

BACKGROUND

According to a 2020 report from OUTVETS, the Legal Services Center of Harvard Law School, and Veterans Legal Services, an estimated 400,000 veterans are at risk of being turned away from Department of Veterans Affairs (VA) services to which they may be entitled.¹ The cause of these veterans being denied services is “bad paper discharges” – a discharge status is that not Honorable, usually due to alleged misconduct that is often “minor, for a military-only offense, or not proved in court. Studies also show that many servicemembers are separated with bad paper for misconduct related to a service-related mental or physical health condition or Military Sexual Trauma (MST).”² In the past, under the Department of Defense *Don’t Ask, Don’t Tell* policy, some bad paper discharges were due to nothing more than the veteran’s sexual orientation or gender identity.

When veterans get turned away for bad paper, they can lose out on VA benefits, including health care services, hospital and nursing home care, access to Vet Centers, burial and memorial benefits, post-9/11 educational assistance, and housing loans. Yet in many cases, the veterans being turned away are the ones who need access to VA programs the most: veterans with bad paper have higher rates of mental health conditions, suicide, homelessness, and unemployment.³

Veterans with bad paper discharges still have opportunities to apply to the VA for health care and appeal denials. However, many veterans with bad paper are wrongfully turned away from applying for VA benefits immediately, a rejection that often leads veterans to end their search for care altogether.⁴ Without a policy change, hundreds of thousands of veterans could continue to face insurmountable barriers to applying for the VA care they need.

SUMMARY

The **Unlawful Turn-aways Act of 2021** would:

- Improve training, guidance, and oversight for VA staff on character of discharge eligibility standards;
- Remedy past unlawful turn-aways to ensure that veterans with bad paper are aware of their right to apply for VA health care;
- Simplify the VA’s eligibility standards and processes, including by removing barriers that prevent MST survivors from accessing counseling services; and
- Conduct outreach to former servicemembers who were discharged under other-than-honorable (OTH) conditions for no other reason than their sexual orientation or gender identity under the Department of Defense *Don’t Ask, Don’t Tell* policy.

ENDORSEMENTS

The **Unlawful Turn-aways Act of 2021** is supported by the American Legion; Minority Veterans of America; Protect Our Defenders; and Service Women’s Action Network (SWAN).

ORIGINAL COSPONSORS

The **Unlawful Turn-aways Act of 2021** is cosponsored by the Chairman of the House Veterans’ Affairs Committee’s Oversight & Investigations Subcommittee, Chris Pappas (NH-01). The bill is led in the Senate by Sen. Richard Blumenthal (D-CT), who serves on Senate Committee on Veterans’ Affairs.

CONTACT

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¹ OUTVETS, Legal Services Center of Harvard Law School, & Veterans Legal Services: *Turned Away – How VA Unlawfully Denies Health Care to Veterans with Bad Paper Discharges*. 2020.

² Ibid.

³ Ibid.

⁴ Ibid.