

RESOLUTION NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**RESOLUTION CALLING FOR RESTORATION OF PRIOR ELIGIBILITY AND
BENEFIT STANDARDS FOR THE UNITED STATES VETERANS
ADMINISTRATION'S PROGRAM FOR COMPREHENSIVE ASSISTANCE FOR
FAMILY CAREGIVERS**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, in 2010, the United States Congress passed the Caregivers and Veterans Omnibus Health Services Act ("Caregiver Act"), which, among other things, established a Program of Comprehensive Assistance for Family Caregivers ("Program"); and

WHEREAS, the Caregiver Act defined a veteran eligible for the Program as a veteran who has a "serious injury" (including traumatic brain injury, psychological trauma, or other mental disorder) incurred or aggravated in the line of duty incurred on or after September 11, 2001 and who is in need of personal care assistance because of an inability to perform one or more activities of daily living (including dressing, bathing, grooming, frequent need to adjust a special prosthetic or orthopedic appliance, toileting, feeding, or mobility or transferring); or who needs supervision or protection based on symptoms or residuals of neurological or other impairment or injury; and

WHEREAS, the Caregiver Act and Program provided for family caregivers of eligible veterans to receive, among other things, healthcare coverage and a monthly

stipend based on the Bureau of Labor Statistics' hourly wage for home health aides in the applicable geographic area; and

WHEREAS, in 2018, the United States Congress passed the VA Mission Act ("Mission Act"), which, among other things, opened eligibility to the Program to veterans with serious injuries that were incurred prior to September 11, 2001; and

WHEREAS, in spite of Congress' manifest intent, as reflected in the Mission Act, to **expand** eligibility for the Program, on July 31, 2020, the Veterans Administration ("VA") promulgated a Final Rule (85 Fed. Reg. 46,226 (July 31, 2020) ("Final Rule") that actually **narrowed** eligibility for the Program by restricting the number of veterans who qualify for the Program and by reducing benefits for veterans who remain eligible for the Program; and

WHEREAS, contrary to Congress' intent, the Final Rule added several requirements that effectively narrow eligibility for the Program, resulting in veterans who have qualified in the past for the Program becoming ineligible and preventing those veterans who Congress intended to assist under the Mission Act from qualifying for the Program; and

WHEREAS, under the Final Rule, to have a "serious injury" that qualifies for the Program, the veteran must have a service-connected **disability rating of 70% or higher**; the veteran must require personal care services **each time** the veteran completes a single activity of daily living; and the veteran must have a functional impairment that directly impacts the veteran's ability to maintain the veteran's personal safety, **on a daily basis**; and

WHEREAS, the Final Rule effectively reduces stipend benefits for many veterans and family caregivers by deleting reference to the Bureau of Labor Statistics' hourly wage for home health aides in the applicable geographic area in setting stipend rates; and

WHEREAS, the San Mateo County Veterans Commission is charged with promoting programs and initiatives that foster the well-being of veterans in San Mateo County and the Veterans Commission has studied the Caregiver Act, the Program, the Mission Act and the Final Rule and the changes to the Program made by the Final Rule; and

WHEREAS, the Veterans Commission has informed this Board of the potentially devastating impact continued application of the Final Rule could have on San Mateo County and the veterans and their families who reside here, owing to such veterans and family members who were eligible in the past becoming ineligible for the Program and other veterans who Congress intended to cover under the Program being unable to establish eligibility, and these potential impacts are especially acute here because large numbers of seriously injured veterans reside in the County, close to major Veterans Administration medical centers; and

WHEREAS, the Veterans Commission has informed this Board that veterans and family members who lose or who are unable to establish Program eligibility are at increased risk of displacement or homelessness; food insecurity; other forms of financial insecurity and heightened emotional hardships; and

WHEREAS, the Veterans Commission has requested that this Board adopt a resolution calling on Congress to work with the VA to restore the Program eligibility requirements and standards that existed prior to the promulgation of the Final Rule and thereby ensure that Congress' intent, as manifested in the Caregiver Act and the Mission Act, is carried out and this Board agrees that such a resolution is warranted.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that this Board calls for the United States Congress and the Veterans Administration to take appropriate actions to restore the eligibility and benefit standards for the Program of Comprehensive Assistance for Family Caregivers that existed prior to promulgation of the Final Rule and thereby ensure that Congress' intent, as set forth in the Caregiver Act and the Mission Act, is carried out.

BE IT FURTHER RESOLVED that the County Manager and other appropriate staff shall take action to ensure that this resolution is transmitted to the County's Congressional delegation and other appropriate members of Congress and the federal executive branch.

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