



National Veterans Affairs and Rehabilitation Commission

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**STATEMENT OF
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VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON HEALTH
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
PENDING LEGISLATION
H.R. 3843, H.R. 4041, H.R. 5428, H.R. 5516, H.R. 5543, H.R. 5641, H.R. 5996, H.R. 6123
AND SEVERAL PIECES OF DRAFT LEGISLATION**

SEPTEMBER 29, 2010

Mr. Chairman and Members of the Committee:

Thank you for this opportunity for The American Legion to present our views on today's pending legislation.

H.R. 3843
"Transparency for America's Heroes Act"

This bill would direct the Secretary of Veterans Affairs to place medical quality-assurance records on the Department of Veterans Affairs (VA) website.

The American Legion has no position on this legislation.

H.R. 4041

To Authorize Certain Improvements in the Federal Recovery Coordinator Program

This purpose of this bill is to improve upon the Federal Recovery Coordinator (FRC) program by having VA establish recovery coordinator training at a qualified nursing or medical school selected by the Secretary of VA. The qualified nursing or medical school will lead a literature review and development of evidence-based guidelines for recovery coordination, development of training modules for care coordination and software that is compatible with VA systems for recovery coordination. It will also lead a consensus conference on evidence-based care coordination. Additionally, this bill authorizes the qualified nursing or medical school to train 45 recovery coordinators over the course of three years.

In 2007, The American Legion approved Resolution 29, Improvements to Implement a Seamless Transition, which fully supported legislation to designate a single Recovery Coordinator to ensure an efficient rehabilitation and transition from military to civilian life and eliminate delays and gaps in treatment and services. By the provisions of the National Defense Authorization Act, Public Law 110-181, the FRC program began in 2008. The program was designed to create individualized care coordination plans for severely injured service members in order to ensure a warm handoff for severely wounded service members transitioning between DoD and VA as well as coordinate state and local resources. With close to two million service members having deployed in Operations Iraqi Freedom (OIF), Enduring Freedom (OEF) and New Dawn, VA only reported to date that less than 1,000 service members have been assisted. The American Legion recommends 1) expanding the program areas of the FRC program to include program eligibility, 2) increasing FRC staff to one individual coordinator per state and 3) improved communication at the national, state and local levels.

The American Legion believes that coordination of care, especially for those who are severely wounded, is essential to ensure they receive the education and benefits they need and deserve. However, The American Legion believes efforts to improve care coordination must be directed at not only the severely wounded but any veteran transitioning to ensure they do not fall through the cracks. Currently, only those service members diagnosed with Traumatic Brain Injury (TBI), Post Traumatic Stress (PTS), visual impairment, amputation, burns or spinal cord injury are eligible for assistance through the program. The American Legion supports expansion of FRC program eligibility for any veteran transitioning from active duty, guard or reserve for any illness or injury.

VA reported in 2010 that five new FRCs are in the process of being hired, which will bring the total number of full-time FRC staff to 25 across the country. These FRCs are stationed at: Walter Reed Army Medical Center; National Naval Medical Center; Brooke Army Medical Center; Balboa Naval Medical Center; San Diego Naval Medical Center; Camp Pendleton, CA; Eisenhower Army Medical Center, GA; Michael E. DeBakey VA Medical Center, TX; Richmond VA Medical Center; and, Palo Alto VA Medical Center. The American Legion recommends having a FRC within each state to ensure all active duty, reserve and guard units receive the same education, outreach and benefits assistance.

The American Legion's flagship transition program, Heroes to Hometowns, seeks to coordinate national, state and local resources similar to the FRC program. The Heroes to Hometowns program assists veterans with filing VA claims or benefits, applying for Temporary Financial Assistance (TFA) as well as coordinating education or employment opportunities before the service member returns to his or her community. Even though FRC helped in the creation of the National Community Resource Directory, The American Legion recommends enhanced communication between national, state and local levels to ensure maximum awareness of benefits available. Many times, The American Legion has had difficulty contacting the FRCs through phone, email or mailing address. In addition, the program should increase its outreach through use of a dedicated webpage to update current contact information.

In regards to the development of a computerized tracking program, The American Legion applauds the new application created by VA in 2009, the Care Management and Tracking and Reporting Application (CMTRA). This tracking tool allows VA to coordinate care amongst a wide variety of providers such as the OEF/OIF care management team and specialty care providers to establish an individualized care plan for each veteran. The American Legion recommends consolidation and expansion of a single tracking tool between DoD, VA and the private sector to prevent redundancy or any veterans that may fall through the cracks.

H.R. 5428

To Direct the Secretary of Veterans Affairs to Educate Certain Staff of the Department of Veterans Affairs and to Inform Veterans about the Injured and Amputee Veterans Bill of Rights

This bill seeks to ensure print materials are created about the Injured and Amputee Veterans Bill of Rights and posted in VA prosthetics and orthotics clinics so that veterans are aware of their rights. In addition, staff of these clinics would be required to receive training on these patient rights and the Secretary would be responsible for providing outreach through websites or veteran service organizations

Many veterans of Iraq and Afghanistan have been subjected to Improvised Explosive Devices (IEDs) which have resulted in a significant increase in the number of amputations from previous conflicts. DoD reported in 2010 that there have been a total of 1,552 service members that suffered amputations. Promoting information about veterans' rights in the clinics as well as increases through targeted outreach will help VA improve their business processes and encourage veterans to receive their treatment at VA.

The American Legion continues to advocate for advancement in VA's outreach practices and stands ready to assist VA in promoting benefits and services.

The American Legion fully supports this legislation.

H.R. 5516

“Access to Appropriate Immunizations for Veterans Act of 2010”

The purpose of this bill is to ensure quality and timely scheduling of patient immunizations by VA. Specifically, this bill will “create quality measures and statistical metrics as well as an annual report to ensure VA is meeting its obligations in providing immunizations.”

One of the provisions of this bill requires VA to keep metrics and measures in place to track influenza and pneumococcal vaccinations. The Veterans Health Administration (VHA) issued a VHA Directive on November 12, 2009 that stated, “Influenza vaccination rates of veteran patients are monitored in the VHA performance measurement system, under the ‘seasonal outpatient influenza measure.’” The directive also mandates vaccination and documentation of the influenza immunization by all patients, staff and volunteers within VA Medical Centers. However, an overall performance measure for all immunizations provided by the Department of Veterans Affairs is not monitored by VA Central Office. In VA’s FY 2009 Performance and Accountability Report, two evaluation metrics – Clinical Practice Guidelines (CPGI) and Prevention Index (PI) are utilized to track VA’s progress for this initiative. The results from Strategic Goal Three, “Prevention Index IV” reported an 89 percent goal attained by VA in “promoting healthy lifestyle changes with early identification of disease, immunizations and prevention screenings.”

While The American Legion does not have a specific resolution supporting patient immunizations quality and scheduling, The American Legion supports quality and performance measures designed to enhance veterans’ safety and quality of care.

H.R. 5543

To Repeal the Prohibition on Collective Bargaining with Respect to Matters and Questions Regarding Compensation of Employees of the Department of Veterans Affairs other than Rates of Basic Pay

This bill seeks to revoke the collective bargaining rules on open disclosure of compensation of VA employees, with the exception of employee’s basic pay fee structure. It is the policy of The American Legion not to be involved with VA’s management and employee relations.

The American Legion does not have a specific position on this piece of legislation.

H.R. 5641

To Authorize the Secretary of Veterans Affairs to Enter Into Contracts for the Transfer of Veterans to Non-Department Adult Foster Homes for Veterans Who Are Unable to Live Independently

VA is authorized under Title 38, Code of Federal Regulations (CFR) Section 17.38 (a)(1)(ix)) to provide a comprehensive array of medically necessary in-home services to enrolled veterans. This bill seeks to add a provision in title 38, United States Code (U.S.C.), Section 1720 that VA would be authorized to transfer veterans needing long-term care services to “Foster Homes,” upon the request of the veteran or Secretary of Veterans Affairs.

VA issued VHA Handbook 1141.02, Medical Foster Home Procedures, in November 2009, which outlined the Department's policy on definition, responsibilities, selection, training, quality monitoring and financial arrangements for this program.

VA defines a Medical Foster Home (MFH) in VHA Handbook 1141.02 as: 1) MFH is an adult foster home combined with a VA interdisciplinary home care team, such as VA Home Based Primary Care (HBPC) or Spinal Cord Injury – Home Care (SCI-HC), to provide non-institutional long-term care for veterans who are unable to live independently and prefer a family setting. 2) MFH is a form of Community Residential Care (CRC) for the more medically complex and disabled veterans, and is generally distinguished from other CRC homes by the following: (a) the home is owned or rented by the MFH caregiver; (b) the MFH caregiver lives in the MFH and provides personal care and supervision, (c) There are not more than three residents receiving care in the MFH, including both veterans and non-veterans, (d) veteran MFH residents are enrolled in a VA HBPC or SCI-HC Program. Each VA Medical Center facility appoints a MFH Coordinator which oversees the recruitment of staff, new applications for MFH in the community, training, quality assurance and inspections, and maintaining files of patients and MFH caregivers.

While this program has been highlighted and encouraged because of the additional cost savings and access to care options for the veteran and VA, The American Legion seeks additional feedback from users of this MFH program about the level of patient safety and feedback on their quality of care that would be provided in a non-traditional care setting.

The American Legion does not have an official position at this time.

H.R. 5996

To Direct the Secretary of Veterans Affairs to Improve the Prevention, Diagnosis, and Treatment of Veterans with Chronic Obstructive Pulmonary Disease

The purpose of this bill is to improve patient care and treatment for Chronic Obstructive Pulmonary Disease (COPD) by: “1) developing treatment protocols and tools for the prevention, diagnosis, treatment and management, 2) improving biomedical and prosthetic research, 3) entering into a pilot program with VA, Centers for Disease Control and Prevention (CDC), Indian Health Service, Health Resources and Services Agency to develop best practices in treatment of COPD and 4) VA and CDC research unique needs and develop smoking cessation tools and techniques.”

The American Legion concurs with this piece of legislation to improve upon current knowledge, research and treatment of COPD.

H.R. 6123

To Amend Title 38, United States Code, to Improve the Provision of Rehabilitative Services for Veterans with Traumatic Brain Injury, and for other purposes

The purpose of this bill is to improve rehabilitation services for veterans suffering from traumatic brain injury (TBI). Because of ambiguities in current law, TBI treatment at VA narrowly focuses TBI care on physical restoration. This legislation would clarify the definition of rehabilitation so veterans will receive care that adequately addresses their physical and mental health needs, as well as quality of life and prospects for long-term recovery and success.

The American Legion supports this bill as it seeks to provide comprehensive care instead of just physical rehabilitation for veterans suffering from TBI. The American Legion is very supportive of ensuring that the quality of life of our wounded service members is addressed with as much fervor as the simple, physical aftereffects.

H.R. 6127

To Amend Title 38, United States Code , to Provide for the Continued Provision of Health Care Services to Certain Veterans Who Were Exposed to Sodium Dichromate While Serving as a Member of the Armed Forces At or Near the Water Injection Plant at Qarmat Ali, Iraq, During Operation Iraqi Freedom

During the spring and summer of 2003, about 800 service members guarded a water injection facility in the Basrah oil fields at Qarmat Ali, Iraq. Service members included National Guard, Reserve, and Active Duty Soldiers. This facility was contaminated with sodium dichromate dust, which is a source of hexavalent chromium, a chemical that is known to cause cancer. Health problems associated with such exposure include respiratory issues, skin lesions, burns, increased rates of lung cancer, and other ear, nose, throat, and skin disorders.

Some of the Qarmat Ali veterans who separated from service following their deployment in 2003 may no longer be eligible to enroll in VA health care under the five-year open enrollment period Congress established for non-service connected veterans. As a result, they must first file a claim and seek a service-connected disability rating before enrolling in the VA health care system and gaining access to the comprehensive medical care VA provides.

H.R. 6127 would correct this unintended gap in services by extending the enrollment eligibility period for Qarmat Ali veterans by five years from the date of notification. This would allow them to immediately begin receiving services at VA medical facilities for any and all of their health care needs.

In 2010, The American Legion approved Resolution 12: *The American Legion Policy on Hazardous Environmental Exposures*. The resolution supports legislative and administrative actions by Congress and VA to properly study the long-term effects of all environmental exposures and ensure that veterans are properly cared for and compensated for diseases and other disabilities scientifically associated with a particular exposure. Included within the scope of this resolution are environmental exposures such as Agent Orange, Gulf-War related hazards,

ionizing radiation, Project Shipboard Hazard and Defense (SHAD), ground water contamination at Camp Lejuene, multiple contaminants at Fort Drum, NY, Fort Dugway, UT and Fort McClellan, AL and overseas concerns related to sodium dichromate, toxic exposures at the Naval Air Facility in Atsugi, Japan and burn pits in Balad, Iraq and other locations which have all caused a variety of health problems.

While The American Legion supports H.R. 6127 as far as it goes, we would additionally recommend a comprehensive environmental exposures bill that would provide for the conduct of full studies to determine the health consequences of exposure to suspected environmental hazards so that veterans can receive the proper care and compensation due them as a result of their service to our nation.

Draft Legislation to Amend Title 38, USC, to Make Certain Improvements in Programs for Homeless Veterans Administered by the Secretary of Veterans Affairs, and for Other Purposes

This bill seeks to expand the VA grant program for homeless veterans with special needs, which includes those seriously mentally ill, frail and elderly, terminally ill and homeless women veterans. This bill would also change reimbursement policy from a per diem rate to annual cost of furnishing services. This emphasis on these special subgroups and the reimbursement change would provide needed attention and resources that will enable Homeless Service Care Providers to assist these homeless veterans with needed care and services. For example, the number of homeless woman veterans has doubled in the past decade, up from 3 percent to 5 percent according to VA. This increase of women veterans is due to their exposure to combat related situations.

With the continuance of the wars in Iraq and Afghanistan, it is widely known that psychological stress, such as post-traumatic stress, TBI and other mental illnesses play a significant role in pushing a certain population of veterans into homelessness. Funding, along with grants that go to homeless veterans programs and organizations that assist this vulnerable demographic, are desperately needed. The American Legion understands that homeless veterans need a sustained coordinated effort that provides secure housing and nutritious meals; essential physical health care, substance abuse aftercare and mental health counseling; as well as personal development and empowerment. If enacted, this grant program will provide necessary medical and rehabilitative services to homeless veterans with special needs that will allow them to readjust and live a better quality of life.

The American Legion supports improvements to VA's homeless programs but encourages Congress and VA to address the growing concern with homeless women veterans, especially those with children.

H.R. 6188
“Veterans’ Homelessness Prevention and Early Warning Act of 2010”

The “Veterans’ Homelessness Prevention and Early Warning Act of 2010” amends the laws governing default procedures for loans guaranteed by the VA under Title 38, to notify a

homelessness case manager in the VA when a veteran defaults on his or her home loan. The case manager has seven days to develop a plan that provides alternate housing for the veteran in the event that the veteran loses the home. The administration and the Secretary of the VA have both set a five-year goal to end homelessness amongst veterans. This bill uses existing tools to assist veterans at risk of homelessness so they have emergency shelter should they become homeless. The American Legion fully supports this legislation since it helps to ensure no veteran spends the night on the streets as the result of losing a home.

Draft Legislation to Amend Title 38, United States Code, to Ensure That the Secretary of Veterans Affairs Provides Veterans With Information Concerning Service-Connected Disabilities at Health Care Facilities

The purpose of this draft legislation is to ensure that the VA's Veterans Health Administration (VHA) provides veterans accessing their health care benefits with information or assistance in obtaining their claims and ratings benefits from the Veteran Benefit Administration (VBA). To accomplish this objective, this draft legislation suggests listing VBA claims information and benefits in various locations in VA Medical Centers, that VHA staff in the hospital discuss VBA benefits with each of their enrolled patients and provide contact information to help the veteran initiate their VBA claims and benefits.

Several American Legion Department (State) Service Officers have identified that VHA providers are not assisting veterans with questions the provider interprets as "claims-related." Additionally, there is a lack of awareness on the part of VHA providers that Veteran Service Organizations (VSO) are available for referral to assist veterans with the VA claims process. In a specific case, there was a lack of required training on veteran-specific health issues and potential benefits claims with Cold Injury Residuals, Agent Orange and other presumptive conditions. Also, Vietnam veterans diagnosed and treated for prostate cancer by a VA urologist were not advised to file a claim and missed an opportunity for 100 percent service connection as a result.

The American Legion is working with VA Central Office to understand the reasons for this disconnect between VHA and VBA and we intend to recommend a Fast Letter or new VHA directive be sent to the field to clarify VA's policy on treating physicians providing the necessary medical evidence on the veteran's behalf as the VA provider can act as an advocate in the claims process.

The American Legion supports this draft legislation and recommends each VA Medical Center Facility have a VHA/VBA training liaison position to facilitate biannual training and updates on VBA regulations for VHA providers so that these providers will inform veterans of their earned benefits and rights to file a claim for VBA compensation and pension.

**Draft Legislation to Amend Title 38, United States Code, to Make Certain Improvements
in Laws Relating to Health Care for Veterans, and for Other Purposes**

This draft legislation seeks to make improvements to several health care matters. First, the legislation would allow VA's Under Secretary for Health to provide assistance in organizing and hosting the Association of Military Surgeons in the United States annual meeting. The American Legion does not have an official position or affiliation with this group but generally supports advances and benchmarking between DoD, VA and other federal agencies in terms of research, provider training and education.

Secondly, the draft legislation recommends clarification to VA's regulations on contracting with Non-Department Facilities and that the Secretary of Veterans Affairs "provide individual authorization or act in such other manner as the Secretary determines appropriate." The American Legion has two positions on this section. First, The American Legion's Resolution 172: *GI Bill of Health*, adopted at the 2010 Convention states that veterans be authorized to utilize any appropriate government health care facility in order to reduce travel time, travel expense and undue stress on the veteran and/or their caregiver. Secondly, VA is authorized to contract or fee-base care into the community. The American Legion's System Worth Saving Task Force noted that in each of the 32 VA Medical Facilities visited this year, the facility Purchased Care budget continues to increase. In the last four years, VA's Purchased Care costs have doubled. The American Legion attributes this increase to the lack of specialty providers and access to care in rural communities. The American Legion believes that any veteran should be able to receive quality care close to their home but that VA must hire the needed specialty providers and increase access to prevent the rising costs of Purchased Care in the community.

Thirdly, the draft legislation would extend the life of the VA Advisory Committee on Homeless Veterans beyond its present termination date of December 30, 2011 to December 30, 2014. The American Legion supports this extension.

Fourth, this legislation seeks to amend the participating provider agreement to improve on collection of third-party reimbursements. Under the terms of the 1997 Balanced Budget Act, VHA was given the authority to bill, collect, and retain third-party reimbursements for outpatient medications, nursing home and hospital care. The American Legion supports improvements in VA's ability to recover third-party reimbursements for treatment of non-service medication conditions and supports the intent of this section.

Fifth, the draft legislation addresses a VA employment requirement for participants in the health professionals' educational assistance program. The American Legion does not have a resolution or comments on this provision of the legislation.

Six, the legislation recommended "on-call" pay for VHA employees in IT fields. In addition, the seventh recommendation from the draft legislation proposes that VA not be authorized to pay for more than 1,000 physicians and dentists employees within IT fields. The legislation stipulates that providers must have qualifying board certification and training and that their pay be tied to

VA's pay schedules. It is the policy of The American Legion not to be involved with VA's management and employee relations and therefore does not have a position on these provisions.

The eighth section of the draft legislative seeks to extend VA's Joint Incentives Program from September 30, 2015 to September 30, 2020. The joint incentives program was designed to allow both DoD and VA Executive Committees to maintain a joint account to promote coordination, sharing and funding of programs between both agencies. The American Legion does not have a specific resolution but supports the general intent of this program and its extension.

The last provision of this draft legislation recommends creation of Franchise Fund to refund veterans whose third-party insurances were billed incorrectly. While there may be a delay in VA recouping third-party insurance payments, this Franchise Fund would allow VA to promptly fund the veterans' third party account until the veterans' third-party insurance company fixes the mistake. The American Legion supports this provision.

As always, The American Legion thanks this Committee for the opportunity to testify and represent the positions of the over 2.4 million veteran members of this organization.