

Congressional Statement of VFW National Commander Timothy M. Borland

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Statement of
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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.

I would like to begin by thanking the members of the committees for your hard work for

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veterans in the 117th Congress. During a time of divisive partisanship and global instability you have continued to work across the aisle and across chambers to pass legislation to improve care and benefits for America's veterans and our families. The House and Senate Committees on Veterans' Affairs continue to serve as examples of how work should be conducted in Washington, D.C.

The PACT Act

At this joint hearing last year, the VFW called upon Congress to pass the *Honoring our PACT Act of 2022*, the most comprehensive, multigenerational, toxic exposure legislation in American history. The aim was to address burn pit and environmental exposures for Post-9/11 veterans, while also addressing lingering issues related to Vietnam and Gulf War era veterans, those who served at the Karshi-Khanabad base in Uzbekistan, Atomic veterans, and other unresolved military toxic exposures. The main components of the PACT Act included health care, disability benefits, and a framework to review exposures from the past, present, and future. The day after the VFW's testimony, the House of Representatives passed this legislation. The VFW thanks Ranking Member Mark Takano for introducing the PACT Act, and for the hard work and support from both the House and Senate Committees on Veterans' Affairs.

Since the PACT Act was signed into law last August, the VFW has been monitoring its implementation and communicating regularly with our colleagues at the Department of Veterans Affairs (VA). VFW Service Officers are assisting veterans with their PACT Act claims, and have already seen conditions approved and rated for VA disability. The VFW commends VA for its implementation to this point, to include leveraging technology where appropriate to assist in processing claims in a timely manner. VA is communicating clearly and regularly in lockstep with organizations like the VFW, ensuring veterans know how to access their benefits and what to expect from the process. The VFW is seeing benefit grants, with decisive action on more than one hundred thousand of the total three hundred thousand PACT-related claims filed to date. We encourage veterans everywhere who qualify for VA's one-year open enrollment to enroll in VA health care before the window closes on October 1 this year. The VFW urges VA to send more robust communications to toxic-exposed combat veterans who are eligible for immediate access to health care. The VFW is doing its part in communicating to veterans about the PACT Act. Veterans and survivors can visit **pactactinfo.org** for information about their eligibility for benefits. The site will also

link those who want to apply with a VA-accredited service officer who can assist them.

The VFW also calls on VA to develop and share the details of its toxic exposure presumptive framework as outlined in the PACT Act. This framework was intended to review conditions related to toxic exposures that are not yet considered presumptive. Chemical exposures reported at Fort McClellan, and perfluoroalkyl and polyfluoroalkyl substances (PFAS) exposures at various military installations are two examples that should be reviewed in VA's presumptive framework.

VBA And Claims Issues

Predatory Claims and the GUARD Act

With the passage of the PACT Act, the VFW has observed an increase in online advertisements from predatory claims consultants we call "Claim Sharks" that target veterans' earned VA benefits. These groups promise to increase veterans' VA disability ratings. They argue that the high fees they charge in some way 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 the Claim Shark all or a significant portion of their increased benefits. 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 completely untrue. 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. In fact, during a hearing of the House Veterans' Affairs

Subcommittee on Oversight and Investigations, one specific company provided “inaccurate testimony” when asked about receiving a cease and desist letter from VA. Companies that prey upon veterans and flagrantly disregard congressional oversight authority should be held accountable.

The VFW believes that unaccredited claims consultants should be subject to penalties in the same manner as accredited representatives. We strongly support the *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.

Military Sexual Trauma Claims

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 post-traumatic stress disorder (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 fifty-seven percent of the previously denied claims reviewed by VA had still 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 provides 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.

Claims Automated Decision Support

VA has taken steps to accelerate the claims process by utilizing artificial intelligence. This includes being proactive in identifying and obtaining a veteran's military health and service records prior to the veteran engaging with VA. The VFW sees this as positive given the challenges at the National Personnel Records Center and the enormous number of requests still being processed following the COVID-19 pandemic. The VFW is enthusiastic about this forward-thinking approach and has been involved in critiquing the process VA is using to improve its Automated Decision Support tool (ADS). In the recent past, VA advanced pilot programs without conducting the proper analysis of end results, and then chaotically rushed implementation for widespread use. We are pleased to see VA continuing to test the ADS in select locations while its team methodically makes improvements and introduces additional features.

While the VFW is pleased to see VA's systematic approach to this program, we urge your committees to continue to monitor its progress to ensure that quality review checks remain in place and that no negative claim action occurs without the physical review of a qualified adjudicator. While there is benefit in the consistency that a professionally written computer program can provide, we have seen what occurs when there are failures in such programs as exemplified in past attempts to automate GI Bill benefits, scheduling of compensation examinations using geo-matching data, or calculating disability benefits awards that are subject to bilateral factor calculations.

VA Hiring and Training

In preparation for the historic PACT Act legislation, VA began a robust hiring plan. The VFW applauds this enterprise and feels it is a necessary step in the timely delivery of benefits to our nation's veterans, their families, and survivors. However, we raise the concern of training that is perpetual in any major undertaking. All the effort put forth to pass this landmark bill is for naught without the proper understanding of the law and the intent of Congress. The VFW and its partner organizations desire that veterans receive their much-deserved benefits as quickly as possible. The potential deficit in the experience levels of those entrusted to adjudicate these claims is concerning. It does no good to formulate guidance and rules if in the end the decision needlessly results in an appeal. The VFW has long advocated for quality and timely training for those entrusted to decide claims for disability benefits.

Recently, the Secretary mentioned his concerns about providing consistent, quality training to newly hired claims developers and adjudicators. He stated that the hiring process of more than two thousand new VA employees was complete. The availability of seats in the classroom was a concern due to capacity limitations. VA stated that it was considering several ways to deliver training to include the use of contract instructors or rehiring former Ratings Veterans Service Representatives (RVSRs). The VFW finds this to be a reasonable option as VA would be relying on those with experience and institutional knowledge of VA law.

The challenges of the last few years seemed daunting. We all realized it provided an opportunity to develop new business practices and efficiencies. Many of us can communicate electronically. We can now hold meetings anywhere there is an internet connection, alleviating the need for classroom space, travel time, or other accommodations. VA is no longer limited to the walls of a structure or geographic location. The VFW urges VA to leverage technology more to its benefit in the development of online curriculums and seminars to provide the necessary training to new hires who will be making decisions that positively or negatively impact the quality of life of the veterans we represent.

Compensation and Pension Examinations

As part of the disability claims process, VA must provide examinations for disabilities claimed by a veteran to ascertain the current level of impairment. Therefore, it is imperative for VA to accurately evaluate veterans for their service-connected conditions. The VFW recognizes the need to assess veterans quickly and accurately. However, we believe that the needs of the veterans must come first, meaning veterans should have more control over the scheduling of their examinations.

VA's 2016 Decision Ready Claims initiative provides some insight into the value of offering veterans more agency in the examination process. Although this initiative was sunset for several reasons, it was designed to offer the claimant more control over the development of the claim, to include scheduling appointments. Currently, when veterans submit their claims, they must wait for VBA to notify them that examinations have been requested. During the scheduling phase, they are often constrained to VA's finite date and time preferences with little regard for their needs. While many veterans just accept this process, the VFW is concerned that this poor customer experience leads to frustration with VA.

The VFW suggests that VA leverage technology to allow veterans to schedule their examinations or complete electronically submitted documents requested by contractors through **VA.gov** or the VA mobile application. Giving veterans more control would reduce the number of no-shows, thereby minimizing the need for VA to resubmit multiple requests or reestablish closed claims.

This investment and the associated policy changes are far more cost effective than incurring contractual expenses related to paying for missed examinations. This would also reduce the labor associated with rendering rating decisions based on missed appointments and reopening claims to reschedule. Moreover, this is a customer-centric policy that would reduce stress on veterans, providing a better overall experience with VA.

Disability Rating Schedule

The VFW understands that through advances in science, technology, and health care, the

way veterans receive treatment both privately and in VA facilities must respond with corresponding changes to its disability rating schedule. These rapid changes are at times unpopular and potentially harmful to the veterans we serve. Though our goal is not to dissent with VA's proposed changes when scientific advancement supports such changes to the VA Schedule for Rating Disabilities (VASR-D), the VFW believes we reserve the right to oppose them when these changes will harm veterans.

Earlier this year, VA proposed via the Federal Register changes in the rating schedule for respiratory conditions, mental health ratings and ear, nose, and throat disorders. This is a small subset of an overarching review of the entire schedule of disabilities that began in 2017. The VFW agrees that you cannot apply laws and regulations that have scarcely changed since their development in 1945 to today's veterans. Along with our partner VSOs who share the same commitment to veterans, we are closely watching changes and are eager to continue to provide comment once published. Our intent is to ensure the maximum benefit allowed by law remains the consistent result. The VFW will continue to be a full, active, and engaged partner with VBA in helping to develop a commonsense approach to further modifications and proper implementation of future changes, but we caution it must be sensible and always in the best interest of those we represent.

The VFW cannot tolerate what appears at times to be arbitrary reductions of lawful benefits and entitlements earned by service members during combat, high-risk operations, or their honorable service, such as substantial changes to how VA intends to evaluate mental health conditions, sleep apnea, and tinnitus. We communicated our dissent to VA on these changes through the Federal Register and ask your committees to exercise proper oversight of any proposals. If anything, some of these proposed changes are not well thought out, are contradictory in nature, and can only be construed as cost-cutting measures disguised in the form of enhanced benefits. Similarly, we look forward to the opportunity to continue to collaborate with VA at every opportunity to make sure that these changes are not punitive.

Board of Veterans Appeals

The Board of Veterans Appeals (BVA) is now five years into implementation of the Appeals Modernization Act (AMA). At the time, this legislation was intended to be as significant as the PACT Act. We can all agree that much good has come from it and it stands as a sterling example of how VSOs and the VA can work together to deliver programs that truly benefit

veterans. Moreover, BVA should be commended for how it has evolved its workforce by aligning to the modern needs of veterans and using technology to make it easier for appellants to appear before BVA through virtual hearings. However, there is more work we can do to fine tune these programs and ensure appellants receive timely decisions.

One potential challenge the VFW has seen with AMA appeals is with the remand process. When an appeal is remanded to VBA for further development, the process allows a rater to decide when development is complete and render a new decision. If that decision is unfavorable, the veteran then must file a new decision review notice requesting the claim be returned to BVA for the original Veterans Law Judge (VLJ) to review it. Placing this burden on veterans increases the likelihood that they will not understand the process and erroneously abandon their right to continuous review. The VFW recommends that remand denials under AMA automatically return to BVA unless the veteran informs VA of intent to withdraw the appeal. Also, BVA should examine the concept of returning an appeal to the original VLJ. Law judges have the ability to review and decide appeals assigned to them. Though the VFW understands the objective of this was to ensure that VBA fully complied with the intent of the remand order, this requirement may cause greater delay in what was expected to be a streamlined process.

As more veterans decide to pursue an appeal under the AMA process, legacy appeals continue to recycle through the system. Complicating matters, BVA must now find ways to constructively address the caregiver appeal workload as well as pending appeals affected by the presumptive conditions authorized under the PACT Act. BVA and VHA must work to stand up processes to easily share records related to denials for caregiver benefits. For PACT Act appeals, BVA must work collaboratively with VBA and VSOs on ways to expeditiously discharge this workload in the best interest of veterans. The VFW stands ready to assist in both challenges.

We understand the need to decide these appeals as quickly as possible. Many veterans have been waiting years for decisions. The VFW urges continued education and expanded outreach informing them of the purpose of the three available lanes under AMA and the expected time frames involved in achieving a decision. We understand every appeal is unique and some are more complex than others. However, the delays that can be avoided should not come at the expense of those who chose the AMA process after being promised a faster decision.

Pre-Decisional Review

The VFW continues to advocate for the restoration of a formal pre-decisional review process for VA benefit claims. Though we acknowledge that the 48-hour review process is an outdated mechanism, we continue to believe that the active prohibition on accredited VSOs intervening while a claim is pending before VBA inhibits our ability to properly prosecute benefit claims on behalf of those we represent. In recent years, VBA has worked constructively with VSOs to stand up tools like electronic notification that offer accredited representatives better optics on claims throughout VA's processes. However, accredited representatives are still restricted in what they can do prior to VA issuing a decision.

The VFW continues to stress the value-add that pre-decisional review offers, not only in our relationship with claimants but also in the trust it establishes with VA. Once we have access to them, we regularly see avoidable errors in rating decisions, typically after they are received by veterans. VSOs are then forced to file appeals that could be avoided with a final review by another set of eyes. Given the increased workload of PACT Act claims and the fledgling experience level of new VA adjudicators, this additional step is vital to the claims process. All parties agree that timely delivery of benefits is paramount, and VBA remains the gateway to most other VA benefits and programs. Nonetheless, it does not matter how quickly VA renders a decision if the veteran is subject to needless development or endless appeals because the decision was wrong.

Improvements to Survivor Claims Process and DIC Increase

Part of VA's mission is to assist surviving spouses and children following the death of their service member or veteran. The VFW finds that survivors are often ill-prepared for the dramatic financial impact they suddenly face, and have difficulty understanding the benefits to which they are entitled. While VFW Service Officers do assist survivors, improvements are needed from the Department of Defense (DOD) and VA to better prepare, educate, and communicate with survivors during their time of need.

Dependency and Indemnity Compensation (DIC) is paid to the survivors of service members who died in the line of duty or veterans who died from service-connected injuries

or illnesses. This benefit has only minimally increased since it was created in 1993. Currently, DIC is paid at forty-three percent of one hundred percent permanent and total disability, while all other federal survivor programs are paid at fifty-five percent. The VFW urges Congress to pass legislation that would finally increase DIC payments to survivors, reaching parity with other federal agencies.

Suicide Health and Economic Opportunity Benefits

Veteran suicide prevention is a complex, multifaceted initiative requiring an approach informed by a multitude of upstream and protective factors. President Biden's 2021 report titled *Reducing Military and Veteran Suicide: Advancing a Comprehensive, Cross-Sector, Evidence-Informed Approach* states the importance of identifying these factors that increase or mitigate veteran suicide, including economic factors such as financial strain, lack of housing, food insecurity, unemployment, and legal issues. The VFW firmly believes an upstream perspective, examining root causes and protective factors, is critical to identifying socioeconomic factors that can be addressed before mental health reaches a critical juncture.

Suicide prevention is not simply a clinical priority and should not be viewed as such. Suicide prevention should encompass benefit usage and delivery alongside mental health counseling and intervention. For far too long suicide prevention has been viewed as simply a mental health issue, when in reality that is only half the battle. Successful delivery and usage of economic benefits from VA can provide positive mental health postures that help prevent veterans from slipping toward negative outcomes. VA must also increase community care partnerships for mental health resources, ensuring a diverse portfolio of counselors who offer traditional and nontraditional modalities.

However, the path to preventing suicide needs to start with the veteran's initial interactions with VA, which usually happens through programs administered by VBA. VA's own research reinforces that social determinants of health, like financial stability, access to housing, and pathways to a quality career serve as protective factors against suicide. The VFW believes that negative customer interactions with transition, 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 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.

The VA disability claims process is highly subjective, making it susceptible to mistakes, omissions, and bias, as we saw in recent years with claims for MST. Identifying socioeconomic factors must begin with inspecting exam-to-ratings outcomes for various socioeconomic groups to determine if systemic biases are negatively influencing outcomes during the process to receive compensation and pension. The actions of evaluators contracted by VA have a strong impact on access to and use of earned benefits. If an evaluator does not accurately dictate a veteran's story, the potential for a negative interaction with VA is much higher. Specifically, the VA rater who must quantify qualitative data will be more likely to issue a lower rating than what is appropriate due to a lack of information. This potential for mistakes underscores the need for veterans to have quality, competent accredited representation, and we challenge VA to critically examine the outcomes for veterans who utilize advocates in this process.

Expansion of VBA Mental Health Access and Economic Opportunity Touchpoints

Each time a veteran uses a VBA economic opportunity program or benefit is an opportunity to provide resources and suicide intervention as appropriate. Access from the point of transition is critical. Congress must provide oversight of DOD and VA to ensure service members are adequately introduced to these benefits at transition, to include required reporting on the success of VA's Solid Start program. Transitioning service members who are informed about their economic opportunity benefits at the beginning of their transition period are significantly more likely to connect with VA and actually use these benefits. This puts them on track to not only have touchpoints for VA intervention if needed, but also to be on track for economic stability and lessen the risk of suicide for recently separated veterans.

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 conducts oversight on this outreach and requires data that can be correlated to economic risk.

At critical junctures when veterans are using VA services such as foreclosure or housing assistance programs that indicate their risk of financial instability, VA must ensure suicide mitigation resources are provided. However, it is paramount that these communications are done with sensitivity and intention. For example, one veteran participating in Veteran Readiness and Employment (VR&E) shared a VBA collection notice due to housing overpayments. The letter informed him that he owed thousands of dollars in debt and included links to VHA services in the case he was having suicidal ideation. The veteran understandably found this message jarring, especially coupled with the fact he was having an extremely difficult time reaching someone from VA to explain the overpayments. VA must ensure all resources provided at these touchpoints are not simply “checking the box.” They must be provided in ways that demonstrate compassion and are adjusted in accordance with veteran feedback.

For the first time this past year, VA incorporated VBA data in its annual suicide report. It superficially included some data on disability compensation, education and employment, home loans, and insurance programs. This inclusion of data shows VA has the information regarding benefit usage coinciding with veteran suicide, but it cannot be fully leveraged until it is further explored and utilized to mitigate the risk of suicide.

The VFW believes VA’s Office of Suicide Prevention should be moved from VHA to the enterprise level of VA so it can report on and utilize information from both VHA and VBA to combat suicide. Siloing this critical office in VHA does not allow for its full potential performance.

Veteran Economic Opportunity

Access to education, employment, food, and housing security are the most critical components of upward mobility, all of which have been proven to reduce suicide rates for veterans. The VFW calls on Congress to create a fourth administration to focus on the implementation and oversight of benefits supporting upward mobility. 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 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 fifty VSOC counselors be added to the 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 (IHL). Currently, there are more than sixty IHLs awaiting approval for VSOC counselors, with many more campuses currently being assessed to determine if regional representation is feasible to address increased need for assistance. Our work with VSOC counselors at different IHLs 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 three hundred technicians be added 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, at the local level the overall program falls short. 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.

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 eleven percent reduction since 2020, and fifty-five percent since 2010. The VFW applauds Congress for supporting various programs and funding that have led to this significant success. However, there are still nearly twenty thousand veterans who remain unhoused and more than thirteen thousand are unsheltered. The work must continue until this most basic need is met for every veteran.

Supportive services must be expanded beyond financial relief. Too many veterans face housing instability because they are not as financially literate as they could be. We recommend that VA establishes a basic financial literacy tool and ensures 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.

Service Member Affairs

Transition

Transition from the military is a critical period for all service members and families, and one that looks different for everyone. For many, transition means identifying and pursuing an entirely new career path, finding health care, adapting to new and increased expenses, establishing new identities and support networks, and adjusting to challenges associated with injuries and illnesses incurred during service. Accordingly, transitioning service members (TSMs) tend to face many hardships including unemployment, financial difficulty, lack of purpose, grief, and many unknowns. To that extent, the VFW places great emphasis on ensuring service members and families receive the best counseling and mentorship before they leave military service.

The Transition Assistance Program (TAP) is a key stepping stone to a seamless transition to civilian life. The information provided to service members on topics such as VA benefits and services, financial management, higher education, employment, and entrepreneurship

is invaluable. The VFW was happy to see the recent changes to TAP that enabled more tailored, personalized experiences for TSMs while increasing access to family members, veterans, and caregivers via an online portal. TAP is a critical program that should be accessible as early and as often as needed, both before and after leaving service.

However, the VFW sees additional areas of opportunity for TAP. Between September 2022 and January 2023, VFW surveys of over six hundred TSMs revealed that of those with spouses, nearly twenty percent of respondents either did not know their spouse could attend TAP or their spouse wanted to attend but could not. Of those who provided clarifying remarks on why they could not attend, work was the most cited reason with further mentions of child care challenges and being geographically separated. Military transition is an endeavor for families as much as it is for individual service members. Transition planning as a family is imperative to understand post-separation benefits, services, and needs like disability compensation, education and survivor benefits, health care, financial planning, and even career changes.

While online TAP coursework is now available to spouses and caregivers, the value of attending the course in person cannot be understated. We call on Congress to study the factors contributing to spouses not attending TAP in person and enact legislation that mitigates or removes the identified barriers. Moreover, we would like to see Congress create a spouse TAP pilot program that not only incorporates the findings of the study but also aligns with the unique needs and challenges experienced by military spouses and children.

We also believe it is essential that Congress clarifies how it defines resources located in communities as outlined in 10 U.S.C. §1142 (2021). As part of the fiscal year (FY) 2019 TAP law reforms, Congress mandated that all TSMs be connected to resources in the communities in which they plan to live after service. However, this requirement is too ambiguous, as evidenced by over one third of VFW survey respondents indicating that they either did not or did not know if they received those connections during their individualized initial counseling. As TAP is neither designed nor intended to be an all-encompassing course for each TSMs' unique needs, the VFW strongly believes connections to specialized community organizations are key to providing this aspect. As the law requires, we would like Congress to ensure connections are being made between TSMs and resources in the communities to which they are transitioning, with an emphasis on specialized transition service organizations that receive grant funding.

Transition counseling pathways were also established via the 2019 reforms that brought about the tier system that is currently in use. This system is intended to align TAP more closely to TSMs' individual needs by assigning them to one of three tiers. Moreover, the course itself is now structured with three mandatory days of instruction and, for some TSMs, optional two-day career tracks. Service members assigned to Tier 1 are considered the most prepared for transition, exempting them from completing a track, while those assigned to Tier 3 are considered the least prepared, making track completion mandatory. Tracks are largely optional for Tier 2 TSMs. Our survey data showed that over half of respondents reported not having completed a two-day track for varied reasons, including being assigned to Tiers 1 or 2. Meanwhile, thirty-five percent of participants did not know to which tier they had been assigned.

A December 2022 Government Accountability Office (GAO) report bolstered our concerns regarding the tier system—almost twenty-five percent of TSMs assigned to Tier 3 did not complete a mandatory two-day track. These findings are very troubling, and we call on Congress to require in-depth reporting on the use of the tier system, its impact on track participation, and its overall effect on outcomes following transition. Additionally, we urge Congress to ensure DOD complies with GAO's recommendations regarding track attendance.

Additionally, VFW survey responses received over time regularly illustrate inconsistencies regarding the quality and usefulness of information received during TAP, as well as the volume. This is especially problematic in the context of materials that encompass VA benefits and services where differing degrees of facilitator attention and knowledge can impede TSMs' overall understanding and retention of critical information and related timelines. Making matters worse, the December 2022 GAO report also confirmed a suspicion we already had that TSMs have overwhelmingly—at seventy percent—not been attending TAP at least twelve months prior to separation or discharge as required by law. As such, not only does course fidelity appear to vary across TAP locations creating disparities between TSMs, but poor course attendance timeliness also hinders members' ability to apply for post-service benefits and programs with set deadlines, like the VA Benefits Delivery at Discharge (BDD) program and college.

The aforementioned factors negatively impact the ability of service members to access urgently needed benefits after service, like VA health care, while delaying elements of the individual transition plans of many TSMs such as returning to school via the Post-9/11 GI Bill or VR&E. The VFW finds this worrisome as the most recent VA suicide report suggested

a decreased veteran suicide rate per day (1.0 vs. 6.7) for individuals having any contact with VBA as compared to those having no interaction with VBA or VHA. With the initial twelve months after discharge being a heightened risk period for veterans to die by suicide, we urge Congress to hold DOD accountable for failing to ensure TSMs complete TAP on time, while making sure each service department expeditiously implements GAO's December 2022 timeliness recommendations.

The VFW also believes there is incalculable value incorporating accredited representatives in the TAP curriculum. Specifically, we would like to see these representatives facilitate course materials that cover VA benefits and services, with a particular emphasis on those that can be applied for prior to separation. This approach would mitigate instances of service members missing critical benefits-related details while enabling more to act on information without needing to find a representative outside of TAP. For instance, military personnel have a very slim window (180-60 days before separation) in which they are eligible to file for VA disability compensation through the BDD program. Accredited representatives would not only be able to highlight the program but also help TSMs file claims once eligible, which is a task that VA employees who largely teach this material are prohibited from doing.

Military members across service departments and bases currently have unreliable access to accredited representatives during TAP, creating barriers to filing pre-discharge VA disability claims via the BDD program. Unequal access leads to less TSMs being connected to their benefits upon separation, thereby endangering connections to VA services like mental health care. The VFW urges Congress to either direct VA to develop a tailored pre-separation benefits course facilitated by accredited representatives, or incorporate representatives in its revised TAP curriculum, VA Benefits and Services 5.0, which is set to launch this year. Detailed information about accredited representatives, as well as a list of those organizations and individuals who have received accreditation, can be found by visiting benefits.va.gov/vso.

The VFW National Veterans Service (NVS) provides pre-discharge claims assistance to TSMs via the VA BDD Program. The NVS BDD pre-discharge claims program was established in 2001, and currently supports TSMs at military installations and VA facilities across the nation. NVS staff who provide claims assistance are VA-accredited representatives and maintain a consistent presence on more than twenty installations. This program is intended to ensure that separating and retiring active duty personnel receive all necessary assistance in obtaining VA benefits upon discharge. The objective is to complete

each service member's claim development including medical examinations prior to leaving active duty, thereby enabling connections to VA benefits and resources as close to separation as possible. While the primary role for the VFW staff in the BDD program is to help service members navigate their VA disability claims, they are also able to assist with many other benefits and available opportunities.

Our BDD representatives offer guidance and information for many different transition opportunities that may not be covered in TAP classes. They are trained in education, employment, and other benefit eligibility. Service members who utilize additional resources such as BDD representatives are likely to face fewer unknown hurdles during transition. Cumulatively through claims assistance and TAP courses, our accredited representatives have interacted with roughly twenty-four thousand TSMs in 2022, which is approximately twelve percent of the two hundred thousand service members on average who leave the military each year.

Though the BDD program is critical to post-military success for many veterans, the VFW remains concerned that VA's decision to compress the time in which a TSM may file a BDD claim remains problematic. Prior to 2017, TSMs could file BDD claims between 180-60 days before leaving the military. Service members with fewer than sixty days could file claims through the Quick Start program. In 2017, VA arbitrarily moved the goalposts back for BDD, allowing service members to file only between 180-90 days and eliminating the Quick Start program altogether.

In the years since this policy was changed, the VFW has seen problems in delivering benefits for TSMs. Of note, some service members, particularly those who work in high-intensity military occupations, have trouble meeting this timeline due to the constraints of their jobs. A ninety-day window also creates compliance issues with military treatment facilities in furnishing service members with their full health records in a timely manner to satisfy the requirements of the BDD program. Complicating matters, some locations can take up to thirty days to provide records after service members request them. Very recently, one base notified service members that it could take up to ninety days, further challenging the narrow window of 180-90 days set by VA.

These hurdles have only been exacerbated by the sunset of the Quick Start program. While it remains true that service members can still technically file regular claims before separation,

many times VA intake sites on military installations turn these BDD-excluded claims away, or VA fails to act on them in a timely manner due to a future effective date showing in the Veterans Benefits Management System (VBMS). Though affected service members lose no benefits because of this bureaucratic hurdle, it can significantly delay the delivery of benefits until long after members have transitioned.

VA's changes were an unnecessary step backward all in the name of efficiency on paper. However, these reported efficiencies come at the expense of the needs of TSMs. The VFW urges Congress to direct VA to revert to the old parameters of its BDD program and reinstitute a program like Quick Start so VA can once again ensure TSMs have a seamless experience accessing their earned VA benefits.

Military Quality of Life

Ensuring our nation's military remains all-volunteer is a core concern of the VFW. Recently, the VFW has met with service members overseas defending American interests, and our security and that of our allies. Though the National Defense Service Medal was sunset, we remain a nation actively engaged in counterinsurgency and deterrence operations, to include reinforcing the eastern flank of North Atlantic Treaty Organization (NATO) forces from Russian aggression, protecting global shipping lanes in southeast Asia, and stomping out transnational terrorism in the Middle East and Africa. Unfortunately, the message we hear from our armed forces is that Americans do not readily recognize the operational posture of our military and that the morale of our force may be suffering. Therefore, factors that influence individual enlistment and reenlistment decisions are of particular interest.

The DOD *Fall 2021 Propensity Update* data indicated that the inclination to serve among the nation's youth is at a low not seen since 2007. Overall, eight out of the ten primary reasons to serve were individual, predominantly tangible benefits, while the remaining two reasons were intangible benefits rooted in altruism. Accordingly, most individuals are

attracted by the advantages of service that enable self-development and sustainment. This reality is especially important as those inclined to serve and continue serving must perceive military service as a largely value-added endeavor. The implicit value proposition includes some level of certainty that one's basic needs will be met while receiving enough support to focus on and achieve the mission. Unfortunately, Congress and DOD are falling short in regard to these considerations, thus endangering public perception about the benefits of military service as well as the retention decisions of those currently serving.

In 2020, DOD estimated that roughly one quarter of active duty troops had some level of difficulty feeding themselves and their families in the preceding year. Predominantly affecting enlisted personnel, factors such as low starting pay, spouse unemployment and underemployment, child care barriers, and inconsistent eligibility for programs like the Supplemental Nutrition Assistance Program (SNAP) contribute to food access challenges. Accordingly, even though military readiness is paramount, many service members cannot fully engage in their missions since their families struggle to eat. No military member or family should have trouble accessing healthy, predictable meals.

The VFW praises Congress for the FY 2022 creation of the Basic Needs Allowance (BNA), as well as the subsequent increase in the eligibility limit from one hundred thirty percent of the federal poverty level to one hundred fifty percent (and two hundred percent in limited cases) via the National Defense Authorization Act (NDAA) for FY 2023. We anticipate this allowance will bring relief to some affected military families and look forward to outcome data and program adjustments as necessary. There is still opportunity, however, because the BNA is anticipated to help just a small fraction of those experiencing food security challenges. Military hunger is a complicated issue with many contributing factors that are not fully understood. As such, the response by Congress must be multifaceted with the understanding that bolstering service members' financial management skills will take them only so far.

As the BNA policy is currently written, not even one percent of the estimated thousands of hunger-affected service members and families qualify. This is in part because Basic Allowance for Housing (BAH) is counted as income for the purpose of establishing eligibility. It is up to DOD to determine which military housing areas receive BAH exemptions from the BNA calculation and which do not, leaving room for disparate outcomes among those in need. The inclusion of housing allowances as income also creates

disparities between military families of similar sizes and circumstances. Those living in on-base housing and not receiving BAH may qualify for a needs allowance, while those living off base and receiving a housing allowance may not. While the new one hundred fifty percent eligibility threshold will make this benefit more accessible, the need to exempt housing allowances from the income calculation remains. Doing so would help ensure this benefit reaches as many food-insecure military families as possible.

Similarly, Congress should also work to exempt BAH from the federal calculation for SNAP eligibility, which would enable wider access to this lifeline program. Currently, there exists glaring disparities between service members who receive a housing allowance and those who do not, as well as between military and civilian families. Food-insecure service members living off base and receiving BAH often are disqualified from utilizing SNAP benefits because their housing allowance is counted as income, while those living in on-base housing and not receiving a housing allowance might otherwise qualify. In either case, service members are technically not paying out of pocket for housing, yet have unequal access to federal nutrition assistance.

Furthermore, civilian housing vouchers like Section 8 are not counted as income for the purpose of SNAP eligibility, yet the military's equivalent BAH is counted. When looking solely through a parity lens, these differences are inequitable and prevent many food-insecure military families from accessing SNAP benefits.

Also problematic is the fact that BAH is now paid at ninety-five percent of estimated housing costs, yet in 2021 GAO found that BAH is not always calculated correctly, adding to the financial burden that military families face. Accordingly, even when housing allowances are calculated correctly, service members must still partially pay out of pocket for housing, leaving less money for food. The VFW was pleased to see that the FY 2023 NDAA included a provision to improve how BAH is calculated. Next, Congress must pass legislation to restore housing allowances to the one hundred percent level. Moreover, the VFW believes Congress must continue to work to identify and remove barriers to gainful spouse employment and strengthen access to quality, affordable child care. We call on Congress to pass legislation that ensures service members receive an acceptable compensation package that is competitive with the private sector.

Another critical issue is safe, quality military housing for all service members and families. Regularly highlighted in the news, unsafe living conditions like black mold continue to plague our service members in both unaccompanied and family housing. Lack of hot water, fuel-tainted drinking water, and heating, ventilation, and air conditioning issues have also recently surfaced. These challenges are widespread across the services and globe, including permanent duty stations overseas. With prominent well-being implications for service members and families, substandard housing is an urgent issue. Service members cannot focus wholly on the mission if they or their loved ones are suffering from medical conditions related to prolonged toxic exposure, cannot take hot showers, or lack air conditioning during hot weather.

The VFW understands various efforts are underway to renovate and rebuild affected military housing units. However, repairing or replacing the structures themselves is just one part of the equation. Military personnel and families should never be solely at the mercy of private companies or military leadership to resolve their housing problems. Without quality, consistent, and prompt attention and resources committed to housing issues across the board, service members and families must have an alternative way to communicate housing issues to those in positions of power.

Currently, no military member has a trusted, centralized third-party option to report poor housing conditions. This means that 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, FY 2020 NDAA, Congress mandated that DOD establish a public-facing complaint database for those residing in privatized military housing units. This database has yet to come to fruition even though it is urgently needed. Moreover, while the VFW believes this is a step in the right direction, the law does not include single service members living in unaccompanied housing such as barracks. About forty-seven percent of military personnel are single without dependents, which largely

precludes them from moving out of barracks. Therefore, a significant portion of service members would be prohibited from using this database even though they experience many of the same 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 recommends amending Section 3016 of Public Law 116–92 to include unaccompanied housing. We urge Congress to create a public-facing complaint database that all service members can use, regardless of whether they live in barracks or privatized family housing.

We are also concerned about the continuing issue of forced arbitration clauses leveraged against service members in contracts. Service members encounter financial and employment challenges not typically experienced by their civilian counterparts. For example, active duty service members move often and not necessarily on a predictable basis, which can make rental housing contracts hard to manage. Moreover, reserve component members are commonly forced to take extended leaves of absence from work for training and activations, putting job security and career progression at risk if employers lack supportive and equitable accommodation policies. Accordingly, Congress enacted robust financial and employment laws to assist and protect service members in these cases, as well as many others.

The *Servicemembers Civil Relief Act* (SCRA) helps ensure military personnel are financially mission ready via myriad protections such as termination of housing leases without penalty and a reduced six percent interest rate on accounts opened before entering active duty. Equally important, the *Uniformed Services Employment and Reemployment Rights Act* (USERRA) shields Reserve and National Guard members from job loss and missed promotions, for example, when they are called to active duty or mobilized on federal orders for more than thirty consecutive days. While SCRA and USERRA were drafted to be comprehensive in nature, that has not stopped bad actors from evading the protections they offer service members and, in some cases, family members.

Forced arbitration clauses often require military personnel to preliminarily waive the

protections afforded to them under SCRA and USERRA. Frequently woven into the fine print of contracts and electronic click-through agreements, these clauses 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 and, where applicable, their family members.

Concurrent Receipt

For nearly two decades, America's veterans have waited for Congress to end the longstanding, unethical practice of offsetting that is authorized by concurrent receipt law. Scores of veterans are by default required to forfeit all or part of one benefit to pay for or pay back another, even though they are earned for entirely different reasons. Justified by Congress to prevent what it erroneously refers to as double-dipping, this practice is nothing more than a way to save money on the backs of veterans.

The widespread harm caused by offsetting military retirement pay and the dollar-for-dollar loss of such pay creates an economic burden on military and veteran families worldwide. Under current policy, military retirement pay from DOD is reduced by one dollar for every

dollar of VA disability compensation a veteran receives. Military retirement pay is earned for years of vested service, while VA disability compensation is awarded as supplementary income for reduced earning potential of disabled veterans who incur lifelong illnesses and/or injuries from their service. These are two fundamentally different benefits earned for two entirely different reasons.

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 fifty percent service-connected rating. At the time, Congress committed to gradually phasing in full concurrent receipt over the next few years, but nearly 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. Most recently, the *Major Richard Star Act*

(H. R. 1282/S. 344) garnered overwhelming bipartisan and bicameral support from members of the 117th Congress, yet not enough to be sent to the president's desk. This Congress must be different because this issue is not going away. 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.

Force Recognition

In addition to the quality-of-life programs that Congress can enhance, we call on DOD and Congress to once again recognize the immense contributions of our men and women serving overseas—particularly those who are serving on the eastern flank of NATO forces deterring Russian aggression. While the VFW realizes that this situation is complex, we believe that service members called to this critical role must be acknowledged with an appropriate campaign medal indicative of their sacrifices. The global security situation demanded that we quickly send our service members to the defense of our NATO allies. We should properly recognize these brave volunteers who are serving in a forward operational capacity.

Health Care

Parity of Health Care Services

From the VFW's research and member feedback, as well as studies by RAND Corporation, the National Academies of Sciences, Engineering, and Medicine, and other leading institutions, we know that VA provides high-quality health care. We also know that veterans tend to prefer treatment from VA, once they are eligible. A VA study published in August 2020 concluded that VA care ranked higher than community care in overall provider rating, communication, and coordination. DOD care, through both the direct care system and TRICARE, offers state-of-the-art treatment options at an extremely reasonable cost. Research done by VA and DOD has and continues to yield innovative new therapies and research that contribute to amazing advances in medical science, making health care better not just for service members and veterans but for all Americans and people the world over. Parity with the best options of civilian treatments, however, is often an issue in both VA and DOD.

The rapid innovation of research and development means that therapies and diagnostics, such as in vitro and laboratory-developed tests that focus on specific diseases, are available to the general public and are reimbursed by commercial insurance but are not covered by VA or DOD. Some reproductive health services that are readily available and are a common standard of care from civilian providers and commercial insurers are not covered by VA or

DOD. Conversely, VA rehabilitation programs, prosthetics, and inpatient mental health and substance abuse treatment lead the way for the nation.

VA and DOD should develop more agility in their certification and procurement processes to take full advantage of changing standard-of-care treatments. VA and DOD health care is first class and must remain responsive to ensure that America's service members, veterans, and their families do not receive lesser care or fewer options than other Americans. They must be able to access the same services that their civilian counterparts utilize in the private sector. This will ensure they continue to seek high quality care offered at VA and DOD health care facilities without impediment.

VA Community Care

The VA Community Care Network (CCN) is a vital component of VA health care, providing expanded care options to meet veterans' diverse health care needs. The VFW sees the CCN as a critical enabler for ensuring veterans receive appropriate, quality, and timely care where and when they need it. When the referral and care delivery processes work well, experiences tend to be seamless. However, that is not necessarily the norm. Some of our members have echoed similar challenges navigating the CCN. Within Region 1, which is managed by Optum Serve, many of the complaints revolve around one common theme: veterans are having to personally and proactively manage aspects of accessing community care, causing undue burden, delays in receiving care, and myriad stressors. Some of our members have been told they were referred to community care, but not informed what the next steps were to complete the referral process, such as receiving a call from the community care team or needing to contact the team themselves. This has resulted in delayed care for conditions that require timely attention.

Also troublesome are instances where veterans receive bills directly from network providers. Our members have reported personally working to correct billing errors that have taken months to resolve, causing considerable stress and uncertainty. It is not uncommon for community providers to bill VA directly, instead of Optum. One of the reasons for billing

errors is confusion stemming from patients' Veteran Health Identification Cards (VHICs). Instead of reviewing CCN referrals for billing instructions, providers have billed to the address on the back of VHICs as they would for non-VA patients using traditional health insurance plans.

Additional areas in which our members have experienced challenges are: communicating directly with the respective teams processing their referrals, not being able to find an appropriate CCN provider via VA's cumbersome search tool, schedulers expecting veterans to know and/or find National Provider Identifier numbers, providers themselves being in network but not the physical facilities from which they operate (or vice versa), and poor communication regarding what care changes require new or updated referrals. These issues cause extensive problems for veterans seeking care in the community and indicate a need for VA to comprehensively review policies and processes that enable their occurrence. VA cannot expect veterans to navigate tasks and procedures normally reserved for specialized medical professionals like care coordinators and billing agents.

Caregiver Support Program

VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC), first begun in 2010, provides much-needed assistance to severely disabled veterans and their caregivers. While the program has been life changing for tens of thousands of veterans and caregivers, VA has been unable to consistently, transparently, and equitably administer the eligibility, reassessment, and appeals processes associated with the program. While the VFW is pleased that the PCAFC has finally been expanded to cover caregivers of veterans from all eras, the current regulations adopted in 2019 have not addressed the longstanding, systemic problems related to eligibility. As a result, VA Secretary McDonough suspended reassessments and removals from the program until better solutions could be found.

In April 2021, the United States Court of Appeals for Veterans Claims determined in the *Beaudette v. McDonough* decision that veterans and caregivers had the right to appeal unfavorable decisions related to the PCAFC program to BVA, which included full due process rights under AMA. The process for caregiver appeals is still fragmented. Caregiver appeals must have the VHA file associated with the appeal for certification to BVA. Since the establishment of the right to appeal caregiver claims to BVA, there has been a noticeable and extensive delay in VHA providing the necessary files to certify a claim to BVA. There are

approximately three thousand uncertified caregiver appeals in the inventory at BVA of which more than two thousand five hundred do not have appellants supporting health records as part of the file. The delay in obtaining files from VHA is measured in months, not days or even weeks. Veterans in serious need of urgent decisions and are required to wait, not knowing how soon their appointed representatives can present arguments on their behalf.

BVA staff must be fully trained and ready to process these appeals. Misinterpretation of any VA regulation or process is an inherent risk. For example, veterans who started caregiver claims under the legacy process are being told they need to file a Decision Review Request when the previous Notice of Disagreement form under the old appeals process is still required. This confusion is leading to further delays. Just as the VFW states that BVA staff must be fully trained in processing these appeals, whether legacy or PCAFC, BVA must provide VSOs with training and prompt updates on developments in the Caregiver Appeals Process. This will support quicker engagement with the VSOs and their clients, resulting in promptly adjudicated appeals.

VA has been working with caregivers, VSOs, other stakeholders, and Congress, to develop new eligibility criteria, reassessment rules, and appeals processes to address problems in the program with the goal of adopting new regulations. The VFW believes it is imperative that Congress enacts legislation and/or VA promulgates regulations to create more consistent, transparent, and equitable eligibility criteria and reassessment rules for the PCAFC. We must also appropriately grandfather eligibility for veterans in the program prior to enactment of any new eligibility regulations, and guarantee the continuation of full due process, notification, and appeal rights provided by the Beaudette decision and the AMA legislation.

Preventive Medicine

Preventive dental care can significantly impact veterans' health and quality of life, including job security. However, only veterans who are one hundred percent service-connected disabled, certain homeless veterans, and those who have a service-connected dental condition are eligible for VA dental care. The majority of veterans enrolled in VA health care are unable to access VA dental care. Instead, they are offered the ability to purchase dental insurance through the VA Dental Insurance Program, which is a discounted, plan-based

coverage program. The VFW urges Congress to expand eligibility and resources regarding this program.

There are currently eleven categories of preventive medications found to be effective, such as aspirin to lower the risk of cardiovascular disease. Cardiovascular disease is the number one cause of death in the United States and is highly prevalent among the veteran population. Additionally, folic acid is recommended for pregnant women to prevent neural tube defects. It is unjust to require women veterans to pay for the cost of medication to prevent such birth defects. Vitamin D is another preventive medicine that is often prescribed to prevent bone fractures, which benefits traumatic brain injury patients with hindbrain injuries. There is also breast cancer prevention medication that is useful not just for individuals with a family medical history of breast cancer, but for Camp Lejeune toxic water survivors who have been found to suffer from increased rates of breast cancer. These pharmaceuticals have been found to prevent possible disease and to be health care cost savers.

Women veterans who use VA health care for family planning services are also concerned that VA requires copayments for preventive prescription drugs, such as contraceptives. This is counter to industry standards for private health insurance plans, which do not require out-of-pocket costs for preventive care prescriptions. The VFW believes veterans should not have to pay for preventive health care options unlike their civilian counterparts.

Overseas Veterans

The Foreign Medical Program (FMP) poses many concerns for veterans traveling and residing in overseas areas. One of the major concerns is the billing and reimbursement process. According to VHA, it takes eighty-five days to process an FMP claim, then another six to eight weeks to send a Treasury check to the veteran and for the veteran to receive and cash the check. The delay in receiving reimbursements is lengthy and places hardship on the veterans as they bear the upfront costs that can be thousands of dollars. This hinders them from receiving care in a timely manner to address service-connected conditions. Additionally, there is a lack of VHA's ability to generate a timely transfer of funds for FMP payments and reimbursements. VHA mails paper checks to veterans. There is no other option available to veterans using FMP.

This antiquated system is frustrating, slow, and not secure. What is puzzling is that VBA offers electronic funds transfer to veterans overseas for their disability compensation. The same veteran who is waiting up to six months for an FMP reimbursement may also be receiving timely monthly disability compensation through electronic funds transfer directly to their bank. The VFW urges VA to use current in-house VBA banking systems to fix the FMP payment problem and provide timely reimbursements. Veterans living overseas should receive basic levels of parity for reimbursements.

VA Infrastructure

The VA health care system provides direct medical care to more than seven million veterans every year through an integrated system of over one thousand seven hundred fifty access points, including medical centers, outpatient clinics, Vet Centers, and community living centers. VA's health care infrastructure includes thirty-four thousand acres, and five thousand six hundred buildings, most of which were built more than fifty years ago. For more than two decades, funding for construction, repairs, and maintenance of VA's health care facilities have lagged behind even the most conservative estimates of the actual needs.

The recent failure of the Asset and Infrastructure Review (AIR) process highlights the longstanding challenges of properly planning, funding, constructing, and maintaining VA's health care infrastructure. While the AIR report and recommendations produced by VA documented the need for significant new investments to expand VA's health care footprint, it failed to accurately and transparently assess the future health care needs of veterans, or the best arrangement of VA and non-VA health care assets to meet those needs. In addition, there remains a long list of seismic deficiencies VA has failed to address.

VA also supports aging and severely disabled veterans by operating one hundred thirty-one Community Living Centers, providing grants and per diem support to one hundred fifty-seven State Veterans Homes, as well as per diem support for veterans in hundreds of community nursing facilities. VA has unique challenges maintaining adequate numbers of long-term care facilities for veterans with spinal cord injuries and disorders. While VA must continue to expand its noninstitutional, home-based services and support, it also needs to expand capital investments in new institutional care for the growing number of aging veterans.

Even with a comprehensive strategy and adequate infrastructure funding, VA's internal capacity to manage a growing portfolio of construction projects is constrained by the number and capability of its construction management staff. In order to manage a larger, more complex capital asset project portfolio, VA must have sufficient personnel both within the VA Central Office and onsite throughout the VA system.

Given the high cost of constructing new facilities, coupled with the increasing integration of non-VA providers into CCN, VA should consider leveraging existing health care relationships with other federal agencies such as DOD and the Indian Health Service, and academic affiliates. In addition, VA should explore new models of sharing arrangements with private providers in CCN. The VFW believes Congress and VA must work together to develop and implement a new comprehensive strategy to build, repair, and realign VA's health care infrastructure to meet current and future demand. This new infrastructure strategy should specifically address specialized care needs of veterans, including long-term care and spinal cord injuries and disorders programs.

Congress must also increase resources to expand VA's internal capacity and expertise to build, repair, maintain, and manage facilities by hiring additional personnel, and implementing training curriculum and certification programming required by the VA MISSION Act. VA must also continue to explore additional opportunities to expand partnering arrangements to supplement VA's health care infrastructure.

The VFW also supports VA's legislative proposal for providing it land acquisition authority which would allow VHA to secure and maintain land prior to the appropriation and authorization of a construction project. Currently, VHA acquires land through directly appropriated major construction project funding that requires authorization prior to commencing land acquisition activities. This proposal would provide VHA with the same flexibility afforded to the National Cemetery Administration to acquire land for identified projects when the opportunity arises, thereby reducing project delays related to the lengthy land acquisition process. Expediting this step in the construction process would reduce the overall life cycle of major construction projects.

Electronic Health Record Modernization

The VFW is frustrated and disappointed by VA's progress to date in instituting a modern electronic health record (EHR) solution across VHA. Over the last few years, VA has pointed fingers at 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 to 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.

VA is at a critical decision point as it approaches the five-year review of its EHR contract. In regard to providing needed care to its veterans, VA has no choice but to push forward with its current EHR modernization. Moreover, VA leaders must recognize that governance and proper change management planning, not the technology itself, will determine the success of VA's modernization effort.

The tragedy in this process is that veteran care will continue to suffer. When the VFW reads reports on problems with EHR migration and the potential harm to patients, we seek to view it in context. Historic VA Inspector General reports routinely identify similar patient safety problems across the VA health care system. However, VA has no way to identify them in real time because the legacy record-keeping system is disjointed and does not allow for the kind of centralized reporting found in a modern EHR. VA has no choice but to modernize its EHR, and VA leaders owe it to veterans to achieve this change in a timely manner that minimizes health risk to veterans, while promoting safe, quality care and records integrity across VA and DOD in the long term.

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 them 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 Veterans*, VA's electronic health record 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.

In addition to gender identity and sexual orientation data, collection and analysis of race and ethnicity data continue to be a challenge for VA. According to the GAO report titled *Opportunities Exist for VA to Better Identify and Address Racial and Ethnic Disparities*, VA's action plan and advancing health equity is lacking performance measures and accountability. 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 adopt 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, LGBTQ+, 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 thirty-five 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 of 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 this are why we urge VA to train its health care providers on all issues facing the increasingly diverse veteran population.

Since 1994, more than fourteen thousand LGBTQ+ 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 thirty thousand veterans negatively affected by the anti-homosexual policy. These veterans should not have to apply through the Discharge Review Board and go through a two-to-three-year process 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 they 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 LGBTQ+ discharges and prioritize upgrading records so these veterans can receive the honor and benefits they deserve.

Every Veteran Returned Home

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 “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 eighty-one thousand DOD personnel are unaccounted-for from WWII to Operation Iraqi Freedom, seventy-five percent of whom are in the Indo-Pacific area with more than forty-one thousand 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, the VFW is the only VSO to return to Southeast Asia annually, and to Russia and China periodically. It is our goal to not 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 onsite, the standard missions last thirty-five to sixty 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 found 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 one hundred sixty-six Americans were accounted for in FY 2022. 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.

Chairmen Tester and Bost, Ranking Members Moran and Takano, and other distinguished members of these committees, speaking for all the members of the Veterans of Foreign Wars and its Auxiliary, and on behalf of millions of service members, veterans, and their families around the world, I would like to thank you for your time and attention to these critical issues. I will conclude with my call to action and remind everyone that we must meet the challenge, because EVERY VETERAN COUNTS and this is the year to take care of these critical issues for those on whose behalf we are here to advocate. Thank you, this concludes my remarks, and I am prepared to answer any questions you may have.

