

WASHINGTON UPDATE

VA MISSION ACT BECOMES LAW



On June 6, 2018, President Trump signed into law the VA MISSION Act. This historic, bipartisan legislation will reform care in the community, assess VA's infrastructure, and finally, allow pre-9/11 veterans access to the VA Caregiver Program.

Since the wait time crisis in Phoenix in 2014, Congress, VA, and VSOs have been working to correct the systems that allowed for it to happen, and at the same time make sure those reformed systems are dynamic enough to meet the needs of a changing veteran population. While the VA MISSION Act is not a perfect solution, it is a monumental step forward to ensure veterans are never without options. All seven VA community care programs, including the Choice program, will be consolidated in to a single program within a year. The bill provides \$5.2 billion to hold the Choice program over until the new program is implemented. Under this program, VA will remain responsible for the coordination and timely scheduling of veterans care. A veteran will be referred to care in the community if VA does not have the necessary service; if the veteran had been using the Choice program under the 40 mile rule; if VA cannot meet its own access standards; or if his or her VA clinician determines community care is in the best medical interest of the veteran.

The infrastructure provision requires review and realignment of VA's health care infrastructure. This process will take place over the course of eight years. Beginning this year, VA will complete a local capacity and commercial market assessment of VA infrastructure. As part of that assessment, VA is to consider the unique role VA plays in rural areas where commercial providers may not exist and if deficiencies can be filled by expanding VA internal capacity in that area. By 2021, VA will publish the criteria for making recommendations to modernize VA facilities and the President will nominate nine commissioners, three of which must be from major VSOs, to a commission. Through 2023, the commission will hold public hearings on VA's recommendations, after which the President will inform Congress of his/her approval or disapproval of the commission's report. If the President disapproves, the asset review terminates. If the President approves, and Congress does not, Congress may enact a joint resolution of disapproval, terminating the asset review. Assuming it is approved, then in March of 2026 VA will begin to implement the commission's recommendations for asset realignment of VA properties.

The passage of the VA MISSION Act was largely due to the efforts of Senate Veterans' Affairs Committee Chairman Johnny Isakson (R-GA) and Ranking Member Jon Tester (D-MT), as well as House Veterans' Affairs Committee Chairman Phil Roe (R-TN). The advancement and ultimate inclusion of the caregiver expansion in the final version of the bill was due to the persistence of Senator Patty Murray (D-WA). Without these efforts, this legislation would not have made it across the finish line.

HOW TO PAY FOR THE VA MISSION ACT

Although the VA MISSION Act was signed into law on June 6th, the White House and members of Congress continue to battle over how to pay for it. Specifically, the \$5.2 billion intended to fund the Choice Program for one year, until the MIS-

WASHINGTON UPDATE

MISSION Act's new community care program is implemented, is causing particular distress for appropriators. They either have to find room under the budgetary spending caps, or place the \$5.2 billion in an "emergency" account to exempt it from the caps. House and Senate appropriators are proposing that the Choice funds not count against the caps in a third, rarely used account. However, House Republicans, particularly House Veterans' Affairs Committee Chairman Phil Roe (R-TN), do not see the need to place Choice outside the budget caps, arguing there is enough room under the caps, but noting that appropriations are outside of his committee's jurisdiction.

This week the White House sent a memo to congressional staff to oppose the Senate Appropriations Committee's plan to raise non-defense spending caps in the coming years in order to pay for VA care. Rather, the Administration prefers appropriators find the room within the caps by cutting spending in other domestic areas, potentially within VA. The Senate will take up the issue as early as next week.

PRE-9/11 VETERANS NOW ELIGIBLE TO APPLY FOR CAREGIVER PROGRAM

Included in the VA MISSION Act was a provision to expand the VA's Program of Comprehensive Assistance to Family Caregivers to those veterans who were catastrophically injured before September 11, 2001. However, veterans and their caregivers will not have immediate access to the program. As part of the negotiations for the VA MISSION Act, members of Congress agreed to expand the Caregiver Program only if it was done over a period of time so as to stem costs.

Before any pre-9/11 veteran can participate, the VA secretary must submit to Congress certification that VA has fully implemented the necessary IT system. We expect this to be completed by May 2019. Then, only those veterans seriously injured on or before May 7, 1975, will be eligible for the program. Two years from that date, eligibility will expand to those injured on or after May 8, 1975. Eligibility for post-9/11 veterans remains the same throughout the expansion process.

NEW ACTING HEAD OF VA INSTALLED IN LIGHT OF NOMINATION OF ROBERT WILKIE TO SERVE AS SECRETARY

On May 30th, President Trump announced that VA Chief of Staff Peter O'Rourke would serve as Acting VA Secretary. The President made the announcement following his decision on May 18th to nominate

then Acting VA Secretary Robert Wilkie to serve as permanent head of the agency. In response to the President's decision to nominate Wilkie, Executive Director Earl Blake released the following statement:

Paralyzed Veterans of America has appreciated the opportunity in recent weeks to work with Acting Secretary Wilkie. He stepped in during a time when VA needed leadership and has worked to move VA forward, including taking a major step toward modernizing VA's electronic health records system. Acting Secretary Wilkie also has shown leadership in urging Congress to reform VA's community care and expand the comprehensive caregiver program to veterans injured prior to 9/11. We look forward to continuing to understand more about his vision for the VA and its provision of services and benefits to veterans with catastrophic disabilities.

The Senate Veterans' Affairs Committee has indicated that it will schedule a confirmation hearing as early as this month on Wilkie's nomination. In the meantime, PVA will continue to work with Acting Secretary O'Rourke as VA embarks on implementation of the recently enacted VA MISSION Act.

RANKING MEMBER TIM WALZ ADDRESSES PVA ANNUAL CONVENTION

On May 25th, House Veterans' Affairs Committee Ranking Member Tim Walz (D-MN) gave the keynote address at PVA's Annual Convention in Minneapolis. Rep. Walz spoke about a number of topics of interest to PVA members, including his reasons for not supporting the recently signed VA MISSION Act. His concerns with the Act primarily involved funding shortfalls in paying for the legislation's provisions. During his speech, Rep. Walz expressed his appreciation for PVA and touted our influence on Capitol Hill. Rep. Walz will be leaving Congress at the end of his term as he is running to be the next governor of Minnesota.

ADVOCATES CONSIDER DISABILITY INCLUSION AT DISASTER STRATEGIES CONFERENCE

The Getting It Right National Inclusive Disaster Strategies Conference took place in mid-May. The event featured speakers from government and the private and nonprofit sectors who discussed what went wrong and what went right during the hurricane season of 2017. These discussions included release of an after-action report on emergency preparedness and response systems affecting people with disabilities. The conference attendees also received a draft outline of proposed legislation aimed at correcting many of the problems identified in the report.

Representatives from the Federal Emergency Management Administration (FEMA) reported that over \$130 billion had been spent in 2017 on disaster relief and another \$1.1 billion in FY 2018 dollars had been issued by the Department of Homeland Security (DHS) for grants in emergency preparedness. Officials from the DHS Office of Civil Rights and Civil Liberties reminded attendees that all of these funds come with obligations on the part of the grant recipients to assure compliance with all disability rights and access laws and regulations.

In a discussion on public health, mass care, and disability rights, FEMA and Red Cross spokespersons acknowledged the problems in 2017 with accessibility and accommodations at many shelters and difficulties in managing evacuation of those with acute medical conditions, especially in rural areas. FEMA is tasked with contracting for personal care attend-

WASHINGTON UPDATE

ants (PCA), but PCA services must be ordered by the state government. Background checks caused delays in providing this assistance in many hurricane affected areas. According to the presenters, these circumstances have been exacerbated by decreases in funding for public health at all levels of government.

The Director of the FEMA Office of Disability Integration, Linda Mastandrea, outlined several steps that her agency and DHS are taking to improve the system's attention to disability inclusion. They want to invest in more training of emergency managers to understand their obligations under the Rehabilitation Act and ensure that Disability Integration Advisors are deployed alongside Disaster Survivor Assistants earlier in the immediate aftermath of disasters. At the same time, Mastandrea indicated FEMA wants to encourage a "culture of preparedness" at the local and state levels through investments in mitigation and

preparation for emergencies so that the federal government can focus more on coordination among departments at the national level.

Staffers for Senator Bob Casey (D-PA), Ranking Member of the Senate Aging Committee, and Congressman Benny Thompson (D-MS), Ranking Member of the Homeland Security and Government

Affairs Committee, described their plans to introduce later in the summer or early fall the Getting It Right Act. Based on recommendations contained in the Partnership for Inclusive Disaster Strategies After Action Report, which can be found on line at www.disasterstrategies.org, the legislation is expected to include provisions to strengthen compliance with disability rights laws and regulations, fund disability

inclusive emergency preparedness initiatives, examine the effectiveness of emergency response systems in serving people with disabilities, and improve recovery and mitigation programs to advance accessibility.

PVA will be working with the Partnership for Inclusive Disaster Strategies and the Consortium for Citizens with Disabilities to ensure that the needs of veterans with disabilities are taken into account in these and other disaster preparation and response programs and measures.

HOUSE VETERANS' AFFAIRS COMMITTEE HEARING ON PENDING LEGISLATION

On June 13th, the House Veterans' Affairs Committee's Subcommittee on Health held a hearing on pending legislation. This was the inaugural hearing for Subcommittee Chairman Neal Dunn (R-FL). The afternoon saw discussion on a host of bills. Of particular interest to PVA, and the testifying VSOs, VFW, DAV, and the American Legion, was H.R. 5693, the "Long-Term Care Veterans Choice Act." This bill would allow VA to contract with non-VA adult foster homes for certain veterans who would otherwise require institutional care. Sponsored by Congressman Clay Higgins (R-LA), the bill was lauded by both sides of the aisle as well as VA.

Another bill of note was H.R. 5974, the "Department of Veterans Affairs Creation of On-Site Treatment Systems Affording Veterans Improvements and Numerous General Safety Enhancements Act." This leg-

isolation would require VA to use on-site regulated medical waste treatment systems at VA facilities. Currently, most VA facilities dispose of hazardous waste by contracting for removal by truck. This is both costly and potentially dangerous. On site systems would mitigate such factors.

Also important was the “VA Hiring Enhancement Act,” H.R. 5521. The bill would authorize the Veterans Health Administration to begin the recruitment and hiring process of physicians up to two years prior to the completion of their required training. PVA agrees Congress should explore every means to ensure VA does not lose out on young professionals due to inefficient hiring practices. We will continue to monitor the status of this and the other discussed bills and provide updates as they progress.

PVA PARTICIPATES IN RESNA MEETING ON WHEELCHAIR DAMAGE IN AIR TRAVEL

On May 21st, Heather Ansley, Acting Associate Executive Director of Government Relations, and Lee Page, Senior Associate Advocacy Director, participated in the second in-person meeting of the RESNA Standards Committee on Air Travel. The meeting was hosted by Delta Airlines at Minneapolis-St. Paul International Airport. The purpose of the committee is to create air travel standards and guidelines for mobility devices, to include design, labeling, information cards, and airport personnel handling and training procedures. RESNA is a standards developing organization accredited by the American National Standards Institute (ANSI).

As part of the meeting, attendees had the opportunity to view Delta loading and unloading procedures for wheelchairs and scooters on a Boeing 717, which has a small cargo opening. Attendees also had the opportunity to view from the terminal the unloading of National Vice President-Elect, Tammy Jones’ wheelchair. Ms. Jones also took time to speak with airlines and wheelchair manufacturers following her arrival to discuss the issues she has faced in air travel and how she prepares her chair for transport.

In addition, PVA presented recommendations to the committee following a survey conducted by PVA and other disability organizations regarding concerns about the stowage of and damage to wheelchairs during air travel. Recommendations included the need for trained personnel to load and unload wheelchairs and take direction, as appropriate, from passengers, and improved communications between airlines and passengers about their respective rights and responsibilities. These recommendations, along with other presented data from airlines and wheelchair manufactures, will be used in the development of standards and guidelines.

H.R. 299 “BLUE WATER NAVY VIETNAM VETERANS ACT OF 2017”

On January 5, 2017, legislation was introduced in the House to include “Blue Water” veterans as being eligible for benefits based on presumptive exposure to Agent Orange. Blue Water veterans are defined as those who served on naval vessels in the territorial seas of Vietnam but never came ashore from January 9, 1962, to May 7, 1975. The bill quickly gained bipartisan support and currently has 330 co-sponsors.

VA has recognized certain cancers and other health problems as presumptive diseases associated with exposure to Agent Orange or other herbicides to include:

WASHINGTON UPDATE

- AL Amyloidosis
- Chronic B-cell Leukemia
- Chloracne
- Diabetes Mellitus Type 2
- Hodgkin's Disease
- Ischemic Heart Disease
- Multiple Myeloma
- Non-Hodgkin's Lymphoma
- Parkinson's Disease
- Peripheral Neuropathy, early onset
- Porphria Cutanea Tarda
- Prostate Cancer
- Respiratory Cancer
- Soft Tissue Sarcomas

Currently, only veterans who served on ships located on inland waterways, veterans who came ashore, and veterans who were "boots on the ground," are considered to be presumptively exposed to Agent Orange and other herbicides.

The legislation recently passed out of committee and is now ready for House floor action.