

STATEMENT OF  
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FOR THE RECORD

UNITED STATES SENATE  
COMMITTEE ON VETERANS' AFFAIRS

WITH RESPECT TO

**S. 469, S. 901, S. 1082, S. 1085, S. 1117, S. 1641, H.R. 91, and DRAFT LEGISLATION**

WASHINGTON, DC

JUNE 24, 2015

Chairman Isakson, Ranking Member Blumenthal and members of the Committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, thank you for the opportunity to offer the VFW's views on legislation being considered by the Committee.

**S. 469, Women Veterans and Families Health Services Act of 2015**

This legislation would expand the Department of Veterans Affairs' (VA) and the Department of Defense's (DOD) authority to furnish fertility treatments to service members and veterans who have lost their ability to have children as a direct result of their service-connected injuries. The VFW strongly supports this legislation and would like to offer recommendations to strengthen it, which we hope the Committee will consider.

Due to the widespread use of improvised explosive devices during the wars in Iraq and Afghanistan, both female and male service members have suffered from spinal cord, reproductive, and urinary tract injuries. Many of these veterans hope to one day start families, but their injuries prevent them from conceiving. When these veterans seek fertility treatment from VA, they are told VA services are very limited. In fact, VA is prohibited from providing certain fertility treatments like In Vitro Fertilization. Active duty service members have more fertility options, but DOD's authorities are also limited by who can be treated and what type of treatments they can receive. This legislation would correct this inequity between veterans and service members and expand the options currently available.

Service-connected infertility is not limited to those who have suffered reproductive organ and spinal cord injuries. Other injuries and illnesses, such as Traumatic Brain Injuries and mental health conditions, are known to cause infertility. Veterans with such conditions deserve the same opportunity to start a family as their fellow veterans who have suffered injuries to their reproductive organs. The VFW is glad this legislation would include all “severely wounded, ill, or injured” veterans and service members who have infertility conditions incurred or aggregated by their military service.

Additionally, veterans may have personal objections to assisted reproductive technologies such as In Vitro Fertilization and would like to pursue other options. The VFW believes that VA and DOD must have the authority to provide veterans the fertility treatment options that are best suited for their particular circumstances. For that reason, we support this legislation’s inclusion of non-assisted reproductive technology modalities, such as adoption.

This legislation would also require DOD to cryopreserve a veteran’s genetic material for up to a year following a veteran’s retirement, separation or release from active duty. Starting a family is a life changing decision that takes time and should not be hastily made. The VFW strongly supports giving veterans the opportunity to delay such a decision. However, we urge the Committee to expand the one year window. When totaled, a veteran’s recovery, education and career advancement may cause them to wait years before they are physically and financially prepared to start a family. The VFW recommends that veterans be allowed to cryopreserve their genetic material for a minimum of 10 years. This will prevent veterans from feeling rushed into making family planning decisions before they are ready.

This legislation would also extend VA’s successful counseling in retreat setting program for transitioning women veterans. The VFW supported the original program established by the Caregivers and Veterans Omnibus Health Services Act of 2010 and believes it is an invaluable tool to help newly discharged women veterans seamlessly transition back into civilian life. For this reason, we recommend that the Committee amend this legislation to make the program permanent.

Another successful program created by the Caregivers and Omnibus Health Services Act of 2010 is the VA childcare pilot program. This program has been well received by veterans at all four pilot sites and has also contributed to the success of other VA health care programs. The VFW has heard from veterans who say they could not have completed their treatment programs if not for the services offered through VA’s childcare pilot program. The VFW is glad this legislation would expand this important program to every VA medical center.

## **S. 901, Toxic Exposure Research Act of 2015**

The VFW supports this legislation, which would establish an advisory board and national center to research the health effects of toxic exposures on the descendants of individuals who were exposed to toxic substances during their military service.

In its report “Veterans and Agent Orange: 2012 Update,” the Institute of Medicine (IOM) stated that “the amount of research providing reliable information on the consequences of paternal exposure is extremely sparse not only for [Agent Orange] but also for the full array of environmental agents that may pose threats to the health of future generations.” With the existing body of research on this topic, VA has established the Spina Bifida Program to provide health care and benefits to the children of certain Vietnam veterans who were born with spina bifida – an extremely debilitating neural tube birth defect. VA also provides health care and benefits to children of women Vietnam veterans born with certain birth defects.

However, exposure to toxic substances is not limited to Vietnam veterans. We believe VA has the responsibility to research whether the descendants of other veterans who have been exposed to toxic substances, such as those who were exposed to open air burn pits, chemicals during the Gulf War, and the approximately 650,000 veterans and family members who now qualify for VA health care benefits as a result of their exposure to contaminated water in Camp Lejeune, are at risk of developing adverse health conditions.

For far too long, veterans have struggled to obtain VA benefits for chronic health conditions that are associated with their military exposures. The VFW strongly believes the descendants of those veterans should not be forced to wait years for the care they need. This legislation would prevent this by ensuring VA devotes the proper time and resources to make objective and evidence-based determinations regarding the health conditions of a veteran’s descendants who are associated with toxic exposures.

## **S. 1082, Department of Veterans Affairs Accountability Act of 2015**

The VFW supports this legislation, which would authorize VA to hold employees at all levels accountable for malfeasants or poor performance. The VFW believes VA and Congress must collaborate to identify and fix what is broken within VA, hold employees appropriately accountable to the maximum extent of the law, and do everything possible to restore veterans’ faith in their VA.

While this Committee focuses on giving VA the authority to fire bad employees, it must also look for ways to improve VA’s ability to hire good employees. VA will not have the staff needed to care for veterans if it disposes of bad employees without the ability to quickly fill vacancies.

Unfortunately, the federal government's long hiring process puts VA at a disadvantage when recruiting and retaining the best and brightest medical professionals.

In our report, "Hurry Up and Wait," we highlight deficiencies in VA human resources practices, outlining several recommendations to improve the hiring process and customer service training. Section 203 of the Veterans Access, Choice and Accountability Act of 2014 called for a Technology Task Force to perform a review of the Department of Veterans Affairs' scheduling system and software development. In their review, the Northern Virginia Technology Council (NVTC) reinforced our concerns that VA's hiring process moves too slowly. NVTC suggested that VA aggressively redesign its human resources processes by prioritizing efforts to recruit, train, and retain clerical and support staff.

The VFW looks forward to working with Congress to expedite passage of this legislation and find workable solutions to VA human resources' issues to ensure VA can move quickly to fire employees who put veterans at risk, while quickly hiring the best applicants to set VA on a path to restore veterans' trust in the system.

#### **S. 1085, Military and Veteran Caregiver Services Improvement Act of 2015**

The VFW strongly supports this legislation, which would greatly enhance the services provided to caregivers of service members and veterans who were severely disabled in the line of duty. Family caregivers choose to put their lives and careers on hold, often accepting great emotional and financial burdens, and the VFW believes that our nation owes them the support they need and deserve. This bill would accomplish this in a number of ways, including extending benefits to caregivers of veterans with service-connected illnesses, offsetting the costs of their child care, providing them with financial advice and legal counseling, expanding their respite care options, and allowing veterans who participate in the VA caregiver program to transfer their Post-9/11 G.I. Bill benefits to their family members.

Perhaps most significantly, this legislation would extend caregiver eligibility to severely injured and ill veterans of all eras. This is a desperately needed change that the VFW has long supported. Severely wounded and ill veterans of all conflicts have made incredible sacrifices, and all family members who care for them are equally deserving of our recognition and support. The fact that caregivers of previous era veterans are currently excluded from the full complement of program benefits implies that their service and sacrifices are not as significant, and we believe this is wrong. We support the five year phase-in plan, which would incrementally grant program eligibility based on the severity of the veteran's conditions, as we believe this would give VA the opportunity to responsibly expand and improve the program without compromising services to current beneficiaries.

The VFW believes that extending caregiver benefits to veterans of all ages is not only a matter of fairness, but one of fiscal responsibility as well. It seems logical that the ability of veterans to remain in their homes receiving care from family members would allow them to avoid nursing home care which is far more expensive. According to VA's Fiscal Year 2015 Budget Request, VA spent more than \$5 billion providing institutional care in fiscal year 2014. The average per diem cost for a VA Community Living Center was \$971.97, totaling over \$350,000 per veteran, per year. At contracted community nursing homes, VA spends over \$90,000 per veteran, per year. The VA contribution for a veteran at state-run nursing homes averages over \$45,000 per veteran, per year. On the other hand, the Congressional Budget Office estimates that the average cost of benefits to a primary caregiver would total only \$33,000 per year. While we recognize that CBO is not able to consider potential savings when calculating cost, we contend that expansion of the Family Caregiver program could produce real savings to VA in the long run.

The VFW hears from our members often about Family Caregiver Program eligibility, and their message is clear: they strongly support expanding full caregiver benefits to veterans of all eras. As an intergenerational veterans' service organization that traces its roots to the Spanish American War, this is not surprising. Our members are combat veterans from World War II, the wars in Korea and Vietnam, the Gulf War, and various other short conflicts, in addition to current era veterans. They rightly see no justifiable reason to exclude otherwise deserving veterans from program eligibility simply based on the era in which they served. For this reason, the VFW urges Congress to swiftly pass the Military and Veteran Caregiver Services Improvement Act of 2015.

### **S. 1117, Ensuring Veteran Safety Through Accountability Act of 2015**

The VFW appreciates the intent of this legislation, which would improve accountability by holding title 38 employees accountable for poor performance or wrongdoing.

In order to restore veterans' faith in their VA, there is no doubt that VA must undergo a culture change. Like most places, VA employees work in an environment that rewards specific outcomes based on specific performance standards. Last year we learned that these outcomes had become unattainable for VA employees throughout the country. But instead of evaluating why standards could no longer be met, local VA leaders put pressure on employees to achieve the unattainable. Thus employees were left with two options – be a poor performer or find a way to do the impossible. Now VA is left with an employee-base that has been trained to believe that doing the wrong thing is right. This is why VA should not hastily dismiss low-level and medical support employees who have been coerced into misrepresenting data or hiding the truth.

However, VA staff at all levels who have been entrusted with the lives and wellbeing of veterans should be held to higher standards than other federal employees. Unlike, their counterparts at

other federal agencies, when medical support assistants and other title 5 employees at VA medical facilities commit malfeasants, veterans' lives are at risk. Thus, VA's authority to hold employee's accountable should not be limited to SES and title 38 employees. For this reason, the VFW prefers S. 1082, which would authorize VA to hold all VA employees accountable for their poor performance or wrongdoing.

### **S. 1641, the Jason Simcakoski Memorial Opioid Safety Act**

The VFW supports this legislation, which would reduce VA's reliance of pharmacotherapy to treat mental health and complex pain conditions; strengthen VA's patient advocate program; expand VA research, education, and delivery of complementary and alternative medicine (CAM) treatments, and improve VA hiring and internal audits.

Too often, the VFW hears stories of veterans who have been prescribed high doses of ineffective medications to treat their mental health conditions. Countless veterans have experienced first-hand the dangerous side of pharmacotherapy. Many of these medications, if incorrectly prescribed, have been proven to render veterans incapable of interacting with their loved ones and even contemplate suicide. With the expanding evidence of the efficacy of non-pharmacotherapy modalities, such as psychotherapy and CAM, VA must ensure it affords veterans the opportunity to access effective treatments that minimize adverse outcomes.

Timely and accessible mental health care is crucial to ensuring veterans have the opportunity to successfully integrate back into civilian life. With more than 1.4 million veterans receiving specialized VA mental health treatment each year, VA must ensure such services are safe and effective. VA has made a concerted effort to change its health care providers' dependence on pharmacotherapy to treat mental health conditions and manage pain. In 2011, the Minneapolis VA Medical Center launched its Opioid Safety Initiative. Aimed at changing the prescribing habits of providers, the Opioid Safety Initiative educates providers on the use of opioids, serves as a tool to taper veterans off high-dose opioids, and offers them alternative – non-pharmacotherapy – modalities for pain management. Unfortunately, the VA has failed to produce a notable change since implementing the Opioid Safety Initiative system-wide. This legislation includes much needed reforms to ensure VA's clinical practice guidelines for pain management are appropriate and includes the proper compliance mechanisms, such as the pain management boards, to ensure such guidelines are carried out.

The VFW has consistently heard from veterans that their patient advocates are ineffective or seek to protect the medical facility's leadership instead of addressing their concerns. For this reason, we strongly support title II, which would to create the Office of Patient Advocacy and make other improvement to VA's patient advocacy program. The VFW believes that patient advocates cannot effectively meet their obligations to veterans if their chain of command includes VA

medical facility staff that is responsible for the actions and policies they are required to address. In its markup of this bill, the VFW recommends that the Committee explicitly state that the Department's patient advocates would be reassigned to report directly to the Office of Patient Advocacy and no longer fall under the chain of command of local medical center leadership.

With the growing body of research on the efficacy of CAM therapies, such as biofeedback, mindfulness meditation, and other non-pharmacologic approaches to treating mental health conditions and manage pain, the VFW believes that more work must be done to ensure veterans are afforded the opportunity to receive these safe and effective alternatives to pharmacotherapy. This legislation would make significant strides toward ensuring veterans who are tapered off high-dose medications have effective alternatives.

### **H.R. 91, Veteran's I.D. Card Act**

The VFW appreciates the intent of H.R. 91, which would require VA to issue identification (ID) cards to veterans for use as validation of veteran status. However, the VFW believes that states are better suited to provide ID cards verifying veteran status. The infrastructure already exists within each state's Department of Motor Vehicles to provide picture ID cards to its citizens, whereas the VA would have to expand its capability to accommodate the increase in veteran requests for such cards.

Forty-eight states and the District of Columbia already provide ID cards with a veteran indicator. The remaining two states are in the process of implementing laws that require them to issue such cards. The VFW is glad to see all fifty states and the District of Columbia have made this a priority and believes it is no longer necessary or beneficial for VA to duplicate such efforts. Additionally, requiring VA to issue ID cards to millions of veterans would impede its ability to provide veteran health identification (VHID) cards to veterans who are eligible for VA health care benefits. Veterans who have waited months, if not years, for their veterans' benefits should not be forced to wait in a backlog for VHID cards.

Furthermore, duplicating state efforts may result in veterans being eligible for a state ID but not a VA ID, or vice versa. As referred to this Committee, H.R. 91 would require VA to issue an ID to any honorably discharged veteran. However, honorable service is not a precondition for veteran identifiers on ID in most states. This would be a source of contention for veterans who would be recognized as a veteran by one entity but not the other. Amending the legislation to include all veteran who received an other than dishonorable discharge would exacerbate this issue, because VA would be required to make eligibility determinations for veterans who receive administrative, other than honorable and bad conduct discharges. VA already makes such determinations when veterans apply for VA benefits. The VFW is concerned that VA takes too long to make these determination now, and we fear veterans who are waiting to access their VA

benefits will have to wait longer because VA would be inundated with eligibility determinations for ID card applicants.

### **Draft Legislation to Expand the Availability of Prosthetic and Orthotic Care for Veterans and to Submit a Report on Laotian Military Support of the Armed Forces During the Vietnam War**

The VFW supports section 1 of this legislation, which would authorize VA to establish partnerships to expand the availability of prosthetic and orthotic care for veterans.

Orthotists and prosthetists are vital to ensuring VA provides the prosthetics care and services veterans need and deserve. In 2014, VA provided 17.5 million prosthetic items and services to more than three million veterans and estimates a growing demand in future years. The VFW strongly supports expanding the availability of orthotic and prosthetic care for veterans. For this reason, we believe the Committee should amend this legislation by adding a service-requirement for health care professionals who benefit from this program, similar to service requirements under other health professional educational assistance programs.

The VFW has no official position on section 2, which would require VA to determine whether Laotian military forces supported the United States during the war in Vietnam.

### **Draft Legislation, Biological Implant Tracking and Veteran Safety Act**

The VFW support this legislation, which would require VA to purchase biological implants that meet Food and Drug Administration (FDA) standards and develop a tracking system for such implants.

VA has an obligation to ensure veterans receive the highest quality care possible. This includes ensuring that the care veterans receive from VA meets industry standards and does not place veterans at risk. That is why the VFW was concerned when GAO reports found that VA may not be able to locate recalled or defective biological implants that it has furnished. The VFW supports efforts to prevent veterans from receiving defective or contaminated biological implants and ensure VA is able to identify veterans who have received implants that may need to be replaced.

While, the VFW believes it is important to ensure veterans receive high quality care, we firmly believe that they should not be required to wait unreasonably long periods of time for their care because of slow bureaucratic processes. That it is why we recommend the Committee amend this legislation to ensure VA is authorized to use all of its purchasing authorities when furnishing biological implants.



Chairman Isakson, Ranking Member Blumenthal and members of the Committee, this concludes my testimony.