

WASHINGTON UPDATE

PRIORITY

The duration of the hearing is still looking for stories about problems that our members have experienced. Please visit www.AirAccess30.org and share your story.



PVA NATIONAL PRESIDENT DAVID ZURFLUH TESTIFIES BEFORE CONGRESS

On March 6, PVA National President David Zurfluh testified before a joint session of the Senate and House Veterans' Affairs Committees regarding PVA's public policy priorities. President Zurfluh's testimony focused on protecting and strengthening VA's specialized health care services and the expansion of VA's Comprehensive Caregiver program. President Zurfluh also spoke about the difficulties faced by PVA members in Puerto Rico following last year's devastating hurricane. In concluding his oral remarks, President Zurfluh told members of the committees that, "Our members and thousands of other veterans will hold you accountable if you fail to do what everyone in this room and people around this country know is right."

To watch President Zurfluh's testimony, please visit: <https://www.veterans.senate.gov/hearings/legislative-presentation-of-multiple-vsos-03062018>.

AIR CARRIER ACCESS AMENDMENTS ACT INTRODUCED IN THE HOUSE

On February 13, Rep. Jim Langevin (D-RI) introduced the Air Carrier Access Amendments Act (ACAAA) (H.R. 5004). This legislation is a companion to legislation introduced in the Senate in June 2017 by Senator Tammy Baldwin (D-WI). The ACAA would make needed improvements to the Air Carrier Access Act (ACAA) and provide increased opportunities for stakeholders to work with airlines and the U.S. Department of Transportation to improve the air travel experience for passengers with disabilities. One original co-sponsor, Rep. Robert Brady (D-PA), joined with Rep. Langevin in supporting the legislation. The bill currently has one additional co-sponsor.

Despite progress since the passage of the ACAA, too many travelers with disabilities still encounter significant barriers, such as damaged assistive devices, delayed assistance, and lack of seating accommodations. Access for people with disabilities in air travel must move into the 21st century.

Otherwise, people with disabilities will be left behind unable to compete in today's job market or enjoy the opportunities available to other Americans.

The Air Carrier Access Amendments Act (H.R. 5004/S. 1318) will address these problems by:

- Strengthening ACAA enforcement by requiring referral of certain complaints to the U.S. Attorney General, increasing civil penalties for damaged wheelchairs, and establishing a private right of action.
- Ensuring airlines acquire airplanes that meet broad accessibility standards. Improved structural access includes safe and effective boarding and deplaning processes, procedures, and equipment, along with better stowage options for assistive devices.
- Improving training for air carrier personnel and their contractors, including those who assist with passenger boarding and deplaning.
- Requiring the Secretary of Transportation to work with stakeholders to develop an Airline Passengers with Disabilities Bill of Rights.
- Creating a U.S. Department of Transportation Advisory Committee on the Air Travel Needs of Passengers with Disabilities.

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Some of the provisions in the ACAA are included in the 21st Century Aviation Innovation, Reform, and Reauthorization Act (H.R. 2997) and the FAA Reauthorization Act of 2017 (S. 1405), the House and Senate versions of the FAA Reauthorization. Currently, these bills are pending floor action in the House and Senate. The FAA Authorization expires on March 31. It is likely that Congress will extend the current authorization with the hopes of completing a long-term reauthorization this summer.

We urge our members to contact their Senators and Representatives and ask them to co-sponsor this important legislation. We need to show widespread support for H.R. 5004/S. 1318 in the coming weeks and months.

ADA NOTIFICATION LEGISLATION PASSES THE HOUSE

On February 15, the ADA Education and Reform Act of 2017 (H.R. 620) passed the House by a vote of 225-192. Nineteen Republicans voted against it, while 12 Democrats, 6 from California, voted for its passage.

In a statement issued on February 16, Paralyzed Veterans expressed our strong opposition to this legislation. Executive Director Carl Blake stated that, "The message this vote sends to people with disabilities is that ADA compliance is no longer a priority in America." Mr. Blake further stated that, "Instead of expecting that business owners will proactively seek to educate themselves about the legal requirements of the ADA, the burden would be shifted to people with disabilities who would be expected to tell businesses how to become compliant."

Prior to passage by the House, several amendments were offered to amend the legislation. Rep. Jim Langevin (D-RI) and Rep. Greg Harper (R-MS) offered an amendment that would have removed the notice and cure provisions from the legislation. The PVA-supported amendment failed 188-226. In addition, three amendments directed at refining the notice and cure provisions were offered and accepted. The first was an amendment from Rep. Jackie Speier (D-CA) that would require a business to remove a barrier rather than just make "substantial progress" unless additional time is needed for barrier removal due to circumstances beyond the control of the business owner or operator.

The second amendment, from Rep. Ami Bera (D-CA), cut the amount of time that a business has to cure the ADA violation from 120 to 60 days. Finally, Rep. Cathy McMorris Rodgers (R-WA), who ultimately voted against the final bill, offered an amendment removing the requirement for a person with a disability to cite the specific section(s) of the ADA allegedly violated by the business in the notice.

Proponents of H.R. 620, and notice and cure requirements in general, assert that Congress must act to stop Title III lawsuits, whether frivolous or not. We oppose even the amended notice and cure requirements, because without the threat of a lawsuit, too many businesses may simply choose to employ a "wait and see" approach rather than become ADA compliant.

The lack of monetary damages under Title III would further remove any incentive for a business to meet ADA requirements. Consequently, there is no way to amend the notice and cure provisions of H.R. 620 to address the concerns of the disability community.

It's now up to the Senate to stop this legislation from becoming law. Senator Tammy Duckworth (D-IL) is circulating a Dear Colleague letter seeking to solidify Senate opposition to the bill. We are working to educate members of the Senate about the dangers of this legislation and urging Senators who oppose ADA notification to sign the Duckworth letter.

At this time, we have no information about when or if this legislation might move in the Senate. In the meantime, please let your Senators know that you oppose H.R. 6200 and the Senate's efforts to impose notification and cure requirements on the ADA.

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HOUSE VETERANS' AFFAIRS COMMITTEE HOLDS ROUNDTABLE ON CAREGIVER PROGRAM

On March 6, the House Veterans' Affairs Committee held a roundtable with veterans service organizations to discuss their draft legislation to make certain improvements to the VA's Comprehensive Family Caregiver Support Program. Department of Veterans Affairs Secretary David Shulkin proposed a limited expansion to certain pre-9/11 veterans to appease the cost concerns of some members of the House of Representatives and the White House. In a memo to Congress from January, the White House said it could not support expansion to pre-9/11 veterans because of "fiscal restraints." Secretary Shulkin said he believes his proposal would allow for a restricted expansion with a more appealing cost.

The draft legislation articulated a limited expansion, proposed by Department of Veterans Affairs Secretary David Shulkin during a hearing last month. As drafted, the legislation would make eligible veterans injured prior to 9/11 who need a caregiver's assistance with three or more Activities of Daily Living, rather than one as currently required for those injured post-9/11.

Veterans with severe PTSD and TBI would remain eligible. And the 26,000 caregivers already in the program would continue under the current eligibility requirements.

Chairman Roe continues to have concerns about the cost of a broader expansion, like the one in S. 2193, the "Caring for our Veterans Act," currently awaiting a vote from the full senate. During the roundtable he again expressed his belief that expansion can only be done by tightening eligibility in order to allow pre-9/11 veterans to participate. PVA's Associate Legislative Director, Sarah Dean, made it clear to the committee that while this draft could be a good first step, we will continue to advocate, along with our VSO partners to ensure the equitable treatment of all veterans in need of caregiver services.

We will continue to work to see that veterans who were made ill or injured in any era are able to receive the services they need.

VA HEALTH SUBCOMMITTEE CONDUCTS PUERTO RICO FIELD HEARING

The House Veterans' Affairs Subcommittee on Health conducted a field hearing on Monday, March 12 in San Juan, Puerto Rico. The topic of the hearing was the overall operation of the health care system on the island in serving veterans as well as the performance of the VA during the 2017 hurricane season. Invited witnesses included Mr. Agustín Montañéz-Allman, Puerto Rico State Director of Veterans' Affairs, Dr. Rafael Rodríguez-Mercado, MD, Puerto Rico Secretary of Health, Dr. Victor Ramos-Otero, MD, Puerto Rico College of Physicians and Surgeons, Dr. Miguel LaPuz, MD, Director, VA Sunshine Healthcare Network (VISN 8), VHA and Dr. Antonio Sanchez, MD, Acting Director, VA Caribbean Healthcare System, VHA. In addition to the hearing, the subcommittee held a roundtable with local veterans service organizations at which PVA was represented by its Puerto Rico chapter leadership. Written witness testimony, as well as a statement for the record submitted by the national office of PVA, can be found at <http://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=106923>.

INDEPENDENT BUDGET TESTIFIES ON FY 2019 BUDGET REQUEST

On March 15, the House Committee on Veterans' Affairs Subcommittee on Health held a hearing on the "FY 2019 Department of Veterans Affairs Budget Request for the Veterans Health Administration." PVA Associate Legislative Director Sarah Dean testified along with Independent Budget (IB) partners, Disabled American Veterans (DAV) and Veterans of For-

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ign Wars (VFW). Overall, the IB commends the Administration's budget submission as it includes several critically needed increases for FY 2019 for the Veterans Health Administration (VHA), construction, and information technology modernization. There remain looming questions over the adequacy of existing and now proposed funding as neither the House nor Senate has yet to pass legislation addressing the future of the Choice program and community care programs.

The IBVSOs conveyed to the members of the subcommittee our expectation of adequate resourcing and oversight of VA, particularly with regards to specialized services. In testimony, PVA expressed serious concerns with the lack of or altogether missing funding for several medical care programs. In 2016, Congress authorized appropriations through FY 2018 to provide the reproductive service, in-vitro fertilization (IVF), to those veterans whose catastrophic injuries preclude their ability to conceive children. As of January 2018, some 500 consults for IVF had been made. However, these procedures are not directly funded, and therefore, the IB recommends \$20 million to cover the cost through FY 2020.

Additionally, PVA recommended the necessary funding to implement eligibility expansion of VA's comprehensive caregiver support program to severely injured veterans of all eras. The funding level is based on CBO's estimate for the expansion preparation costs under S. 2193. For the initial phase, we recommend \$11 million for FY 2019 to increase staff and improve IT.

PVA's formal written statement for the record on behalf of *The Independent Budget*—co-authored with DAV and VFW can be viewed at www.pva.org.

VA PROPOSES RULE CHANGE RELATED TO CONSENT FOR SENSITIVE HEALTH INFORMATION FOR COMMUNITY PARTNERS

On January 19, the Department of Veterans Affairs (VA) proposed a change to the rules governing the consent to release confidential VA medical records. The proposed rule change would allow confidential VA information to be shared with a Health Information Exchange (HIE) community partner after a veteran provides consent to that partner.

The proposed rule would allow VA to amend current consent regulations so that partnering HIEs can obtain permission to share EHRs without a hardcopy of a patient's written consent form. While a hardcopy form is still an acceptable way of obtaining consent, HIEs may also have the option to electronically attest that a patient has granted them legally sufficient consent.

With the proposed rule, VA intends to ensure more providers can access veteran EHRs at the point of care for better-informed clinical decision-making by having access to a patient's comprehensive medical history.

According to VA, an estimated three out of every four veterans enrolled in VA's healthcare system also visit non-VA facilities in their communities. However, community providers are frequently denied access to veteran EHRs because VA does not have a hardcopy of the patient's consent form on file. And a lack of access to veteran's EHRs may result in delays in care or poorly-informed treatment, which may have a negative impact on patient health outcomes.

PVA understands the rationale and the need behind the rule change making it easier for outside providers to view the records to provide the care needed to the veteran; however, PVA does have some concerns.

For example, information protected by 38 U.S.C. § 7332 is exceptionally sensitive information about a veteran. It can affect job prospects and other benefits or programs to which a veteran may be entitled. Furthermore, PVA is requesting more information regarding how the veteran's information will be protected in the HIE. PVA is also requesting to receive copies and templates of the "opt-in" consent forms that veterans would be using.

The comment period closes on March 20. PVA appreciates VA's continued communication with all VSOs and allowing us to provide input in regards to how perspective field changes will affect our veterans.

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PVA's 2018 ADVOCACY AND LEGISLATION SEMINAR INCLUDES FOCUS ON KEY VETERANS AND DISABILITY ISSUES

On March 5-8, PVA Chapter representatives from across the nation descended on Washington, DC to educate their members of Congress about issues of importance to PVA, its members, and all veterans and people with disabilities. Approximately 100 attendees listened to presentations from PVA's National Office staff, government officials, congressional staff, and other experts on issues of concern to veterans and people with disabilities.

Presentations focused on PVA's top three policy priorities: protecting specialized health care services, expanding comprehensive caregiver benefits, and improving the air travel experience for people with

disabilities. Other topics discussed included oversight of VA's implementation of appeals reform; improvement of benefits for catastrophically disabled veterans, including increasing Special Monthly Compensation and ensuring access to VA prosthetics; efforts to safeguard the Americans with Disabilities Act, and protection of Social Security, Medicare, and Medicaid.

Following two days of education and training, PVA members and Chapter representatives spent two days on Capitol Hill meeting with their legislators about PVA's priorities. Early reports from the meetings indicated that members of Congress and their staff members were generally supportive of helping protect those who have given so much for this nation. Success was seen in the information presented and the approximately 300 meetings held during the event.

One of the highlights of the week was the presentation of the 2018 Gordon H. Mansfield Congressional Leadership Award to Senator Johnny Isakson (R-GA), Chairman of the Senate Veterans' Affairs Committee. Senator Isakson received the award, in part, because he has championed the expansion of the VA's Comprehensive Caregiver Program to pre-9/11 veterans.

To further move PVA's policy priorities forward, please continue to speak with your elected officials about the needs of veterans and people with disabilities.