STATEMENT OF
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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

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Chairman Luttrell, Ranking Member McGarvey, and other Members of the Subcommittee, thank you for inviting us here today to present our views on several bills that would affect VA programs and services. Joining me today are Jocelyn Moses, Senior Principal Advisor of Compensation Service, VBA; Lisa Pozzebon, Executive Director of Cemetery Operations, National Cemetery Administration (NCA); and Evan Deichert, Acting Deputy Vice Chairman, Board of Veterans' Appeals (Board).

H.R. 530 "ACES Act"

Section 2(a) of this bill would require VA to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine (NASEM) under which NASEM would conduct a study on the prevalence and mortality of cancers among covered individuals. Section 2(b) would require this study to identify exposures associated with military occupations of covered individuals (including relating to chemicals, compounds, agents, and other phenomena) and review the literature to determine associations between such exposures and the incidence or prevalence of overall cancer morbidity, overall cancer mortality, and increased incidence or prevalence of certain cancers. The study would also have to determine, to the extent possible, the prevalence of and mortality from these cancers among covered individuals by using available data sources (which could include health care and other administrative databases of VA, the Department of Defense (DoD), and the individual services), the national death index, and the study conducted under section 750 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L. 116-283). Section 2(c) would require NASEM, at the conclusion of the study, to submit a report to VA and Congress containing the results of the study required by subsection (b). Section 2(d) would define the term "covered individual" to mean an individual who served on active duty in the Army, Navy, Air Force, or Marine Corps as an aircrew member of a fixed-wing aircraft, including as a pilot, navigator, weapons system operator, aircraft system operator, or any other crew member who regularly flew in a fixed-wing aircraft.

VA supports this bill, subject to amendments and the availability of appropriations.

While VA supports the intent of this bill, VA is concerned it would duplicate existing efforts that are already underway. We believe there may be ways to amend the bill, though, to enhance these current efforts, and we welcome the opportunity to discuss these with the Subcommittee.

Pursuant to P.L. 116-283 § 750, DoD, in conjunction with the Directors of the National Institutes of Health and the National Cancer Institute, must conduct a study on cancer among covered individuals (a term generally consistent with the definition above) in two phases. The DoD Military Aviator Cancer Study (MACS) is designed to satisfy these requirements. The MACS study also covers helicopters, which this bill does not. The existing study has several phases that DoD and others are currently executing. This ongoing work is examining cancer incidence, mortality, and specific exposures that may be associated with cancer outcomes; the work is scheduled to continue through fiscal year (FY) 2029. DoD has worked with VA to secure VA health care data in support of the MACS study.

In addition, sections 2(b)(2) and 2(b)(3) of this bill would direct NASEM to focus on a prescribed list of 11 cancers. Although VA may expand this list, in consultation with NASEM, the bill may produce a report with inherent biases and limitations because the scope is unnecessarily limited to a specific set of 11 cancers, rather than studying all cancers. Other studies, such as MACS, are examining incidences of all cancers and will likely yield more meaningful results.

If this bill moves forward, we recommend it be amended to require VA to *seek to enter* into an agreement with NASEM, or another appropriate independent organization; this would be consistent with other, similar requirements and would provide VA flexibility in case it was unable to reach an agreement with NASEM.

Finally, we note that sections 502 and 505 of the Honoring our Promise to Address Comprehensive Toxics Act of 2022 (P.L. 117-168) already require VA to (1) analyze VA clinical data to try to determine the association, if any, between medical conditions of Veterans and toxic exposure, and (2) conduct a study on the incidence of cancer in Veterans to determine trends in the rates of the incidence of cancer in Veterans. In this context, it is not clear that the additional study the ACES Act would require would yield new information.

VA has other technical comments on this legislation that we would be happy to share with the Subcommittee.

H.R. 647 “Ensuring Veterans’ Final Resting Place Act of 2025”

This bill would amend 38 U.S.C. § 2306(h), which currently authorizes VA to provide, in lieu of burial and other memorialization, a plaque or an urn to commemorate the memory of a Veteran whose remains are cremated and not interred. This bill would

allow a family that received a plaque or an urn to also receive burial or other memorialization benefits for the Veteran.

VA supports, if amended and subject to the availability of appropriations.

VA shares Congress' apparent view that this authority should be amended.

Congress is aware of the negative comments VA received when it published a notice of proposed rulemaking implementing the plaque-and-urn benefit. VA took specific steps in its regulatory documents to ensure members of the public would be aware that acceptance of the plaque or urn benefit would be in lieu of other memorialization or burial benefits. Most of the comments received on the rulemaking raised concerns regarding the waiver of future eligibility for burial or memorialization benefits through acceptance of a commemorative plaque or urn. We appreciate Congress' effort to introduce this bill to address the concerns but note that the bill raises other concerns.

This bill would remove the current language in 38 U.S.C. § 2306(h) that prohibits VA from providing a headstone or marker or any burial benefit under 38 U.S.C. § 2402 for any individual who has received a commemorative plaque or urn. In doing so, families that choose cremation as the manner of disposition would be able to first receive a plaque or an urn and then apply for and receive a headstone or marker or burial benefits in a national cemetery. This arrangement would create an inequity for families that choose to inter their loved ones in a casket as the urn or plaque benefit is only available to individuals whose remains are cremated. Additionally, there are increased costs associated with this bill as headstones or markers and burial benefits would now be available in addition to the plaque or urn benefit and many more families would choose to receive the additional benefits.

VA has faithfully taken steps to implement the law as enacted. VA understands the desire of some survivors to retain the cremated remains of a loved one, as well as their desire to feel VA has provided appropriate recognition of their loved one's service. VA notes that two benefits are currently available to such families—burial flags and Presidential Memorial Certificates—neither of which require families to forfeit other benefits. We support Congress' efforts to provide a meaningful benefit to these survivors. VA would like to work with the Subcommittee to discuss more equitable or cost-effective solutions.

VA estimates this bill would have significant costs to the Discretionary account of $3.3 million in 2026, $67.3 million over 5 years, and $210.3 million over 10 years.

H.R. 1039 "Clear Communication for Veterans Claims Act"

Section 2(a) of this bill would direct VA, within 30 days after date of enactment, to enter into an agreement with a federally funded research and development center (FFRDC) to assess benefit-related notification letters sent to claimants. Section 2(b)

would require that FFRDC's assessment be made in consultation with covered entities and include a determination as to whether currently used notices may be feasibly altered to reduce paper consumption by, and costs to, the Federal Government. It would also direct the FFRDC to make recommendations on how VA could make such notices for claimants clearer, more concise, and better organized.

Section 2(c) would require VA to submit a copy of FFRDC's assessment to the House and Senate Committees on Veterans' Affairs and to implement the recommendations in compliance with laws administered by VA within 90 days after receiving the assessment. Section 2(d) would require VA to complete the implementation of FFRDC's recommendations within 1 year after the date such implementation commences. Section 2(e) would define the term "covered entities" as including the Secretary of Veterans Affairs, an expert in laws administered by VA, a Veterans Service Organization recognized under 38 U.S.C. § 5902, an entity that advocates for Veterans, and an entity that advocates for Veterans' survivors.

Lastly, section 3 of the bill would amend the loan fee table at 38 U.S.C. § 3729(b)(2) to extend to June 23, 2034, the applicability of a provision requiring Veterans to pay fees when obtaining a loan which VA guaranteed, insured, or made.

VA supports, if amended, and subject to the availability of appropriations.

While VA generally supports the intent of the bill, the deadlines it would impose are challenging, unrealistic, and difficult to implement. The binding nature of any recommendations the FFRDC issues is also of concern.

VA is concerned that the bill's requirement to enter into an agreement with an FFRDC within 30 days following enactment of the bill may hinder VA's ability to ensure an agreement is reached with the FFRDC most appropriate for the task under VA's contracting requirements.

VA is also concerned that the bill's mandate to implement the FFRDC's notification letter recommendations within 90 days of receiving the assessment would be challenging at best and potentially unachievable without significant risk. VA notes that making changes to notice letters is a thoughtful, considered, deliberative, time-consuming, and complicated process that also requires updating existing information technology (IT) systems. Updates to VA's technology systems, including the Veterans Benefits Management System, are prioritized far in advance. Implementation of the notice changes required by the bill, if required within 90 days, could require VA to push out current priority updates with more substantial impact on Veterans.

VA notes that the implementation deadline of 90 days mandated in section 2(c) contradicts the implementation deadline of 1 year from commencement as specified in section 2(d). A 90-day window to implement the recommendations in the assessment as specified in section 2(c)(2) is not feasible given the needed technological and system upgrades that would be required, as noted. VA recommends an implementation window

of at least 24 months from the date of enactment to allow for adequate system development, testing, and implementation. VA notes that these enhancements are required since notice letters to claimants are not constructed in one uniform manner. Notice letter generation is complex, and current templates often require extensive editing, concurrence, deployment testing, and validation from subject expert, legal, regulatory, and technological standpoints to ensure that all case-specific factors for individual claimants can be captured.

Also, VA must exercise caution to ensure that its notification letters comply with existing statutes and controlling case law (which is protean in nature). VA is concerned that it could not adopt FFRDC's recommendations on a wholesale basis without adequate time to independently assure that they would not put VA at risk for non-compliance with its legal duties to claimants. Conducting such a review would require detailed collaborative efforts involving multiple VA business lines that would certainly require more than 90 days.

Additionally, VA notes concern with the language that would effectively make FFRDC's report binding on VA. This provision would leave no room for VA to refine or improve upon the recommendations, should the need arise. While an FFRDC report could yield valuable insights, VA views research and development processes as being designed to create recommendations, not binding policy. As such, we recommend changes to the bill allowing VA to retain final decision-making authority for implementation.

VA also notes that legislative action is not required for an enterprise-wide review of VA's notice letters. If VA internally reviews its enterprise-wide notice letters and reports on the findings, this will result in a cost-savings to the Federal Government. VBA already reviews and updates benefit claim letters internally on a regular basis.

For example, VBA utilizes a Language Change Control Board (LCCB) to review and approve all compensation and pension-related language change requests for letters, glossary texts, fragments, or any other external facing communications. The LCCB is responsible for ensuring that identified language changes are tracked, reviewed for accuracy, and sent to implementation in a timely manner. Members across various business lines within VBA, such as Compensation Service, Pension and Fiduciary Service, and the Office of Administrative Review make up the LCCB. Requests are generated by statutes, regulation, or policy, implementing procedures, or identified deficiencies within our products generate requests for changes.

Focusing on human centered design (HCD), VBA has collaborated with the Veterans Experience Office since October 2023 to conduct HCD co-design workshops to redesign benefit letters sent to Veterans. The objective is to enhance clarity, accessibility, and usefulness of these letters for Veterans seeking to understand their eligibility for benefits from VA. VA is currently working to implement the findings.

VA is also concerned with the language in the bill defining covered entities in section 2(e)(2). The bill is ambiguous as to whether the FFRDC or VA would select which covered entities should be consulted and how many covered entities should participate in the assessment.

Lastly, VA does not support section 3 of the bill, which would amend the loan fee table at 38 U.S.C. 3729(b)(2) to extend to June 23, 2034, the applicability of a provision requiring Veterans to pay fees when obtaining a loan which VA guaranteed, insured, or made. VA objects to using statutory loan fees associated with the VA Home Loan Program to fund the cost of other benefit programs.

A cost estimate is not currently available.

H.R. 1228 "Prioritizing Veterans' Survivors Act"

This bill would amend 38 U.S.C. § 321(a) to state that the Office of Survivors Assistance (OSA) would be reorganized under the Office of the Secretary of Veterans Affairs.

VA supports this bill, subject to the availability of appropriations.

OSA was established by the Veterans' Benefits Improvement Act of 2008, P.L. No. 110-389, section 222, 122 Stat. 4145, 4156. OSA serves as a resource regarding all benefits and services VA furnishes to survivors and dependents of deceased Veterans and members of the Armed Forces. OSA also serves as a principal advisor to the Secretary of Veterans Affairs, working to promote the use of VA benefits, programs, and services to survivors while ensuring they are properly supported as stated in VA's mission.

H.R. 1286 "Simplifying Forms for Veterans Claims Act"

Section 2(a) of this bill would direct VA, within 30 days after date of enactment, to enter into an agreement with an FFRDC to assess forms sent to claimants. Section 2(b) would require that FFRDC's assessment be made in consultation with covered entities and include FFRDC's recommendations regarding how VA may make such forms better organized and clearer to claimants. Section 2(c) would require VA, within 90 days after receiving FFRDC's assessment, to implement the recommendations in the assessment that comply with laws administered by the Secretary and to submit a copy of the assessment to the House and Senate Committees on Veterans' Affairs. Section 2(d) would require VA to complete the implementation of FFRDC's recommendations within 2 years after the date of such implementation commences. Section 2(e) would define the term "covered entities" as including the Secretary of Veterans Affairs, an expert in laws administered by VA, a Veterans Service Organization recognized under 38 U.S.C. § 5902, and an entity that advocates for Veterans and their survivors.

VA supports, if amended, and subject to the availability of appropriations.

While VA generally supports the intent of the bill, the deadlines it would impose are challenging, unrealistic, and difficult to implement. The binding nature of any recommendations issued by the FFRDC is also of concern.

VA is concerned that the bill's requirement to enter into an agreement with an FFRDC within 30 days following enactment of the bill may hinder VA's ability to ensure an agreement is reached with the FFRDC most appropriate for the task under VA's contracting requirements.

Section (2)(c)(2) would require VA, within 90 days after receiving the assessment, to "implement the recommendations in the assessment that are in compliance with laws administered by the Secretary," and section (2)(d) would require VA to "complete the implementation of such recommendations pursuant to subsection (c)(2)" not later than 2 years after the date on which VA commences such implementation. These timelines appear to conflict. VA recommends replacing "implement" in subsection (c)(2) with "identify" if the intent is for VA to identify, within 90 days, which recommendations comply with the laws administered by VA. If this is the intent, VA notes that this timeline is likely infeasible as the volume of recommendations is unknown and would recommend a timeline of at least 180 days. Alternatively, if the intent is for VA to begin implementation within 90 days, VA recommends replacing "implement" in subsection (c)(2) with "initiate implementation of." VA recommends the language in subsection (d) then be revised to align with the updated subsection (c)(2), as needed.

Additionally, the volume of recommendations from the FFRDC cannot be estimated. VA is consequently concerned that the bill's mandate to complete the implementation no later than 2 years after VA commences such implementation may not allow sufficient time to put all the changes into effect considering Paperwork Reduction Act requirements and existing IT priorities. The volume and depth of recommended changes that the FFRDC may assess are not limited by the bill and cannot be estimated. Potentially hundreds of forms may be affected and the extent of changes for each one could be substantial. Making changes to VA forms is necessarily a thoughtful, considered, deliberative, time-consuming, and complicated process. VA must exercise caution to ensure that its forms comply with existing statutes and controlling case law. It also requires updating existing IT systems.

While VA agrees with the stated intent to make forms "better organized and clearer to claimants," VA is concerned that it could not adopt the FFRDC's recommendations on a wholesale basis without adequate time to independently assure that they would not put VA at risk for non-compliance with its legal duties to claimants. Doing so would require detailed collaborative efforts involving multiple VA business lines that would certainly require more than 90 days, assuming the intent of subsection (c)(2) is for VA to identify the recommendations that comply with laws administered by VA within 90 days, as discussed above.

The language would also effectively make the FFRDC's report binding on VA if VA is required to implement the FFRDC's recommendations. This provision would leave no room for VA to refine or improve upon the recommendations, should the need arise. While an FFRDC's report could yield valuable insights, VA views research and development processes as being designed to create recommendations, not binding policy. If effectively implemented, the assessment process could enhance the clarity of VA forms, reduce paper usage, and lower costs, ultimately benefiting both the agency and Veterans. However, if VA is not afforded adequate discretion, it could lead to inefficiencies, delays, and additional administrative burdens and hinder existing IT modernization activities. As such, VA should retain decision-making authority over final implementation to ensure any changes align with the broader needs of the Department and the Veterans it serves.

VA is also concerned with the language defining covered entities in section 2(e)(2). The bill is ambiguous as to whether the FFRDC or VA would select which covered entities should be consulted and how many covered entities should participate in the assessment. It is also unclear which VA entity would bear the costs of the contract or if additional funds would be appropriated. Additionally, as drafted, it is unclear whether Congress' intent is to have either paper or digital forms, or both types of forms, be reviewed. This bill would require IT resources to both support the FFRDC's review and to implement its recommendations.

A cost estimate is not currently available.

H.R. 1344 "Dennis and Lois Krisfalusy Act"

This bill would amend 38 U.S.C. § 2306(b)(2) to expand eligibility for memorial headstones and markers for certain spouses, surviving spouses, or eligible dependent children of Veterans and active-duty Service members. This bill would remove November 11, 1998, as the earliest date of death for these family members to be eligible. The limitation that the death must occur before September 30, 2032, would remain in the statute.

VA supports this bill subject to the availability of appropriations and seeks amendment.

VA supports this bill but also supports amending it to address the September 30, 2032, date in 38 U.S.C. § 2306(b)(2)(B) and (C) by which an eligible family member's death must occur for VA to provide a memorial headstone or marker. VA additionally supports amending the bill to address the same limiting date that appears in 38 U.S.C. § 2402(a)(5) so that covered family members of active-duty Service members would remain eligible for burial in a VA national cemetery even if their deaths occur on or after September 30, 2032. Rather than simply extending the date-of-death limitations in both sections 2306 and 2402 in the future, VA supports amendments to remove entirely the date-of-death limitations in both sections. Eliminating the date-of-death requirement in each of these statutes would ensure that active-duty Service members who lose their

loved ones while serving the Nation would retain the opportunity to obtain a government-furnished memorial headstone or marker or to choose to inter their loved ones in a VA national cemetery.

VA estimates this bill would have insignificant costs to the mandatory Compensation and Pension account of $28,000 in 2025, $141,000 over 5 years, and $282,000 over 10 years. VA estimates this bill would have discretionary costs related to the interment of spouses or dependent children who predecease active-duty Service members of $55,000 in FY 2026, $286,000 over 5 years and $601,000 over 10 years.

H.R. XXXX "Veterans Claims Education Act of 2025"

This bill would amend 38 U.S.C. § 5103A to require VA, upon receiving an initial claim, to provide specific notice to claimants without an accredited representative and require VA to regularly maintain an easily accessible online tool to allow claimants to search a list of accredited representatives that would be updated quarterly. The bill would provide definitions for "accredited person" and "represent" applicable to amended section 5103A. The bill would also direct VA to add a "warning" to all VA web portals through which an individual may file a claim for VBA or Veterans Health Administration (VHA) benefits regarding fees that accredited agents and attorneys may charge. The bill would require that the warning include a link to the aforementioned search tool for finding accredited representatives and a link to a website for reporting unaccredited individuals who represented the claimant and charged a fee for such representation. Finally, the bill would require VA to review VA's accreditation program under 38 U.S.C. § 5904 and submit to Congress recommendations for legislative or administrative action for improvements.

VA is still examining the legislation and is unable to provide comprehensive views currently.

H.R. XXXX "Review Every Veterans Claim Act of 2025"

This bill would restrict VA from denying a claim for benefits based solely on a Veteran's failure to report to a scheduled VA disability examination.

VA supports subject to the availability of appropriations and seeks amendment to this bill.

Generally, VA must review and consider all the evidence gathered in support of the claim. However, currently 38 C.F.R. § 3.655(b) requires VA to deny a claim if a Veteran fails to report for an examination as part of a supplemental claim, a claim for increase, or an original claim other than an original compensation claim. This bill would prohibit denying such claims on the sole basis of failure to report to an exam. Revision to 38 C.F.R. § 3.655(b) would be required.

Currently, VA has a statutory duty under 38 U.S.C. § 5103A(d) to provide a medical examination or obtain a medical opinion when such examination or opinion is necessary to decide a compensation claim. A medical examination or opinion is necessary to decide a claim where the evidence of record contains competent evidence that the claimant has a current disability associated with their active military, naval, air, or space service but the medical evidence of record is insufficient for VA to decide the claim.

VA notes that while this bill would prohibit denial of a claim on the sole basis that a Veteran failed to appear for a medical examination, cases may remain where, without the examination, there is insufficient evidence to support entitlement. Hence, even if this bill were enacted, claims may still be denied in those circumstances. The only difference would be that the denial would be due to lack of sufficient evidence rather than for failure to appear for the examination.

VA supports this bill because it would reinforce VA's general practice of reviewing and considering the full body of evidence before deciding a claim.

VA suggests amending 38 U.S.C. § 5103(A)(d)(1) to include pension claims to align with the bill's apparent intent in amending the subsection's heading from "Medical Examinations for Compensation Claims" to "Medical Examination for Claims for Benefits." The current language within paragraph (d)(1) focuses solely on disability compensation claims and should include claims for pension.

A costing determination is not currently available.

H.R. XXXX "Improving VA Training for Military Sexual Trauma Claims Act"

Section 2(a) would amend 38 U.S.C. § 1166(c) to require annual sensitivity training regarding military sexual trauma (MST) for any VA employee who processes or decides MST claims or communicates with a claimant regarding evidence supporting such a claim. This bill would require VA to update such training not less than once annually and would require a report to Congress within 90 days of the bill's enactment regarding changes made to training provided to such employees.

Section 2(b) of the bill would amend 38 U.S.C. § 5103A(c) to expand VA's duty to assist in obtaining records for a disability compensation claim. The bill would require VA, for MST claims under 38 U.S.C. § 1166, to obtain the claimant's service medical records and, if there is no credible supporting evidence of MST in the evidence of record, obtain the claimant's service personnel records.

Section 2(c) of the bill would require VA to report to Congress on the required sensitivity training for medical disability examiners contracted under section 504 of the Veterans' Benefits Improvements Act of 1996 to perform examinations for MST claims, as well as for individuals who communicate with MST claimants to schedule examinations. The report would also detail plans to improve such training and ensure

that such Veterans are not retraumatized during the medical disability examination process.

VA supports section 2(a), if amended, and subject to the availability of appropriations.

VA suggests that the requirements in section 2(a) are unnecessary, as they would be duplicative. VA notes that a comprehensive training curriculum already exists. The current VBA training curriculum contains training modules pertaining to posttraumatic stress disorder (PTSD) and personal assault, including claims based on MST. These training modules cover areas such as developing and gathering evidence, submitting examination requests, applying guidance for sympathetic reading of mental disorders, developing stressors related to personal trauma, evaluating evidence, deciding a claim for service connection for disabilities related to MST, and much more.

VA uses training curricula containing dynamic and practical training experiences for claims processors. This form of training enables claims processors to distinguish indicators of PTSD stressors that result from MST, such as deterioration in duty performance and requests for transfer or substance abuse. All training content stresses the importance of complete evidence development for signs of an in-service MST event and takes a comprehensive approach to identifying evidentiary markers that indicate the possibility of the MST event. Legal and policy considerations are also included as part of the curriculum.

Currently, the MST special issue indicator is assigned to any condition, mental or physical (including PTSD) resulting from MST. The MST special issue indicator must be used for all MST-related claims, including claims to establish service connection and claims for increased evaluation, to facilitate routing of these claims to the appropriate personnel for processing and automatic notifications from VBA to VHA about certain upcoming events during the claims process. Only an individual who has completed the required MST trainings, has been designated an MST claims processor, and is assigned to a specialized MST claims processing site or special mission station responsible for the claim due to other special circumstances can take development action on claims involving MST.

Decisions made by Rating Veterans Service Representatives for MST-related disabilities require approval by a more experienced Rating Quality Review Specialist specializing in MST-related claims processing until the claims processor demonstrates an accuracy rate of 90% or greater. The accuracy rate is calculated based on a review of cases in which a condition claimed due to MST was either granted service connection, denied service connection, or received an increased evaluation. Further, MST claims processors are required to have three Individual Quality Reviews (IQR) each month. These reviews determine the employee's individual quality level as part of their overall performance evaluation. An MST-trained Quality Review Specialist processes and conducts all reviews. Additional training requirements may be added based on error trends and analysis following these IQR reviews. While the requirements

of section 2(a) are unnecessary, the Department supports implementing additional accountability and oversight to ensure documentation of the training for all identified personnel.

VA supports section 2(b), if amended, and subject to the availability of appropriations.

Under 38 U.S.C. § 5103A, VA is required to make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate a claim. This assistance includes obtaining all relevant Federal records (38 U.S.C. § 5103A(c), 38 C.F.R. § 3.159(c)). These records include, but are not limited to, military personnel records, service treatment records, and records from other Federal agencies. In addition, 38 C.F.R. § 3.304(f)(5) outlines VA's policy concerning the adjudication of PTSD claims based on in-service personal assault, providing that evidence from sources other than the Veteran's service records may corroborate the Veteran's account of the stressor incident. This regulation also states that evidence of behavior changes following the claimed assault may constitute credible evidence of the stressor, including but not limited to a request for a transfer to another military duty assignment or deterioration in work performance.

If there is no credible supporting evidence of an MST in the evidence of record, section 2(b) of this bill would require VA, as part of its duty to assist, to obtain the MST claimant's service personnel record. Section 2(b) would also require VA to obtain the MST claimant's service medical records.

Service treatment records are always considered in claims for compensation, and personnel records are generally requested for PTSD claims based on personal assault as such records would be relevant to the consideration of behavioral changes following the claimed assault. However, in some cases, the Veteran may submit or identify credible supporting evidence to corroborate the stressor prior to requesting service personnel records. VA cites concerns with section 2(b) because VA already has a duty to obtain all relevant Federal records, to include military personnel records and service treatment records. VA suggests the requirements of section 2(b) are duplicative and, therefore, unnecessary.

VA supports section 2(c) of this bill, subject to appropriations, and seeks amendment.

While VA supports the Subcommittee's intent to improve sensitivity training for contracted disability examination providers, including individuals scheduling MST examinations, to ensure that MST claimants are not retraumatized during the medical disability examination process, there are potential resource concerns.

VA has recently released a guide to contracted disability examination vendors and providers titled "Trauma-Informed Communication with Veterans and Service Members Who Have Experienced Military Sexual Trauma." This guide reinforces the WE CARE values and provides important information and resources for examiners regardless of specialty or examination type to avoid re-traumatization during examinations.

VA suggests amending the language in section 2(c)(1) to remove the parenthetical mentioning "individuals who communicate with veterans to schedule examinations" as those individuals are generally not health care professionals. Instead, section 2(c)(1) could require VA to report on sensitivity training required for health care professionals contracted to perform examinations of MST claimants *and* for individuals who communicate with Veterans to schedule examinations.

A costing determination is not currently available.

H.R. XXXX "Survivor Benefits Delivery Improvement Act of 2025"

Section 2 of this bill, the "Survivor Benefits Data Collection Act of 2025," would add a new 38 U.S.C. § 5322, which would require VA to collect the demographic data from recipients of survivors' benefits or burial benefits for VA to designate underserved demographics. Section 2(b)(2) would provide applicable deadlines for the development of data collection, the designations of any underserved demographics, and submissions of annual reports. Section 2(c) would require VA to develop and submit to the House and Senate Committees on Veterans' Affairs an outreach and education strategy for raising awareness regarding benefits specified in 38 U.S.C. § 5322(a) among covered survivors (which includes a surviving spouse, child, or parent of a veteran) who belong to an underserved demographic and benefits specified in 38 U.S.C. § 2303 among Veterans and other beneficiaries who belong to an underserved demographic. Section 2(d) would require VA to assess the resources of OSA and develop a strategy to ensure the availability of resources necessary for the function of such office.

Section 3, the "Survivor Solid Start Act of 2025," would amend 38 U.S.C. chapter 63 in several places to add a definition for "covered individual" and replace "Veterans" with "covered individuals" where applicable. Additionally, this bill would require VA to provide outreach services for surviving eligible dependents of covered individuals. Section 3(c) would require VA to create full-time equivalent positions focused on outreach for survivors' benefits at VA call centers.

VA supports section 2 of this bill, if amended.

VA highlights the need to edit proposed 38 U.S.C. § 5322(a)(1)(A) as that proposed provision would refer to "disability and indemnity compensation" under 38 U.S.C. chapter 13. However, under chapter 13, the term is properly referred to as "dependency and indemnity compensation" (DIC). VA recommends using the term currently used under chapter 13 to avoid any confusion.

VA notes that the collection of the data points specified in proposed section 5322(f)(2)(A)-(E) would require extensive development. It is presumed that future demographic data requests would also need to be incorporated within existing VA forms, which would result in significant additional work on the part of VA to implement this bill given the need to review, revise, and approve numerous administrative claim forms, as well as obtain the necessary clearances from the Office of Management and

Budget and consultations with other entities as specified in proposed section 5322(b). Additionally, under current procedures, certain VA benefits awards are made via automated processes without the collection of additional data—for example, in certain situations, surviving spouses who were a dependent on a Veteran's award can be granted benefits through automation if VA has sufficient information already on file at the time of the Veteran's death. VA understands that a person's failure to provide information is not to be considered in the receipt of benefits but, nevertheless, the Department would be in a position of issuing benefits without even having attempted to collect the data specified by this bill as existing systems would not necessarily have captured this data previously. For the reasons outlined above, VA recommends the 180-day implementation date under section (2)(b)(2)(A) of the bill be expanded to an implementation window of 24 months from the date of enactment to allow for adequate evaluation of forms as well as the development, testing, and implementation of system changes.

VA also views the implementation deadline for initial designations under section (2)(b)(2)(B) of the bill as not being feasible and again recommends the implementation window be expanded to 24 months from the commencement of the data collection. This would provide sufficient time for data collection and analysis prior to VA making initial designations of underserved demographics.

VA notes that section (2)(c)(2)(A) of the bill covers the development of an outreach strategy "regarding eligibility for burial in a national cemetery under [38 U.S.C. § 2303]." However, eligibility for burial in a national cemetery is covered by 38 U.S.C. § 2402. Therefore, VA believes that the reference in this portion of the bill should be changed to 38 U.S.C. § 2402.

VA supports section 3 of this bill if amended.

VA highlights that the mandated frequency of conducting outreach services to surviving eligible dependents once per quarter in the proposed language for 38 U.S.C. § 6308(c) is a more frequent cadence than the outreach provided to separating and retiring Service members under VA's Solid Start (VASS) program and could be seen as disparate treatment. As a requirement of VASS, VA attempts contacts with newly retired and those newly separated Veterans in three general windows of time post-separation: 0-90 days, 91-180 days, and 181-365 days. VA recommends mirroring this cadence for survivors and supports using the date VA is notified of the Veteran's death to start the notification process timeline.

Section 3(b)(5) of the bill would require VA to conduct outreach for eligible dependents of a Veteran. Generally, VA is not notified of the death of a Veteran unless they were receiving VA benefits. Thus, VA does not determine eligibility until a claimant files an application for benefits, unless they were previously identified as a dependent on the Veteran's award. If VA was never provided information that identifies a dependent, then it would not be possible for VA to conduct outreach to those individuals.

As drafted, and as it pertains to beneficiaries that VA has on its rolls, the outreach services would continue until the eligible dependent files a claim for a benefit; however, 38 U.S.C. § 5101(a)(1)(B)(i) allows VA to pay benefits to survivors who have not filed formal claims if the record contains sufficient evidence to establish entitlement. Accordingly, VA recommends amending the bill's language so that VA would not be required to conduct outreach services to survivors who receive benefits without filing a formal claim.

Finally, VA recommends broadening the contact information provided to eligible dependents under proposed section 6308(c)(2)(A) to include "appropriate contact information for additional support" or similar. VA notes that the provision of contact information for only OSA may result in an unmanageable caseload for that office. By broadening the language in the bill, VA would be able to determine the most appropriate offices to refer eligible dependents, to include but not limited to OSA. Similarly, VA provides that the removal of the specified full-time equivalent position allocation in this section would allow for VA to properly assess staffing needs to support the required outreach.

A cost estimate is not currently available.

H.R. XXXX "Veterans' Compensation Cost-of-Living Adjustment Act of 2025"

Section 2(a) of this bill would increase payments of disability compensation and DIC, effective December 1, 2025. Specifically, section 2(b) would increase payment amounts for wartime disability compensation, additional compensation for dependents, clothing allowance, and DIC payable to a surviving spouse or child. Section 2(c) would increase the payment amounts described in section 2(b) by the same percentage as the percentage by which Social Security benefit amounts under 42 U.S.C. § 415(i) are increased effective December 1, 2025. Section 2(d) would authorize VA to adjust administratively the rates of disability compensation payable to individuals under P.L. 85-857 § 10 who have not received compensation benefits under 38 U.S.C. chapter 11. Section 3 would require VA to publish in the Federal Register the increased amounts covered in section 2(b) no later than the date of publication required by 42 U.S.C. § 415(i)(2)(D).

VA supports the bill.

Annual cost-of-living adjustments (COLA) to compensation rates tangibly express the Nation's gratitude and respect for the sacrifices service-disabled Veterans and their surviving spouses and children have made. This bill would ensure that the value of their well-deserved benefits keep pace with the costs of inflation.

VA also believes consideration should be given to amending 38 U.S.C. § 5312 to provide for automatic annual COLAs in the rates of disability compensation. Such an amendment could also provide for automatic COLA for clothing allowance and

additional compensation for dependents. Currently, Congress must enact legislation each year to adjust those rates, which risks delaying timely COLA increases for compensation and clothing allowance payments to Veterans with service-connected disabilities.

VA supports the publication of annual COLA increases in the Federal Register. VA routinely publishes Federal Register notices of increased benefits following the enactment of law by Congress specifying the percentage by which payments will be increased.

H.R. XXXX "Veteran Appeals Transparency Act of 2025"

This bill would amend 38 U.S.C. § 7107 to require new weekly reporting of docket dates of the cases assigned to a Board member for a decision during that week.

VA does not support this bill.

VA believes that this new reporting requirement may be averse to Veterans by introducing unnecessary confusion, delays, and potential inequities in how appeals are adjudicated. Section 2 of this bill would add a weekly reporting requirement for the Board to publish the docket dates of all cases assigned to Board members for adjudication each week. However, VA believes that such a requirement would be administratively burdensome to execute and, more importantly, would likely cause misperceptions and confusion for Veterans and representatives because the Board's docket can vary and change so significantly. Prior similar efforts to publish docket numbers being worked in the legacy VA appeals process resulted in numerous petitions to the U.S. Court of Appeals for Veterans Claims (Veterans Court) for a writ of mandamus seeking to have the Board decide particular cases out of order because erroneous expectations were created by publishing the information as suggested.

Governing law generally requires that cases be decided in docket order on a first-come, first-served basis with some exceptions. Those exceptions include cases advanced on the docket (AOD) and cases remanded back to the Board by the Veterans Court, which the law requires to be automatically moved to the head of the line. Additionally, legacy appeals that return to the Board from the agency of original jurisdiction (AOJ) (e.g., VBA, VHA, NCA) after a Board remand maintain their original place in docket order.

To put these types of cases into the context of the Board's overall docket, the Board adjudicates between 2,000–3,000 appeals per week. Approximately 25% of cases the Board adjudicated the last two fiscal years were AOD cases, which are moved ahead of other cases because they involve Veterans with serious health conditions, severe financial hardship, or advanced age. They will have docket dates that may be years later than others waiting. Another 30% of cases adjudicated were either expedited because they were remands from the Veterans Court or were cases that returned to the Board from the AOJ and retained their original older docket number.

On a weekly basis, the numbers of expedited appeals, older docket cases, and non-expedited appeals being adjudicated can vary widely. Additional challenges include the current influx of appeals from VBA and VHA, which causes fluidity in the number of cases in each docket, a different pace of movement for each docket, and changes in the number of cases worked in each docket. It would be impossible for the Board to provide an exact estimate for when a particular appeal may be adjudicated because each appeal's place in line is constantly changing based on which appeals are joining (or re-joining) the appeals queue each day. This bill's proposed requirement would be very frustrating and potentially misleading to Veterans on how many appeals remain to be adjudicated ahead of them because the number of cases moving to the head of the line each week is so variable.

H.R. XXXX "Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act"

Section 2 of this bill would amend 38 U.S.C. § 7101A to establish General Schedule (GS)-15 promotion (and pay) potential for all non-supervisory Board Staff Attorney Advisor positions to improve recruitment and retention. This bill would make no reference to an evaluation of the duties and responsibilities of the position, and it is unclear how this bill would lead to achieving the other stated goal of improvements in decision quality and claims processing speed. It would also require technical edits to meet apparent congressional intent. For example, it does not provide clear legal authority to establish classification and/or qualification standards for Board attorneys to overcome the statutory inconsistency with title 5 provisions.

VA does not support this bill.

This bill would not align with classification regulations and 5 U.S.C. § 5107, which states, "[e]xcept as otherwise provided by [5 U.S.C. chapter 51], each agency shall place each position under its jurisdiction in its appropriate class and grade in conformance with standards published by the Office of Personnel Management." Consequently, amending section 7101A to allow *all* non-supervisory Board attorneys to be promoted to grade GS-15 would completely negate 5 U.S.C. § 5107.

The Board's retention incentives for attorneys have proven to be very effective in the past few years. Retention rates have improved dramatically, with attrition rates dropping by nearly 50% from 13.4% in FY 2019 to 7.7% in FY 2024. Retention incentives offer the Board necessary flexibility and do not count as basic pay.

As an aside, there is no current operational need at the Board for any non-supervisory GS-15 attorneys. The Board has existing flexibility to establish GS-15 attorney positions, consistent with the Office of Personnel Management (OPM) classification requirements. There are currently 33 supervisory GS-15 attorney positions at the Board, appropriately classified based on the OPM standards. Even if the Board could somehow create non-supervisory GS-15 positions outside the OPM factors, the

pool of applicants for these more difficult supervisory GS-15 positions would likely diminish and have a correspondingly negative impact on Board operations.

Budget impacts are also important. All attorney advisor positions are eligible for promotion to GS-14 and an ever-increasing number of the Board's roughly 1,040 attorneys are at that highest non-supervisory grade level. Nearly 65% of the Board's non-supervisory attorneys are currently GS-14s and that number is growing because of increasing retention rates and regular upcoming promotions expected for the higher number of new attorney hires during the past 2 years. For example, payroll projections are expected to increase by nearly $15 million from FY 2025 to FY 2026 even if the Board adds no new personnel during that same period.

Conclusion

This concludes my statement. We thank the Subcommittee for your continued support of programs that serve the Nation's Veterans and look forward to working together to further enhance delivery of benefits and services.