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

JUNE 13, 2018

Chairman Dunn, Ranking Member Brownley and distinguished members of the Subcommittee on Health; on behalf of National Commander Denise H. Rohan and The American Legion, the country's largest patriotic wartime veterans service organization, comprising over 2 million members and serving every man and woman who has worn the uniform for this country, we thank you for the opportunity to testify on the following pending and draft legislation.

H.R. 2787 – Veterans-Specific Education for Tomorrow's Medical Doctors Act

To establish in the Department of Veterans Affairs a pilot program instituting a clinical observation program for pre-med students preparing to attend medical school.

The American Legion is deeply troubled by the Department of Veterans Affairs (VA) leadership, physicians and medical specialist staffing shortages within the Veterans Health Administration (VHA). Since the inception of our System Worth Saving program in 2003, The American Legion has identified, and reported staffing shortages at every VA medical facility and reported these critical deficiencies to Congress, the VA Central Office (VACO), and the President of the United States.

In 2018, VA reported there were more than 33,000 full-time vacancies.[1] Many of these vacancies included hard-to-fill clinical positions, as well as occupations identified under 38 U.S.C. 7412. These findings were reinforced by a VA's Office of Inspector General (VAOIG) report determining the largest critical need occupations are medical officers, nurses, psychologists, physician assistants, and medical technologists.[2] The VA needs to identify and attract as many qualified candidates as possible as soon as possible.

This bill requires the Secretary of the Department of Veterans Affairs to carry out a pilot program to provide undergraduate students a clinical observation experience at VA medical centers.

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[1] VA Vacancies - https://www.washingtonpost.com/world/national-security/trump-says-veterans-wait-too-long-for-health-care-vas-33000-vacancies-might-have-something-to-do-with-that/2018/04/10/d20bc890-3ccf-11e8-974f-aacd97698cef_story.html?noredirect=on&utm_term=.58facbebf668

[2] VAOIG Report 17-00936-835

Currently, VHA provides care at more than 1,233 healthcare facilities, including 168 VA medical centers and 1,063 VHA outpatient clinics.[3] The American Legion believes access to basic healthcare services, offered by qualified providers, should be broadly available and staffed with the best personnel. Establishing a clinical observation program for premedical students preparing to attend medical school can serve as a recruiting tool to attract individuals who may not have considered VHA. VA recognizes the value of such programs as they already conduct the largest education and training programs for health professionals in the United States.[4] VA has affiliations with more than 1,800 educational institutions; more than 70 percent of all doctors in the U.S. have received training in the VA healthcare system.[5]

Through American Legion Resolutions No. 115, *Department of Veterans Affairs Recruitment and Retention*,[6] and No. 377, *Support for Veteran Quality of Life,* we support legislation addressing recruitment and retention challenges, and any legislation or programs within VA that enhance, promote, restore or preserve benefits for veterans and their dependents, including, but not limited to, the following: timely access to quality VA health care, timely decisions on claims and receipt of earned benefits, and final resting places in national shrines with lasting tributes that commemorate their service.[7]

The American Legion supports H.R. 2787.

H.R. 3696 – Wounded Warrior Workforce Enhancement Act

To require the Secretary of Veterans Affairs to award grants to establish, or expand upon, master's degree programs in orthotics and prosthetics, and for other purposes.

The American Legion believes, due to the shortage of physicians in certain specialized areas, such as orthotics and prosthetics, Congress must ensure resources and funding are available to support their continued education and training. We know there will be a continual increasing need for clinicians at the master degree level to meet this demand as the number of veterans needing orthotics and prosthetics services increases.[8]

According to May 2, 2017 testimony provided by the American Orthotic and Prosthetic Association, in past wars 3 percent of servicemembers injured required amputations in previous wars; of those wounded in Iraq, 6 percent have required amputations. In the year 2000, the VA served 25,000 veterans with amputations, according to the VHA Amputation System of Care figures. By 2016, that number had more than tripled to 89,921. Between 2008 and 2013, VA performed an average of 7,669 new amputations for veterans every year; in 2016, the number of amputation surgeries rose to 11,879.

This bill would authorize the Secretary of the VA to award grants to eligible institutions enabling schools to establish a master's degree program in orthotics and prosthetics; or to expand upon an

[3] VHA: Where do I get the care I need?:https://www.va.gov/health/findcare.asp
[4] VA News Release dated February 12, 2016: https://www.va.gov/opa/pressrel/includes/viewPDF.cfm?id=2747
[5] *Id.*
[6] The American Legion Resolution No. 115 (2016): *Department of Veterans Affairs Recruitment and Retention*
[7] The American Legion Resolution No. 377 (2016): *Support for Veteran Quality of Life*
[8] American Orthotic and Prosthetic Association Testimony www.aopanet.org/wp-content/.../AOPA-VA-Health-Subcommittee-Testimony-5.2.pdf

existing master's degree program in orthotics and prosthetics, including; by admitting more students, further training faculty, expanding facilities, or increasing cooperation with VA and the Department of Defense. This *Wounded Warrior Workforce Enhancement Act* recognizes the ever-increasing need for specialists in orthotics and prosthetics.

Through American Legion Resolution No. 311, T*he American Legion Policy on VA Physicians and Medical Specialist Staffing Guidelines*, we support this bill.[9] VA will benefit from the medical professionals who complete the program and continue to serve veterans at medical centers around the world.

The American Legion Supports H.R. 3696.

H.R 5521 – VA Hiring Enhancement Act

To amend title 38, United States Code, to provide for the non-applicability of non-Department of Veterans Affairs covenants not to compete to the appointment of certain Veterans Health Administration personnel, to permit the Veterans Health Administration to make contingent appointments, and to require certain Veterans Health Administration physicians to complete residency training.

The American Legion, as previously stated, has long expressed concern about staffing shortages at VA/VHA medical facilities to include physicians and medical specialist staffing.

The VA Hiring Enhancement Act will help address the shortcomings in recruitment and retention of highly qualified physicians. The bill allows VA to make binding job offers up to 2 years prior to completion of medical residency, eliminating much of the bureaucratic red tape that slows the hiring of newly recruited individuals. This legislation allows physicians completing their education to immediately begin treating veterans. By allowing VA to make binding offers, veterans will receive treatment by qualified physicians that have completed their residency. This bill aligns the hiring practices of VA to those of the private sector ensuring top quality healthcare is provided to our veterans.

Further, this bill also releases physicians from "non-compete agreements" for the purpose of serving in the VHA. The American Legion believes enforcing non-compete agreements to VHA hires is over-broad and should be unenforceable under public policy. Traditional reasoning behind non-compete agreements to bar competitive advantages or protect sensitive information simply do not exist in this context.

Through American Legion Resolution No. 115, *Department of Veterans Affairs Recruitment and Retention*, we support legislation addressing the recruitment and retention challenges of the Department of Veterans Affairs.[10] We support legislation that addresses pay disparities among physicians and medical specialists who are providing direct health care to our nation's veterans.

The American Legion supports H.R. 5521.

[9] The American Legion Resolution No. 311 (1998): *The American Legion Policy on VA Physicians and Medical Specialists Staffing Guidelines*
[10] The American Legion Resolution No. 115 (2016): *Department of Veterans Affairs Recruitment and Retention*

H.R. 5693 – Long-Term Care Veterans Choice Act

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into contracts and agreements for the placement of veterans in non-Department medical foster homes for certain veterans who are unable to live independently.

Veterans Health Administration directive provides specific policy and guidance for establishing and operating a Medical Foster Home (MFH) Program under the standards of the Department of Veterans Affairs Community Residential Care (CRC) Program, of which it is a sub-component. Medical Foster Homes serve as an alternative to nursing home care for veterans unable to live without day-to-day assistance, while also providing a non-institutional setting with fewer residents.

Currently, veterans enrolled in Home Based Primary Care through the VA may elect to receive their care at MFHs. However, veterans eligible for nursing home care through the VA are not eligible to receive their care at MFHs, nor does the VA cover the cost of these living arrangements. Instead, these veterans must pay for MFH services out of pocket or through private insurance. Costs associated with MFH services are significantly lower than what the VA would otherwise pay per patient at a state VA nursing home.

This bill would require the Secretary of the VA, beginning on October 1, 2019, to provide nursing home care under section 1710A, at the request of a veteran. The Secretary may then place the veteran in a medical foster home that meets Department standards, at the expense of the United States, pursuant to a contract or agreement entered into between the Secretary and the medical foster home for such purposes. A veteran who is placed in a medical foster home under this authority shall agree, as a condition of such placement, to accept home health services furnished by the Secretary under title 38 U.S.C. 1717.

Medical Foster Homes are private homes in which a caregiver provides services to a small group of individuals who are unable to live without day to day assistance. MFHs are an alternative to nursing homes for those who require nursing home care but prefer a non-institutional setting with fewer residents. When one or more eligible veterans reside in a MFH, the VA ensures that the MFH caregiver is well-trained to provide VA planned care.

Allowing veterans to exercise greater flexibility over their benefits ensures that their individual needs are best met. This legislation offers a cost-saving alternative to nursing home care, while providing veterans with more personal, quality health services. This is reflective of our overall effort to provide veterans with greater choice and freedom over their benefits while preserving the VA system.

Through American Legion Resolution No. 114, *Department of Veterans Affairs Provider Agreements with Non-VA Providers*, we support legislation allowing the Department of Veterans Affairs to enter into provider agreements with eligible non-VA providers to obtain needed healthcare services for the care and treatment of eligible veterans.[11] The VA must be authorized

[11] The American Legion Resolution No. 114 (2016): *Department of Veterans Affairs Provider Agreements with Non-VA Providers*

to obtain healthcare services from non-VA providers, particularly when it is most effective for the veteran and the taxpayer.

The American Legion supports H.R. 5693.

H.R. 5864 – VA Hospitals Establishing Leadership Performance Act

To direct the Secretary of Veterans Affairs to establish qualifications for the human resources positions within the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.

The provisions in this bill fall outside the scope of established resolutions of The American Legion. The American Legion does not have a resolution that addresses qualification standards and performance metrics for VHA human resource positions. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by our membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

The American Legion has no position on H.R. 5864.

H.R. 5938 – Veterans Serving Veterans Act of 2018

To amend the VA Choice and Quality Employment Act to direct the Secretary of Veterans Affairs to establish a vacancy and recruitment database to facilitate the recruitment of certain members of the Armed Forces to satisfy the occupational needs of the Department of Veterans Affairs, to establish and implement a training and certification program for intermediate care technicians in that Department, and for other purposes.

On August 12, 2017, Congress passed and the President signed into law, Public Law 115–46, the *VA Choice and Quality Employment Act of 2017*. This law established a recruiting database covering every vacancy in VA, with the ability to select applicants for positions other than the one for which they originally applied. The *Veterans Serving Veterans Act of 2018* will expand the existing database to include members of the Armed Forces in the talent pool to meet the Department's occupational needs.

The American Legion strives to ensure our veterans and their families receive the support and recognition they deserve. Every member of our organization is a wartime veteran, so we understand the value of our fellow citizens' support during and after our military service. Saying thank you is only the beginning of how we should honor America's newest generation of warriors and veterans. This bill recognizes servicemembers require continued support and recognition of their unique skills and needs.

The database, to be known as the Recruitment Database of the Department of Defense and the Department of Veterans Affairs, would provide the military occupational specialty or skills that

corresponds to each vacant position, in consultation with the Secretary of the Department of Defense, as well as with each qualified member of the Armed Forces who could be recruited to fill the position before their separation from active service. This bill would require the Secretary of the VA to implement direct procedures for hiring and appointment for the vacant positions that appear in the database for qualified members of the Armed Forces that apply to these positions.

Further, The *Veterans Serving Veterans Act of 2018* also requires the Secretary of VA to implement a program to train and certify covered veterans to work as Intermediate Care Technicians (ICTs) in the Department. A "covered veteran" will be defined as a veteran who the Secretary determines served as a basic health care technician while serving in the Armed Forces. This recognizes our warfighters within all branches of the Armed Forces with training and experience in medical care, but do not have a civil certification to continue providing these services once they are separated from the military.

The American Legion has long recognized the need for certification of skills earned in the military since it championed the *Veterans Skills to Jobs Act*, signed into law in 2012. Legionnaires at the state and post levels have, and will continue to demand their legislatures and general assemblies pass new licensing and credentialing laws in their states affirming skills of separating servicemembers. The economics are easy to understand. The military and the taxpaying public have already paid for these veterans to be trained. Forcing veterans to spend taxpayer-funded education benefits on certification classes is the equivalent of paying them to be trained twice, and it places an unnecessary burden on veterans trying to make the transition to civilian careers.

Through American Legion Resolution No. 115, *Department of Veterans Affairs Recruitment and Retention*, we support legislation addressing the recruitment and retention challenges of the Department of Veterans Affairs.[12] We support legislation calling on VA to work more comprehensively with community partners when struggling to fill critical shortages within VA's ranks. Adding qualifying members of the Armed Forces who may be recruited to fill positions in the VA before the member of the Armed Forces has been discharged and released from active duty fulfils these criteria as well as supports our nation's warfighters transitioning out of the military.

The American Legion supports H.R. 5938.

H.R. 5974 - VA COST SAVINGS Enhancement Act

To direct the Secretary of Veterans Affairs to use on-site regulated medical waste treatment systems at certain Department of Veterans Affairs facilities, and for other purposes.

The provisions in this bill fall outside the scope of established resolutions of The American Legion. The American Legion does not have a resolution that addresses on-site regulated medical waste treatment systems at certain Department of Veterans Affairs facilities. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by our membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

[12] The American Legion Resolution No. 115 (2016): *Department of Veterans Affairs Recruitment and Retention*

The American Legion has no position on H.R. 5974.

Draft Bill

To amend title 38, United States Code, to improve the productivity of the management of Department of Veterans Affairs health care, and for other purposes.

The provisions in this bill fall outside the scope of established resolutions of The American Legion. The American Legion does not have a resolution that addresses this issue. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by our membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

The American Legion has no position on the Draft Bill.

Conclusion

Chairman Dunn, Ranking Member Brownley and distinguished members of this critical committee, The American Legion thanks this subcommittee for the opportunity to elucidate the position of our 2 million veteran members of this organization. For additional information regarding this testimony, please contact Assistant Director of the Legislative Division, Larry Lohmann, at (202) 861-2700 or llohmann@legion.org.