STATEMENT
OF

OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS

DEPARTMENT OF DEFENSE

BEFORE THE SENATE COMMITTEE ON VETERANS' AFFAIRS

HEARING

ON THE PROPOSED LEGISLATION

JUNE 24, 2015

Not for official publication until cleared by the Office of Management and Budget

Please see the Department of Defense positions on the pending legislation before this Committee:

S. 469 (Murray): Women Veterans and Families Health Services Act of 2015

The Department supports the intent of this legislation, to increase in the reproductive and fertility assistance to wounded, ill, or injured Service members and their spouses.

DoD currently covers services and supplies required in the diagnosis and treatment of illness or injury involving the male and female genital system. Infertility testing and treatment, including correction of the physical cause of infertility, are also covered. In addition, DoD covers Assisted Reproductive Services to include egg and sperm retrieval, in vitro fertilization, and sperm, egg, and embryo storage and transfer for seriously ill or injured active duty service members and their lawful spouses.

Given that there isn't a consistent standard across comparable healthcare plans in the private sector, as well as varying State regulations governing these reproductive issues, we need time to review the implications of these changes to TRICARE benefits.

S. 901 (Moran/Blumenthal): Toxic Exposure Research Act of 2015

In general, this bill would duplicate work done by the National Institute of Environmental Health Sciences, the Centers for Disease Control and Prevention, the Agency for Toxic Substances and Disease Registry, the VA War Related Illness and Injury Study Centers, the VA Office of Research and Development, and the VA Office of Public Health, as well as other governmental and non-governmental scientific organizations. These existing organizations already conduct research on the health effects of a myriad of environmental exposures. For a more detailed analysis, because the bill primarily affects the Department of Veterans Affairs (VA), DoD defers to VA. With respect to section 5, which addresses DoD declassification of certain information, the proposed standard of declassification where there is "...at least one case of a disability that a member of the medical profession has determined to be associated with that toxic substance" is ill suited to the purpose of the provision. Only an experienced specialist in the field of occupational medicine could make a credible association; other medical professionals are not trained to make associations between environmental exposures and diseases.

S. 1082 (Rubio): Department of Veterans Affairs Accountability Act of 2015

The Department of Defense defers to the Department of Veterans Affairs regarding S. 1082.

S. 1085 (Murray/Collins/Durbin/Tester/Brown/Coons): Military and Veteran Caregiver Services Improvement Act of 2015

The Department of Defense strongly welcomes and supports the concept underlying Section 3, "Authority to Transfer Entitlement to Post-9/11 Education Assistance to Family Members by Seriously Injured Veterans in Need of Personal Care Services," to improve and expand the ability of our wounded Veterans with serious injuries to transfer GI Bill benefits to family members. Currently, section 3319, title 38, Unites States Code, allows the Secretary of Defense,

for the purpose of promoting recruitment and retention, to permit members of the armed forces to elect to transfer all or a portion of their educational entitlement to a dependent. In addition, the transferability process has been a shared responsibility – with the Department of Defense accepting and approving the request to transfer, and Veterans Affairs (VA) administering the transferred benefit. However, as this provision has no role for the Secretary of Defense, and allows the Secretary of Veterans Affairs to permit seriously injured Veterans to transfer their Post-9/11 Education assistance to dependents, the Department defers to the VA for substantive views on this bill.

Section 4 would amend section 439 of 37 USC, changing the eligibility requirements for members receiving special compensation. This section would change the severity of a member's medical condition to qualify for Department of Defense (DoD) special compensation from being permanent and catastrophic to serious. The language would allow DoD to determine specific eligibility requirements to ensure the needs of our wounded, ill and injured members are balanced with those of the Military Departments.

Section 4 would also require the Departments of Defense (DoD) and Veterans Affairs (VA) to enter into a memorandum of understanding to allow VA to provide DoD caregivers assistance (other than the monthly personal caregiver stipend) under VA's Program of Comprehensive Assistance for Family Caregivers in accordance with section 1720G of 38 USC. We defer to VA regarding the impact this requirement would have on their program.

Section 4 of the bill changes the severity of eligible medical conditions from permanent catastrophic to serious, which could potentially increase the number of members receiving special compensation and the cost for Military Departments to manage the program. At this time we are unable to determine the exact impact the bill would have on DoD until we have identified the necessary requirements to implement the revised special compensation program across the Department.

The Department also supports Section 5, "Flexible Work Arrangements For Certain Federal Employees," which would allow the Office of Personnel Management to promulgate regulations under which Federal employees who are approved caregivers of eligible veterans and caregivers of certain members of the uniformed services may use flexible or compressed schedules or telework. Any such regulations must conform to current statutory provisions in title 5 that allow for agency use of flexible schedules, compressed schedules, and telework. Where deemed appropriate and in accordance with the law, DoD allows flexible schedules and telework for its civilian employees.

S. ____ (Baldwin), Jason Simcakoski Memorial Opioid Safety Act

The Department generally concurs with the Senate provisions found in Sec. 101. The Clinical Practice Guideline (CPG) for Management of Opioid Therapy (OT) for Chronic Pain Work Group is in coordination to execute an update to the CPG beginning October 2015. CPGs are considered guidelines and it is clinically appropriate that providers deviate from the guideline if necessary to address special circumstances or patient needs. As a result, the Department non-concurs with the following Senate provisions:

- **Sec. 101 (5) Page 5 Line 6-7:** The Department opposes this Senate provision as CPGs are guidelines to clinicians rather than policy documents and so do not contain requirements. In addition, it is standard approach to NOT recommend specific screening instruments. The Department recommends that the language be changed to specify that patients be screened using a validated screening instrument.
- **Sec. 101 (5) Page 5 Line 8-12:** The Department opposes this Senate provision as the CPG is a guideline to clinicians rather than a policy documents and so does not contain requirements for clinicians.
- **Sec. 101 (7) Pages 5 Line 23-25, Page 6 Line 1-2:** The Department opposes this Senate provision as inpatient to outpatient transition case management activities do not fall within the scope of the CPG.
- **Sec. 101 (8.A) Page 6 Lines 8-9:** The Department opposes this Senate provision as CPGs are guidelines to clinicians rather than policy documents and so do not contain requirements. The Department recommends that the language be changed to recommend enhanced guidance on routine testing as indicated by patient treatment protocols and patient experience.
- **Sec. 101 (b) Page 6 Lines 21-25**: The Department opposes this recommendation as these activities are already addressed by the Pain Management Work Group of the Department of Defense/Veteran Affairs (DoD/VA) Health Executive Committee (HEC) and the DoD Tri-Service Pain Management Work Group.

The Department also opposes Section 103 as the suggested work group would be redundant. The DoD/VA HEC Pain Management Work Group (chartered September 2013) and the DoD Tri-Service Pain Management Work Group (chartered May 2014) are functioning as the work groups called for in Sec. 103 of the Jason Simcakoski Memorial Opioid Safety Act. Both work groups activities are coordinated through the Defense and Veterans Center for Integrative Pain Management (DVCIPM.org) and were established to standardize collaborative chronic pain management initiatives across the Military Health System.

These established groups are involved in a number of activities to improve pain management within federal medicine while reducing over-reliance on opioid medications. Successful and ongoing programs in pain management have occurred through DoD/VA collaboration via the current work group activities including Joint training opportunities for a variety of pain education programs, Acupuncture Training Across Clinical Settings (ATACS), and the Pain Assessment Screening Tool and Outcomes Registry (PASTOR). This program was initially developed as a demonstration project to create a clinical registry and clinician information support tool for pain management, Use of the Defense & Veterans Pain Rating Scale (DVPRS), which is a graphic tool clinicians can use to facilitate self-reported pain diagnoses from patients the Department suggests that this effort, and any funding that accompanies the bill, be invested jointly between the DoD/VA since this issue spans both organizations. Continued enhancement of the DoD/VA collaboration in pain would result in less unwanted variation in pain care between the organizations.

S. ____ (Cassidy), Biological Implant Tracking and Veteran Safety Act

This proposed legislation applies to title 38 and makes no mention of DoD, therefore there is no impact. If a future requirement for DoD to comply with this proposed legislation were needed,

only minor modifications to each Service's current procedures would be necessary. Each Service currently has a program that is generally equivalent to the requirements outlined in this proposed legislation. In 2012, OASD(HA) directed the adoption of guidance for establishment of a human cell, tissue, and cellular and tissue based products program. This program was mandated to comply with regulatory standards for management and oversight that best fit each Service.

The Department of Defense defers to the Department of Veterans Affairs for all other pending legislation before this Committee.