



# **Congressional Statement of VFW National Commander Duane Sarmiento**

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**Statement of  
Duane Sarmiento  
Commander-in-Chief  
Veterans of Foreign Wars of the United States**

**Before the**

**Joint Hearing  
Committees on Veterans' Affairs  
United States Senate and United States House of Representatives**

Washington, D.C.

Chairmen Tester and Bost, Ranking Members Moran and Takano, members of the Senate and House Committees on Veterans' Affairs, it is my honor to be with you today on behalf of the more than 1.5 million members of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary—America's largest war veterans organization.

## **Disability Assistance and Memorial Affairs**

## **Crack Down on Unaccredited Claims Consultants Known as Claim Sharks**

### **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

Over the past year, the VFW has ramped up its advocacy against bad actors who seek to build a lucrative business model on the backs of veterans and their families who are eligible for service-connected disability compensation and pensions. With the passage of the PACT Act, the VFW has observed an increase in online advertisements from predatory claims consultants we call “Claim Sharks” who target the Department of Veterans Affairs (VA) benefits earned by veterans. These groups promise to increase veterans’ VA disability ratings. They argue that the high fees they charge make them more effective in assisting veterans than the free services offered by VA-accredited Veterans Service Organizations (VSOs). 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 them all or a significant portion of their increased benefits. This practice of assigning benefits to Claim Sharks is illegal. 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 false. 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 Office of General Counsel. 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, not rewarded with legislation to legalize their predatory behavior.

The VFW believes that unaccredited claims consultants should be subject to penalties in the same way as accredited representatives. We strongly support H.R. 1139 / S. 740, *Governing Unaccredited Representatives Defrauding VA Benefits Act*, known as the *GUARD VA Benefits Act*, which would reinstate penalties for charging veterans and survivors unauthorized fees related to claims for VA benefits.

## **Toxic/Environmental Exposures**

The VFW continues to be grateful to these committees for the passage of the PACT Act. We have seen firsthand the positive outcomes and how thousands of veterans, family members, and survivors have had their lives changed for the better. Veterans who had been discouraged by previous attempts are now able to access lifesaving benefits and health care. Family members who lost loved ones due to exposure are now recognized by VA for their sacrifices, and others who may have been reluctant to file are now encouraged that they too

will be successful.

As comprehensive as this legislation is, the VFW has said it is just the beginning as it is a framework that must be continuously revisited and improved. It is our position that over time more and more veterans will become eligible for the benefits their service has procured. Congress has demonstrated its commitment to ensure it, and the VFW is more than willing to be a participant in any future processes to meet that end. A growing body of research continues to underscore the need for comprehensive health care programs and benefits for service members and veterans who have been exposed to various hazards during their military service. According to a study published in the *Journal of Traumatic Stress*, veterans with histories of deployments to conflict zones have higher rates of post-traumatic stress disorder (PTSD) and other mental health disorders. The study highlights the interconnectedness of both physical and mental health, and emphasizes the importance of a holistic approach to health care for veterans.

This means that VA must continuously review not only current recipients of VA benefits and health care but also the new classes of veterans and those who are traditionally underserved. The VFW will continue to advocate for the inclusion of all who were exposed and currently may not be eligible for benefits under the PACT Act. This includes woman veterans who continue to be at risk for reproductive cancers, African American veterans who have a higher mortality rate during childbirth, and others.

The VFW is pleased that our concerns were heard in relation to toxic exposure screenings under this landmark legislation. Now, instead of a single self-referral for veterans who were potentially exposed to toxic substances, follow-up screenings are offered every five years. This provides significant opportunities to detect illnesses and diseases earlier, and allow for quicker treatment and access to health care.

Yet in light of all the positives, we must not become complacent in recognizing that there are risks here in the United States as well. While much of the focus has been on forward deployed service members and those in combat zones, dangerous exposures have also happened here at home. Advocates continue to hear from our members that certain exposures are just as deadly, such as contact with per-and polyfluoroalkyl substances (PFAS) and similar substances, those exposed at Fort McClellan, and more recently at Joint Base Pearl Harbor-Hickam. We are aware of more than 455 sites in the United States identified by the Department of Defense (DOD) where there has been confirmed exposure to “forever chemicals.”

VA and DOD must work together to conduct studies and provide reports to Congress on these exposures. The government must then be prepared to provide additional benefits and health care to those who went where they were told to go unbeknownst of the risk to which they were exposed.

## **Digital Claims Processing**

Automation and the use of artificial intelligence is now routine in our daily lives whether we are aware of it or not. It is being utilized in some form or fashion in nearly every industry. VA and other government agencies are consumers. This is not a bad thing. The intent is to limit the time it takes to provide services and benefits to veterans, family members, and survivors. The VFW views this as a positive. The development of these digital initiatives takes time, money, and human input. We have advocated for nearly ten years for VA to fully invest in updating the technical infrastructure required to develop these systems. Often, current advances in these platforms are supported by an underlying platform that is obsolete and has been for years. We know this not only from meeting with VA to discuss the current state of information technology (IT) but more tangibly by the number of claims that have been reported as “lost” or “missing” somewhere in the system, only to be found later for processing. This causes additional delays in veterans receiving their critically needed benefits.

We are encouraged by this transparency but uneasy about forging ahead unless all systems are updated and can work intelligibly with each other. VA should be encouraged to continue to develop these systems, but unless there is a sound, stable, and up-to-date subsystem, these systems are likely to collapse. Artificial intelligence has proven that it can cut processing times. VA has adopted it for other business lines like verifying eligibility for the VA Home Loan Guaranty program and other initiatives. As more veterans file benefits claims, whether the first time or not, the VA Office of Information and Technology must be prepared to handle increased capacity. We look forward to working with VA by providing critical feedback as required, and closely monitoring its five-year plan outlined in section 701b of the PACT Act that we trust will resolve many of these issues.

The VFW will continue to insist that all claims for benefits completed with automated support must be subject to the physical review of a qualified adjudicator. As we have previously testified, we are all too familiar with the complete reliance of agencies and business lines on automated programs. We saw the potential errors with processing PACT Act claims and Intents to File, and we thank the Secretary of VA again for using his authority to extend certain deadlines to make sure that claimants were not harmed by

something beyond their control.

## **Increase Dependency and Indemnity Compensation Benefits for Survivors**

The VFW continues to urge VA to be more deliberate and transparent with claims quality control. This remains important especially as VA uses automated processes where certain claims, such as those for Dependency and Indemnity Compensation (DIC), are reviewed and assessed by IT programs designed to identify required criteria and quickly make a grant or denial determination. Automation has been shown to greatly shorten the processing time for DIC claims. Two years ago when the VFW last testified on this subject, our service officers reported observing quicker decision times for both DIC and survivors pension claims, mentioning decisions for many claims were available in one to two weeks. Unfortunately, the VFW has noticed slower processing times by VA for DIC claims over the last year, but the reason is not clear. Backlogged DIC claims have risen from 30.4 percent in January 2023 to 50 percent in January 2024. This could be a result of the growing number of PACT Act claims, though it is unfortunate that VA's automation has not been able to prevent significant delays in processing times.

Survivors also have difficulty gathering other records for claims, including the service records and divorce decrees from any prior marriages. Additionally, VA will look at the death certificate and the stated cause of death but should always obtain a medical opinion regarding how any service-connected disabilities contributed (or not) to a veteran's passing. Unfortunately, VA will typically not take this additional step without the urging of a claims representative. Even when VA does provide a medical opinion, the doctor is often still unwilling to determine that any service-connected condition contributed to the death, and so the risk of a denial of the claim remains. VFW service officers express that they do all they can to encourage survivors to request that the veteran's medical provider correct the death certificate, knowing that this will be the best chance for a favorable claim outcome.

It is critical to ensure that survivors receive the information to understand their eligibility and the processes to apply for VA benefits. Veterans who receive VA disability compensation or health care may assume that VA will automatically award benefits to their surviving spouses or children when they die without identifying the important and necessary paperwork in advance. VFW service officers report that very often surviving spouses do not realize that when their veterans die, the VA disability payments they were receiving will stop and they will need to take the steps to apply for DIC. Survivors also typically expect that DIC payments will be the same amount as the previous disability payments, when in fact DIC is significantly less. Without anticipating this change in compensation, survivors may

suddenly find themselves in difficult financial situations.

When an active duty service member dies, DOD assigns a Casualty Assistance Officer to assist the survivor with the preparation and submission of necessary claims for VA benefits. When a veteran who is no longer in the military dies, VA needs to be informed of the death and then will attempt to contact the spouse or dependents informing them that they can apply for survivor benefits. Unfortunately, the language used and information provided in VA's letters can be confusing and frustrating. The wording can be unfamiliar to civilians and lack sufficient explanation. Survivors may not understand how the veteran's time in service equates to eligibility, and some are then surprised when certain service dates "don't count" toward receipt of certain benefits. Denial letters also do not explain well why the survivor did not qualify for a benefit. The lack of clear and effective communication regarding entitlements can make an already distressing situation worse.

In addition to improving the claims process for survivors, the VFW strongly supports an increase in the rate of DIC payments to survivors. It is an injustice that the DIC benefit has only been minimally increased since it was created in 1993. Currently, DIC is paid at 43 percent of 100 percent permanent and total disability while all other federal survivor programs are paid at 55 percent. The VFW urges Congress to pass H.R. 1083 / S. 414, *Caring for Survivors Act of 2023*, which would increase DIC to 55 percent, finally reaching parity with other federal agencies.

It also time for legislation to update the definition of "surviving spouse" found in Title 38, United States Code (U.S.C.) to reflect modern legal and social realities. The last time the definition was updated was in 1962, and much has changed in the last sixty years. The current definition is outdated with its reference to marriage being between people of the opposite sex and to the undefined "holding oneself out to be married" clause. The VFW supports updating this language to ensure the definition of survivor is fair and in alignment with marriage requirements of the current era.

The VFW also recommends that VA expand outreach to survivors to connect them with accredited claims representatives for assistance. They can help survivors during the incredibly difficult time following the death of a loved one by listening to their situations, informing them of the benefits to which they are eligible, and identifying the necessary paperwork to accomplish a successful claim.

## **Improve the Accuracy of Disability Compensation Claims Related to MST**

Sexual assault in the military directly affects the lives of service members and continues to have an impact as they transition out of service. Though VA disability claims related to military sexual trauma (MST) can be complex, access to health care and benefits are vital to an MST survivor's mental health and well-being. According to an August 2018 VA Office of Inspector General (OIG) report, VA incorrectly adjudicated half of the reviewed PTSD claims for MST. The OIG indicated six specific recommendations for VA to review and correct denied claims, and implement a series of changes needed to improve claims processing for MST.

Regrettably, the OIG follow-up report from August 2021 found that VA had not effectively implemented those recommendations, did not ensure adequate governance over MST claims processing, and that 57 percent of the previously denied claims reviewed by VA still had not been processed correctly. This is incredibly troubling. The VFW is concerned that VA's lack of improvement to accurately process MST claims has caused veterans to be unfairly denied their benefits, forcing those willing to continue the process to go through unnecessary and distressing appeals.

It can take many years for survivors to even acknowledge a trauma occurred, and sharing details with advocates and care providers can be extremely difficult. Survivors of sexual assault often report feeling retraumatized when they must recount their experiences to disability compensation examiners. Therefore, we encourage the Veterans Benefits Administration (VBA) to employ the clinical and counseling expertise of sexual trauma experts within the Veterans Health Administration (VHA) or other specialized providers during the compensation examination phase.

The VFW urges Congress to pass legislation that would require VA to update the standard of proof for MST-related PTSD claims, ensuring parity with combat-related PTSD claims and other in-service traumas. The VFW also asks that this legislation provide a modern definition of MST to include technological and online abuse, and a review of VBA's MST claims training for quality. These are necessary steps to ensure veterans' MST claims are handled respectfully and veterans are given necessary support services from VA.

### **Increase Burial Allowances to Account for Inflation**

The National Cemetery Administration (NCA) is vital in honoring the veteran's overall



service. It is the last official interaction that family members have regarding sealing the legacy of service for their loved ones. Proper funding to facilitate benefits management for eligible veterans is a crucial step in meeting this key objective. Although VA does a great job in making the burial process seamless for family members, the truth is that inflation has played a major role in funding. Impacted by this reality is the ground upkeep at the 155 national cemeteries as well as 34 soldiers' lots and monument sites. Materials needed for design and construction of new national cemeteries is another area where inflation has impacted the cost of burials. While most of the attention is focused on the veterans and family members, these behind-the-scenes expenses are crucial in keeping the process seamless. As inflation rises and makes current burial allowances inadequate, the funding to increase allowances is hard to find as NCA must compensate for the rise of inflation in other areas of its operations. The Toxic Exposure Fund was one way VA had planned to cover some of the expenses. However, following an OIG inspection it was concluded that NCA funding was not in compliance with Toxic Exposure Fund policy. The removal of \$1.1 million to update the Memorial Benefits Management System for NCA will no doubt create a setback in the progress VA anticipated relating to the allocation of funds.

To put this into perspective, the VFW met with NCA to discuss the budget in place for the burial management of veterans and their eligible family members. NCA's current budget does not include establishment projects. The current budget increase request is \$10 million, but this is not enough. In fact, \$60 million will meet the need this year but not going forward. Cost estimates are coming in larger due to inflation and other national issues. Interments were lower in fiscal year (FY) 2023 than in previous years, and FY 2024 will be similar although higher than prior to the COVID-19 pandemic years. New activations in Elko, Nevada, and Cedar City, Utah, will need funding to support the cost requested in FY 2024 to cover equipment and hiring full-time employees (FTEs). It takes three to four years to activate a cemetery, and once in operation will require additional FTEs to work at the new location.

Other costs include turf renovations, raising the level of presentation to sustain a standard of excellence for visitors and interment experiences. The increase in funding received for inflation did not cover the actual cost increases. Cemeteries are unlike telemedicine where the cost-of-living difference can be fixed with the implementation of remote solutions. Bids are extremely high for construction, landscaping, fertilizer, grants, and janitorial services. There is very little room to move money around with major expenses such as salary and maintenance, which are among the basic payouts that will always win out over projects. There are roughly 90,000 additional gravesites a year, and each one will raise costs for NCA by requiring headstones, markers, more acreage, payroll, and FTEs. Proper funding to facilitate benefits management for eligible veterans is a crucial step in making sure that veterans and their families who are eligible can rest in peace and pride for their faithful



service to this country.

The VFW has and will continue to highlight the need for VBA and VHA to share data. This should also include NCA data. When VA is informed that a veteran has died, this should trigger communications from VA to the spouse and dependents identified in VA records. Much of the required information to effectively reach and communicate with survivors already exists in one of VA's many IT systems, though some survivors are still missed. Upgrades required to facilitate information sharing across existing platforms are long overdue. Investments in these critical technology upgrades or moving to a single IT system will take dedicated staff, planning, and funding. These improvements are critical to ensure the efficiency and accuracy of claims processing for veterans and their survivors.

Pre-planning is key. The VFW recommends that VA create a pre-need process for benefits for families while the veteran is still alive. Those enrolled in the VA Caregiver Support Program are already receiving communications from VA and should be the easiest to reach, though VA should work to contact all families of veterans within its system to provide communications and guidance regarding benefits. NCA currently has an extensive end-of-life planning document intended for any veteran, at any age, to gather all important information in advance of death. This could be promoted more by VA as it contains useful information that could be shared throughout its three administrations to inform and prepare survivors.

## **Suicide Prevention and Economic Opportunity**

Veteran suicide prevention is a complex, multifaceted initiative requiring an approach informed by a multitude of upstream and protective factors. The VFW firmly believes in taking a holistic approach by examining the root causes and risk factors that can lead to suicide. VA's own research reinforces that social determinants of health such as financial stability, access to housing, and pathways to a quality career serve as protective factors against suicide. The VFW believes that negative customer interactions during their transition, with disability claims, or accessing education and employment skills can alienate veterans and discourage further engagement with critical VA programs. If veterans have bad experiences with VA claims, it makes sense that they would choose to access their health care elsewhere. After years of sounding this alarm, we are optimistic that VBA may finally be listening by assessing customer experience in VBA programs, but the VFW is calling on VBA to do more.

According to VA's *2023 National Veteran Suicide Prevention Annual Report*, "Nearly 40% of Veterans who died by suicide had no mental health or substance use disorder diagnoses." It further reads, "A number of non-mental health and non-clinical risk factors are present for suicide including homelessness, financial instability, unemployment, justice involvement and more. Findings from this year's report indicate that we must move beyond the clinical to assist Veterans in services to address these risk factors to reduce Veteran suicide."

Understanding these risk factors, the VFW continues to urge VA to report more benefits usage data in this important annual report. This should include complete information on disability compensation and rating status; use of benefits for education, employment, home loans, and foreclosure assistance; and participation in housing and food insecurity programs. We must identify, study, and utilize data regarding economic opportunity benefits, and leverage that information to successfully resource these programs to prevent suicide among veterans.

While VA's benefits programs are administered by VBA, the VA Office of Mental Health and Suicide Prevention is operated out of VHA. It would make more sense for this office to be elevated to the Office of the Secretary, and for both VHA and VBA data to be included in its reports on suicide. VA must study all resources from its administrations to effectively combat veteran suicide.

To that end, the VFW urges Congress to pass H.R. 4157 / S. 928, *Not Just a Number Act*, to direct VA to incorporate benefit usage data into its annual suicide prevention report, and to examine moving the office of suicide prevention to the enterprise level at VA.

## **Military Suicide**

This past fall, DOD released the *Annual Report on Suicide in the Military: Calendar Year 2022*, which showed that the active duty suicide rate continues to trend upward. The VFW remains committed to eliminating suicide among currently serving military members. To that end, we were pleased to see last year's Suicide Prevention and Response Independent Review Committee (SPRIRC) report and related recommendations as well as DOD's subsequent rollout of suicide prevention efforts in the areas of service member well-being, mental health care access, stigma and barrier reduction, suicide prevention training, and lethal means safety. Furthermore, the VFW commends Congress for its continued commitment to assisting DOD as it looks to eliminate suicide within the ranks. We ask Congress to remain steadfast in its oversight of DOD's prevention efforts, provide necessary

resources and statutory changes, and ensure that the SPRIRC recommendations are implemented as expeditiously as possible.

## **Suicide Prevention at All VA Touchpoints**

Each time a veteran interacts with VA it is an opportunity to connect with resources and suicide intervention when needed. It is critical that Congress provides oversight of DOD and VA to ensure that service members are adequately introduced to mental health and economic opportunity benefits during transition. Service members who are informed of their benefits at the beginning of their transition period are more likely to connect with VA and apply for their benefits. This can ensure recent transitioning service members (TSMs) are on track for economic stability while addressing mental health conditions early on, lessening the risk of suicide. This should also include oversight of the required reporting on the outcomes of VA's Solid Start program. The VFW urges Congress to ensure that every TSM is connected to an accredited representative so they receive their VA disability benefits upon discharge, and to ensure a warm handoff to VA for all of their earned benefits.

The VFW also asks that Congress support TSMs by ensuring that they are able to use the VA Home Loan Guaranty program prior to receiving a disability rating from VA. Current housing market volatility and uncertainty can create an environment for service members where they cannot wait until VA finishes processing their disability claims before capitalizing on the opportunity to purchase a home. Some service members may opt to finalize purchasing a home when the right opportunity arises rather than waiting months to receive a VA disability rating. Service members who have conducted a pre-discharge examination should be able to receive reimbursement of the VA Home Loan funding fee if they receive a ratings decision after finalizing the purchase of a home. Disabled veterans currently do not have to pay this fee, nor should TSMs once VA has completed their Benefits Delivery at Discharge (BDD) claims. Housing stability should be a priority for veterans during their initial transition and expanding the VA Home Loan can make this process less daunting for those families.

In its *National Strategy for Preventing Veteran Suicide 2018-2028*, VA resolved to engage stakeholders at touchpoints, including employers and institutions of higher learning, with a specific intent to reach veterans who are not receiving VA benefits or services. VA must be proactive in this strategy and conduct concerted outreach, including engaging veterans at employee resource groups and Student Veterans of America chapters. The VFW recommends that Congress conduct oversight on this outreach and require data that can be correlated to economic risk.

At critical junctures when veterans use VA services such as foreclosure or housing assistance programs that indicate their risk of financial instability, VA must ensure suicide mitigation resources are provided. Access to education, employment, food, and housing security are the most critical components of stability and well-being, the presence of which have all been proven to reduce suicide rates in veterans. The VFW calls on Congress to create a fourth administration to focus on the implementation and oversight of VA economic opportunity benefits. Targeted oversight can mitigate the number of challenges produced by these programs and shift VA toward proactive troubleshooting instead of reactive resolutions that are often to the detriment of veterans and their families.

The VFW also believes VA needs to provide better and more transparent reports on veteran suicide deaths. This must include comprehensive lists of medications and substances found in the systems of veterans at the time of their deaths, specifically any medications that are psychotropic, carry “black box” warnings, or carry warnings for suicidal ideations.

## **Veteran Homelessness**

The *2022 Annual Homeless Assessment Report* released by the U.S. Department of Housing and Urban Development (HUD) reflected positive results about the totality of unhoused veterans. The good news is that we have seen a significant decline—an 11 percent reduction since 2020, and a 55 percent reduction since 2010. The VFW applauds Congress for supporting various programs and funding that have led to this significant success. However, there are still nearly 20,000 veterans who remain unhoused and more than 13,000 are unsheltered. The work must continue until this most basic need is met for every veteran.

The VFW supports the Senate passage of the H.R. 3848, *Housing our Military Veterans Effectively Act of 2023*, or *HOME Act of 2023*, which passed the House in December. It would increase the maximum rate of per diem payments provided by VA to entities that furnish services and transitional housing to homeless veterans. The purpose of the transitional housing component of this program is to promote the development and provision of supportive housing and services with the goal of helping homeless veterans achieve residential stability, increase their skill levels and/or income, and obtain greater self-determination. The VFW suggests that this funding also apply to veterans facing homelessness during emergencies or national disasters. The bill would also help veterans using the HUD-Veterans Affairs Supportive Housing program vouchers for food, shelter, clothing, and transportation for certain purposes. The VFW strongly supports passing this

legislation as these are important needs of veterans using this program.

While supportive services are critical for veterans experiencing homelessness, there must be more to offer them in addition to financial relief. Too many veterans who face housing instability are also in need of financial education. The VFW recommends that VA establish a basic financial literacy tool, and ensure every veteran who utilizes supportive services also completes a financial literacy course and undergoes credit counseling. This simple, educational tool can mitigate future dilemmas and the recurrent need for supportive programs.

### **Improving Education Benefits for Student Veterans**

The VetSuccess on Campus (VSOC) program aims to help veterans, service members, and their qualified dependents succeed and thrive through a coordinated delivery of on-campus benefits assistance and counseling, leading to completion of their education and preparing them to enter the labor market in viable careers. The VFW recommends that additional VSOC counselors be added to the Veteran Readiness and Employment (VR&E) program. These important positions do not require the same level of training as traditional VR&E counselors due to other support already available to students through their institutions of higher learning. Our work with VSOC counselors at different schools has shown the value of these positions, and we believe the program should be expanded so more student veterans can utilize these important services.

The VFW also recommends that the number of technicians be increased to help reduce the burden faced by its counselors. While the VR&E program has successfully maintained the congressionally mandated 1:125 ratio of counselors to veterans, the overall program falls short at the local level. Several regional offices are experiencing caseloads that exceed the 1:125 ratio. The VFW recommends creating a position that would provide technical and administrative support to current VR&E counselors to reduce the administrative burden they currently face, and allow them more time to foster improved relationships with the veterans they serve. This position would require less experience than a VR&E or VSOC counselor.

The VFW urges Congress to expand the monthly housing stipend for student veterans who take courses online to at least the national average amount. Currently, the monthly housing allowance rates for online courses are half of the national average, which is simply not enough for many student veterans. Many veterans attend colleges as non-traditional

students and may have a spouse and children, work a job while pursuing their education, and have service-connected disabilities. Taking some or all courses online may be the best option for some veterans to continue their education, and their housing benefits are just as critical to their success as those attending college fully in person. Housing stability is also a key factor in reducing veteran suicide.

The VFW also urges VA and Congress to provide student veterans with stipends for child care. Veterans with children often struggle to take advantage of their VA benefits due to the lack of child care, including pursuing an education to improve their job opportunities. Stipends would allow veterans to pay for child care, allowing them to use the VA benefits needed to thrive.

Lastly, National Guard and Reserve members serve alongside active duty service members and consistently make sacrifices without always earning VA education benefits. The VFW strongly urges Congress to pass legislation to allow National Guard and Reserve members to rightfully earn GI Bill benefits for their time served. Congress must act to expand eligibility to allow the increasingly frequent activations of these service members to count toward Post-9/11 GI Bill eligibility, allowing them to earn this education benefit and achieve upward mobility. For years, the sacrifices of these service members have been overlooked. These inequities were further highlighted through the COVID-19 pandemic as National Guard and Reserve members stood on the front lines administering relief and health services. The time is now for parity with all the armed forces in earning their VA education benefits.

## **Reducing Red Tape**

In recent years, institutions of higher education have voluntarily withdrawn from VA benefits programs because of the many cumbersome regulations. Every time they must provide more information, meet more reporting requirements, or put additional tasks on employees, they are disincentivized to continue participating in the GI Bill program. This is especially true for smaller schools with a smaller number of veterans and limited staffing. It is time we closely examine these burdens we have collectively placed on institutions that are already compliant.

For example, schools should be provided with at least a six-month period to implement any new VA educational assistance program rulemaking. This would allow them to implement program changes outside of peak times such as enrollment and registration. Providing this flexibility may help ensure continued participation in the programs by eliminating the



perception that implementing changes is too cumbersome and, therefore, not worth the time and effort. Risk-based surveys provide VA and State Approving Agencies a way to review and mitigate potential fraud, waste, and abuse. Schools currently have only one business day to complete these surveys to avoid giving time to fabricate data. School officials have indicated that a timeframe of only one day is not feasible, but extending the period of notice to two business days would enable them to provide VA with all the necessary information.

The VFW supports reducing or repealing the requirement for schools to provide students receiving VA education benefits with a personalized “shopping sheet.” Within the language of the Forever GI Bill, Section 1018 codified in the statute that schools must provide students with a timely personalized Financial Aid Shopping Sheet covering the total cost of an education program. The goal was to inform students who are eligible to receive VA education benefits of the potential eligibility for federal financial aid before turning to private student loans or alternative financing. While this was a well-intended initiative, unfortunately school officials have told the VFW that this requirement is too burdensome and often unrealistic. Schools may not be able to provide accurate estimates in the timeframe needed for veterans to make cost comparisons or to be in compliance with the law.

In addition, financial estimates for students who receive Chapter 35 benefits, as in VA education benefits for dependents and survivors, may not be accurate. Under Section 702 of the Veterans Choice Act (Public Law 113-146) public schools must offer these students in-state tuition, which is a requirement to receive GI Bill payments. For students applying out of state, their in-state status would not begin until they have moved to the school dormitory or other in-state housing. This is another example of a financial estimate that can be inaccurate and cause schools to be out of compliance, which is another reason to remove this requirement. The VFW supports passing legislation to provide educational institutions with multi-year waivers to have accredited courses and programs approved by VA. Yearly approvals are cumbersome for schools. A multi-year waiver would provide them with the necessary flexibility to seek course approval periodically as courses change or evolve.

The VFW suggests that VA adopt a “Master Calendar” similar to the calendar used by the Department of Education for standard regulation changes. This would set dates for when certain changes would be implemented for education regulations, for example by June 1, or the changes would fall to the next year. We believe the relevant parts of the Master Calendar should be adopted for VA education-related benefits in order to ease the burden of regulation changes put upon schools. The VFW has heard from schools that it would be useful to have a single VA website for current training and up-to-date policy changes. They

may have turnover in their staff, and updates sent by email can be lost over time. This would ensure that schools have a one-stop resource for this information.

## **Employment Protections**

More and more, National Guard and Reserve members are called to active duty to support the needs of the military. This includes responding to natural disasters, supporting U.S. border security, and participating in missions abroad. In order to protect these service members' jobs until they return from military duty, the VFW calls on Congress to pass legislation that makes improvements to Public Law 103-353, the *Uniformed Services Employment and Reemployment Rights Act of 1994* (USERRA). This law shields National Guard and Reserve members from job loss and missed promotions when they are called to active duty or mobilized on federal orders for more than thirty consecutive days. While USERRA was drafted to be comprehensive in nature, that has not stopped bad actors from evading the protections it offers service members.

The VFW supports removing the immunity clause for certain federal agencies, so they would also be required to comply with USERRA in the reemployment of any of their staff who serve in the National Guard or Reserve. We also ask for oversight of the Department of Labor's *Veterans' Employment and Training Service Investigations Manual: USERRA, VEOA, and VP*, and that revisions be reported regularly to Congress. This would provide much-needed transparency and a better understanding of the changes made to these processes.

An ongoing concern of the VFW is the issue of forced arbitration clauses leveraged against service members in employment contracts. These clauses often require military personnel to preliminarily waive the protections afforded to them under USERRA. Frequently included in the fine print of contracts and electronic click-through agreements, they force service members to agree to binding arbitration before any wrongdoing has occurred. As arbiters are generally hired and paid for by the entities with which service members enter contracts, members effectively submit blindly to proceedings that are biased in favor of the other party. Non-disclosure agreements are also employed, prohibiting those affected from seeking damages in civil court. The widespread use of forced arbitration clauses in service members' financial and employment contracts is alarming to the VFW as these devious practices endanger the financial well-being of our force. Financial security impacts service members' ability to satisfy their basic needs and those of their families, and is imperative for those working in sensitive positions that require security clearances. No military member should have to blindly accept arbitration as a condition of any contract. We urge Congress to

pass legislation to make the use of binding arbitration optional for military personnel.

## **Transition**

The Department of Defense Transition Assistance Program (TAP) is a gateway through which service members start to create their veteran identities as self-sustaining and contributing members of their communities. However, transition is about more than finding a new job and tending to basic needs, topics which tend to dominate related discussions and programming. For many people, leaving the military also prompts significant and highly personal changes in identity, social support, and purpose. If not handled appropriately, these changes can negatively impact their overall adjustment to civilian life. Accordingly, each individual needs adequate time, resources, and support before discharge to lay a firm foundation for a successful transition.

While tangible improvements to TAP have been made over the years, and as recently as fiscal year (FY) 2019, heightened suicide rates persist among recently transitioned veterans suggesting there is more to be done. Research has shown that the risk of suicide in the initial twelve months after discharge is heightened, and the group of recently transitioned veterans at highest risk is the same group that is at the highest risk within the active duty force—male individuals between the ages of 18 and 34 with a relatively short time in service (i.e., junior and middle enlisted members who complete one or two contracts). Some of the same research also found relationships between service in the active duty Marine Corps and Army and increased post-transition suicide risk. Considering this information, the VFW strongly believes all stakeholders must work to ensure proper transition support reaches all who need it most, and we believe that currently is not happening.

## **BDD Program Access**

Every year, VFW-accredited representatives assist approximately 20,000 TSMs with their BDD claims before they leave the military. The BDD program exists to allow TSMs to file pre-discharge disability claims so that they can receive VA disability compensation and benefits upon separation or retirement. Unfortunately, disparate BDD program access exists across military installations worldwide because accredited representatives who process these claims are not mandated by law to be present during TAP, leaving it up to individual TAP managers to decide who is allowed in their classrooms and when. Moreover, VFW and BDD claim data show unequal participation in the program between junior and senior service members. While military members in the senior enlisted and officer ranks make up

the minority of the total military force, they represent the majority of individuals filing pre-discharge BDD claims. In addition to inconsistent BDD representative presence in TAP classrooms, we believe this overrepresentation is likely due to, at least in part, the increased agency that senior enlisted individuals and senior officers have over their day-to-day schedules, which is a general luxury that junior and middle enlisted and junior officers tend not to have.

The demographic disparity in BDD claims is problematic for two reasons. First, senior and junior military members generally leave service with very different resources at their disposal. More senior individuals often receive retirement pay and TRICARE coverage upon discharge while more junior individuals do not. They must instead find post-service income and health care during their transition period during which time military duties continue to take precedence over personal needs. Accordingly, even without using the BDD program, senior service members are better positioned to experience less transition unknowns than junior TSMs because some of their most critical post-service needs are automatically met. Second, unequal and limited use of the BDD claim system means less TSMs are connected to their VA benefits upon discharge. This is alarming because VA suicide data has shown that veterans who interact with VBA have lower suicide rates than those who do not interact with VBA or VHA. Critically, the demographic of TSMs that uses the BDD program the least arguably needs it the most since they are at a disproportionately higher risk for post-discharge suicide.

The VFW highly recommends the passage of H.R. 3933 / S. 2888, *TAP Promotion Act*, as we believe there is immense value in ensuring all TSMs can directly access accredited representatives during TAP. This bill would ensure a representative is physically present in the TAP classroom while VA benefits and services that can be applied for prior to separation are discussed, including the BDD program. Having these individuals in TAP would minimize barriers to using the BDD program, especially for those TSMs whose unit's operational needs prevent them from fully engaging transition resources after TAP ends. The VFW has strong collaborative relationships with the DOD TAP managers on the installations we currently serve. In places such as Fort Cavazos, Camp Pendleton, Joint Base Andrews, and Naval Station Norfolk, we enjoy strong support from TAP managers who understand the value of our programs and services. However, in speaking to program leaders from each service branch, we keenly recognize that these collaborative relationships are the exception and not the rule for the 331 total transition sites across the military. VA is supportive of including accredited representatives in their TAP briefing, as evidenced by their inclusion of representatives in the recently released TAP 6.0 curriculum, also known as VA One-Day. Congress can ensure the VFW's and VA's efforts are made permanent by enshrining the language of the *TAP Promotion Act* in law.

## TAP Attendance Timeliness

As illustrated above, not all transition experiences are created equal. However, variability is not limited to only the BDD program. While TAP itself is comprised of a uniform curriculum, TSMs experience wide variability in when they attend TAP, among other requirements, despite legal mandates as found by the Government Accountability Office (GAO) in late 2022. Early participation in TAP is critical so TSMs can engage and re-engage TAP materials and resources throughout their transition journeys. The amount of information covered during TAP is overwhelming for many, necessitating extra time to identify and act on what is important for each person individually. One such example is the aforementioned BDD program, which is discussed during VA One-Day. TSMs wishing to file BDD claims must do so between 180 to 90 days before discharge. Accordingly, members must learn about BDD well in advance of their submission windows, ensure medical concerns are documented, and then request their full medical records beforehand, all of which can take weeks to months to complete.

Sadly, many TSMs are not afforded the opportunity to even use the BDD program because they do not get to TAP on time. The law stipulates that TSMs must begin pre-separation counseling no later than 365 days prior to anticipated separation or retirement. Yet, this is not happening in any meaningful way. In December 2022, GAO reported that 70 percent of service members began TAP too late. Moreover, between January and December 2023, VFW surveys of over 1,600 TSMs found that nearly two-thirds (63 percent) did not begin TAP at least one year prior to discharge. Our results indicate that more factors than the COVID-19 pandemic were involved in the timeliness problem since much of our data was collected after the national emergency ended. We believe a mixture of statute, DOD policy, and DOD culture coalesce to result in overall deprioritization of timely TSM completion of TAP and use of transition programs, such as BDD and SkillBridge.

Within Title 10 U.S.C., neither Section 1142 (a)(3)(A) nor Section 1144 (f)(2) clearly articulates that the TAP class *itself* shall be started at least 365 days before separation or retirement. Also highly important, neither section stipulates an end date by which the TAP class shall be completed. These factors have resulted in DOD TAP policies and guidance that, at the time of this writing, are not wholly aligned with the intent of the FY 2019 TAP law reforms. Additionally, lack of true DOD accountability to the TAP law and a negative culture around transition act as mutually reinforcing challenges. A major finding from the May 2023 House Veterans' Affairs Subcommittee on Economic Opportunity hearing on TAP was that DOD compliance with the law is not measured in a way that drives accountability. Commanders are incentivized to meet readiness and operational requirements—which makes sense given DOD's mission—resulting in diminished prioritization of transition

programs. Furthermore, as extensively illustrated in the VFW's October 2023 testimony on TAP before the Senate Committees on Veterans' Affairs and Armed Services, accountability issues appear to combine with systemic factors within the military, resulting in a negative and seemingly punitive culture around TSMs and transition more broadly, further hindering the military services' compliance with TAP mandates.

To begin addressing the challenges with timely TAP attendance, the VFW urges Congress to amend Section 1142 (a)(3)(A) of Title 10 U.S.C. to include an end date by which TAP shall be completed no later than. Currently, there is only an open-ended start date with which the services are scantily in compliance. DOD must ensure TSMs not only start TAP on time, but also complete it in a timely manner. We also recommend amending Section 1144 (f)(2) of Title 10 U.S.C. from "may permit a member" to "shall permit a member." We also call on Congress to mandate that DOD begins holding commanders accountable for adherence to the TAP law, because what gets measured gets done. Similarly, we recommend DOD integrate TAP-like training into enlisted and officer leader courses on the implications of transition on individuals and the entire force, to include the psychological aspect of transition and how veterans in communities shape public opinion of military service. A culture shift around transition timeliness and equal resource access, and thus compliance with the TAP law, cannot happen without clarity, accountability, and intentional training.

## Community Connections

Connections to resources in the communities in which service members will reside can be an incredible force multiplier for TSMs, and can be the difference between successful transitions and unsuccessful ones. That is why the law was written to ensure these connections are made for all service members leaving the force.

The law as written states “**(2)** Each member described in subsection (a) shall meet in person or by video conference with a counselor before beginning counseling under this section to—**(C)** receive information from the counselor regarding resources (including resources regarding military sexual trauma)—**(ii)** located in the community in which the member will reside after separation, retirement, or discharge.”

This specifies that each member is to receive information regarding resources located in the community in which the member will reside after separation. This is not happening for every TSM, and where it is happening it is not being done consistently and effectively. One third of our survey respondents have reported they either were not connected to community



resources or did not know if they were connected. DOD has decided to make warm handovers only to agencies for TSMs it determines require the most transition assistance. The law does not state that it is at the discretion of TAP managers to make connections to community resources. It requires those connections be made for all TSMs.

In accordance with this law, we would like Congress to ensure connections are being made consistently between TSMs and resources in the communities to which they are transitioning, with an emphasis on specialized transition service organizations that receive federal grant funding. One existing tool Congress can designate is the National Resource Directory (NRD), which is housed within the Defense Health Agency. NRD, which is a partnership between DOD, VA, and the Department of Labor (DOL), contains a large repository of strictly vetted organizations that span the transition spectrum from career assistance to caregiver support. There are no national transition services in every city and state that support TSMs who are seeking services across all industries. However, there are a multitude of organizations that specialize in certain fields in certain areas of the country. If TSMs are seeking education opportunities, they should be connected to local Student Veterans of America chapters. If they are seeking employment in the technology industry in Texas, they should be connected to organizations like VetsinTech. If they are seeking to enter the finance world in New York City, they should be connected to FourBlock. If they are service members separating from the Special Operations Forces, they should be connected to organizations like The Honor Foundation. Organizations with tailored transition plans for service members and veterans will not be able to offer the most value if they are underutilized and TSMs do not know they exist.

TAP cannot be everything for everybody, but there are countless organizations that could offer specialized services as long as DOD makes the connections to community resources as required by law. Within Section 1142 (c)(2)(C) of Title 10 U.S.C. the VFW recommends that Congress define “resources” to mean those contained within the NRD. We believe Congress should evaluate and make sure the NRD team and website are properly funded and staffed to accommodate any increased workloads, capabilities, or necessary upgrades. Furthermore, we recommend ensuring all service members are connected to community resources as outlined in this section.

## **TAP 6.o Oversight**

Throughout the latter half of last year, collaboration and communication with VA business lines responsible for TAP substantially evolved. The VFW was the only organization that participated in multiple pilot programs at Camp Pendleton and Fort Meade. VA invited us to

provide feedback on the current TAP 5.1 curriculum. We also participated in a series of summits with VA and DOL on TAP, and joined a working session with VA Under Secretary for Benefits Joshua Jacobs, his TAP team, and the Veterans Experience Office where the VFW believes we have built a battle rhythm for consistent updates to the curriculum and collaboration on our shared business processes to help veterans access their earned benefits.

In the lead-up to TAP 6.0, VA committed to meet consistently with accredited VSOs with a substantial presence on military installations to ensure that the program and the curriculum satisfy the need for TSMs to easily navigate and access their benefits prior to separation. In our latest discussions with VA, we believe that many of the recommendations from the VFW and our peer organizations deeply involved in transition have been accepted for integration into the new curriculum. These improvements include discussing the veteran's right to competent representation in the VA claims process, comprehensive explanation of VA health care eligibility, and integration of accredited national and state claims representatives into the TAP briefings where available. We are pleased with the initial rollout of the new curriculum, and will provide feedback to VA and the committees once we have substantive information to report.

### **Claim Sharks Targeting of Military Personnel**

The VFW has also been working with VA to integrate information on the right to competent, free, and accredited VA claims representation into its military life cycle training. This would ensure that key leaders are well informed on how TSMs under their command should navigate their earned benefits when leaving military service. Tragically, the VFW hears regularly from our accredited advocates and our claims clients that predatory actors have invaded this area, seeking TSMs and veterans to pay exorbitant and illegal fees for VA benefits assistance. To fight this, leaders at all levels of the military should have a keen understanding of how their service members can avoid scams by utilizing properly vetted and accountable resources like accredited claims representatives.

Recently, we were approached at a VFW training conference by an accredited claims advocate who provides BDD claims assistance to TSMs. He explained that when he meets with service members about their claims, they regularly report aggressive solicitations from these predatory companies to sign contracts for VA claims assistance.

In the last year, our dialogue with both VA and DOD has improved, as we have heard both VA Secretary Denis McDonough and Defense Secretary Lloyd Austin tell service members

and veterans to never pay for benefits assistance. We have seen numerous consumer warnings from VA leaders and VA's own inspector general. Our next objective is to ensure that this message resonates with all military leaders so that these predatory companies can no longer scam those who wear the uniform. We are grateful that VA is building this constructive dialogue, but we must all work together to consistently improve the transition experience and military life cycle for today's all-volunteer force.

## **Health Care**

### **Properly Implement VA and DOD Health IT Systems**

The VFW is frustrated and disappointed by VA's progress to date with instituting a modern electronic health record (EHR) solution across VHA. Over the last few years, VA has blamed its vendors—Oracle-Cerner and Booz Allen Hamilton—but neglected to hold itself accountable for its responsibility for change management in the VA workforce. Make no mistake, the vendors are not completely innocent in this process. However, throughout our review of the VA modernization effort, DOD's similar modernization of the same Oracle-Cerner product, and other EHR migrations for major health systems, the VFW concludes that VA has failed in its governance of the program.

During the five years of this contract, the constant change of VA leaders including five different VA deputy secretaries overseeing the project, and the failures in change management at all levels have left VHA unprepared for such a historic and necessary modernization. Moreover, understanding how VA often leans on program management consultants for support on major projects leads us to have further questions as to whether or to what extent VA may have abdicated its change management responsibilities to Booz Allen Hamilton.

Change management is hard, especially in a health care environment where the stakes are high. Missed follow-up examinations and referrals or lost prescriptions are matters of life and death. The shortfalls identified by VA OIG cannot simply be excused as a byproduct of lost productivity in a major systems migration. The VFW knows that when any company institutes major systems and technology changes, productivity suffers in the short term. EHR migration for VA and DOD are no exception.

However, when looking at how each of these agencies handled it, vastly different outcomes

for patients seem inevitable. In speaking with military doctors who participated in the migration, the VFW believes that they understood what was about to happen, why it was going to happen, future benefits of the migration, steps to achieve adoption and growth, and intermediary workflow considerations to ensure patient care did not suffer. Based on end user surveys from VA sites that have attempted EHR migration, the VFW sees no indication that these same basic change management principles were satisfied before VA chose to execute its migration. Instead, VA seemed to overly rely on the vendors to simply guess what its workforce needed, which led to miscommunication and discord among users.

The VFW supports language to prohibit the Secretary of VA from carrying out certain activities under the EHR Modernization (EHRM) program until certification of system stability improvements. The VFW also supports S. 1125, *EHR Program RESET Act of 2023*, which we believe should work in conjunction with S. 1037, *Department of Veterans Affairs EHRM Standardization and Accountability Act*, in order to deliver a modern, safe, and trusted EHR system for patients and providers. S. 1125 would establish certain metrics for success, and S. 1037 would ensure no further deployments of the EHR would proceed until those metrics are satisfied.

### **Community Care Network (CCN)**

The VFW strongly believes community care is VA care. It is not direct care from VA, but the Community Care Network (CCN) is a necessary supplement to provide veterans the care they have earned. This program is essential because it provides services for veterans who live too far from a VA facility or in the event a requested appointment is not available in an acceptable timeframe. VA's focus should remain on how veterans can receive the care they need, whether it is inside or outside of its facilities.

Adapting a value-based health care model would allow for a patient-centered system that aligns with VA's whole health care approach. Value-based care programs focus on prevention efforts to reduce illnesses and suicide, which is a top priority of VA. The VFW also supports the continuation of the EHRM program as it is needed to work in conjunction with the value-based program.

The VFW believes the ability to access an online scheduling system would help improve the timeliness of appointments and/or allow veterans to obtain care at non-VA facilities. There are current pilot programs at various VA facilities to help veterans schedule VA and CCN care. We eagerly await the results of these programs and hope to see online scheduling

platforms across the entire VA network soon.

## **Strengthen Care and Research for Mental Health**

The VFW recognizes that all veterans do not utilize VA facilities to obtain mental health services or the support of peer-to-peer specialists. We would support grants that would enable eligible entities to establish peer-to-peer mental health programs for veterans. We understand there is a demand for more mental health services and would particularly like to see additional services in rural areas.

The VFW would like to see language to improve the policies and processes that govern veteran access to VA's Mental Health Residential Rehabilitation Treatment Programs (MH RRTPs). Veterans in crisis must receive timely, quality, and consistent care that aligns with their needs while also accounting for their individual preferences where feasible. We feel a seventy-two-hour deadline for residential treatment screening and admissions decisions has the potential to save lives and mitigate instances of veterans losing trust in VA's ability to provide or facilitate care when they need it most. As we collectively look to improve help-seeking behaviors among veterans, Congress and VA must ensure resources like MH RRTPs are equipped to meet veterans where they are without bureaucratic hurdles or inefficiencies undermining such efforts.

To that end, we would like to consider including a provision that removes barriers to accessing the breadth of community-based residential treatment programs available for, and commonly tailored to, veterans.

One VFW member recently sought but ultimately had to stop receiving residential mental health care through VA because the program the provider determined would best meet the care needs was in the wrong network. Other available programs that met treatment needs and preferences like gender-specific programming were similarly out of network. With rare exceptions, veterans referred to residential treatment via CCN are only able to access programs that are physically located within their respective jurisdictions, each of which is managed by either Optum Serve or TriWest Healthcare Alliance. While this structure works relatively well for common needs like orthopedics and diabetes care, the same cannot be said for mental health and substance use disorder programs that are limited in number, highly specialized, and variable in terms of medical expertise and treatment methods. Arbitrarily restricting program access based on administrator network boundaries limits VA's ability to coordinate timely and appropriate residential mental health and substance

use disorder care for veterans.

## **Improve Oversight of Vet Centers**

Vet Centers have served 248,848 veterans, service members (including National Guard and Reserve), and their families in FY 2023 totaling nearly 1.3 million service encounters. The VFW encourages oversight of the Vet Centers to ensure that adequate staffing, resources, and funding are made available. The services they provide are critical whether it be individual, group, marriage and family counseling, or additional services from which the National Guard and Reserve Components benefit. Ensuring appropriate staff and funding are available reduces the need for CCN mental health services and allows VA to remain the preferred health care option.

## **Enhance Programs and Services for Women and Underserved Veterans**

The veteran community as we know it is changing. As our nation becomes more diverse, so too do our military and veteran populations. To best serve the veteran community of today, tomorrow, and for generations to come, we must arm VA with critical information and tools that will empower it to deliver 21st century health care to our nation's veterans. Veterans from across the identity spectrum face unique health challenges that require training and continued education for those who serve them. This training will allow VA to provide appropriate treatment and optimal outcomes. The VFW urges VA to continue its efforts to provide culturally responsive and informed care to veterans across the agency.

In addition to training and education, we know that data empowers us to understand health trends and address inequities faced by specific veteran populations. VA is making efforts to enhance demographic data collection from its patients, but these efforts must be standardized and codified for the purpose of early detection and long-term disease prevention. The VFW believes that better data collection will empower VA to care for veterans more effectively. According to the October 2020 GAO report titled *Better Data Needed to Assess the Health Outcomes of Lesbian, Gay, Bisexual, and Transgender [LGBT] Veterans*, VA's EHR lacks the standardized field for health care professionals to record a veteran's sexual orientation or self-identified gender identity. The agency recently began collecting this data as the result of Executive Order 14075 mandating this collection across government agencies. VA should expand these efforts as well as develop a plan for reporting outcomes annually. Additionally, understanding a veteran's race and ethnicity can help health care providers address specific concerns for which the veteran may be at a higher



risk. The VFW believes that VA should continue to foster a culture of trust and action to achieve positive health outcomes for minority veterans.

To begin this process, VHA must consistently collect accurate race, ethnicity, sexual orientation, and gender identity data in the EHR system. Collecting basic demographic information is the first step in understanding the needs of a diverse veteran population. As the number of minority veterans continues to grow, VA must adapt to meet the need to access both benefits and health care services. Women, LGBT, and racial and ethnic minority veterans face barriers and challenges across different life domains. In 2014, less than a quarter of the total veteran population were minorities. This number is expected to increase to at least 35 percent by 2040. Until this information is accurately collected, health care providers may not be armed with the best information to accurately assess and treat veterans at VA.

Socioeconomic factors contribute to African Americans being at risk of cancer at an earlier age than their Caucasian counterparts. The age of cancer screenings for these veterans, especially gastrointestinal, must be authorized earlier than the standard age of forty-five years old. Paired with exposure to airborne hazards, waiting to begin screenings at age forty-five is a disservice to an already susceptible community.

Due to toxic exposures, women veterans are disproportionately at risk for reproductive cancers. This is why gender-specific care and counseling must be available and easily accessible at all VA facilities. Special attention needs to be paid to certain veterans who are more susceptible to illnesses and diseases than similar groups of veterans. For example, African Americans have a mortality rate during childbirth that is three times as high as their Caucasian counterparts. Examples such as these are why we urge VA to train its health care providers on all issues facing the increasingly diverse veteran population.

Since 1994, more than 14,000 LGBT service members were discharged from military service under the “Don’t Ask Don’t Tell” policy, many of whom still have not had their discharges upgraded or benefits received from VA. Looking back to 1980, there are more than 30,000 veterans negatively affected by the anti-homosexual policy. These veterans should not have to apply to the Discharge Review Board and go through a process of two to three years to have their DD-214s corrected. DOD can retrieve the reentry codes listed on each DD-214 and VA can grant benefits when the reentry code is specific to homosexual conduct. VA has said it would offer benefits to those discharged under the former law, but outreach and dissemination of information have fallen short. The VFW urges Congress to fulfill the promise made regarding LGBT discharges and prioritize upgrading records so these

veterans can receive the honor and benefits they deserve.

## **Research the Efficacy of Medical Cannabis and Other Alternative Therapies**

The VFW would like to see more done with medical cannabis and other alternative therapies. Medical cannabis is prescribed in thirty-eight states and Washington, D.C., and research has shown positive outcomes. Additionally, VA will soon begin researching the use of 3,4-methylenedioxymethamphetamine (MDMA) and psilocybin to combat PTSD and depression. Traditional therapy models have limitations, and we believe non-traditional options should always be considered to help treat veteran issues. We eagerly await the results of these studies and are hopeful they show positive effects that mirror the anecdotal stories we have heard about these treatment modalities.

## **Expand Nursing Home Eligibility and Long-Term Care Options**

The VFW supports efforts that would require VA to carry out a three-year pilot program to assess the effectiveness of providing assisted living services to eligible veterans. Assisted living facilities are needed when a veteran does not require nursing home care but cannot live alone. This program would allow veterans to receive needed services without being financially responsible for the cost, thereby reducing or eliminating the burden on family members who may not be able to provide round-the-clock care. This option for long-term care has great potential for veterans to still have some independence while being cared for at facilities that are authorized and inspected by VA.

As life expectancy continues to increase so must life quality, and for many veterans that means having home health care as a choice. The VFW continues to advocate for long-term care options as stated in our legislative priority goals and resolution. Home health care benefits the veteran, caregiver, and VA in many ways. Caregivers relieve VA of the necessity to place veterans in institutional long-term care. Even though veterans may require assistance with daily activities, being at home offers independence and familiarity, which is essential for veterans in the beginning stages of dementia. This freedom to remain in their homes needs to be supported by VA services and funding, while not financially stressing veterans and their families. A Kaiser Family Foundation report released in February 2022 states that almost 25 percent of individuals who died from COVID-19 lived in long-term care settings. People living in nursing homes most often cohabitate with two beds per room separated by a curtain, and share a bathroom, increasing the likelihood of becoming ill or dying. By residing at home, a veteran's risk of exposure to infectious diseases potentially

decreases.

Caring for our nation's veterans is not an easy task. The diverse and often complex issues our veterans face require the care and support of well-trained caregivers. Balancing everyday life with the health care needs of a veteran can cause mental, emotional, and physical distress for the caregiver. The VFW believes that caregivers need support to ensure they are healthy enough to be of service. To that end, the VFW strongly urges the passage of H.R. 542, *Elizabeth Dole Home Care Act of 2023*.

### **Enhance Services for Veterans Outside of the United States**

The foreign medical program (FMP) is an important program, but updates are needed to improve its usability and effectiveness compared to other current VA benefit programs. This is a common complaint heard from VFW Department of Europe veterans. Those who use FMP to receive medical care reimbursements from VA for their service-connected disabilities cannot do so through direct deposit. VA pays disability and GI Bill housing payments via direct deposit. Veterans should receive FMP reimbursements in the same manner.

There is no coordination between the FMP and VA teams that rate disabilities. If a veteran files a claim for a newly rated issue and does not provide evidence such as a decision letter and screen grab from eBenefits, FMP will deny the claim. Each time FMP denies a claim, the veteran must start again from the beginning. FMP cannot access the VA system, even though it is part of VA.

In order for VA to reimburse an FMP claim, the medicine received must have current approval of the U.S. Food and Drug Administration (FDA). Finding FDA-approved medications is almost impossible in many countries. Other key issues include difficulty in accessing the VA crisis hotline from abroad, and limited commissaries, PXs, and APOs for veterans and retirees in Europe.

### **Concurrent Receipt**

This year marks two full decades since Congress last acted to correct the longstanding practice and injustice of withholding military retirement pay from disabled veterans. Year

after year, and Congress after Congress, the VFW has advocated for the repeal of harmful concurrent receipt statutes, and this year is no different because Congress has yet to complete the promised work it started twenty years ago. Generations of veterans are waiting to receive the benefits they have earned. Every year they wait is another year of harm inflicted upon them personally and economically. Our government must stop using veterans, whom they espouse to hold in high regard, as a means to save money.

Military retirement pay and VA disability compensation are two fundamentally different benefits earned for two entirely different reasons, yet statutes and policies that classify concurrent receipt as “double-dipping” persist. In 2004, Congress acknowledged this clear injustice by authorizing full concurrent receipt of DOD retirement pay and VA disability compensation only for those who served at least twenty years and have at least a 50 percent service-connected rating. At the time, Congress committed to gradually phasing in full concurrent receipt over the next few years, but twenty years later, this still has not happened. This inaction has left countless veterans behind, creating glaring disparities, resentment between veterans and toward Congress, and uncertainty about how much our nation values veterans’ service.

In 2020, the 116th Congress notably changed the situation by repealing the “Widow’s Tax,” marking a significant win for survivors and families. Recently, H.R. 1282 / S. 344, *Major Richard Star Act*, garnered overwhelming bipartisan and bicameral support from members of the 117th Congress, yet not enough to be sent to the president’s desk. The VFW fears the 118th Congress will conclude with the same result. We call on Congress to muster the courage and commitment to find and achieve cost savings elsewhere, and bring an end to the policies that prohibit full concurrent receipt of the benefits veterans have earned by defending our nation and the ideals we hold sacred. No veteran should ever have to question the value of their service to our country due to an unjust budget gimmick, and for decades they have done exactly that.

### **Board of Veterans’ Appeals**

The VFW continues to have faith in the Appeals Modernization Act. As an architect of this legislation, the VFW along with other VSO stakeholders and partners worked collaboratively to identify critical deficiencies in the former process, also referred to as Legacy. Not one organizational representative in those meetings felt that it was fair or proper to have veterans wait for months and years to have their cases heard by a Veterans Law Judge (VLJ). The resulting legislation was a watershed moment for veterans, their family members, and survivors and one that we had hoped would break the bonds of bureaucratic

red tape.

As we have moved forward, it has become apparent to nearly all involved that this once great example of collaboration may be a case of overpromising and underdelivering. The Board of Veterans' Appeals (BVA) lacks the oversight of an involved chairman, and the career VA staff have been left to run the day-to-day operations as best they can. However, without clear input, continuous training, and quality control they are forced to function like a ship adrift at sea. The VSO community, which represents thousands of appellants before BVA, has on occasion received high-level briefings, but they need to be more frequent and more in depth.

The VFW applauds the hiring of more staff to include attorneys and law judges. Yet there is an existing institutional knowledge gap that potentially harms appellants. We learned that some staff attorneys have years of experience working at BVA while some VLJs have only months' worth of experience. The VLJs by virtue of their position will often disregard the input of staff and forge ahead with decisions that are incomplete, inaccurate, or not reflective of the evidence of record. This results in cases that should have been granted being denied or going to remand. We encourage these teams to work together to rely on each other's strengths to deliver accurate and timely decisions, and not continue the unnecessary infighting that only contributes to the excess inventory.

Most organizations pride themselves on their work product. It is the lifeline of their existence. In order to deliver a first-rate product, feedback loops are established to provide constructive criticism, identify positive and negative trends, and develop workflows and business processes that lend themselves to producing a quality product. The VFW stood up a robust quality assurance program several years ago. We meet primarily face to face with our representatives in the field to observe, to learn, to recommend, and to train. This allows our accredited representatives to provide the best claim or appeal the first time. BVA must establish a similar system that will ensure quality appeals decisions every time and eliminate any unnecessary follow-on actions.

A complete review of the claims file is critical to producing decisions that address the issues on appeal. Too often our representatives find cases that are remanded for additional development when the information BVA is seeking is already part of the record. We recently represented a veteran before the Board who was appealing its decision. The appeal was remanded for a medical opinion. However, had a full review of the evidence taken place it would have been seen that the requested opinion was submitted by VHA with the original claim, and the veteran had to wait an additional 276 days for no reason. This is a systemic

occurrence and one that is avoidable.

The VFW has continuously advocated for an appeals management system that provides accurate information and a full picture of what is on appeal to the Board. We have testified numerous times that the current system, CASEFLOW, is broken. A substantial investment was made to create a comprehensive system to assist in clearing appeals in the inventory, and we believed that this was a solution only to have United States Digital Service walk away from the project midway, leaving it in sustainment. Our appeals representatives often cannot see exactly what is on appeal, where the appeal is in the system, or worse that we are not representative of record. More often than not, VFW representatives have taken the time to review what is available to them, write and submit a quality argument to a law judge, then learn that the appellant has changed representatives, and all is for nothing. BVA must invest in a system that is fully functional and available to all involved in the process. Appeals would be more accurate and timelier, eliminating the excess workload.

### **Our All-Volunteer Force**

One of the VFW's primary concerns continues to be the preservation of the all-volunteer force. The hallmarks of this include individuals' decisions to join the ranks and then stay in the ranks after they have joined. Today, most of the services are experiencing severe recruiting challenges, which is garnering significant congressional attention. Causal factors behind the recruiting shortages have been linked to impediments to the Military Health System's MHS Genesis at Military Entrance Processing Stations, fallout from restricted recruiter access to schools during the COVID-19 pandemic, and waning eligibility and propensity to serve among prospective recruits. The VFW applauds the efforts of DOD and Congress to implement pre-enlistment preparatory courses for youth who want to serve but who require extra support to meet enlistment standards. This is a creative and impactful way to both develop and maximize the tremendous talent of our nation's youth while ensuring military standards are not compromised. We ask Congress to exercise oversight and diligence to ensure these programs continue to achieve intended outcomes over time. Moreover, as Congress and DOD work together to solve the aforementioned recruiting challenges, we urge both not to lose sight of issues affecting currently serving personnel who themselves are ambassadors for military service.

The DOD *Fall 2022 Propensity Update* data indicated that the inclination to serve among the nation's youth continues to rival lows not seen since 2007. Overall, only one of the top ten reasons to serve was rooted in altruism while the remaining nine were individual, predominantly tangible benefits. Accordingly, most individuals are attracted by the



advantages of service that enable self-sustainment and development. This reality is especially important because those who are inclined to serve and continue serving must perceive military service as a largely value-added endeavor. In addition to the obvious high points of serving like income and health care, the implicit value proposition also includes some level of certainty that one's basic needs will be met while receiving enough support to focus on and achieve the mission. The VFW is concerned that Congress and DOD are not being aggressive enough to correct longstanding impediments to troop well-being.

## **Military Quality of Life**

For well over a decade, the VFW has been raising concerns about military housing quality. In September 2023, GAO reported finding alarming and even gross conditions such as sewage, black mold, and broken air conditioning in unaccompanied military housing (barracks) that often house junior enlisted, single service members. These challenges, which are similar to those seen in military family housing, are widespread across the services and globe including permanent duty stations overseas. With prominent well-being implications for service members and families, substandard housing continues to be an urgent issue necessitating swift action. Service members cannot focus wholly on the mission if they or their loved ones are suffering from medical conditions related to prolonged mold exposure, cannot take hot showers, or cannot cool down enough to sleep at night.

Within the National Defense Authorization Act (NDAA) for Fiscal Year 2024, the VFW was pleased to see the creation of the Military Family Readiness Working Group for Military Housing, as well as long overdue comprehensive barracks reforms. However, we believe two critical details were omitted. Single service member readiness is equally important to married service member readiness, but single individuals were excluded from the Military Family Readiness Working Group for Military Housing. Accordingly, the VFW calls on Congress to include an enlisted E-5 from each of the services who lives in barracks, or create a separate group whose charge is identical in scope but focused on unaccompanied military housing.

Moreover, military members still have no trusted, centralized third-party option to report poor housing conditions. This means when maintenance and complaint protocols at the lowest levels fail, issues can go unresolved with little to no recourse for those affected. As a result, service members have found that posting to social media or online message boards can be a more effective means of getting results. This is completely unacceptable.

Through Section 3016 of Public Law 116–92, NDAA for FY 2020, Congress mandated that DOD establish a public-facing complaint database for those residing in privatized military housing units. While the VFW believes this was a prudent step, the law excluded single service members living in barracks. Nearly half of enlisted military personnel have never been married, which largely precludes them from moving out of barracks if they are an E-5 rank or below. Therefore, a substantial portion of service members would be prohibited from using this database even though they experience many of the same egregious living conditions as those seen in privatized family units. This creates a glaring inequity among military personnel experiencing housing problems. Being married or having dependents should not dictate whether a complaint can be reported. The VFW urges Congress to amend Section 3016 of Public Law 116–92 to include single individuals who reside in barracks.

As a result of our interactions with service members within and outside the United States, we are concerned that quality-of-life resources on base, such as those provided through the DOD Morale, Welfare and Recreation program, are inconsistent across military installations. In particular, we are concerned about remote and austere duty locations. Service members need outlets in which they can socialize, decompress, and build camaraderie outside of duty hours. Such resources provide buffers against feelings of isolation and poor mental health, and the VFW asks Congress to ensure appropriate resources are made available to DOD to fund Morale, Welfare and Recreation program facilities and related programs.

The VFW continues to be alarmed about military food insecurity, which is estimated to impact about 25 percent of the force. Since 2017, the VFW and Humana have provided over 4.5 million meals to service members, veterans, and their families through our Uniting to Combat Hunger Campaign. Congress has options to ease food insecurity challenges among the currently serving force, but the VFW believes lawmakers have not fully leveraged them. Junior enlisted military families disproportionately experience challenges having enough healthy food to eat. In addition to ensuring pay and benefits are appropriately calculated, Congress can ease this burden by reinstating Basic Allowance for Housing (BAH) to 100 percent of housing costs, removing BAH from the eligibility formula for the Supplemental Nutrition Assistance Program, and also fully removing BAH from the eligibility calculation for the Basic Needs Allowance. Moreover, Congress and DOD can continue to remove barriers to gainful military spouse employment.

## **Military Sexual Trauma**

As recent years' historic Uniform Code of Military Justice (UCMJ) reforms come to fruition,

and DOD continues to implement recommendations from the Independent Review Commission (IRC) on Sexual Assault in the Military, the VFW is hopeful that instances of sexual assault and harassment within the military will wane as offenders are held accountable and trust begins to form within the force. However, the whole of our military has much work to do, as does Congress in its role exercising oversight. Fear of sexual harassment or assault remains one of the top ten reasons for our nation's youth not to join the military, and that concern is not unfounded.

We were deeply dismayed by the cover-up and recent exposure of Operation Fouled Anchor of the United States Coast Guard Academy. Since the nature of this cover-up was not necessarily unprecedented, we are highly concerned about the seemingly pervasive cultures across the services that enable instances of sexual harassment and violence to continue. We are disturbed that these behaviors are seen not only throughout the force and within initial officer training, as illustrated by Operation Fouled Anchor and DOD's annual reports on sexual harassment and violence at the military service academies, but also within the Junior Reserve Officer Training Corps where children are introduced to the military. How can we expect our future military leaders to create sincere zero tolerance unit cultures when they, as part of their formative training, are implicitly taught that such behaviors are indeed tolerated?

Enacting UCMJ reforms and complimentary policies and programs can be effective only if the individuals charged with management and implementation of them are themselves committed to ridding the military of the scourge that is sexual violence and aspects of the culture that enable its persistence. We call on Congress to ensure each committee of jurisdiction works collaboratively to oversee UCMJ and IRC reforms across the services and their respective academies, ensure Coast Guard parity with DOD mandates and efforts, and hold accountable individual leaders who fail to protect service members in their charge. Meaningful culture change cannot happen without persistent oversight and accountability. Furthermore, we urge stakeholders to conduct outreach to impacted service members and veterans who may be entitled to support and/or benefits associated with MST.

## **Military Compensation**

The VFW was pleased to see troops receive a 5.2 percent pay raise for FY 2024. As the top reason cited by youth to join the military, competitive pay is critical to attracting and retaining service members. We believe military base pay must keep pace with private sector wages as recruiting challenges persist amid low unemployment and competition for talent. The VFW urges Congress to continue to prioritize annual pay increases that are equal to or

greater than statutory requirements, as any less results in lost earning potential that service members cannot easily recoup. Moreover, we look forward to seeing the results of the ongoing Quadrennial Review of Military Compensation, as well as Congress' subsequent implementation of recommendations that improve pay and benefits for service members and their families.

### **National Security, Foreign Affairs, and POW/MIA**

Our nation's service members and veterans of the United States military have long made a commitment to never leave a fallen comrade behind. It is in this solemn tradition and dedication to duty that the Veterans of Foreign Wars of the United States supports the comprehensive accounting for and recovery of all service members who are listed as "Missing in Action." The Defense POW/MIA Accounting Agency (DPAA) leads these honorable efforts to analyze, build case files, disinter, investigate, excavate, identify, and repatriate to their loved ones the remains of service members who have fallen on the field of battle. The mission and impact that DPAA has on the integrity of this nation's promise to never leave a fallen comrade behind cannot be overlooked, ever.

Currently, more than 81,000 DOD personnel are unaccounted-for from WWII to Operation Iraqi Freedom, 75 percent of whom are in the Indo-Pacific area with more than 41,000 presumed lost at sea. For more than thirty years, the VFW has been intimately involved in the fullest possible accounting mission. Since 1991, we have been traveling to sites across the world to assist in this noble endeavor. It has been the mission of DPAA to recover missing personnel who are listed as prisoners of war (POW) or missing in action (MIA) from past wars and conflicts in countries around the world. Within that mission, DPAA coordinates with hundreds of countries and municipalities worldwide in search of missing personnel.

Our nation's ability to bring our fallen heroes home is not guaranteed and is extremely limited by the lack of funding and the dwindling numbers of eyewitnesses who can assist in identifying possible recovery sites, among other factors. That is why the VFW has been partnering with DPAA to work with foreign governments to help American researchers gain access to foreign military archives and past battlefields. Since 1991, (except during the COVID-19 pandemic travel prohibitions), the VFW is the only VSO to return to Southeast Asia annually, and to Russia and China periodically. It is our goal not to rest until we achieve the fullest possible accounting of all missing American military service members from all wars.

The process to bring a missing service member home often takes years and requires predictable funding. Before a recovery team is deployed to a potential site, researchers and historians examine host nation archives, investigate leads in Last Known Alive cases, and obtain oral histories from foreign military and government officials that may have broad information about a particular region or a specific battle. Investigative teams follow up on leads by interviewing potential witnesses, conducting onsite reconnaissance, and surveying terrain for safety and logistical concerns.

Once a site has been located, recovery teams that include civilian anthropologists and military service members are deployed to conduct an excavation. Each mission is unique, but certain processes are common to each recovery. Depending on the location and recovery methods used on site, the standard missions last 35–60 days. Recovery sites can be as small as a few meters for individual burials to areas exceeding the size of a football field for aircraft crashes. Artifacts and remains discovered during excavations are transported to one of DPAA's two forensic laboratories. The main laboratory is located at DPAA's facility on Joint Base Pearl Harbor–Hickam. The Hawaii laboratory is responsible for forensic analysis of all evidence associated with service members unaccounted-for from conflicts in the Indo-Pacific region. The other laboratory is on Offutt Air Force Base in Nebraska.

DPAA has the largest and most diverse skeletal identification laboratory in the world, and is staffed by over thirty anthropologists, archaeologists, and forensic odontologists. Due to DPAA's efforts, the remains of 127 Americans were accounted for in FY 2023. However, government budgetary uncertainty in the past interrupted DPAA operations, as it did for many DOD organizations.

Congress must continue to support full mission funding and personnel staffing for DPAA, as well as its supporting agencies such as the Armed Forces DNA Identification Laboratory and the military Service Casualty Offices. The fullest possible accounting mission remains a top priority for the VFW, and we will not rest until every possible missing American military service member is brought home.

## **Foreign Nationals and U.S Allies**

For generations, foreign nationals have served in our military alongside U.S. citizens. Many of these individuals go on to attain permanent residency or citizenship during or after their service. However, too many of these veterans did not complete the process to gain residency or citizenship, which left them eligible for deportation if there were any infractions of the

law. The VFW believes these veterans should have their service considered and be eligible for Veteran Treatment Courts instead of the standard immigration court system. Veterans do not deserve a free pass in the legal system, but non-violent and misdemeanor crimes of certain veterans should not result in permanent deportation from the country they served.

In August 2021, U.S. forces executed a hastily planned evacuation of all government personnel and thousands of Afghan allies and civilians. Our troops expertly navigated this disastrously planned operation at the cost of thirteen service members' lives. The heroic effort stands in stark contrast to the poor plan put in place by our government's leadership. More than two years later, there is no established process to safely deal with the 80,000 Afghans we brought to this country. These individuals were flown to the United States only to be left in legal limbo with no clear direction for safety and stability. The VFW urges Congress and the Administration to provide a means for those who stood alongside U.S. troops to ensure they are provided the stability they deserve.

Chairmen Tester and Bost, Ranking Members Moran and Takano, thank you for the opportunity to provide our testimony today. As the VFW has done for 125 years, we stand ready to assist service members, veterans, families, and survivors. And we are prepared to answer any questions you may have.