S. entry into WWI. As a result of the reduction in funds available through the Lafayette Escadrille Memorial Foundation, the memorial has fallen into a state of disrepair. To supplement the depleted foundation, the American Battle Monuments Commission (ABMC) provided \$2.1 million to the project. However, a long-term care plan for this important monument is still uncertain. To ensure the memorial receives the care and recognition it deserves, the VFW supports placing it under the care of the ABMC.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions you or the Committee members may have.