

# **REPORT OF THE ADVISORY COMMITTEE ON DISABILITY COMPENSATION**



**2020 BIENNIAL REPORT**



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

September 18, 2020

Honorable Robert L. Wilkie, Jr.  
Secretary, Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Mr. Secretary:

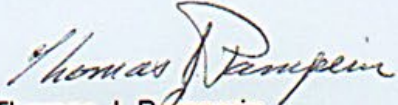
The Advisory Committee on Disability Compensation submits the enclosed report in accordance with Section 214 of Public Law 110-3890 requiring us to advise you on the maintenance and periodic readjustment of the Department of Veterans Affairs Schedule of Rating Disabilities (VASRD). This report fulfills the statutory requirement to submit a report by October 31, 2020.

The Committee has held 6 public meetings since the last report and has heard from many Veterans, subject matter experts, stakeholders, VSOs, and interested parties. Many useful insights were offered and considered in our deliberations and recommendations to you.

The Committee members are proud to have been involved in the discussion and implementation of some of the important initiatives VA has accomplished on behalf of veterans and families.

Our thanks to your staff for providing much detailed information and answering many questions with professionalism and patience. The Committee thanks you for your support and looks forward to continuing work with you.

Sincerely,

  
Thomas J. Pamperin  
Acting Chair, Advisory Committee on  
Disability Compensation

Enclosures:

Current Biennial Report dated 31 October 2018  
Committee Charter  
Brief Biographies of Current Committee Members  
Previous Reports:

Biennial Report dated 31 October 2018 with VA Responses Interim  
Biennial Report dated 31 October 2016 with VA Responses  
Report dated 31 October 2015 with VA Responses  
Biennial Report dated 31 October 2014 with VA Responses

**Department of Veterans Affairs**  
**Responses to the October 31, 2020, Biennial Report Recommendations**  
**Advisory Committee on Disability Compensation (the Committee)**  
**November 27, 2020**

**Subject:** 2020 Biennial Report to the Secretary of Veterans Affairs

**Reference:**

Charter of the Advisory Committee on Disability Compensation (ACDC) dated October 29, 2009, established under the provisions of title 38 U.S.C. 546, P.L. 110-389, and operates under the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. with no termination date.

In addition to the guidance from the Committee Charter, the Committee has received guidance and taskings from the Secretary of Veterans Affairs (SECVA), Under Secretary for Benefits (USB), Chief of Staff, Advisory Committee Management Office, and other Senior VA leaders.

**Background:**

This report fulfills the statutory requirement to submit a report to Congress biennially. This report is due by October 31, 2020. Previous Biennial Reports were submitted on October 31, 2018, October 31, 2016, October 31, 2014, October 31, 2012 and July 7, 2010. Interim Reports were submitted on October 31, 2015, June 18, 2013 and July 7, 2009. Previous reports and VA responses are enclosures.

Committee Organization and Reconstitution: The Committee was originally organized with eleven members appointed to terms ending September 20, 2011, and September 30, 2012. The Committee was reconstituted in October 2013 with twelve members and reconstituted in 2016 with twelve members. The Committee was again reconstituted in 2018 with 12 members. Since some of the members' terms expire in 2020, nominations for new ACDC members were advertised and accepted, and a slate of highly qualified candidates were forwarded to the USB and SECVA for selection. The appointment of new Advisory Committee members is still pending.

During the period covered by this report the Committee conducted a quarterly meeting at the St. Petersburg Regional Office to provide Committee members with an appreciation of the environment within which Veterans are served. That site was chosen because of the office's large size, capacity to host a meeting and the presence of one of the three Decision Review Officer Centers (DROCs) created as a result of the implementation of the Veteran Appeals Improvement and Modernization Act of 2017. The other two offices are in Washington D.C. and Seattle, Washington. Members found the experience extremely useful. A second quarterly meeting of the Committee, at a regional office site, was planned for the Milwaukee Regional Office. It was chosen because of its size, and capacity to host a meeting. In addition, it was chosen because it is the site of one of VBA's three Pension Management Centers (PMC), the others being in Philadelphia and St. Paul. PMCs process claims for

service-connected survivor benefits and non-service-connected disability and survivor benefits. Unfortunately, due health concerns related to the novel coronavirus pandemic (COVID-19) this off-site had to be cancelled.

Also related to COVID-19 health concerns, the Committee meetings held in March, July, and September of 2020 were held virtually. The first two were held telephonically with an available line for the public to listen. The September meeting was held virtually via the WEB-EX platform. The change to the WEB-EX platform allowed the public the capability of viewing the proceedings and listening on a dedicated line. While this process has its limitations, we have demonstrated that it is possible to conduct Committee business remotely. Interestingly, while the Committee's in-person meetings have always drawn attendance by the public, stakeholders, and other interested parties (usually 5-8 in attendance), the remote meetings have drawn significantly larger participation by the public. The May 2020 meeting, for example, had 39 participants dialed-in to the meeting; based on a randomly selected timeframe for review of individuals attending. Using the same methodology, the July 2020 meeting had 38 public participants and September had 39. Additionally, the virtual platform still allowed for public comments. For example, a Veteran and two widows made public statements via a public dial-in number established for that purpose.

Current Members of the Committee: Thomas J. Pamperin, Acting Chair; Dr. Robert Sprague; Dr. Jonathan Roberts; RADM Dr. Joyce Johnson; Captain Dr. Evelyn Lewis; Ms. Jean Reaves; Michael Maciosek; Robert Wunderlich; Bradley Hazell; James Lorraine; and Al Bruner; two inactive members, Joseph K. Martin, and George Fay. The Committee Designated Federal Officers (DFO) are Ms. Sian Roussel and Ms. Claire Starke. Brief biographies of the current members are enclosed.

Status of Issues Presented in Previous Report: The Committee received and reviewed the VA Responses to the Biennial Report dated October 31, 2018. The Report contained five issues and twelve recommendations. The VA response was concur for seven, concur in principle for four, and non-concur for one.

### **Previously Presented Priority Issues of Concern to the Advisory Committee:**

Systematic Review and Update of the VA Schedule for Rating Disabilities (VASRD).

### **Discussion:**

The key responsibility of the Advisory Committee as set forth in the Charter is to advise SECVA with respect to the maintenance and periodic readjustment of the VASRD. The initial formal Program Management Plan, to revise the "VA Schedule for Rating Disabilities" was dated October 2009, with a timeline for final rules to be published in 2016. This represented the first comprehensive revision of the 15 body systems in 73 years. Earnings/Loss Studies were to focus on VA's Disability Compensation Program to modernize the VASRD. At the time, the Advisory

Committee concurred that the Management Plan, if executed as presented, would meet the requirement. However, the Management Plan has had several setbacks that have impacted the initial timeline. These setbacks, such as the decision to start over on the review of the Mental Disorders body system, led to a revised completion date of 2020. Subsequently, VA determined that that the revised completion date of 2020 would not be possible. To ensure that VASRD updates were timely, in 2018 VA established a formal Project Management Office to oversee VASRD updates. VA now has a revised date of completion of 2022. While the Committee applauds the Department for instituting a formal project management process, as we indicate in this report, we believe that the end of FY 2022 completion is achievable only if leadership, at the most senior levels of the Department, exercise strict and decisive management of the within VA concurrence process.

### **Individual Unemployability:**

#### **Discussion:**

The Advisory Committee was tasked in the January 6, 2014, VA Response to the Committee's 2012 Biennial Report to conduct a study of the issue of Individual Unemployability (IU) and make recommendations based on the earnings and losses study. The Committee expressed concern in the 2016 Biennial Report that there was no plan developed to study economic loss data. VA initiated a limited study in 2017 which identified weaknesses with respect to sample size. VA has engaged contractors for a more robust study which has not been completed. Analysis is still pending access to data bases from other Federal agencies. The Committee remains concerned about the approach being taken as is discussed in the IU issue below.

### **SUBJECT: 2020 REPORT TO THE SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS**

#### **Issue 1: THE SYSTEMATIC REVIEW AND UPDATE OF THE VETERAN AFFAIRS SCHEDULE FOR RATING DISABILITIES (VASRD)**

#### **Secretary's Priority Issue:**

These recommendations address SECVA's Priorities of Customer Service and Transforming Business Systems as well as Goals 3 and 4 from the VA 2018-2024 Strategic Plan as refreshed on May 31, 2019:

Goal 3: Veterans trust VA to be consistently accountable and transparent

Goal 4: VA will transform business operations by modernizing systems and focusing resources more efficiently to be competitive and to provide world-class customer service to Veterans and its employees

#### **References:**

- ACDC 2012, 2014, 2016, 2018 Biennial Reports
- GAO Reports 15-464 and 20-26

## **Discussion:**

VA has been engaged in revising and updating VASRD since 2009 with its first completion date scheduled for 2016 which was subsequently changed to 2018. Currently VA does not anticipate completing an initial rewrite of all bodies systems until 2022; 13 years from project inception. Since the Committee's creation by Congress, it has received briefings multiple times per year about the project's progress or lack thereof. Since the 2018 Biennial report progress has been made. More realistic timeframes have been established, project management has been instituted and the project received a "reset" lengthening the timeline to the current 2022 completion date.

Veterans have received disability evaluations from the Department and its predecessors, the VA, and the Bureau of War Risk Insurance, based on the underlying concepts of the current schedule since 1923. These underlying concepts include evaluating individual disabilities on a percent of impairment, (0 percent through 100 percent) with a combined evaluation arrived at by utilizing the combined rating scheme found at 38 CFR §4.25 when more than one disability is involved, payments based on earnings loss, the concept of "Extra-schedular Evaluations" when the applicable evaluation criteria do not fit a unique disability profile applicability, and evaluation based on the "average man."

The last comprehensive update of the VASRD was completed in 1945, though numerous amendments have been added since that time. A formal Program Management Plan to completely revise and update the VASRD under 14 body systems were implemented in October 2009, with expectations that the final rules would be complete and published by 2016. Further, to assure the VASRD was always current, a provision was made to begin an ongoing review and update of the new plan beginning in March 2017. As indicated below, these timelines were never met. In early 2019, the project received the reset under which it is currently operating.

SECVA, in his response to the 2014 Biennial Report of ACDC, foresaw completion of the Program Management Plan in March 2017, about a year later than originally anticipated. The completion was continually delayed. At the ACDC's September 2016 meeting, a commitment was made to complete the Plan by September 2018. Timeline milestones continued to be missed, and the project has continued to get further and further behind.

The 2018 Biennial Report noted the following were complete:

- Dental/Oral: Final Rule Published August 3, 2017
- Endocrine: Final Rule Published November 2, 2017
- Eye: Final Rule Published April 10, 2018
- GYN/Breast: Final Rule Published April 9, 2018

Since the 2018 report more progress has been achieved. All body systems are out of VBA and in review or pre-publication status. Status, in addition to the above four systems, are as follows:

Body Systems Revised and In Use:

- Skin: Final Rule Published July 13, 2018
- Hematologic/Lymphatic: Final Rule Published October 29, 2018
- Infectious Disease: Final Rule Published June 18, 2019

Body Systems Pending Publication of Final Rule

- Musculoskeletal – Anticipated First Quarter 2021

Body Systems Drafted and Current Status:

- Mental Health: At OMB for review
- Respiratory/ENT/Auditory: Awaiting completion of OMB review of Mental Health so that both systems can be published concurrently
- Genitourinary: At SECVA for review
- Digestive: At SECVA for review
- Cardiology: At Deputy General Counsel for review
- Neurological: At General Counsel analyst level for review

In ensuing discussions with VBA personnel, the issue of the Disability Benefit Questionnaire (DBQ) for Diabetes Mellitus was raised given the prior ACDC committee report of 2018 and the recommendations for a modernized template. Diabetes mellitus type 2 is rated by the VA under 38 CFR 4.119, Diagnostic Code 7913. As indicated above, the Endocrine System final rule was published in the Federal Register in November 2017 without addressing Diabetes Mellitus based on programmatic judgement. A separate Diabetes Mellitus Work Group was formed which included nationally recognized experts in the field as well as VBA medical personnel and regulatory staff. The first meeting of this group occurred on January 18, 2017 and current diagnostic codes and rating criteria were reviewed. Identified issues included developing new rating criteria based on current understanding of functional impairments due to disease process, treatment, and clinical outcomes of the disease process. The last meeting of this group was January 17, 2019.

Subsequent meetings were suspended due to conflicting VASRD initiatives. The Committee has been advised that Diabetes Mellitus will be addressed in “Round 2” of VASRD updates which is not currently scheduled to begin until at least 2022. According to the 2019 Annual Benefits Report the endocrine system is the tenth most common disability for which compensation is paid. The Department of Defense information indicates an increasing prevalence of Diabetes Mellitus in Active Duty personnel and efforts to retain Service members with Diabetes Mellitus. Given its significance, the Committee believes that review of this system should be expedited. Based on the above status levels, the Committee believes that while it may be possible to complete the first iteration of VASRD update by the currently planned 2022 schedule, that goal will only be achieved if the Department exercises strict accountability and control of the remaining review processes.

In our August 2019 Committee meeting, the Committee was advised that an Integrated Master Schedule (IMS) had been created and the Committee was told that the IMS would be shared with it. Twelve months later, the schedule has not been shared. Therefore, we cannot render a judgement as to whether the project is meeting schedule.

**Recommendation 1.1: Fully staff this activity for completion (clinicians, regulation writers, analyst staff, and program management staff).**

At the December 3-4, 2019 meeting, the Committee was told VBA established the new VASRD Program Office (PO) in the third quarter of fiscal year (FY) 2019 with 26 authorized staff and 18 assigned. It is our understanding that the PO has not yet been fully staffed. Critical staff vacancies include five clinicians and dedicated regulation writers.

Currently, three regulation analysts are assigned to this activity. In the Committee's view, this is not adequate to complete the required work. The Committee recommends additional regulation analysts at the soonest date. There may be some plans to post a job announcement for additional regulation analysts by the end of the

FY 2020. The Committee strongly recommends that this be completed, and that personnel hired.

**VA Response to recommendation 1.1:** Concur.

The job announcement for the Regulations Analyst closed on September 2, 2020 and VBA is currently in the process of selecting candidates to fill this position. In addition, VBA is currently interviewing candidates for the data management analyst position. VBA is currently in the process of hiring medical officers. Hiring for all vacant VASRD positions have been impacted by the COVID-19 pandemic, such as rejected offers due to the pandemic, and desire for virtual positions. VBA continues to pursue all necessary action to fill all positions with a projected hiring completion by December 2020.

**Recommendation 1.2: Aggressive Management of the Review Process**

The Committee believes the 2022 completion date is possible only through aggressive and comprehensive management of review processes for the remaining seven body systems with bi-weekly review meetings at the most senior levels of the Department.

**VA Response to recommendation 1.2:** Non-concur.

The VASRD Program Office routinely provides updates to VBA leadership on the progress of the remaining VASRD rulemakings which are then communicated to senior leadership at the Department. This includes status updates on the formal concurrence process of each rulemaking as well as costing information. The VASRD Program has oversight and specific management responsibility to oversee and



manage responsibility to address all policy and operational aspects with maintaining and implementing VASRD. This program office ensures that VBA makes routine and substantive improvements to the VASRD. The VASRD program office facilitates necessary collaborations and multi-faceted project/program integration that span across several offices, to include Department-level senior leaders, and related government disability programs.

### **Recommendation 1.3: Earnings & Loss Studies**

As indicated in Recommendation 5, the Committee believes the current approach to earnings loss has significant potential weaknesses. These include the inherent weakness of inferring or attributing outcomes to Veterans solely from data collected for other purposes by other agencies. There is a significant problem with getting a sufficient sample size, even using the current methodology, to measure the impact of specific diagnostic codes on earnings loss. VA has already contracted and/or conducted previous studies in which sample size was the most significant impediment. An approach that may alleviate the sample size issue may be to attempt to measure earnings loss against generic impairments such as loss of sense, mobility issues, mental health issues, cardiovascular issues, etc.

### **VA Response to recommendation 1.3: Non-Concur**

VA's purpose in obtaining earnings loss information on Veterans was to add an additional data source for consideration in VASRD modernization efforts to quantify disability compensation. As a result of lessons learned from the first earnings loss study, VA understands that the small sample size for certain diagnostic codes will require a different approach to estimating the loss in earnings capacity. Earnings loss information was never intended to become the sole basis or primary bases for quantifying disability compensation. Loss in earnings capacity information should serve as the inception point for additional research by VHA in partnership with VBA to explore which metrics most accurately predict the loss in earnings capacity. VA can then determine if these metrics can be removed, improved, and/or mitigated.

### **Recommendation 1.4: Prioritize the Mental Health Section**

The Committee understands that one of the greatest weaknesses of the 1945 VASRD is the Mental Health section. Previous research efforts on the economic validation of the schedule including those of the Center for Naval Analysis, EconSystems and others have consistently found that earnings loss at every level of psychological impairment is greater than that permitted at every level of evaluation below 100 percent. The current mental health evaluation criteria for 100 percent constitutes an extreme level of impairment. The practical consequence of this situation is *not* that Veterans suffering from major mental health issues are denied payment at the 100 percent rate. Rather, such Veterans receive payment at the 100 percent rate through application of the Total Disability Individual Unemployability rule. This has three undesirable outcomes.

First, it requires disability evaluators to rely on an extra-schedular rule meant for use in unique situations when the schedule does not adequately address a Veteran's disability profile **not** as standard practice. TDIU was never intended as a routine practice and the fact that it has become so is clear and convincing evidence of the inadequacy of this section of the VASRD.

Second, reliance on TDIU, rather than clear evaluation criteria, introduces the potential for disparate treatment of similarly situated Veterans.

Third, such a situation reinforces stigma associated with mental disorders. It does this in an insidious way. Because TDIU is the way most people receive benefits at the total rate for mental health rather than via a schedular 100 percent, earnings are a factor in maintaining the total rate payment. Consequently, mental health is, as a practical matter, the only body system that effectively prohibits its most severely impaired recipients from attempting to and succeeding in substantial employment.

Successful employment results in reduced compensation as well as loss of benefits for other family members. This does not happen to Veterans rated 100 per cent by the schedule who are blind, wheelchair bound or any other situation.

**VA Response to recommendation 1.4:** Concur.

VBA is currently engaged in rulemaking to update the Mental Disorders rating criteria which would address the concerns noted in the above recommendation. The proposed rule is on track to be published in FY21.

**Recommendation 1.5: Advance the Schedule for Diabetes**

The Department should re-establish, prioritize, and expand the workgroup on Diabetes Mellitus given the increasing prevalence in Active Duty personnel and efforts to retain service members with Diabetes Mellitus as well as already service-connected Veterans. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6134313/>

**VA Response to recommendation 1.5:** Concur.

In January 2017, VBA established a Diabetes Mellitus workgroup, comprised of VBA and Veterans Health Administration subject matter experts. As of September 2020, the workgroup: (1) reviewed the current diagnostic code and rating criteria for Diabetes Mellitus; (2) identified areas of improvement; and (3) developed new rating criteria that is based on current understanding of functional impairment due to the disease process, treatment, and clinical outcomes of Diabetes Mellitus. VBA will consider the workgroup findings for the next iteration of updates to the Endocrine body system.

**Issue 2: TOTAL DISABILITY INDIVIDUAL UNEMPLOYABILITY (TDIU)**  
**Secretary's Priority Issue:**

These recommendations address SECVA's Priorities of Customer Service and Transforming Business Systems as well as Goals 3 and 4 from the VA 2018-2024

Strategic Plan as refreshed on May 31, 2019:

Goal 3: Veterans trust VA to be consistently accountable and transparent.

Goal 4: VA will transform business operations by modernizing systems and focusing resources or efficiently to be competitive and to provide world-class customer service to Veterans and its employees.

### **References:**

- GAO Report 15-464
- ACDC 2012, 2014, 2016, 2018 Biennial Reports

### **Discussion:**

In its 2012, 2014, 2016 and 2018 Biennial Reports, the Committee urged the VA to carry out a study of the TDIU program. The Reports recommended assessment of several aspects of the TDIU program which may have led to substantial increases in the use of TDIU. Large increases may be a warning sign of excessive use of TDIU, potentially undermining confidence in it as a sound and reasonable solution to unique disability profiles. It most certainly indicates potential problems with current rating criteria. The aspects for which review was requested in prior Biennial reports include providing clarity and consistency in TDIU determinations, addressing lack of vocational assessments for new applicants, and studying whether age should be a factor in determining TDIU eligibility. Many of these recommendations were echoed in a GAO review of the TDIU program (GAO Report 15-464). The GAO also noted several options for revising TDIU eligibility requirements. In this Committee's 2018 Report, we recommended that the VA complete a study of TDIU issues noted in prior Committee Biennial Reports. The VA response concurred in principle with that recommendation and noted that the VBA completed an internal study of TDIU in 2017. The VA also noted that the Report was under review by VBA leadership to assess courses of action for modernizing the TDIU program. The Committee has not seen the 2017 internal report, its findings, nor actions taken or under consideration to modernize TDIU.

### **Recommendation 2.1: Complete the Analysis Started in 2017**

Disseminate a summary of the methods and results of the 2017 study and VA plans to revise the TDIU program based on the study results and the 2015 GAO review.

### **Response to recommendation 2.1: Concur in principle.**

In March 2016, VBA initiated a cost-neutral internal study of the TDIU benefit. The scope of the study included, but was not limited to, consideration of age and vocational assessments. The workgroup was focused on merging data sets from VBA administrative data, the Census Bureau, and VHA. The workgroup also developed an Inter-Rater Variability Study (IRVA) to examine the disparity in rating

decisions involving entitlement to both TDIU and service connection. The target completion date was September 2017. VBA is reviewing the study and results from the IRVA as part of the overall TDIU modernization effort. If these documents are utilized in rulemaking on TDIU, they will be released to the public as part of that process. Until such time, these documents remain internal deliberative drafts.

**Recommendation 2.2: Comprehensively Assess the Impact of TDIU determinations for:**

- the additive sum of disability ratings for multiple service-connected disabilities is equal to or exceeds 100, recognizing that the multiplicative total in the current system can only reach 100 if a single condition is given a 100% rating;
- the impact when a service-related mental health disability has been assigned, both with and without other disabilities; and
- the incidence of TDIU award where the Veteran has/had one or more concurrent or prior denials of a disability claim for a condition occurred, both with and without an appeal filed by the veteran.

**Recommendation 2.3: Define the Goal of TDIU Redesign**

Determine the merits of continuing, discontinuing, or pro-rating TDIU after retirement age, assess the extent to which TDIU recipients have lower eligibility rates for social security payments, and lower monthly social security income payments if eligible, due to reduced life-time earnings prior to full retirement age.

**Recommendation 2.4: Quantitatively Define the Impact of TDIU**

Incorporate into the review and updating process for each body system and the VASRD generally a specific focused analysis of the impact of TDIU on each body system to include:

- Percent of beneficiaries by body system, where that body system is the most highly evaluated system, in receipt of payments at the 100 percent rate based on a reliance on TDIU rather than a schedular 100 percent evaluation.
- Where the reliance on TDIU rather than a schedular evaluation exceeds a threshold set by VA, an analysis of the cause(s) for this reliance should be conducted to either validate the rating criteria being used or design modifications to the rating criteria. These situations should be formally identified and documented. If the rating criteria are determined to be adequate to properly evaluate Veterans under a body system, VA should identify and conduct targeted training of staff to assure the proper evaluation is being assigned. If the rating criteria are found inadequate, the analysis of this finding, the options for addressing it, and the decision on how to proceed should be clearly documents and archived.
- When TDIU is applied for and/or awarded, in-person outreach to the Veteran should be conducted to assess the feasibility and options available to the Veteran to engage in training and/or accommodation to

enable successful reintegration into the workforce through whatever avenue best suits the Veteran.

### **Recommendation 2.5: Program of Accountability**

To maintain confidence in TDIU as a sound and reasonable solution to unique disability profiles, establish a program of accountability to assure that Veterans who receive TDIU payments have met all eligibility criteria.

### **VA Responses to recommendations 2.2 through 2.5:** Concur in principle

VBA shares the Committee's desire to ensure that potential changes to TDIU are examined in a comprehensive way. Moreover, VA shares the desire to ensure that TDIU is appropriately awarded. Currently, VBA is reviewing and analyzing TDIU for future modernization efforts that may address the above recommendations. Among these efforts, VBA is considering possible improvements thought either regulatory or legislative changes.

### **Issue 3: TRANSPARENCY**

#### **Secretary's Priority Issue:**

These recommendations address SECVA's Priorities Modernize Systems, Greater Choice, Efficiency, Improve Timeliness

#### **References:**

- ACDC 2012, 2014, 2016 Biennial Reports

#### **Discussion:**

In 2020, VBA took two actions that give the appearance of reducing transparency:

First, VBA removed the public facing DBQs from VA's website.

VBA justified the removal of DBQs on multiple grounds. It stated that the costs and administrative burden of maintaining the public facing DBQs necessitated by the Administrative Procedures Act out-weighed the benefit to the Department because of the limited number of acceptable DBQs that were received. Additionally, VA indicated that it had increased its capacity to conduct C&P exams. VA also believes that it is safeguarding Veterans and the Department from fraud. VA explained that Veterans are often paying for DBQs to be completed by doctors, some of whom reside in the Caribbean, who clearly are unlikely to be the Veteran's treating physician, and at best may have only had a phone conversation with the Veteran. VA believes Veterans are being targeted by fraudulent organizations producing both inadequate and, in some cases, fraudulent disability reports at significant

variance with their known medical condition. This has necessitated that VA conduct its own examinations. VA states that it has referred multiple cases, we were told in the hundreds to thousands, to the Office of the Inspector General. The need for transparency remains. For example, VA could, at the minimum, develop an information fact sheet, not a form, or standardized paragraphs to be included in standard development letters explaining in general terms the factors VA uses to evaluate disabilities for specific body systems. Likewise, if VA were to allow private clinicians to complete DBQs, VA may be able to write a rule that they can only be completed by treating clinicians, (i.e. primary care providers and specialists who had been referred by the prior care clinician). Ultimately however, the fact remains that the VASRD is in the public domain readily available on the internet for anyone who wishes to commit fraud. As one Committee member said to VA during the briefing, *“If you had better explained the issue it might not have landed with quite such a thud.”*

To be clear, the Committee fully understands and supports the Department’s justifiable concerns with respect to potential fraud and believes that such cases should be investigated and prosecuted both at the organizational and the clinician level where fraud is found.

Second, VBA changed its Adjudication Procedures Manual to remove the ability from accredited Veterans Service Organizations (VSOs) to review rating decisions prior to promulgation.

VBA justified removing VSO ability to review rating decisions prior to promulgation stating removing the review period both allows VBA to issue rating decisions faster and to mitigate a lawsuit from accredited attorneys who had not been given the same opportunity to review rating decisions for their clients. While the issue of potential lawsuits is not without merit, it seems the solution is both draconian and lacking in creativity. A better course would be to offer the same electronic review by attorneys and agents. Surely, there must be a way to send copies to attorneys electronically in a secure manner, even if that were to place them on a secure website that attorneys and agents would have permissions to access similar to how VA currently transmits requests for and receives results of contract examinations.

Both issues result in a potential lack of government transparency as these actions potentially deny the Veteran the ability to submit high quality focused treatment reports from their treating clinicians, at the minimum, inform treating clinicians of VA’s specific needs. In the case of representative pre-promulgation review, the lack of review can result in VA issuing erroneous decisions which then need to be corrected through VBA’s appeal system.

### **Recommendation 3.1: Public-Facing DBQs – Conduct a Study**

VA should conduct a study utilizing a mix of quantitative and qualitative methods in determining the accuracy, timeliness and efficiency of allowing Veterans to use public facing DBQs. Using the entire population of previously submitted private DBQs, the study should to the extent possible identify:

- a. The approximate frequency of fraud
- b. Characteristics of possible fraud submissions
- c. Potential dollar amounts of potential fraud
- d. Potential remediations
- e. Alternative mechanisms for Veterans to be able to focus of the responses of their treating clinicians to those areas most relevant to VA decision making.
- f. Cost/benefit analysis of continuing, even with modification, some form of private clinician medical information submission

It is important to be clear. VA has assured the Committee that “Veterans can always submit private medical evidence which VA will consider in its decision making.” The point is to minimize the extent to which this becomes a pointless gesture. Unless VA provides private treating clinicians with basic guidance increasing the potential for receipt of useable information, VA will continue to expend significant resources on examinations that could be avoided.

**VA Response to recommendation 3.1:** Non-concur

VBA agrees the above described study could be beneficial, but notes that it would only further support the business decision to discontinue the DBQs as they represent a significant risk to Veterans, taxpayers and the integrity of the disability rating process while providing little actual benefit to veterans. Also, VBA already has a robust body of research and operational experience supporting its policy choice. While VBA certainly appreciates the Committee’s recommendation to further study public DBQs, it does not have the resources necessary to support the Committee’s recommendation given its many other priorities and the overwhelming existing justification for the policy.

**Recommendation 3.2: Modernize the DBQ Update Process**

VA should consider giving private treating providers the ability, given the Veteran’s authorization, to upload their findings to VA in a manner like that utilized by VBA to receive contract examination results from non-VHA sources or VHA to receive treatment reports from private clinicians they pay under existing law.

**VA Response to recommendation 3.2:** Non-concur

Following careful deliberation, VA decided to discontinue the use of public DBQs on April 6, 2020. Prior to their discontinuance, public DBQs accounted for only a small percentage (approximately 2.5 percent) of the total number of examinations received. Many of the 2.5 percent were not ratable by VA due to being outdated or

completed with questionable business practices. Modernizing the DBQ update process would first require VA to reinstitute public DBQs, as well as develop new Information Technology (IT) solutions to establish a secure portal, which would allow private treatment providers to upload their findings securely to VA at the minimum. The IT costs associated with such an effort would prove to be cost prohibitive. VA does not intend to reinstitute public DBQs currently. It is also important to note that FY 2021 IT priorities have already been appropriated and VA does not have the resources necessary to support the Committee's recommendation to modernize the DBQ update process for the small number of private providers that might use it.

### **Recommendation 3.3: Restore POA Pre-promulgation Rating Review**

Since the law permits Veterans to be represented by a Service Organization, private attorney, agent, or pursue their claims *pro se*, the Committee believes the VA has erred. VA should create a standard pre-promulgation electronic review process. This review process should be limited in time and should include the following characteristics:

- a. Allow the representative to point out what she/he believes to be errors in the decision;
- b. Not permit the submission of new evidence or a new claim, there is a regulatorily established reopened claim process for that;
- c. Not be construed as an appeal since no decision has been made yet; and
- d. Not convey additional rights or entitlements.

### **VA Response to recommendation 3.3: Non-concur**

VA has historically allowed a 48-hour period for VSOs to review draft rating decisions for potential errors prior to final issuance. This practice originated at a time when files were paper-based, VSO offices were adjacent to the regional office making the determination, and the governing appeals system did not provide a mechanism for swift error correction. It has never been an enforceable right of VSOs or codified in regulation.

After much deliberation, VA determined that the 48-hour review practice was no longer appropriate and ended the practice on April 27, 2020 for several important reasons that include, but are not limited to:

- VA's transition from a paper claims process to a modern, electronic environment
- Increases in access for VSOs and other accredited representatives to Veterans Benefits Administration systems, that contain the entire electronic record (paid for by VA)
- VA's responsibility to decide claims efficiently, without any delays, and
- Improved avenues for swift claims review under the new Veterans Appeal Improvement and Modernization Act, which provide representatives and



Veterans with the proper recourse for claims clarification, correction, and appeal processes.

In addition, the former 48-hour review period only applies to VSOs and not all accredited representatives, which include attorneys and claim-agents. This may create representational inequities, and VA strives to ensure that its practices do not create such results. A legal issue also arises from providing a 48-hour review opportunity to attorneys, as attorneys are subject to rules of professional conduct that may require conveying the contents of any draft decision they receive to their client. See, e.g., Model R. Professional Conduct 1.4(a)(3). Under current precedent, when a draft decision is obtained by a claimant, that draft immediately becomes a final decision. *Sellers v. Shinseki*, 25 Vet. App. 265, 279 (2012). If the draft becomes a final decision on receipt, that would defeat the purpose of reviewing decisions before they are final. Also, since there are a significant number of accredited individuals, VA currently lacks the resources to create and administer additional electronic access for all VA accredited individuals since information technology enhancements must be prioritized and there is a limited available budget.

As VA continues to modernize its claims processes by providing faster delivery of benefits and issuing quality decisions, outdated processes (such as the 48-hour review) are simply not needed for the reasons discussed.

#### **Issue 4: NATIONAL GUARD AND RESERVE ACCESS**

##### **Secretary's Priority Issue:**

These recommendations address SECVA's Priority Communication to Veterans as well as Goals 3 and 4 from the VA 2018-2224 Strategic Plan as refreshed on May 31, 2019:

Goal 3: Veterans trust VA to be consistently accountable and transparent

Goal 4: VA will transform business operations by modernizing systems and focusing resources to be competitive and to provide world-class customer service to Veterans and its employees.

##### **References:**

- ACDC 2012, 2014, 2016 and 2018 Biennial Reports

##### **Discussion:**

The Committee has carefully monitored the ability of the National Guard (Army and Air), and the Reserve Forces (Army, Air, Navy, Marine Corps, and Coast Guard) to be aware of and access VA programs and benefits. In today's world the 725,000 Guard and Reserve soldiers, sailors, airmen, marines and coast guardsmen are an integral and often used part of the overall national defense strategy.

Issues affecting Guard and Reserve military personnel have been a focal point of this Committee since it was established with recommendations in every report. This biennial report will be no different. The challenges Reserve and Guard Service members face when activated and when demobilized are significantly different from those of active component Service members. These challenges include the following:

- Frequently members are activated individually either due to their military skills or to fill vacancies in units being activated;
- Air Guard and Reserve personnel are frequently activated under VA qualifying Title 10 provisions for less than 30 days;
- Guard and Reserve units frequently function as augmentations to active component units creating only temporary command and control relationships;
- The incorporation of treatment records and other documentation of assignments, exposures and incidents into Service members' permanent military treatment and personnel files have been chronically plagued with delays and loss;
- Demobilization is rapid, normally not allowing for standard TAP and similar briefings required for active component personnel;
- Retirement from active duty qualifies the Service member for a Separation History and Examination (SHPE) or a Separation Health Assessment (SHA). This is not true for Reserve and Guard retirees (unless they come directly off an Active Duty Deployment) even though they many have served for 20-30 years with multiple deployments;
- Home station briefings about potential VA benefits are not routinely done;
- On-line information for Guard and Reserve personnel is limited and is frequently presented in a way that may not be sufficiently informative for members who are not already familiar with VA.

This Committee remains committed to equity of treatment for all military personnel. In our 2018 Biennial Report, the Committee reported that the Department of Defense (DoD) Reserve Medical Programs and Policy Office was working to change the guidelines so that Contingency Operation service would trigger a DD214. We continue to be unaware of any action on this effort since December 2016. In the 2018 Biennial Report this Committee made two recommendations, one of which was "Concurred in Principle" and the other of which VA "Non-concurred." For the reasons stated below, the Committee again makes the same two recommendations.

**Recommendation 4.1: Establish a VA/DoD Task Force to Implement SHPE/SHA for Guard and Reserve Members**

As we indicated in our 2018 Report, the Committee continues to believe that the Guard and Reserve represent an **underserved population** of Veterans in terms of VA, DoD, and Department of Homeland Security programs documenting service-connected disabilities, member education, and assistance with filing for compensation and other entitled benefits. Although the Committee has received

updates, we have not seen any data to document that Guard and Reserve members are included in the SHPE/SHA protocols. In its response to the 2018 recommendation, the Department stated that only certain separating Guard and Reserve members are eligible for disability compensation. The Department indicates SHAs conducted by VA are limited to those Servicemembers demobilizing who have 90-180 days remaining on active duty prior to transition. VA indicated that its compensation eligibility requirements do not preclude DoD from conducting a VA equivalent SHA for all separating Guard and Reserve members as required by law. The SHA Initiative is reported to be a VA/DoD Joint Strategic Plan priority. However, as of the end of first quarter 2019 only 30 percent of Guardsmen and 40 percent of Reservists were receiving this examination.

The Committee believes that universal SHA for all Guard and Reserve personnel when demobilizing and, if applicable, retiring is the only fair treatment for these military men and women. This is true for multiple reasons. Factually, VA's requirement that Guard and Reserve members have 90-180 days remaining before demobilization means that ***virtually no member of the Guard or Reserve*** will be provided an SHA unless they are going through the Physical Evaluation Board process, in which cases, the issue of SHA is moot anyway. Additionally, evidence of exposure or other in-service event becomes critical to Veterans who apply for benefits years after their service either because of worsening of the condition or the creation of a presumption.

**VA Response to recommendation 4.1:** Concur in principle

VA continues to partner with DoD to improve the separation process and benefits delivery for transitioning Service members, to include Reserve and Guard personnel. One of the joint efforts underway is the consolidation of the SHPE and SHA to create OneSHA, a common assessment protocol. OneSHA will be completed by either DoD or VA and will fulfill military separation requirements while also determining VA disability compensation. This universal assessment is beneficial in that all Service members will receive the assessment, which means Guard and Reserve personnel who are unable to meet the timeline to file a Benefits Delivery at Discharge claim, will still have the same assessment conducted, which will serve as a baseline for future benefits.

VA does not believe a separate VA/DoD Task Force is warranted for this area as the existing OneSHA initiative and the Military to Civilian Readiness Pathway Framework will encompass Guard and Reserve personnel as intended by the recommendation.

**Recommendation 4.2:** Institute VA TAP or TAP-like briefings for all Guard and Reserve Members, During Their Service, at Separation from the Reserve Components and, When Applicable, at Retirement

## **Discussion:**

Instituting VA TAP or Tap-like briefings have been highlighted in our previous reports. The actual number of members receiving such briefings remains controversial. It is reasonable to assume the statistics for Guard and Reserve members receiving SHAs, (30 percent for Guard and 40 percent for Reserve) mentioned in recommendation 4-1 above for first quarter FY 2019 are an outer limit of the numbers receiving briefings. Therefore, the Committee believes significant work remains to be done to educate all military personnel regardless of their status. Information the Committee receive in 2020 of the number of briefing provided to reserve component members in 2019 demonstrates that such briefings are few and highly geographically dependent.

VA's response to the Committee's recommendation in 2020 referred to course redesigns in 2016 and 2018. It also contained a recognition that outreach goes beyond immediate separation indicating "...VA is poised..." The response, absent specifics, is aspirational without clear and concrete evidence of implementation or impact.

Information provided since the report points to a now required one day course for all transitioning and retiring Guard and Reserve personnel as well as Military Life Cycle modules, VA Solid Start Program and OTED Economic Investment Initiatives. In a report provided to the Committee dated May 29, 2020, VA reported for the period February 2019 – March 31, 2020, a total of 212 VA Benefits and Services Events at Reserve Component Installations. However, all but 28 of those 212 events occurred at Ft. Bliss and FT. Hood. Of the remaining 28 events, 17 appear to have been delivered to various Air Guard units with the remaining 11 being what appear to be a mix of Guard and Reserve Army.

## **VA Response to recommendation 4.2:** Non-concur

VA shares your concern for members of the Reserve Components, and we recognize that their needs are different from the needs of active duty members separating from service. VA coordinates with its interagency partners, including DoD and Department of Labor (DOL), to deliver the Transition Assistance Program (TAP) in accordance with title 10, U.S.C. Under this Title, only those members of the Reserve Components who have served on continuous Title 10 active-duty orders of 180 days or longer are required to participate in TAP; National Guard members serving in accordance with title 32, U.S.C., are not.

VA is committed to helping members of the Reserve Components achieve a smooth and successful transition to civilian life. We continue to coordinate with DoD to ensure that members of the Reserve Components who are required and/or eligible to participate in TAP do so, and we collect information from DoD about their TAP experience in the same manner as active-duty Service members. VA Benefits and Services events are scheduled by DoD's TAP managers and coordinated by each installation. Fort Bliss (Demobilization) and Fort Hood (North) serve as the main

demobilization sites for members of the Reserve Component, which is why the majority of VA Benefits and Services events at Reserve Component installations occur at those sites. Other Reserve Component installations may request TAP briefings, and we remain ready to deliver briefings should a request be made. Worth mentioning as well is that members of the Reserve Component are able to attend TAP at non-Reserve Component installations, and all of VA's content that is available to active duty members is also available online at TAPevents.org for members of the Reserve Component.

In March as a result of the Coronavirus pandemic (COVID-19), VA Benefits Advisors are also available to provide One-On-One Assistance sessions to members of the Reserve Component via phone or email to answer questions, explain benefits, and connect transitioning Service members with local support. VA Benefits Advisors are available worldwide, Monday – Friday, from 0730-1630 local time.

VA continues to enhance the VA Benefits and Services course to better serve members of the Reserve Component. It now includes more information about how members of the Reserve Component may establish eligibility for VA benefits and what those benefits are; highlights Reserve Component-specific separation documents; and includes visuals, real-life examples, and websites tailored to members of the Reserve Component.

In October 2019, VA launched an updated VA Benefits and Services course tailored to the members of the Reserve Component. The updated course ensures all relevant topics are tailored to address the specific needs and eligibility requirements of the Reserve Component, and to provide helpful web resources, craft facilitator's tips on how to interact with participants and adjust language and content based on the Reserve Component audience composition.

Specific examples from the course curriculum include, but are not limited to:

1. Members of the Reserve Component may establish eligibility for certain VA benefits by performing full-time duty under either **Title 32** or **Title 10**.
  - a. Generally, all members of the Reserve Component discharged or released under conditions that are not dishonorable are eligible for some VA benefits.
  - b. The length of your service, service commitment, and your duty status may determine your eligibility for specific benefits.
2. Separation documents specific to Reserve Component members include:
  - a. Army or Air National Guard members are issued one of the following forms upon separation as proof of service: NGB Form 22, Report of Separation and Record of Service; or NGB Form 23, Retirement Points Accounting.
  - b. The Reserve Components **do not** use any single form similar to DD Form 214.

- c. A **Veteran ID Card** is a form of photo ID available to all Veterans including those who served in the Reserve Component and received an honorable or general discharge (under honorable conditions).
3. The SGLI to VGLI key conversion timeframes is specifically tailored to the **Individual Ready Reserve** (vs. Active-Duty Military).
4. The course provides **Reserve Component-specific eligibility requirements** for the following benefits:
  - a. Disability compensation
  - b. Service members' Group Life Insurance
  - c. Family Servicemembers' Group Life Insurance
  - d. Veterans' Group Life Insurance
  - e. SGLI Traumatic Injury Protection
  - f. VA burial benefits
  - g. Fry Scholarship
  - h. Education Benefits: including Montgomery GI Bill Active Duty and Selected Reserve; and Post-9/11 GI Bill
  - i. Veterans Readiness and Employment program
  - j. Home Loan Guarantee program
  - k. BeThere program
  - l. Vet Centers
  - m. Mental Health resources
  - n. VA Health Care
  - o. Applying for VA Health Care

## **Issue 5: AN ABILITIES APPROACH TO INDEPENDENCE**

### **Secretary's Priority Issue:**

This Recommendation addresses SECVA's Priorities of Customer Service and Transforming Business Systems as well as all 4 of the Strategic Goals outlined in the VA 2018-2024 Strategic Plan as Refreshed on May 31, 2019:

Goal 1: Veterans choose VA for easy access, greater choices and clear information to make decisions

Goal 2: Veterans receive highly reliable and integrated care and support and excellent customer service that emphasizes their well-being and independence throughout their life journey

Goal 3: Veterans trust VA to be consistently accountable and Transparent

Goal 4: VA will transform business operations by modernizing systems and focusing resources efficiently to be

competitive and to provide world-class customer service to Veterans and its employees

**References:**

- The Omar Bradley Commission – 1956
- The Dole Shalala Commission – July 2007
- A 21<sup>st</sup> Century System for Evaluating Veterans for Disability Benefits, The Institute of Medicine – 2007
- Honoring the Call to Duty, Veterans' Disability Benefits in the 21<sup>st</sup> Century, Veterans' Disability Benefits Commission – October 2007
- Exploring the Economic & Employment challenges Facing U.S. Veterans: A Qualitative Study of Volunteers of America Service Providers & Veteran Clients, USC School of Social Work, Center for Innovation and Research on Veterans and Military Families – May 2015
- Secretary Shulkin's address to the National Press Club – November 6, 2017
- GAO Reports 15-464 and 20-26

**Background:**

America's commitment to support those who served to defend the nation and incurred disease or injury in that service has been maintained since the earliest colonial times through the present day. The array of medical, educational, training, and disabilities benefits has evolved over more than 300 years in breath, comprehensiveness, cost, and unintended consequences. Additionally, VA has seen that when multiple agencies share some of the same populations, disabilities decisions made by one agency, based on its protocols, evaluation criteria and legislative intent, become nearly universally binding on other agencies sharing the common population. While this phenomenon may not be found in statute, it is certainly true in its application based on in-house appellant procedures and precedent court decisions.

In this milieu, VA, specifically charged by statute to be the Veteran's advocate, is too often seen as at best a gatekeeper and at worse the Veteran's adversary. The result is almost never satisfaction for all involved. At worst, its disincentivizes reintegration, active participation in the American economy, and personal and family success.

The Committee would like to make clear the intent of the following recommendation is not to minimize the real hardships Veterans experience due to their disabilities nor to limit or lower benefit payments. Rather, the recommendation seeks three objectives:

- To enable VA leadership to know, understand and defend on a firsthand basis using data specifically gathered for VA's needs the impact of disease and/or injury on a Veteran's life course and economic success.

- To foster a primary focus on reintegration and success to the maximum extent possible for all disabled Veterans.
- To assure that whatever impact disease or injury may have on a Veteran, he or she knows that VA always has their back with a general and reliable benefit framework.

### **Recommendation 5.1: Formally Include Capabilities into VA's Program Design**

The Committee believes that it is in the best interest of Veterans, their families, and the nation, that the goal should be to maximize independence and, where possible, employment at whatever level possible.

The Department should leverage its vast multi-disciplinary capabilities, partnering with other Federal and state agencies, institutions of higher learning, vocational and community colleges, Veterans, stakeholders and advocates to systematically research and understand:

- How various compensable disabilities and commonly recurring combinations of disabilities **impact and/or limit** performance capacity in the range of career opportunities Veterans may have;
- Quantify and understand the **capabilities** of Veterans with disabilities based on severity, age, education, prior work experience and other factors and how those capabilities can be leveraged to attain and maintain a prosperous employment experience;
- Catalog and understand on an on-going basis the opportunities and limitations that exist in the marketplace in terms of assistive devices, alternative work sites, telecommuting and other current and developing modalities.

Utilizing the information gained from this effort, the Department should develop a "fear free" environment to encourage and sustain successful participation in America's economy by disabled Veterans.

### **VA Response to recommendation 5.1: Concur in principle**

Within VBA, we have several programs to support Veterans in preparing for, obtaining, and maintaining productive employment. We provide education benefits to ensure Veterans have the skills and credentials to compete in the job market, we offer outreach and personalized career counseling to ensure they have the support and guidance to select their education and career paths, we provide military-to-civilian transition support, and we provide direct skills provision and readiness for jobs within VA.



VR&E provides all services and assistance necessary to support eligible Veterans with disabilities to prepare for, obtain, and maintain employment. This can include education, training, employment accommodations, resumé development, and job-seeking skills coaching. VR&E may also assist eligible Veterans with starting their own business.

Additionally, the Military to Civilian Readiness Pathway (M2C Ready) was approved in September 2019 by the Joint Executive Committee. M2C Ready serves as the overarching transition framework for all Service members as they ease from the military into civilian life. The M2C Ready framework establishes the transition period that begins 365 days prior to separation and extends 365 days post-separation. The Office of Transition and Economic Development (OTED) is responsible for implementing M2C Ready on behalf of VA and for aligning all the various components of transition so that they are complementary to current programs and provides a more defined exit pathway from military service. The program ensures that Service members and Veterans are (1) informed and educated about all VA benefits and services they are eligible for, (2) that they are equipped with the tools they need to succeed and reintegrate into their communities, and (3) that they achieve sustainable economic well-being.

For example, the VA Solid Start program (VASS), which VBA launched in December 2019, provides early and consistent contact through one-on-one interactions at three key stages (0–90, 90–180, 180–365 days post-transition) during the first year of transition to civilian life. The program provides Veterans with an opportunity to discuss their transition experience with a trained VA representative and guides them through understanding and using benefits and resources earned through service, including health care, mental health, education, life insurance, vocational rehabilitation and career planning. VBA leverages information provided by our DOL partner to tailor VASS content and scripts to address employment-related challenges and provide referral options. In addition, agents received training to proactively recognize when to utilize the employment-related script based on their conversations with Veterans. In partnership with State Veterans Affairs Offices, VASS representatives are also able to refer Veterans to state-specific programs and services.

Below is a list of education and career benefits highly trained VA representatives are prepared to discuss with recently separated Veterans, to include those with disabilities:

- Personalized Career and Planning and Guidance
- Post-9/11 GI Bill
- Montgomery GI Bill
- On Campus Support
- VA Work-Study
- On-the-Job Training and Apprenticeships
- Veteran Employment through Technology
- Vocational Rehabilitation and Employment (VR&E)

- Veteran Employment Services Office
- VA Employment Opportunities

## **Issue 6: CENTER OF EXCELLENCE TO UNDERSTAND AND ANTICIPATE VETERAN NEEDS**

### **Secretary's Priority Issue:**

This Recommendation addresses SECVA's Priorities of Customer Service and Transforming Business Systems as well as all 4 of the Strategic Goals outlined in the VA 2018-2024 Strategic Plan as Refreshed on May 31, 2019:

Goal 1: Veterans choose VA for easy access, greater choices and clear information to make decisions

Goal 2: Veterans receive highly reliable and integrated care and support and excellent customer service that emphasizes their well-being and independence throughout their life journey

Goal 3: Veterans trust VA to be consistently accountable and Transparent

Goal 4: VA will transform business operations by modernizing systems and focusing resources efficiently to be competitive and to provide world-class customer service to Veterans and its employees

### **References:**

- Secretary Shulkin's address to the National Press Club – November 6, 2017
- GAO Reports 15-464 and 20-26

### **Background:**

The Department currently expends significant effort in a variety of data collection efforts through the VHA Office of Research & Development (ORD) focused on addressing specific areas of interest and/or concern. These efforts tend to be associated more with healthcare issues and less with benefits issues. These efforts, while extremely valuable, are not always integrated into a wholistic worldview of Veteran and survivor issues. While VHA has a culture of research, such a culture is less robust in VBA. The methodologies proven and used by VHA address many of the problems confronting VBA.

VBA relies almost exclusively on data from other Departments and Agencies collected for their specific purposes to draw inferences for Veteran specific decision-making. Even the Census, which has a Veteran specific question or series of

questions, only seeks to identify which respondents are Veterans. These VA specific questions are only included in a limited number of Census questionnaires. We have also been briefed that, when attempting to do economic analysis VBA must rely on “composite” populations since having the same Veteran included longitudinally in survey data done by other agencies is rare.

The Committee believes that the impact of the Department on society in terms of the number of Veterans, military personnel and families served; the complexity of the medical, reintegration and employment issues dealt with, and the residual costs of war represented by the VA budget makes the lack of such a comprehensive in-house capacity difficult to understand.

### **Recommendation 6.1: Create a Military and Veteran Center of Excellence**

The Committee recommends that the Department build an institutional Knowledge Center of Excellence for Military and Veterans Issues. The mission of the Center should be to provide the Secretary and other senior decision makers with original data-driven information on the impact of physical and/or mental impairments on earnings capacity, reintegration strategies, the expected progression of disability, life-stage needs, race and ethnicity, housing, education, suicide prevention, incarceration avoidance and multiple other issues and areas of interest in addition to the obvious clinical aspects. This will enable the Secretary to make critical strategic healthcare and benefit decisions based on Veteran-centric data rather than through inference from data collected by other agencies for other purposes.

Such a framework is envisioned as an on-going entity that would complement existing health research expertise within VA by collecting data and conducting analyses to inform the broader spectrum of Veterans’ issues and benefits. The Center may partner with and/or leverage existing studies such as the Million Veteran Study, the VA-HEROES Study and the Vietnam Mortality Study. Consideration should also be given to partnering with one or more universities. The Committee suggests that the *Centre for Australian Military and Veteran Health* at the University of Queensland in Brisbane, Australia and/or the *Center for Innovation and Research on Veterans & Military Families* of the University of Southern California School of Social Work are potential models.

### **VA Response to recommendation 6.1:** Concur in principle

VBA sees potential for this idea but would need to study the viability more deeply prior to committing resources. The establishment of the Knowledge Center to facilitate/expedite the collection of benefits related information could accelerate the efforts VBA is undertaking as part of the Departments’ Learning Agenda and Evaluation Plans, in accordance with OMB Circular A-11, Part 290; however VBA is not currently resourced (i.e. budget, FTE, etc.) to support that initiative. VBA recommends that the Office of Enterprise Integration, who has Department-wide oversight for Evidence Based Policymaking be consulted for additional comment (if they haven’t been consulted previously).