



National Veterans Affairs and Rehabilitation Commission

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**STATEMENT OF  
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VETERANS AFFAIRS AND REHABILITATION COMMISSION  
THE AMERICAN LEGION  
BEFORE THE  
SUBCOMMITTEE ON HEALTH  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
ON  
PENDING AND PROPOSED LEGISLATION**

**MAY 27, 2010**

Mr. Chairman, Ranking Member and Members of the Subcommittee:

Thank you for the opportunity to present the views of The American Legion on H.R. 4062: The Veterans' Health and Radiation Safety Act; H.R. 4505: Expansion of State Home Care for Parents of Veterans Who Died While Serving in the Armed Forces; H.R. 4465: Determination of Attributable Income for Veterans with Children; and two pieces of proposed legislation: "Improve VA Outreach Act of 2010" and "The World War II Hearing Aid Treatment Act".

**H.R. 4062  
Veterans' Health and Radiation Safety Act**

This legislation would require the Secretary of Veterans Affairs to report annually to Congress on the low-volume (treating 100 patients or less) programs at each VA medical facility. It would further direct the Secretary to ensure that all employees at a VA hospital where radioactive isotopes are used in the administration of medical services receive appropriate training on what

constitutes a medical event and when and to whom a medical event should be reported. It would prohibit such isotopes from being used at a VA hospital where such training is not provided. Finally, H.R. 4062 would require the Secretary to carry out specified evaluations and peer reviews of all medical services provided under contract with a non-government entity.

The American Legion's "System Worth Saving" Task Force annually conducts site visits at VA Medical Centers nationwide to assess the quality and timeliness of VA healthcare. In preparing for these visits, The American Legion team researches Government Accountability Office (GAO) reports, VA's Office of Inspector General (VAOIG) reports, and news articles relating to potential breakdowns in a system that we consider, "The Best Care Anywhere."

During The American Legion "System Worth Saving" Task Force visits, and in our research, we have found that turnover of personnel and the shortage of personnel at most facilities require renewed emphasis on standardized procedures, quality review and individual training, as well as documentation of that training. Further, The American Legion believes that VA must maintain proper oversight of medical care, utilization of facilities and resources in order to ensure veterans receive the highest quality of care.

In a May 2010, VAOIG report concerning the review of Brachytherapy Treatment of Prostate Cancer at Philadelphia, PA and other VA Medical Centers, a recommendation was made for VHA to "standardize to a practical extent, the privileging, delivery of care, and quality controls for the procedures required to provide treatment." As technologies continue to change and treatments and procedures continue to develop, it is critical that VA staff delivering care be properly trained and are accountable. H.R. 4062, "Veterans' Health and Radiation Safety Act," continues and enhances protections for veterans through required reporting, training, and evaluation of services provided by Veterans' Health Administration (VHA). The American Legion supports not only the specified training and the accountability highlighted in H.R. 4062, but also the standardization of all patient care delivered across the VHA system.

**The American Legion supports H.R. 4062.**

### **H.R. 4505**

#### **Expansion of State Home Care for Parents of Veterans Who Died While Serving in the Armed Forces**

This legislation would authorize the Secretary of Veterans Affairs to permit a state home to provide VA nursing home care to parents who suffered the loss of a child who died while serving in the Armed Forces.

The American Legion is well known for its long history of advocating on behalf of veterans and their families. We believe firmly that a commitment is made not only by the service members who raise their hand in service to this country, but also their family members who must say good bye to their loved ones who head into combat to protect the freedoms of this nation. President Lincoln, during his Second Inaugural Address made the statement that would later become the

mission of VA, "To care for him who shall have borne the battle and for his widow, and his orphan." The American Legion strongly believes that when a service member is killed in the line of duty and a dependent parent is deemed medically eligible for nursing home admission, that parent be entitled to VA nursing home care. Currently, Title 38 Code of Federal Regulations (CFR) imposes too high a threshold of suffering on surviving parents when it requires that all children must have died while serving on active duty. H.R. 4505 amends section 51.210(d) of Title 38, CFR, to provide services to "a non-veteran any of whose children died while serving in the Armed Forces."

The American Legion at its 2009 Convention approved a resolution which recommends amending section 51.210(d) Title 38, CFR, "To authorize admission to State Veterans Homes the parents of any service member who perished while on active military service to the United States."

Additionally, in January 2010, The American Legion sent letters to Members of Congress to express full support of this legislation. The American Legion believes the original intent and wording of section 51.210(d) of Title 38, CFR, was granted with good intention. But unrealistic expectations of personal sacrifice exist when requiring that all children of a parent must die in the service to this nation in order to qualify for admission to a nursing home.

**The American Legion supports H.R. 4505.**

### **H.R. 4465**

#### **Determination of Attributable Income for Veterans with Children**

This legislation would direct the VA Secretary, when examining a veteran's attributable income for purposes of determining whether a veteran is unable to defray the necessary expenses of hospital, nursing home, and domiciliary care, to treat as a dependent child of such veteran any unmarried person who:

- (1) is placed in the legal custody of the veteran for at least 12 consecutive months;
- (2) either has not attained age 21, has not attained age 23 and is enrolled in a full-time course of study at an institution of higher learning, or is incapable of self-support due to mental or physical incapacity;
- (3) is dependent on the veteran for over one-half of the person's support; or
- (4) resides with the veteran, unless separated to receive institutional care.

The American Legion believes a pension is an earned and defined benefit for a veteran through their honorable service to the nation. We do not believe that pension should be reduced or offset based upon other income earned by the dependent children of a veteran.

**The American Legion supports H.R. 4465.**

**Proposed Draft Legislation  
“World War II Hearing Aid Treatment Act”**

The American Legion recently adopted a resolution acknowledging current advancements in scientific research to review prior and new potential environmental threats to service members. It was resolved that, “The American Legion’s comprehensive policy on environmental exposures be an all inclusive policy and vigorously support the liberalization of the rules relating to the evaluation of studies involving exposure to any environmental hazard.”

It is understood that past acceptable norms of environmental exposure for noise, for example weapon’s qualification in basic training conducted without proper hearing protection, have been found to be unacceptable in today’s environment. These instances could lead to the possibility of a service connection for hearing loss if claimed. Also, especially in the case of WWII veterans the “state of the art” for working environmental protection of service members had not evolved to the current levels. The fact of service and exposure to these environmental exposures would imply the potential for hearing loss.

Furthermore, the only measure of assessing hearing loss on separation from service in this era was the so-called “Whisper Test,” which has been found insufficient to measure actual hearing loss by both medical experts and the courts. As VA’s procedures for adjudication of benefits claims rely heavily on the status of hearing at separation, these inadequate exams unfairly prejudice the system against the veterans who clearly suffered traumatic noise exposure during their service. The fact that hearing loss can have a gradual onset and is not always immediately detectable after traumatic noise further contributes to the difficulties that veterans of earlier eras face in becoming service connected for their loss.

The bill could potentially save VA development time related to determining the etiology of hearing loss conditions and could alleviate some of the workload contributing to the claims backlog.

**The American Legion supports this proposed legislation to furnish WWII veterans with hearing devices.**

We would further submit for this Subcommittee’s consideration the fact that environmental noise exposure issues that this proposed legislation is attempting to address were in existence through the Vietnam War and that it was not until relatively recently that significant efforts were made to protect the hearing of service members. Therefore, The American Legion recommends this Subcommittee consider expanding the bill to cover veterans from the Korean and Vietnam War eras also.

**“Improve VA Outreach Act of 2010”**

In May 2008, The American Legion testified concerning improvements VA could make to improve outreach to veterans. VA had made progress at that time and continues to make

progress to improve its outreach program to veterans. Currently, in the case of the Veterans' Benefits Administration (VBA), efforts have been made to inform and involve Veterans' Service Organizations (VSOs) in finding solutions to improve the claims process. VSOs, in turn, advise veterans on efforts made by VA to assist them. This partnership between VA and VSO's in informing veterans is critical to the success of VA's outreach program.

However, while VA has made improvements in outreach significant issues remain and there is much work to be done. Earlier this month, The American Legion testified that VA continues to struggle with informing veterans of entitlements. The joint efforts of the Department of Defense (DoD) and VA to assist transitioning service members through the Benefits Delivery at Discharge (BDD) program and the Transition Assistance Program (TAP) briefings are laudable. Progress is being made, but outreach efforts vary both in quality and effectiveness. In particular, Reserve component members released from active duty mobilizations are often rubber stamped and returned to their home station with little or no understanding of what entitlements they have earned due to their honorable service.

The American Legion understands that policies developed at VA Central Office, with the best of intentions, are for the most part executed at the discretion of the Regional Office Director or the Veterans Integrated Service Network (VISN) Director; and therefore, vary in local implementation. For example, VA has a veteran employment hiring program policy to recruit veterans, as outlined in Secretary Shinseki's Memorandum dated 21, October 2009. However, The American Legion has seen a wide variation in hiring of veterans at the Regional Office level. The variation ranges from about 25 percent to 79 percent depending on the Regional Office. We feel that this is due to the discretion given to the Regional Office Director in interpreting the policy. It further depends on that individual's emphasis on hiring veterans. We do not believe that there is a substantial difference in qualified veterans in one area as compared to another. The American Legion feels that a greater amount of accountability for success in outreach to veterans to identify opportunities for employment should be required for the subordinate offices in VA.

Many veterans are moving to rural and extremely rural areas. Nevertheless, these veterans have earned the right to receive information and updates on changes that impact their earned benefits. While VA has made efforts to become more "user friendly" we continue to hear, especially from older veterans and those in rural areas, that the system and required documentation is still too complicated.

The American Legion urges strong improvements to outreach. In addition to upgrading our Web site [www.legion.org](http://www.legion.org) to make it more user friendly, **The American Legion Magazine** and the website have regular updates on such issues as the new Post 9-11 GI Bill and recent changes to veterans' entitlements. Additionally, The American Legion's Veterans' Affairs and Rehabilitation Commission publishes periodic "Bulletins" based on VA information, which are utilized by the Department (State) Service Officers to further assist with VA's outreach to veterans. As a recent example, a "Bulletin" was distributed after receiving a request for information from VA concerning "brown water Navy veterans" concerning vessels that were in inland waters of Vietnam and whose crews may be impacted by Agent Orange.

The American Legion is also assisting VA to improve its outreach to Priority Group 8 veterans. This endeavor is focused on advising veterans of new regulations that allow VA to enroll certain Priority Group 8 veterans who have been previously denied enrollment in the VA health care system because their income exceeded VA's income thresholds.

These successful partnerships between VA and VSOs continue to benefit the veteran population. This demonstrates that extended VA outreach has an immediate impact on the lives of veterans, and VA must not lag behind in the modernization and scope of their own outreach to veterans.

The establishment of a VA Advisory Committee on Outreach as proposed in the draft legislation, with representation from members of the VSO community reporting to the VA Secretary, will enhance VA's outreach program and ultimately better serve America's veterans. Requiring an analysis of the recommendations of the Advisory Committee, as part of the strategic plan submitted to Congress, will enhance the value of these recommendations.

**The American Legion supports all reasonable efforts toward improving outreach to veterans and The Improved VA Outreach Act of 2010, in particular.**

As always, The American Legion thanks this subcommittee for the opportunity to testify and represent the position of the over 2.5 million veteran members of this organization and their families. This concludes my testimony.