



**STATEMENT FOR THE RECORD  
OF  
THE AMERICAN LEGION**

**TO THE**

**COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES SENATE**

**ON**

**PENDING HEALTH CARE LEGISLATION**

**JUNE 3, 2015**

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Chairman Isakson, Ranking Member Blumenthal and distinguished Members of the committee, on behalf of National Commander Michael D. Helm and the over 2 million members of The American Legion, we thank you and your colleagues for the work you do in support of service members, veterans and their families.

**S.297: Frontlines to Lifeliness Act of 2015**

*To revive and expand the Intermediate Care Technician (ICT) Pilot Program of the Department of Veterans Affairs, and for other purposes.*

S. 297 would provide VA a good opportunity to expand patient care by employing veterans. This bill is beneficial for all parties involved, especially for the veteran. However, The American Legion has the following recommendations to improve the legislation:

**Section 3, subsection (b), (3)**

This section states “*was credentialed by the Secretary of Defense.*” The American Legion understands from the previous pilot program that Coast Guard corpsmen could also participate in the program. It is the recommendation of The American Legion that the Coast Guard not be excluded from this pilot program.

**Section 3, subsection (d), (3)**

This section states “*Credentialing Defined.*” In defining credentialing, the legislation lists “*health status*” as a part of the credentialing process. However, “*health status*” is not part of a credential unless the member does not have the ability to perform a task. Health status should not be construed as a requirement that the DOD supply VA the servicemembers medical records.

The American Legion supports efforts to eliminate employment barriers that impede the timely and successful transfer of military job skills to the civilian labor market<sup>1</sup>.

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<sup>1</sup> [Resolution No. 313: Support Licensure and Certification of Service members, Veterans, and Spouses](#)-Aug 2014

**The American Legion could support this legislation with the above recommendations.**

**S.425: Homeless Veterans Reintegration Programs Reauthorization Act of 2015**

*To amend title 38, United States Code, to provide for a five-year extension to the homeless veterans reintegration programs and to provide clarification regarding eligibility for services under such programs.*

This legislation extends through FY2020 the Department of Veterans Affairs (VA) homeless veterans reintegration programs. In addition, it makes eligible for participation in those programs:

- (1) Homeless veterans;
- (2) Veterans who are participating in the VA supported housing program for which rental assistance is provided under the United States Housing Act of 1937; and
- (3) Veterans who are transitioning from being incarcerated.

Current estimates put the number of homeless veterans at approximately 50,000 on any given night, a decline of 33 percent (or 24,837 people) since 2010<sup>2</sup>. This includes a nearly 40 percent drop in the number of veterans sleeping on the street. The issues facing homeless veterans fall into three primary categories: health, financial, and access to affordable housing. A critical program in the fight to eliminate veteran homelessness is the Homeless Veterans Reintegration Program (HVRP) within the Department of Labor's Veterans' Employment and Training Services (DOL-VETS). HVRP is the only nationwide program focused on assisting homeless veterans to reintegrate into the workforce. This program is a highly successful grant program that needs to be fully funded at \$50 million. Currently, HVRP is funded at \$38 million.

Furthermore, there is long-term follow-up in HVRP -- grantees must check in with and offer support to veteran participants for 270 days after completion -- and a commitment to serve veterans transitioning out of incarceration, women veterans, and veterans with families. HVRP gives an opportunity for those who served in the Armed Forces and fallen into homelessness to build the skills necessary to become gainfully employed.

The American Legion has taken a leadership role within local communities by volunteering, fundraising, and advocating for programs and funding for homeless veterans. Additionally, The American Legion provides housing for homeless veterans and their families (i.e., Departments of Connecticut and Pennsylvania). One of the goals of The American Legion is to help bring federal agencies, non-profit and faith-based organizations, and other stakeholders to the table to discuss best practices, along with funding opportunities, so homeless veterans and their families can obtain the necessary care and help in order for them to properly transition from the streets and/or shelters into gainful employment and/or independent living.<sup>3</sup>

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<sup>2</sup> U.S. Department of Housing and Urban Development (HUD) press release HUD no. [14-103](#) AUG 2014

<sup>3</sup> Resolution No. 306: Support Funding for Homeless Veterans – AUG 2014

## **The American Legion supports S.425.**

### **S.471: Women Veterans Access to Quality Care Act of 2015**

*To improve the provision of health care for women veterans by the Department of Veterans Affairs, and for other purposes.*

S.471 addresses the need for VA to provide the overall health care and services women veterans need in facilities that provide women veteran's the privacy, safety, and dignity they need and deserve. It has been reported often that women veterans are the fastest growing demographic that is serving in the military<sup>4</sup> and there needs to be a robust and comprehensive VA healthcare system to care for veterans when they transition from active duty to civilian life. Over the years, the Department of Veterans (VA) has made great strides in making health care services available for women veteran's to include providing women veterans with providers to meet their gender-specific health care needs. However, there is still much work to be done to meet the overall health care needs of women veterans. Even though the military has seen a significant increase in the number of women veterans joining the military, the number of women veterans enrolling in the VA health care system still remains relatively low when compared to their male counterparts.

Despite the numerous improvements that VA has taken to improve their health-care programs and services for women veterans, there are still numerous challenges and barriers women veterans face with enrolling in the VA including:

- Women veterans often do not identify themselves as veterans,
- Women veterans are often not recognized by VA staff as being a veteran,
- Among women veterans, there can be a lack of awareness, knowledge, and understanding of their VA benefits,
- There is a stigma associated with the VA healthcare system as a being an "all male" healthcare system, and
- The VA does not provide all of the gender specific health care needs for their enrolled women veterans.

As a result, The American Legion, through its Veterans Affairs and Rehabilitation Division, advocates ensuring women veterans are receiving the highest quality of VA health care, and the care is tailored to meet their gender specific health care needs<sup>5</sup>.

## **The American Legion supports S.471.**

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<sup>4</sup> "The number of women Veterans using VHA nearly doubled in the past decade, from 200,631 in FY03 to 362,014 in FY12 (an 80% increase)" – VHA Sourcebook Vol. 3 Women Veterans in the Veterans Health Administration, FEB 2014

<sup>5</sup> [Resolution No. 45: Women Veterans](#) – OCT 2012

### **S.684: Homeless Veterans Prevention Act of 2015**

*To amend title 38, United States Code, to improve the provision of services for homeless veterans, and for other purposes.*

This bill authorizes the Supportive Services for Veterans Families (SSVF) program at \$500 million for Fiscal Year (FY) 2016. In addition, the bill allows the payment of per diem to support the dependents of homeless veterans in Grant and Per Diem (GPD) beds; allows up to 150% of the per diem rate be paid to support Transition-in-Place beds; expands dental care to homeless veterans living in Housing Urban Development-Veterans Affairs Supportive Housing (HUD/VASH) units, Domiciliary, or GPD programs; and creates an expansive corps of lawyers, through public-private partnerships, to attend to the legal services needs of homeless and at-risk veterans.

Tremendous progress has been made in the fight to eliminate veteran homelessness; however, a great deal of work remains. S.684 would continue to move the needle towards VA's goal of eliminating veteran homelessness by the end of 2015. The provisions in the bill would help VA's homeless veteran programs become more productive and efficient, while continuing to effectively partner with the community, national and local service providers, and other state and federal agencies to provide comprehensive care to homeless veterans and veterans at-risk for homelessness. Due to our work with homeless veterans and their families, The American Legion understands that homeless veterans need a sustained coordinated effort that provides secure housing and nutritious meals; essential physical healthcare, substance abuse aftercare and mental health counseling; as well as personal development and empowerment. Veterans also need job assessment, training and placement assistance. The American Legion believes all programs to assist homeless veterans must focus on helping veterans reach their highest level of self-management<sup>6</sup>.

The American Legion strongly believes that Congress, VA and other stakeholders must continue to invest in the progress that has been made and remove any remaining barriers to housing for veterans. The VA's Five-Year Plan to eliminate veteran homelessness by 2015 is roughly 200 plus days away. By helping to provide the necessary resources and changes to reach this obtainable, and worthy, goal, this nation can finally end the scourge of veteran homelessness.

**The American Legion supports S.684.**

### **Discussion Draft: Veterans Health Act of 2015**

*To amend title 38, United States Code, to improve the access of veterans to health care and related services from the Department of Veterans Affairs, and for other purposes.*

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<sup>6</sup> Resolution No. 306: Support Funding for Homeless Veterans – AUG 2014

This bill with multiple provisions would expand the immunizations available to veterans within the VA, establish a comprehensive policy to provide a full scope of chiropractic services to veterans, , and enhance public access to information on VA's research data files and publications based upon research funded by VA.

The provisions of this bill fall outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership in meetings of the National Executive Committee. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working within our membership to determine the course of action which best serves veterans.

**The American Legion has no current position on this legislation.**

**Discussion Draft: Department of Veterans Affairs Purchased Health Care Streamlining and Modernization Act**

*To amend title 38, United States Code, to allow the Secretary of Veterans Affairs to enter into certain agreements with non-Department of Veterans Affairs health care providers if the secretary is not feasibly able to provide health care in facilities of the Department or through contracts or sharing agreements, and for other purposes.*

Under title 38 U.S.C. 1703, when Department facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary, as authorized in section [1710](#) of this title, VA may contract with non-Department facilities. Contracts between VA and non-VA facilities are currently negotiated under Federal contract statutes and regulations (including the Federal Acquisition Regulation, which is set forth at 48 Code Federal Regulations (CFR) Chapter 1; and the Department of Veterans Affairs Acquisition Regulations, which are set forth at 48 CFR Chapter 8).

Federal contract laws and regulations are not always the best method for procuring individual services, which is why for many years VA issued individual authorizations to providers, without following contracting laws and regulations. VA General Counsel has informed VA that they must comply with contracting laws and regulations, which will make it more difficult for VA to procure individual services from non-VA providers. Provider agreements would allow the Veterans Health Administration (VHA) to procure non-VA health care services on an individual basis in accordance with the terms and agreements set forth in the law.

**The American Legion supports this discussion draft.**

**Discussion Draft: Joint VA-DOD formulary for pain and psychiatric conditions**

*To require the Secretary of Defense and the Secretary of Veterans Affairs to establish a joint uniform formulary with respect to systemic pain and psychiatric drugs that are critical for the transition of an individual from receiving health care services furnished by the Secretary of Defense to health care services furnished by the Secretary of Veterans Affairs, and for other purposes.*

This bill would require the Secretary of Defense and the Secretary of Veterans Affairs to establish a joint uniform formulary with respect to systemic pain and psychiatric drugs that are critical for the transition of an individual from receiving health care services furnished by the Department of Defense to health care services furnished by the department Secretary of Veterans Affairs. One area of concern is with the Veterans Administration's (VA) flawed formulary and policy which requires a service member to switch medications when they transfer from the Department of Defense (DOD) healthcare system to the VA healthcare system. The switch occurs when a new veteran's medication is not on the VA prescription drug formulary. When this occurs, the VA will for no clinical purpose, switch that veteran off of their successful medication treatment regimen to a drug that is on the VA formulary. Only when the veteran fails on the drug's course provided by the VA will that veteran be allowed to return the medication regimen that was successful for them in the DOD healthcare system.

In order to eliminate this potential deadly bureaucratic hurdle, Congress introduced the *Enhancing Veterans' Access to Treatment Act (EVAT Act)*. The EVAT Act mandates that the VA mental health drug formulary match the DOD's and requires that any veteran transferring from the DOD to the VA be kept on the same mental health medication for as long as medically necessary.

In May 2015, The American Legion met with Michael Valentino, Chief Consultant, and Pharmacy Benefits Management Services at Department of Veterans Affairs. According to Mr. Valentino, on January 20, 2015, VHA issued VHA Directive 2014-02, *Continuation of Mental Health Medications initiated by Department of Defense Authorized Providers*<sup>7</sup>. According to VHA's policy directive it is VHA policy that recently discharged DOD Servicemembers who transfer their care to a VA medical facility will be transitioned as follows:

A VA provider must not discontinue mental health medications, initiated by a DOD authorized provider, solely because of differences between the VA and DOD drug formularies, VA Criteria-for-Use, or the cost of the drug. VA providers are not required to continue mental health medications started by a DOD provider if they determine such therapy is no longer safe, clinically appropriate, or effective based on a servicemembers current medical condition(s). In cases where a mental health medication initiated by a DOD provider is not continued by a VA provider, the rationale for the decision must be clearly documented in the progress note section of the medical record and the clinical rationale for this decision clearly explained to the patient.

In the interest of Veteran-centered care principles, VA medical facilities must streamline local processes to ensure prompt access to DoD-prescribed VANF non-formulary or restricted mental health medications for recently discharged Servicemembers. When continuation of a DoD-

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<sup>7</sup> Veterans Health Administration Directive 2014-02 January 20, 2015: *Continuation of Mental Health Medications initiated by the Department of Defense Authorized Providers*

initiated non-formulary or restricted mental health medication is determined to be safe, appropriate and effective by a VA provider, the only requirement to process the agent is a designation of “*Transitioning Veteran.*”

Standard non-formulary justifications (e.g., documentation of formulary medications that have already been tried, contraindication to a formulary medication, etc.) are not to be required; further ensuring that VA medical facilities will automatically process a “*Transitioning Veteran’s*” prescription of the mental health medication for dispensing.

In accordance with VHA policy, the policy states that VA providers should not discontinue mental health medications, initiated by a DOD authorized provider, solely because of differences between the VA and DOD drug formularies. Therefore, it appears VHA has already addressed these concerns and legislation at this point is not necessary. The American Legion is closely monitoring VA to ensure compliance with this directive at all levels, but if the directives are followed, this legislation may be superfluous and add an additional layer of confusion to the transition process as VA locations implementing the current directive are forced to determine how they would comply under a new change to the United States Code.

**The American Legion does not currently see the need for this legislation.**

### **Conclusion**

As always, The American Legion thanks this committee for the opportunity to explain the position of the over 2 million veteran members of this organization. Questions concerning this testimony can be directed to Warren Goldstein in The American Legion Legislative Division (202) 861-2700, or [wgoldstein@legion.org](mailto:wgoldstein@legion.org)