

Military Medical Accountability Act of 2019

Congresswoman Jackie Speier (D-CA) is introducing the Sfc. Richard Stayskal Military Medical Accountability Act of 2019 (Stayskal Act).

Background:

- Since 1950, the Feres Doctrine has prevented our servicemembers and their families from seeking justice after becoming victims of medical malpractice.
- Born out of a desire to protect the Department of Defense from being sued for incidents related to military service, Feres has instead been twisted to prevent servicemembers from filing any negligence claims under the Federal Tort Claims Act (FTCA).
- This means that an active duty servicemember and her non-military spouse could be misdiagnosed for the same condition in the same military hospital, but only the spouse would have the right to sue.
- Nearly every other American—civilian, federal employee, or prisoner—has the right to sue the government for medical malpractice and other forms of negligence, but not servicemembers. By not allowing servicemembers to sue for medical malpractice, Feres denies servicemembers justice.
- They are denied their day in court and denied a chance to be awarded compensatory damages—not just DOD benefits—to offset the substantial costs of malpractice.
- Feres also disincentivizes needed change in the military healthcare system. The threat of lawsuits would instead encourage reforms and added vigilance from providers.

Cases:

- There are thousands if not tens of thousands of examples of servicemembers suffering from medical malpractice since 1950 and being denied the right to have their claims heard in court.
- The recent cases of Army Green Beret Sgt. 1st Class Richard Stayskal—whose misdiagnosis by military doctors allowed his cancer to spread until it became terminal—and Navy Lt. Rebekah Daniel—who died from blood loss after giving birth in a military hospital—powerfully illustrate the injustice of preventing servicemembers from filing medical malpractice claims.

The Solution:

- The Stayskal Act will address the injustice to servicemembers created by the Feres doctrine by creating an exemption allowing for servicemembers and their families to file medical malpractice suits under the FTCA.
- The bill would only cover cases that are still pending on or occur after the implementation date, limiting the potential cost of the measure.
- Additionally, the Stayskal Act would not impact combat operations, as servicemembers would only be allowed to sue for malpractice that occurs by medical providers at major military clinics and hospitals, not in combat, on ships, or at battalion aid stations.
- Servicemember suits would still be constrained by the FTCA, which awards no compensatory damages and caps attorneys' fees, and the government could still defend its actions using the discretionary function exemption.