

Heather Ansley, MSW, Vice President of Veterans Policy, VetsFirst

Testimony of VetsFirst, a program of United Spinal Association

Submitted by

Heather L. Ansley, Esq., MSW

Vice President of Veterans Policy

Before the Committee on Veterans' Affairs

United States Senate

Regarding Pending Legislation

June 27, 2012

Chairman Murray, Ranking Member Burr, and other distinguished members of the committee, thank you for the opportunity to testify regarding VetsFirst's views on the bills under consideration today.

VetsFirst represents the culmination of 60 years of service to veterans and their families. United Spinal Association, through its veterans service program, VetsFirst, provides representation for veterans, their dependents and survivors in their pursuit of Department of Veterans Affairs (VA) benefits and health care before VA and in the federal courts. Today, United Spinal Association is not only a VA-recognized national veterans service organization, but is also a leader in advocacy for all people with disabilities.

Women Veterans and Other Health Care Improvements Act of 2012 (S. 3313)

After a decade of war, many severely disabled veterans who have experienced trauma related to improvised explosive devices and other conditions of warfare may experience infertility. For many veterans, the ability to start or grow their families represents an important part of moving forward with their lives. Unfortunately, the current services available from VA in many cases do not reflect the needs of these veterans and their families.

Presently, VA provides male veterans who have spinal cord injuries with fertility services for retrieving, storing, and preparing sperm for use for assisted reproductive technology. These services are available to male veterans who are service connected and also for those who have access to VA health care but whose disabilities are not related to their military service. Although VA provides these services for male veterans who have spinal cord injuries, there is no provision to provide the assisted reproductive technologies needed for fertilization.

The Women Veterans and Other Health Care Improvements Act takes important steps toward assisting veterans, their spouses, and surrogates in holistically addressing infertility. VetsFirst

supports the addition of fertility counseling and treatment, including treatment using assisted reproductive technology to the definition of medical services. We are also pleased that this legislation not only expands the definition of medical services to include these treatments, but also provides them to veterans' spouses or surrogates. We are disappointed, however, that these services are not required for veterans who are not service connected.

We appreciate the requirement for the promulgation of regulations to implement these new statutory requirements. To provide a level of certainty to veterans and their spouses, it will be important for VA to develop a non-inclusive list of the types of technologies that will be provided (at a minimum) by VA. It must also be clear to veterans and their spouses or surrogates whether VA will provide services related to subsequent costs of pregnancy and post-partum care.

This legislation also requires VA to facilitate collaborative research with the Department of Defense (DOD) and the National Institutes of Health which will help VA to address the long-term reproductive health needs of veterans. This research will be critical in addressing the unique infertility issues of veterans with combat-related injuries. We are also pleased that the legislation requires that the research be disseminated within the Veterans Health Administration to guide treatment practices.

VetsFirst also supports efforts in the legislation to improve access to VA services for women veterans. Women make up an increasing percentage of the veteran population. Consequently, VA must improve efforts to address the unique needs and concerns of women veterans. Otherwise, women may be hesitant to take advantage of their benefits.

Mental Health Access to Continued Care and Enhancement of Support Services (ACCESS) Act of 2012

The need to access high quality VA mental health services when needed is critically important for our nation's veterans and their families. After a decade of war, the number of veterans who need mental health services due to post-traumatic stress disorder and other wounds related to their service has greatly increased. Veterans from previous wars also continue to need mental health care services which allow them to be vital contributors to their communities and families.

The difficulty of some veterans in accessing VA mental health care services in a timely manner has been detailed in numerous hearings before this committee over the last year. The report from VA's Office of Inspector General regarding access to mental health care that was released on April 23, 2012, highlighted concerns about appointment times and the lack of accurate performance data. Aside from the statistics, we are acutely aware of the sheer human toll of war as reflected by the number of servicemembers and veterans who are committing suicide on a daily basis.

As an organization that is both a veterans service organization and a disability organization, we are very concerned about the ability of veterans to have timely access to evidence-based therapies. Through our work with the Consortium for Citizens with Disabilities (CCD), VetsFirst is working with members of the disability, veterans, and mental health communities to engage in efforts to address these concerns. Specifically, representatives of the CCD Veterans and Military Families Task Force and the Mental Health Liaison Group (MHLG) have been meeting regularly

to better determine how we might work with VA to improve access to mental health services for our nation's veterans.

CCD is a coalition of over 100 national consumer, service provider, and professional organizations which advocates on behalf of people with disabilities and chronic conditions and their families.

The MHLG is a coalition comprised of national behavioral health organizations representing consumers, family members, advocates, professionals, and providers which advocates on behalf of individuals with, or at risk of, a mental health or substance use condition, including servicemembers, veterans, and their families.

On April 5, the CCD Veterans and Military Families Task Force and MHLG sent a letter signed by 41 member organizations to VA expressing our concerns about the delay in veterans receiving VA mental health services. In this letter, which is included with our testimony, member organizations highlighted our concerns about wait times for appointments. We also asserted our belief that clinicians must be given the time and resources to provide veterans with evidence-based therapies that represent the best practices for addressing veterans' specific needs. Lastly, we asserted that VA should leverage the full range of certified mental health professionals, including psychiatric social workers and licensed professional counselors, to increase access to these best practice therapies.

We are pleased to report that VA reached out to us regarding our concerns, and we look forward to growing our partnership to ensure that our nation's veterans have access to needed mental health services. We welcome the opportunity to continue working with VA and appreciate the outreach to CCD and MHLG, including Vietnam Veterans of America, the American Foundation for Suicide Prevention, Mental Health America, and VetsFirst who are the member organizations leading the outreach effort.

The remainder of VetsFirst's comments on the Mental Health ACCESS Act of 2012 reflect our individual views. For purposes of our testimony, we are limiting our comments to Title II—Department of Veterans Affairs Matters.

Access to quality mental health care is critical in ensuring that veterans are able to successfully reintegrate into their communities. To ensure that access standards are being met, VA must develop comprehensive measures that accurately determine whether proper access to services is being provided. We appreciate the requirement in this legislation for VA to develop a measure of access to health care that will evaluate timeliness, satisfaction, capacity, and availability and furnishing of evidence-based therapies by VA. We also support the requirement that VA develop a comprehensive staffing model that will include productivity standards.

The development of access measures and staffing guidelines for mental health care is crucial to meeting the mental health care needs of veterans. Requiring VA to contract with the National Academy of Sciences to create a study committee to advise in the development of these guidelines and measures will provide a heightened level of expertise. We also support the requirement for the study committee to assess the mental health needs of our newest veterans.

The mandates for transparency through reporting and posting the measures and guidelines online will help to facilitate accountability.

Expanding access to Vet Centers is a positive step in efforts to address the mental health care for veterans, servicemembers, and their families. Vet Centers are a critical link to care for many veterans who might not otherwise seek services. The role that Vet Centers play in the delivery of this care is crucial. Thus, the services and supports provided by Vet Centers must be available when needed by these individuals. We support this legislation's expansion of eligibility for services as long as Vet Centers are properly resourced because of the great need for readjustment services by servicemembers and their families.

We also support the proposed organization of VA's Readjustment Counseling Service. We appreciate the inclusion of language stating that, "The Readjustment Counseling Service is a distinct organizational element within Veterans Health Administration." We are also pleased that the Chief Officer of the Service will have direct authority over staff and assets and that its budget request will be listed separately. The autonomy of the Service contributes to its successful outcomes and outreach to veterans.

Although VA must have sufficient resources to meet the mental health needs of our nation's veterans, the scope of the need requires VA to fully utilize any available resources that will properly meet these needs. Requiring VA to carry out a national program of outreach to connect with community mental health resources represents a good opportunity to mobilize qualified providers. A concerted effort to organize clinicians who meet VA requirements will expand the capacity of VA services. We are also pleased that the legislation requires training in military culture to ensure that these providers are able to better meet the needs of veterans.

In addition to community resources, peer support counselors are also an important component of the mental health delivery system. These counselors serve as useful vectors for helping individuals to seek more formal types of mental health care. Requiring that peer support counseling programs be established at each medical center will ensure the availability of these services to as many veterans as possible.

We believe that the steps taken in Title II of this legislation will strengthen VA's ability to serve veterans, servicemembers, and their families.

To require VA to consider the resources of individuals applying for pension that were recently disposed of by the individuals for less than fair market value when determining the eligibility of such individuals for such pension (S. 3270)

VA's pension program provides benefits for veterans who are low-income and are either permanently and totally disabled, or age 65 and older, if they served during a period of war. These benefits are critical for veterans who have few other resources available to them.

Because these benefits are very important to low-income disabled veterans, we believe that these benefits must be protected to ensure that they are fully available when needed. As a result, we do not condone fraudulent efforts to benefit from the VA's pension program. We also believe,

however, that people should not have to impoverish themselves just to receive the services that they need whether in VA's program or any other government benefits program.

The look-back proposed in this legislation seeks to preempt efforts to transfer assets to make veterans eligible for pension benefits. Without commenting further on the specific merits of this proposal, we are concerned that the legislation does not exempt transfer of assets to special needs trusts. Special needs trusts are designed to supplement the services and supports received by people with disabilities through Social Security and Medicaid. The funds in a special needs trust may be used for expenses such as modifying a home for accessibility, paying for recreational activities, or purchasing tickets to visit family. If the funds were made directly available to the individual, then he or she may lose eligibility for Supplemental Security Income (SSI) benefits and Medicaid services and supports, which are income dependent. By placing the funds in a special needs trust, parents can ensure, for instance, that their disabled children retain eligibility for these crucial benefits and services.

A good example illustrating the importance of special needs trusts is found in the current quandary with the DOD survivor benefit plan (SBP). An SBP annuity allows for retiring servicemembers to make a portion of their retired pay available to their survivors. However, federal law requires that these benefits must be paid to a "natural person." Thus, if a child with a disability is in receipt of income dependent services and supports, then the child may lose these benefits and services because SBP funds cannot be paid to a special needs trust. Unfortunately, the amount received from the annuity may not be sufficient to pay for the services lost. Thus, the child not only loses eligibility for the services but then is unable to pay for them privately.

In the November 2011 edition of *Exceptional Parent Magazine*, Kelly A. Thompson, an attorney, relayed how this dilemma played out for one adult child with a disability.

"A recent example concerns a 52 year-old man with an intellectual disability who had lived in a group home for 18 years and attended a day program for individuals with disabilities. His only income was SSI of \$674 per month. His SSI benefits and Medicaid paid for his programs and services. However, when his father, a retired Navy officer, died, his adult son began to receive military SBP in the amount of \$2,030 per month. This SBP payment made him ineligible for Medicaid waiver services. The private pay cost of the programs and services he was receiving prior to his father's death is \$8,600 per month, more than four times his SBP payment. He lost his group home placement, as well as his day program, and was transferred to a state "training center"—a large institutional setting isolated from the community."

People with disabilities greatly benefit from access to special needs trusts. In the Omnibus Budget Reconciliation Act of 1993, Congress exempted the transfer of assets for the benefit of a person with a disability under the age of 65 from the look-back provisions of the Medicaid program. Thus, not only is a person with a disability able to benefit greatly from a special needs trust but the transfer of assets to the trust for the benefit of another does not count against the transferor in the event that he or she subsequently needs Medicaid assistance. In light of the importance of special needs trust, it is clear that these benefits should be available for the disabled children of veterans, without disadvantaging the veteran in receiving VA pension benefits if needed.

It should also be noted that a person with a disability who is under the age of 65 may have his or her own assets transferred into a special needs trust that directly benefits him or her. These types of trusts may only be established by a parent, grandparent, legal guardian, or a court and allow the individual to remain eligible for Medicaid services and supports. Any remaining funds available at death must be used to pay-back the Medicaid program for services provided.

Any efforts to penalize transfer of assets under the VA's pension program must provide for appropriate exemptions for transfers to special needs trusts similar to those available through other federal programs also based on financial need.

To require VA to carry out a pilot program on service dog training therapy (S. 1838)

Service animals provide multi-faceted assistance to people with disabilities. Specifically, service animals promote community integration. In addition to performing specific tasks such as pulling a wheelchair or opening a door, these same service animals can also help to break down barriers between people with disabilities and society. In addition to increased social interaction, many people with disabilities also report experiencing a greater sense of independence.

We support efforts to ensure that properly trained service animals are available to veterans who can benefit from their assistance. This legislation provides a unique opportunity to benefit not only veterans seeking the assistance of a service dog but also provides veterans with post-deployment mental health concerns or post-traumatic stress disorder the opportunity to benefit from training these dogs. The dual nature of this approach has the potential to assist a wide range of veterans.

To provide coverage under the VA's beneficiary travel program for the travel of certain disabled veterans for certain special disabilities rehabilitation (S. 1755)

Veterans who have spinal cord injuries or disorders, vision impairments, or double or multiple amputations require access to rehabilitation services that allow them to live as independently as possible with their disabilities. For those veterans who need these services but who are not eligible for travel benefits, the ability to pay for travel to these rehabilitation programs is very difficult. In addition, few of these services are available locally, particularly in rural areas.

We strongly support providing travel benefits for catastrophically disabled non-service connected veterans who need to travel to receive in-patient care at special disabilities rehabilitation programs. Every effort must be made to reduce barriers that limit access to these services. The long-term savings of ensuring that these veterans are able to maintain their health and function significantly outweighs the short-term costs associated with this legislation.

Veteran Voting Support Act of 2011 (S. 1264)

Exercising the right to vote is a fundamental aspect of American citizenship. For servicemembers and veterans who have served as the defenders of our nation's freedoms, the opportunity to register to vote and exercise that right is particularly meaningful.

The Veteran Voting Support Act seeks to increase access to voter registration opportunities by requiring VA to provide voter registration applications and assistance to veterans during specified interactions with VA. Although we support the efforts of this legislation to ensure that veterans have increased opportunities to register to vote, we are concerned by the lack of a meaningful enforcement mechanism and protections for registrants that are available through the National Voter Registration Act (NVRA).

The NVRA provides mechanisms, including state designation of federal agencies as voter registration agencies, to ensure that citizens, including veterans, have more opportunities to register to vote or update a previous registration. Since 2008, at least seven states have requested that VA agree to designation as a voter registration agency.

If VA were to be designated as a voter registration agency under the NVRA, in the event of a violation, either the Department of Justice (DOJ) or a third party may bring an action requesting enforcement. Under the Veteran Voting Support Act, however, the only initial remedy is for the veteran to provide written notice to the facility director or the Secretary of Veterans Affairs. If the violation is not remedied within 90 days, the individual may file a written notice of complaint with DOJ and the Election Assistance Commission. But, there is no opportunity for third party litigation, which has proven critical in ensuring that the NVRA is enforced by individual states.

Although the Veteran Voting Support Act parallels the NVRA, other important aspects of the NVRA would not be available under this legislation. For example, if a veteran registers to vote through VA under the mechanism of the Veteran Voting Support Act, then the veteran's registration will not be official until submitted by VA. Under the NVRA, the registration would be considered officially submitted once provided to VA.

Lastly, we are concerned that the Veteran Voting Support Act does not require VA to report the number of voter registration applications submitted to VA. Thus, it will be difficult to determine whether VA is fully implementing the legislation as required. Ultimately, we believe that the NVRA provides a better system of voting rights that is more enforceable than those envisioned under the Veteran Voting Support Act.

Unfortunately, VA has expressed concern that agreeing to state designation as a voter registration agency would be too costly and would expand VA's mission at a time when resources are critically needed to assist veterans of the wars in Iraq and Afghanistan, as well as meet the needs of veterans of all eras. We believe, however, that serving as a voter registration agency enhances VA's fulfillment of its mission to help veterans reintegrate into their communities.

Thus, we would support legislation that is at least modeled on the requirements of the NVRA.

Thank you for the opportunity to testify concerning VetsFirst's views on these important pieces of legislation. We remain committed to working in partnership to ensure that all veterans are able to reintegrate in to their communities and remain valued, contributing members of society.