

**STATEMENT FOR THE RECORD**  
**PARALYZED VETERANS OF AMERICA**  
**FOR THE**  
**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS**  
**OF THE**  
**HOUSE COMMITTEE ON VETERANS' AFFAIRS**  
**CONCERNING**  
**PENDING LEGISLATION**

**APRIL 5, 2017**

Chairman Bost, Ranking Member Esty, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to provide our views on pending legislation before the Subcommittee.

**H.R. 105, the “Protect Veterans from Financial Fraud Act of 2017”**

PVA supports this legislation. Under current law, the Department of Veterans Affairs (VA) is limited in its authority to reissue benefits. If the fiduciary that misused benefits is an institution or an individual serving ten (10) or more individuals who are beneficiaries under title 38, VA is permitted to reissue benefits and make the veteran whole again. If the fiduciary does not meet those criteria, VA may only reissue benefits to the extent that it recoups the misused funds from the fiduciary. The basis of the current rule is that it is more likely that VA will recoup the funds from an institution or an individual serving in a sophisticated or professional capacity on behalf of numerous veterans. This is an unjust result for veterans who choose not to engage the services of a professional fiduciary. H.R. 105 would remedy this unfortunate circumstance and place all veterans on equal footing after malicious or incompetent fiduciaries misuse their benefits.

**H.R. 299, the “Blue Water Navy Vietnam Veterans Act of 2017”**

PVA supports H.R. 299, the “Blue Water Navy Vietnam Veterans Act of 2017,” which would amend title 38 and expand the presumption for service connection related to the exposure of herbicides containing dioxin, including Agent Orange. As more information becomes available about these types of exposures, it will be imperative for Congress to take appropriate steps to ensure that these veterans receive just consideration for health care and benefits eligibility.

**H.R. 1328, the “American Heroes COLA Act of 2017”**

PVA supports H.R. 1328, the “American Heroes COLA Act of 2017,” which would increase, effective as of December 1, 2017, the rates of compensation for veterans with service-connected

disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans. This would include increases in wartime disability compensation, additional compensation for dependents, clothing allowance, and dependency and indemnity compensation for children.

#### **H.R. 1329**

Historically, the annual COLA bill has been important legislation that must pass each year. During times of particularly contentious relations in Congress, this critical legislation has been used as a vehicle to pass other important veterans legislation. PVA does not object, however, to making the COLA adjustment automatic going forward, as it would add a level of certainty for veterans expecting annual increases equal to those provided under title II of the Social Security Act.

#### **H.R. 1390**

PVA continues to support legislation expanding VA's authority to pay for transportation of a deceased veteran's remains to not only national cemeteries, but also cemeteries owned by States or tribal organizations. While this bill expands options for veterans wishing to be buried in a state or tribal cemetery instead of a national cemetery, it avoids any additional costs to the current program by capping the reimbursement at the amount needed to transport the veteran's remains to the nearest national cemetery. This bill, however, does not extend the same option for veterans without next of kin or sufficient resources to cover their burial. We think it would be appropriate to build in an exception allowing VA to transport the remains of such a veteran to a state or tribal cemetery if VA has information suggesting that this was the veteran's desire, and if it can be accomplished at or below the cost of transporting the veteran to a national cemetery. Doing so under these conditions would impose no additional costs.

#### **H.R. 1564**

PVA has no position on this legislation.

#### **H.R. 1725, the "Quicker Veterans Benefits Delivery Act of 2017"**

We strongly support H.R. 1725, the "Quicker Veterans Benefits Delivery Act of 2017." Those veterans with catastrophic disabilities have the greatest need for health care services and this legislation will ensure that they are not forced into delays because the VA will not accept medical evidence from non-VA medical professionals. This bill is a high priority for our members.

PVA has consistently recommended that VA accept valid medical evidence from non-Department medical professionals. The continuing actions of VA to require medical examinations by its own physicians does nothing to further efforts to reduce the claims backlog and may actually cause the backlog to increase in addition to delaying vital benefits for disabled

veterans. We applaud Mr. Walz's efforts to both define what constitutes "sufficiently complete" as well as institute reporting requirements to ensure VA is avoiding unacceptable delays due to duplicative medical exams.

VA has suggested in the past on similar legislation that the Department already has the necessary legal authority to address this concern. Furthermore, VA believes this change would inadvertently restrict the Department's ability to help the veteran get a proper exam if needed. First, we agree the VA has the legal authority. The point of this legislation, though, is to address the fact that VA does not use it properly. In fact, VA uses it to the detriment of veterans in some cases, either by unnecessarily delaying claims or "developing to deny" claims. If, as VA claims, the Department is already making determinations based on whether the report contains competent, credible, probative or such information as may be required to make a decision, then this law adds no new burden on the administrative process. Second, there is nothing in the language here that restricts VA's ability to procure an additional exam when needed. If the claim is not sufficiently complete, then a follow-on exam is warranted. If the claim is sufficiently complete, then VA should be prohibited from requiring further scrutiny.

PVA would also like to see VA better adhere to its own "reasonable doubt" provision when adjudicating claims that involve non-VA medical evidence. We still see too many VA decisions where this veteran-friendly rule was not properly applied. 38 CFR §3.102 states that "[w]hen, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin, the degree of disability, or any other point, such doubt will be resolved in favor of the claimant." Too often it appears VA raters exercise arbitrary prerogative to avoid ruling in favor of the claimant, continually adding obstacles to a claimant's path without adequate justification for doing so. While due diligence in gathering evidence is absolutely necessary, it often seems that VA is working to avoid a fair and legally acceptable ruling for the veteran that happens to be favorable. Both the failure to accept, and tendency to devalue, non-VA medical evidence are symptoms of this attitude.

Mr. Chairman and members of the Subcommittee, we appreciate your commitment to ensuring that veterans receive the best benefits and care available. We also appreciate the fact that this Subcommittee has functioned in a generally bipartisan manner over the last few years. We look forward to working with the Subcommittee as we continue to provide the best care for our veterans.

### **Information Required by Rule XI 2(g) of the House of Representatives**

Pursuant to Rule XI 2(g) of the House of Representatives, the following information is provided regarding federal grants and contracts.

#### ***Fiscal Year 2017***

Department of Veterans Affairs, Office of **National Veterans Sports Programs & Special Events** — Grant to support rehabilitation sports activities — \$275,000.

#### ***Fiscal Year 2016***

Department of Veterans Affairs, Office of **National Veterans Sports Programs & Special Events** — Grant to support rehabilitation sports activities — \$200,000.

#### ***Fiscal Year 2015***

Department of Veterans Affairs, Office of **National Veterans Sports Programs & Special Events** — Grant to support rehabilitation sports activities — \$425,000.

### **Disclosure of Foreign Payments**

Paralyzed Veterans of America is largely supported by donations from the general public. However, in some very rare cases we receive direct donations from foreign nationals. In addition, we receive funding from corporations and foundations which in some cases are U.S. subsidiaries of non-U.S. companies.