

*501(C)(3) Veterans Non-Profit*

**STATEMENT FOR THE RECORD  
PARALYZED VETERANS OF AMERICA  
FOR THE  
HOUSE VETERANS' AFFAIRS COMMITTEE  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
ON  
PENDING LEGISLATION  
APRIL 10, 2024**

Chairman Luttrell, Ranking Member Pappas, and members of the subcommittee, Paralyzed Veterans of America (PVA), would like to thank you for the opportunity to submit our views on pending legislation impacting the Department of Veterans Affairs (VA) that is before the subcommittee. No group of veterans understand the full scope of benefits and care provided by VA better than PVA members—veterans who have incurred a spinal cord injury or disorder (SCI/D). Several of these bills will help to ensure veterans and their survivors receive earned benefits and support. PVA provides comment on the following bills included in today's hearing.

**H.R.1083, the Caring for Survivors Act of 2023**

Losing a spouse is never easy, but knowing that financial help will be available following the death of a loved one can ease this burden. Dependency and Indemnity Compensation (DIC) is intended to protect against survivor impoverishment after the death of a service-disabled veteran. In 2024, this compensation starts at \$1,612.75 per month and increases if the surviving spouse has eligible children who are under age 18. DIC benefits last the entire life of the surviving spouse except in the case of remarriage before a certain age. For surviving children, DIC benefits last until the age of 18. If the child is still in school, these benefits might go until age 23.

The rate of compensation paid to survivors of servicemembers who die in the line of duty or veterans who die from service-related injuries or diseases was established in 1993 and has been minimally adjusted since then. In contrast, monthly benefits for survivors of federal civil service retirees are calculated as a percentage of the civil service retiree's Federal Employees Retirement System or Civil Service Retirement System benefits, up to 55 percent. This difference presents an inequity for survivors of our nation's heroes compared to survivors of federal employees. DIC payments were intended to provide surviving spouses with the means to maintain some semblance of economic stability after the loss of their loved one.

PVA supports the Caring for Survivors Act of 2023, which raises DIC rates to meet the 55 percent threshold. Additionally, current law restricts the DIC benefit for survivors if the veteran was disabled for less than ten years before his or her death. This bill reduces the timeframe a veteran needed to be rated totally disabled from 10 to five years which would allow greater numbers of survivors to benefit from this important program.

**H.R. 2911, the Fairness for Servicemembers and their Families Act of 2023**

PVA supports this legislation which requires the VA to periodically review and report on the maximum coverage available under the Servicemembers' Group Life Insurance and Veterans' Group Life Insurance programs. It would help ensure the relevancy of this pair of financial safety nets by ensuring their coverage amounts account for changes in economic trends.

**H.R. 3651, the Love Lives On Act of 2023**

When a military member or veteran dies, their spouse is eligible to receive a number of survivor benefits, but current law strips many of them if the spouse remarries again before age 55. This arbitrary age limit often prevents many surviving spouses from remarrying out of concern for the financial stability of their surviving children. These surviving spouses should be freed from the fear of losing the benefits owed to them through their late spouse's military sacrifice. PVA supports the Love Lives On Act, which would ensure they retain many benefits from both the VA and the Department of Defense, regardless of their age at the time of remarriage.

**H.R. 7100, the Prioritizing Veterans' Survivors Act**

VA's Office of Survivors Assistance (OSA) was established in 2008 (P.L. 110-389) to serve as a resource regarding all benefits and services furnished by the department to the survivors and dependents of deceased veterans and members of the Armed Forces. Congress also intended that OSA would serve as a principal advisor to the VA Secretary, and promote the use of VA benefits, programs, and services to survivors. In February 2021, the OSA was moved from the Office of the VA Secretary to the Veterans Benefits Administration's (VBA), Pension and Fiduciary Service, changing the span of control and altering a key role that Congress intended for the office. PVA has no objection to this bill which seeks to realign the OSA back under the Office of the VA Secretary.

**H.R. 7150, the Survivor Benefits Delivery Improvement Act of 2024**

PVA supports this bill which directs the VA to collect demographic data on the survivor population. We believe the change would help the department and Congress better understand the utilization of survivor-related benefits and services. It also directs the VA to develop an outreach program for survivors, similar to the Solid Start program, to make sure that every survivor knows what benefits are available to them.

**H.R. 7777, the Veterans' Compensation Cost-of-Living Adjustment Act of 2024**

PVA supports this legislation which directs VA to increase amounts payable for disability compensation, additional compensation for dependents, the clothing allowance for certain disabled veterans, and DIC for surviving spouses and children. VA would be required to raise compensation amounts by the same percentage as the cost-of-living increase in benefits for Social Security recipients that is effective on

December 1, 2024. It also requires the VA to publish the amounts payable, as increased, in the Federal Register.

### **H.R. 7793, the Veterans Appeals Options Expansion Act of 2024**

Veterans often find the claims process extremely confusing so it is not too surprising whenever mistakes are made. Currently, if a veteran filed an initial claim for VA benefits on the wrong form, then later submits the correct one, VA does not backdate payments to the date of the wrong form when that claim is eventually granted. This bill would ensure that veterans are not penalized for making small errors when filling out forms by requiring the department to treat the original submission as an intent to file a claim according to 38 C.F.R. § 3.155. PVA agrees with this change but feels strongly that this section of the bill could be strengthened and confusion over which form to use be fully eliminated if Congress would direct the VA to create a single form that can be used for any kind of claim.

Another provision in the bill requires the Board of Veterans' Appeals to promptly notify veterans when they have submitted untimely evidence and the consequences of doing so, and would prevent veterans from being moved to the back of the Board's line once the veteran's claim is returned to VBA. PVA supports telling veterans when they have filed something that the agency won't look at, but don't think that should be limited to the Board. If we are going to address that problem, it should apply to the whole agency. Finally, the current timeframe to resolve appeals remains unacceptably long and this would allow veterans to switch Board dockets at any time before their appeal has been assigned to a Board decision-maker.

### **H.R. 7816, the Clear Communication for Veterans Claims Act**

Testimony received by this subcommittee on March 20, 2024, revealed many problems with the language the VA uses in its letters to veterans regarding the status of their disability claims and appeals. In recent years, these letters have become lengthy tomes that require veterans to obtain help to interpret them. The Clear Communication for Veterans Claims Act directs the VA to enter into an agreement with a federally-funded research and development center for an assessment of notice letters that the department sends to claimants. PVA believes the VA should place greater emphasis on successfully communicating with the veteran, and focus less on legalese. Therefore, we appreciate and strongly support efforts like this to help demystify the VA claims process.

### **Discussion Draft, the Medical Disability Examination Improvement Act**

When a veteran files a claim for disability compensation, the VA often requires a medical disability exam to determine if a medical connection can be established between a condition being claimed and a veteran's military service. Between August 10, 2022, and February 24, 2024, the VA added 264,548 veterans to its healthcare rolls and 1.4 million claims for benefits had been filed. This draft bill seeks to ensure the VA can handle its increasing workload which is largely caused by the PACT Act (P.L. 117-168). Specifically, it would bolster the department's ability to hire more medical disability examiners and improve training for VA claims processing staff to determine if a medical disability exam is necessary or if there's already sufficient existing evidence to grant a claim. Other language in the bill requires the VA to study and develop a plan to improve rural veterans' access to quality and timely medical disability examinations and to develop a mechanism for contract examiners to transmit evidence introduced by veterans during their exam for their claim—a move PVA strongly supports.

Our lone concern with this draft measure rests with the language in section two seeking to change “veteran” to “covered veteran.” This differs from current law which states, that if a veteran submits a claim for a condition stemming from toxic exposures, the VA will provide the veteran an examination as indicated. Without additional information on why such a change is necessary, we could not support its inclusion in the bill.

#### **Discussion Draft, the Toxic Exposures Examination Improvement Act**

This draft bill proposes to change the definition of evidence as it pertains to toxic exposure-related claims. Specifically, it would remove the language in 38 C.F.R. §1168 (a) that currently reads, “if the evidence is not sufficient to establish direct service connection,” and replace it with “such evidence does not contain sufficient medical evidence for the Secretary to make a decision on the claim.” PVA cannot support this bill at this time because we believe the change may create an unnecessary barrier for veterans seeking to establish a direct service connection for their toxin-related conditions.

#### **Discussion Draft, the Veterans Appeals Efficiency Act of 2024**

This draft bill creates additional reporting and tracking requirements for VBA and the Board, such as information on Higher Level Reviews, Supplemental Claims, and Notices of Disagreement. It also requires the tracking of claims pending in the National Work Queue, not assigned to an adjudicator; cases that are remanded by the Board; Veteran Appeals Improvement and Modernization Act cases pending a hearing; and when a decision-maker did not comply with the Board’s decision. We recognize the value of and support efforts to track meaningful data to improve the effectiveness and accuracy of the claims process. However, the data sought by this legislation will be meaningless until the VA first fixes their problems with obtaining medical opinions, since the lack of them are constantly creating remandable errors.

We also have concerns with language regarding potential changes to the authority of the Board, and oppose the provision about seeking an opinion from VA’s Office of General Counsel (OGC) with respect to a question of law arising in an appeal under review by the Board. Under 38 U.S.C. § 7104 (c), the Board is already bound by the opinions of the chief legal officer (i.e., the General Counsel) and they already do seek opinions from time to time. For example, PVA had a case where we challenged the legal finding of the opinion sought in that specific case and we prevailed on the legal interpretation.

This legislation would open the option to seek an opinion to claimants as well. But, we already have an appeals structure that includes court review, which would be the “final” say on the interpretive question. And, since the VA OGC’s authority is unclear as to any interpretive or regulatory authority for the department in individual claims, it would actually be less efficient to seek an OGC opinion, since if the veteran loses, it will certainly be litigated and there is not a time limit on when the OGC produces the opinion. Thus, it delays the veteran’s case. While we see the facial appeal of allowing both claimants and the Board to seek an OGC opinion, we don’t want the OGC’s intervention to be used more than it is now or to be seen as a short cut of some sort. We view this as a Pandora’s box that likely would not aid efficiency.

**Discussion Draft, the Veterans Claims Quality Improvement Act**

This draft legislation requires the VA General Counsel to review and comment on any revisions to the VBA manuals addressing the adjudication of claims. It also requires them to develop a training program and provide training for any employees responsible for drafting rules, guidance, or any other types of issuances.

Aside from potentially slowing the claims process down, we have no concerns with the first two provisions. After the Veterans Auto and Education Improvement Act (P.L. 117-333) was signed authorizing an additional Auto Grant for certain veterans, it took about 10 months for VA Manual M-21 to be updated. Our service officers who are assisting veterans in filing these claims found many VA Regional Offices didn't even know about this benefit until they told them. In effect, it was our personnel who had to teach them about the statutory change, VA's interim procedures, and subsequent changes to the M-21, because it appears the VA does not have an effective, standardized method of updating the field on changes to the manual. We highly recommend language be added to the bill directing the VA to establish such a process.

A third provision in the bill directs the Chairman of the Board to establish a program to ensure the quality of Board decisions with a requirement to report to the Veterans' Affairs Committees annually. This section would impose many requirements related to items that are already the Board's responsibility. Instead of a new law, the Board should be held accountable for these existing requirements.

PVA would once again like to thank the subcommittee for the opportunity to submit our views on some of the bills being considered today. We look forward to working with you on this legislation and would be happy to take any questions for the record.

### **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 2023**

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events — Grant to support rehabilitation sports activities — \$479,000.

#### **Fiscal Year 2022**

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events — Grant to support rehabilitation sports activities — \$ 437,745.

### **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.