

# Pending Legislation

Mar 16, 2022

Statement of  
Tammy Barlet, Associate Director  
National Legislative Service  
Veterans of Foreign Wars of the United States

For the Record

United States House of Representatives  
Committee on Veterans' Affairs  
Subcommittee on Health

With Respect To

“Pending Legislation”

Washington, D.C.

Chairwoman Brownley, Ranking Member Bergman, and members of the subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on these important pieces of legislation pending before this subcommittee.

## **H.R. 4993, Veterans Emergency Care Reimbursement Act of 2021**

The VFW supports this legislation, which states that the Department of Veterans Affairs (VA) reimburses veterans for a third-party copayment of more than one hundred dollars for non-VA emergency treatment. This means if an eligible veteran seeks care at a non-VA emergency room and has a copayment exceeding one hundred dollars, VA will reimburse the funds.

While this legislation is a step in the right direction, VA needs to do the right thing and reimburse in full. It continues to disregard the court rulings of *Wolfe v. Wilkie* in 2019, and *Staab v. Shulkin* in 2016. The courts ruled that the *Emergency Care Fairness Act of 2009*

### **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

excludes VA from denying reimbursement of non-VA emergency expenses. VA needs to correct this error before more veterans are harmed financially by a non-VA emergency room visit bill.

### **H.R. 5738, Lactation Spaces for Veteran Moms Act**

According to an article published in the *Journal of Human Lactation*, seventy-five percent of women veterans paired with a VA medical center's maternity care coordinator were still breastfeeding at four weeks postpartum. Embarrassment about nursing in public and a lack of public lactation spaces are barriers to breastfeeding that may require women to limit activities outside the home, like doctor appointments, or even discontinue breastfeeding altogether. Discontinuation of breastfeeding can impact a household's financials with the added cost of formula. Another consideration is the increased risk of infection and cancers for both mother and child. Therefore, providing a private area for lactation or nursing benefits everyone.

The VFW supports this legislation to require a designated lactation space at VA medical centers. We would like for these spaces to be accessible only to female veterans and visiting public, and to be equipped with electrical outlets. This public lactation space shall not replace a VA employees' lactation space, which is required by law, and is equipped with a sink and a closely located locked refrigerator for milk storage. Retaining a designated employee area eliminates awkward situations or inconvenience when an employee needs to use the space during a specified breastfeeding break time and removes the requirement of a locked refrigerator nearby. In addition, not all insurance plans, like TRICARE, cover a battery-charged breast pump. Therefore, the lactation space needs electricity. In the interim, each VA facility can designate a public, secured exam room in a central location that meets all requirements including proper signage.

In October 2019, the Orlando Veterans Affairs Medical Center opened a functional lactation room for both nursing and lactation for use by female veterans, family members, and guests. This is a step in the right direction to benefit both mothers and babies who come through the doors of VA facilities.

### **H.R. 5754, Patient Advocate Tracker Act**

The VFW strongly supports this legislation, which would require VA to create an information technology system for veterans to file and track a complaint through the patient advocate program. Building transparency and communication during a frustrating and vulnerable time for veterans, family members, and friends increases trust in VA and the program.

For the past eight years, the VFW has partnered with Student Veterans of America (SVA) to

select student veterans from across the country to research and advocate for improving an issue that is important to veterans. VFW-SVA Fellow and Grand Valley State University graduate Cameron Zbikowski focused his semester-long research proposal on improving VA's patient advocate program. While VA uses the patient advocate tracking system (PATS) for internal tracking and reporting by VA, veterans have no way to check the complaint status themselves without further burdening the patient advocate with this task. Cameron's proposal was built on the premise that if the technology is out there to track a pizza from order to doorstep, why is a veteran unable to do the same with a complaint filed with a VA patient advocate?

The VFW believes this vital upgrade to PATS will instill faith and trust in veterans regarding VA. Allowing veterans or family members the opportunity to track complaints gives hope that their voices are not unheard.

### **H.R. 5819, Autonomy for Disabled Veterans Act**

The VFW supports this proposal to increase the structural alterations amount. The need for building materials, such as lumber for a wheelchair ramp and other durable medical equipment that allows veterans to remain in their homes, increased significantly over the past two years. By VA increasing the amount covered or reimbursed, veterans are provided the opportunity to eliminate potential hazards in their homes and create safe environments without added financial burden. A navigable home lessens the risk of falls, accidents, and injuries, while allowing independence and facilitating home assistance if needed.

### **H.R. 5941, Fairness for Rural Veterans Act of 2021**

The VFW supports the intent of this legislation, which would add State homes in rural areas with a significant need for beds to fourth in order of the State home grant priority list. The focus needs to be on prioritizing the State homes based on significance of needs, regardless of the nearest State home. This language would prioritize State homes by location, rural versus urban, even if they have the same need for beds. Prioritizing a State home facility because of its location over a facility that has greater need leaves veterans needing placement without available beds.

### **H.R. 6647, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes**

Closing gaps in access to care is critical, especially if it is within the first few months of newly established care, such as with the Veterans Health Administration (VHA). VA's last update on access to care in February 2022 indicates that scheduling new patient primary

care appointments within fifty miles of Washington, D.C., ranged from twenty days to eighty days. A veteran should not have to worry or choose to seek non-VA emergency care for up to eighty days because of the inability to pay the bill or uncertainty about VHA reimbursement. This circumstance potentially adds financial stress to a veteran who may have severe physical or psychological conditions. The VFW supports this proposal to eliminate the gap of VA coverage if a veteran requires non-VA emergency care within the first sixty days of enrollment in VHA prior to their first appointment with a VA provider.

### **H.R. 6823, Elizabeth Dole Home and Community Based Services for Veterans and Caregivers Act of 2022**

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, which is why we support this proposal.

Home health care benefits the veteran, caregiver, and VA in many ways. Caregivers relieves 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 twenty-five 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 decreases.

This bill contains many ways VA would expand home and community services for veterans and their caregivers. VA would be required to partner with a state's Program of All-Inclusive Care for the Elderly (PACE) program to ensure veteran care is coordinated. All medical centers would have the Veteran Directed Care Program, Home Maker and Home Health Aide Program, Home-Based Primary Care Program, and Purchased Skilled Home Care Program to support and provide veterans a non-institutional care setting. Caregivers would receive a warm handoff to home and community service programs if they are denied or discharged from the Program of Comprehensive Assistance for Family Caregivers (PCAFC). By closing the gap, caregivers would be more aware of other VA programs that provide caregiver support besides PCAFC. VA would pilot a program to address locations with home health aide shortages. Offering both medical and financial support would make the decision to keep the veteran at home easier.

## **Discussion Draft, Long-Term Care Veterans Choice Act**

The VFW supports this legislation, which would require VA to cover the expenses to reside in a medical foster home for any veteran eligible for nursing home care. The bill also creates a system for VA to track veterans' interest and denials to be placed in a medical foster home, care expense responsibility, the number of medical foster home applicants, and VA's workload to run the program. Veterans residing in medical foster homes are provided a home environment while receiving VA Home Base Primary Care.

As the veteran population ages, the number of individuals requiring daily assistance increases. VA needs to offer more alternatives to extended care. According to a Government Accountability Office report from 2019, VA provided nursing home care for over 39,000 veterans. VA also projected that number to increase by sixteen percent. It is anticipated that Vietnam War veterans will comprise the largest segment of this population. An increase in this population means an increase in its cost of care. A VA-funded study in 2019 concluded that medical foster homes cost seventy-one dollars less per day than community nursing homes. In addition, twenty-seven percent of veterans living in community nursing homes are willing to pay out of pocket to live in medical foster homes. Veterans prefer to live in a home environment with caretakers.

A home environment improves a person's physical and mental well-being. Veterans in medical foster homes are more protected from contagious diseases than in institutional facilities. According to a 2019 issue of *Health Services Research*, veterans living in a community home have a twelve percent higher mortality rate than veterans residing in a medical foster home. Allowing veterans to choose to live in a medical foster home is a cost-effective solution that betters their well-being. It is a win-win for VA, veterans, and medical foster home caregivers.

Chairwoman Brownley, Ranking Member Bergman, this concludes my statement. I am happy to answer any questions you or the subcommittee members may have.

## **Information Required by Rule XI2(g)(4) of the House of Representatives**

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2022, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.

