

Pending Legislation

Jul 23, 2020

Statement of

Patrick Murray, Director

National Legislative Service

Veterans of Foreign Wars of the United States

For the Record

United States House of Representatives

Committee on Veterans' Affairs

With Respect To

Pending Legislation

WASHINGTON, D.C.

NATIONAL HEADQUARTERS

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

WASHINGTON OFFICE

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

info@vfw.org
www.vfw.org

Chairman Takano, Ranking Member Roe, 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 provide our views on these important pieces of legislation.

H.R. 7111, *Veterans Economic Recovery Act of 2020*

The VFW strongly supports this proposal to help put unemployed and underemployed veterans back to work. Veteran unemployment had some of the lowest numbers in recent history until the COVID-19 pandemic struck the country and our economy. Immediately, veteran unemployment almost tripled in April reaching as high as 12% per the Bureau of Labor Statistics. While recent unemployment numbers have decreased slightly to 9.1% in May and 8.8% in June, the VFW recognizes that unemployment ebbs and flows and could increase again at any point.

This newly proposed rapid retraining program would be like a combination of the expired Veterans Retraining Assistance Program (VRAP) and the newly introduced Veteran Employment Through Technology Education Courses (VET TEC) program. Previously, VRAP had great potential to help veterans achieve high-quality jobs, but it lacked proper goals and oversight. The VFW believes the combination of VRAP and VET TEC to help focus the mission of this rapid retraining program has the potential to greatly improve the employment situation for all veterans participating in this new program.

Additionally, this proposal includes the Off-Base Transition Training program and the community grants program from the *Navy SEAL Chief Petty Officer William “Bill” Mulder (Ret.) Transition Improvement Act of 2019*, which the VFW has supported since its inception in 2018. The VFW believes a solid transition is the lynchpin for a lot of positive outcomes, specifically with regard to employment. These two additions to this bill would help certain unemployed and underemployed veterans attain high-quality employment through retraining and networking with community assistance.

The VFW is disappointed that H.R. 444 is not included in today’s agenda. The *Reduce Unemployment for Veterans of All Ages Act of 2019* would eliminate the arbitrary 12-year use it or lose it date for the Department of Veterans Affairs’ (VA) Vocational Readiness and Employment Program (VR&E). With the current state of veteran unemployment, the VFW

would hope Congress lifts all barriers for veterans to seek employment training. Unemployment affects all veterans, and removing the 12-year delimiting date for VR&E would help open that program for all disabled veterans regardless of age.

H.R. 2791, *Department of Veterans Affairs Tribal Advisory Committee Act of 2019*

The VFW supports this proposal to create an official VA Advisory Committee on Tribal and Indian Affairs. VA already has specific advisory committees for other minority groups represented within the veteran population, and thinks adding a group to highlight issues specifically related to Tribal and Indian issues would help direct needed care and programs for veterans and their families of which VA may not currently be aware.

H.R. 4526, *Brian Tally VA Employment Transparency Act*

The VFW supports this simple solution for a complex problem facing certain veterans. For any veteran or family member facing the reality of filing a Standard Form 95, some serious problems have arisen. Easing the burden of filling in some simple knowledge gaps is something more easily accomplished by VA than the claimant. VA providing information such as the statute of limitations and advising legal counsel are small but important steps to ensure a claim is adjudicated correctly and not thrown out due to bureaucratic confusion.

H.R. 3582, *To amend title 38, United States Code, to expand the scope of the Advisory Committee on Minority Veterans, and for other purposes.*

The VFW supports this expansion of the scope of the Advisory Committee on Minority Veterans. Even some of the highest estimates of LGBT veterans are less than ten percent, which falls into the category of a minority number of veterans. On VA's LGBT page on VA.gov, it states, "All veterans are welcome at VA, even those who identify as a sexual or gender minority." The VFW asks, why VA would not include a group VA itself identifies as a minority within the scope of its Advisory Committee on Minority Veterans? The VFW thinks

the advisory committee should be representative and reflective of all minority veteran groups, so hopefully, terms like underserved veterans can one day be a thing of the past.

H.R. 3010, *Honoring All Veterans*

The VFW does not support or oppose H.R. 3010. The VFW recognizes there are considerable barriers for women veterans to receiving high-quality health care at VA. Some of the larger issues we have heard about are lack of specific care for women veterans at certain facilities, lack of awareness of services for women veterans at VA facilities, lack of gender-specific clinics and providers for women veterans, and the overall comfort and safety of women veterans at certain facilities. The VFW has advocated for many issues supporting women veterans, however, the VA's mission statement quote from President Lincoln is not something our members have asked to be changed. We will continue to monitor this issue in an upcoming VFW women veterans survey.

H.R. 4908, *Native American PACT Act*

The VFW has a resolution to prohibit the collection of copayments for health care from any veteran with a service-connected injury or illness. The VFW feels any service member who is injured or becomes ill from service to our country should not have to pay any out-of-pocket money for care or medicine. This would also apply to any members of an Indian Tribe who sustained a service-connected injury or illness. While we would ultimately like to see no service members paying copayments for care, we think the first cohort of those to have copayments waived should be veterans with service-connected injuries and illnesses, including those from Indian Tribes.

H.R. 6493, *Veterans Benefits Fairness and Transparency Act*

This legislation would require the Secretary of Veterans Affairs to publish the disability benefits questionnaire (DBQ) on a 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. This April, 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.

VA cited a February 2020 Office of the Inspector General (OIG) report, "Telehealth Public-Use Questionnaires Were Used Improperly to Determine Disability Benefits," as the basis for removing public-facing DBQs. That report posits that DBQs were improperly used by veterans to pursue fraudulent claims for disability benefits.

The report notes that although veterans are prohibited from submitting evidence obtained through private telehealth appointments, many of the claims investigated by the OIG may have involved telehealth examinations. This argument is nebulous as the OIG report did not cite any specific examples of private telehealth examinations used for disability claims. Instead, the OIG merely asserts that the cases studied "were likely completed by telehealth." At no point did the report substantiate this conclusory allegation.

This legislation would rightfully require VA to publish public-facing DBQs on its website. The VFW urges this committee to pass this legislation with a provision to expressly authorize the use of DBQs in private telehealth appointments.

H.R. 6039, To require the Secretary of Veterans Affairs to seek to enter into an agreement with the city of Vallejo, California, for the transfer of Mare Island Naval Cemetery in Vallejo, California, and for other purposes.

The VFW strongly supports this legislation, which would require VA to seek to enter into an agreement for the transfer of Mare Island Naval Cemetery in Vallejo, California.

Mare Island is the oldest veterans cemetery on the West Coast. It is the final resting place

for more than 800 veterans of the War of 1812, the Civil War, and World War I. Three Medal of Honor Recipients are interred there, as well as a daughter of Francis Scott Key.

The U.S. Navy was responsible for Mare Island Naval Cemetery from the date of its founding until 1996, at which point the city of Vallejo, California, became obligated to maintain it. Since that time, the city of Vallejo has shamefully permitted Mare Island Naval Cemetery to fall into disrepair.

The VFW strongly believes that the National Cemetery Administration (NCA) is better suited to maintain Mare Island Naval Cemetery than the city of Vallejo. Accordingly, the cemetery must be transferred to NCA to ensure that the veterans interred there are properly and respectfully memorialized.

H.R. 6082, *Forgotten Vietnam Veterans Act*

The VFW strongly supports H.R. 6082, *Forgotten Vietnam Veterans Act*, which would change the statutory definition of Vietnam veteran to include those who served in the Republic of Vietnam beginning on November 1, 1955.

More than 3,000 veterans served in Vietnam from November 1, 1955, to February 27, 1961. Ten service members were killed in action during that period, all of whose names are inscribed on the Memorial Wall of the Vietnam Veterans Memorial in Washington, D.C. The current statutory definition of Vietnam era veteran applies only to individuals who served in the Republic of Vietnam from February 28, 1961, until May 7, 1975. Accordingly, veterans who served in the Republic of Vietnam prior to February 28, 1961, are ineligible for certain veterans' benefits, including wartime pension.

The time to recognize Vietnam veterans who served in that country during the early stages of our military involvement there is long overdue. This legislation would properly recognize all veterans who served in Vietnam and would ensure they receive the benefits to which they are entitled.

H.R. 7163, VA FOIA Reform Act of 2020

The VFW supports this legislation, which would direct VA to reduce the backlog of requests made under the *Freedom of Information Act*. This commonsense bill would ensure that VA provides information to veterans, whistleblowers, and members of the general public in a timely manner. It would also assist with oversight efforts of VA policy decisions. The VFW supports legislation that improves VA transparency and veterans' access to their own information.

H.R. 96, To amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish dental care in the same manner as any other medical service, and for other purposes.

The VFW supports this legislation that would require VA to provide dental care as it does all other medical services.

In a national survey of veterans, four out of ten veterans described their oral health as poor to fair. Preventative oral health can provide veterans with the best overall quality of life. The mouth is the beginning of the digestive system, and from there our bodies receive nutrition to sustain homeostasis. If a veteran is experiencing dental pain, they are less likely to eat healthy and nutritious foods, which can lead to unhealthy habits and irreversible illnesses. Certain diseases such as obesity and diabetes raise the risk of gingivitis, thereby increasing the risk for atherosclerotic cardiovascular and Alzheimer's diseases. Providing essential dental care services as a preventative health measure enhances veterans' overall well-being by reducing the risk of oral and periodontal diseases, which then reduces or prevents the cost of treating veterans with these illnesses.

Good oral hygiene increases a veteran's self-esteem, which is a factor that can affect everything from mental health to employment. According to the New York state Veteran Health Benefits manual, a healthy smile is linked to job security.

The majority of veterans enrolled in VA health care are unfairly denied VA dental care access because they do not fall into a category that contains veterans who are 100 percent service-connected disabled, certain homeless veterans, or those who have a service-connected dental condition. Veterans are only able to purchase a high-cost, poor coverage dental insurance through VA.

This legislation requires phased eligibility, which would allow VA to manage and prepare for the increasing volume of dental patients versus the flood of appointments if eligibility were opened all at once. The VFW urges Congress to pass this legislation to expand eligibility to include all veterans enrolled in VA health care.

H.R. 2435, *Accelerating Veterans Recovery Outdoors Act*

The VFW supports this legislation, which would create a task force to identify opportunities, barriers, and develop recommendations to use outdoor recreational therapy for veterans. The task force must not overlook adaptive outdoor programs, which have trained facilitators and volunteers along with adaptive equipment to provide outdoor recreational therapy to all veterans regardless of their disabilities.

Even during this time of the COVID-19 pandemic, health officials understand the importance of being outdoors and urges people to connect with nature. By doing so, a person can reduce stress, relieve depression and anxiety, and resync their biometric clock. With veterans, the results are the same and include a sense of belonging—a comradery similar to when they served.

Assessing and evaluating outdoor recreational therapy aligns with the VFW's legislative priority to strengthen care and research for mental health and traumatic brain injury. The VFW urges Congress to pass this legislation, which would provide healing to veterans with the help of Mother Nature.

H.R. 7287, To clarify the licensure requirements for contractor medical professionals to perform medical disability examinations for the Department of Veterans Affairs.

The VFW supports this legislation, allowing physicians, physician assistants, nurse practitioners, audiologists, or psychologists with current unrestricted licenses and legitimate availability to pursue a contract with VA to perform medical disability examinations. Expanding to any location allows a larger pool of health professionals to provide veterans their Compensation and Pension (C&P) exams, thereby decreasing VA C&P health care professionals' burnout and lowering the exams backlog.

Similar to how the *VA MISSION Act of 2018* overrode state restrictions allowing VA health care providers to expand care to veterans, *H.R. 7287* would allow contracted health care providers to perform C&P exams without state restrictions. Increasing the number of qualified health care providers to perform examinations within their scope of practice decreases the time a veteran has to wait for a C&P exam. The VFW urges Congress to pass this legislation, which would allow VA to contract health care professionals to examine veterans across states lines in the hopes of decreasing VA claims workload and backlog.

H.R. 3228, VA Mission Telehealth Clarification Act

The VFW supports this legislation, which would allow health professional trainees to provide treatment via telehealth under clinical supervision.

Many health professional trainees seek the opportunity to train in the nation's largest health care system, and VA prides itself on offering an education with cutting-edge and innovative technology. Although, sections 7405 and 7406 of the *VA MISSION Act of 2018* fail to mention that health professional trainees under the clinical supervision of a health care professional can provide telehealth services. Limiting health professional residencies, internships, and students will hinder their expansion of experience and knowledge as to various ways to provide health care adequately. Therefore, future students may not be so willing to seek out VA as an opportunity to expand their studies and careers.

The VFW urges Congress to pass this legislation to provide health professional trainees the opportunity to conduct telehealth services and prepare them for future health care.

H.R. 4281, *Access to Contraception Expansion for Veterans Act*

The VFW supports this legislation, which would require VA to dispense a full-year supply of contraceptive pills, transdermal patches, and vaginal rings to veterans enrolled in the Veterans Health Administration (VHA).

Research by the University of Pittsburg and VA concluded that a 12-month supply of birth control pills allowed women veterans to prevent undesired pregnancies while being cost-effective. According to VA data, at least one gap between refills occurred in 43 percent of the women veterans receiving a 90-day supply. A few gaps were experienced, and a few unintended pregnancies occurred to women who were given a 12-month supply of birth control pills. The journal article concluded that if VA offered a 12-month supply to the almost 24,000 women veterans taking oral contraceptives, 583 unintended pregnancies could be prevented, and VA could save approximately \$2 million per year in prenatal, birth, and newborn care costs.

The VFW urges Congress to pass this legislation to support women veterans' reproductive autonomy.

H.R. 6141, *Protecting Moms Who Served Act*

The VFW supports this legislation, which would improve VA's maternity care coordination and create a report on maternal mortality and severe maternal morbidity among women veterans.

According to VA's official website, women veterans of childbearing age comprise the second

largest age group enrolled in VA health care. VHA requires the Women Veterans Program Manager (WVPM) to be free of collateral duties, including Maternity Care Coordinator (MCC). A recent OIG inspection of the Oscar G. Johnson VA Medical Center in Iron Mountain, Michigan, found the facility's WVPM also served as the MCC. Maintaining these two rolls separately allows the MCC to carry out duties as a liaison between the veterans, non-VA provider, and VA facility. Also, the MCC can monitor the delivery of obstetric care, coordinate this care, and track the outcomes of services to women veterans and their newborns.

A small percentage—2.5 percent of women veteran VFW survey respondents—stated they received prenatal care from VA, and 75 percent of those women veterans continued to receive VA health care after pregnancy. MCCs and health care providers can continue to collect data on both the mother and the newborns' health through the mothers' postpartum visits.

Women veterans deserve to understand how their military service may or may not have long-term effects on their health and their children. An additional area of concern where research is needed is how military toxic exposure impacts future generations. The biological children of those veterans exposed may face health issues, just like the children of Vietnam veterans. The *Agent Orange Benefits Act* established a benefits package for veterans' children born with spina bifida due to their parents' toxic exposure. In years past, Congress introduced toxic exposure research legislation designed to provide the type of research needed to connect conditions affecting children with their parents' exposure.

The VFW urges Congress to pass this legislation to support MCCs, and to gather information on maternal mortality and severe maternal morbidity among all women veterans. This bill also calls for the Government Accountability Office to create a report with recommendations on screening for postpartum mental or behavioral health conditions; pregnant and postpartum women veterans' homelessness; reducing maternal mortality and severe maternal morbidity among women veterans, specifically those with disparities of race and ethnicity; educating maternity care providers on the unique maternal health care needs of veterans; and coordinating maternity, birth, and postpartum care between VA and non-VA facilities. The data gathered will include maternal health data from VA, the Department of Health and Human Services, and states.

Draft Bill to expand VA home loan eligibility to certain members of the National Guard

For years, the VFW has expressed concern that the Reserves and National Guard have been overused, which could lead to future problems for force readiness. As a result of the increased use, the VFW has also called for increased benefits for the reserve component. If the Reserves and National Guard deployment tempos more closely resemble that of our active duty troops, then their benefits should also be reflective of that change. In this instance, the VFW supports additional eligibility for certain National Guard troops that have been deployed throughout our country serving all Americans, not simply those in their home states. National Guard troops that have been deployed for federal missions, regardless of their order codes, should earn benefits with the same eligibility as their active brothers and sisters.

Draft Bill to prohibit forced arbitration for service members

The VFW supports this draft legislation which would clarify the scope of procedural rights of members of the uniformed services concerning their employment and reemployment rights. Providing prompt reemployment upon completion of service would protect service members and their families against the un-American practice of forced arbitration, and minimize the disruption in the lives of those individuals. This bill would also provide clarification regarding the definition of rights, benefits, and relations to other laws that have been set forth under the *Uniformed Services Employment and Reemployment Rights Act* (USERRA) and the *Service Members Civil Relief Act*.

Draft Bill to amend title 38, United States Code, to ensure that grants provided by the Secretary of Veterans Affairs for State veterans' cemeteries do not restrict States from authorizing the interment of certain deceased members of the reserve components of the Armed Forces in such cemeteries, and for other purposes.

This legislation would prohibit VA from restricting the interment of members of the Reserves and the National Guard in state veterans cemeteries. The VFW does not have a

position on this legislation.

Draft Bill to extend USERRA protections for the National Guard

The VFW supports this draft legislation which would allow the extension of employment and reemployment rights to members of the National Guard who perform state active duties. Under current law, USERRA protects service members' and veterans' civilian employment rights. USERRA requires employers to put individuals back to work in their civilian jobs after military service, and protects against discrimination in the workplace based on their military service or affiliation. However, the law does not apply to National Guard members who are activated under title 38 for state activation. This proposal would justly extend these protections to National Guard service members.