REPORT OF THE ADVISORY COMMITTEE ON DISABILITY COMPENSATION

2022 BIENNIAL REPORT

DEPARTMENT OF VETERANS AFFAIRS
Advisory Committee on Disability Compensation

October 31, 2022

Honorable Denis McDonough
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, 2022.

The Committee has held seven (7) 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,

Evelyn Lewis, M.D., MA, FAAFP, DABDA
Chair, Advisory Committee on
Disability Compensation

Enclosures:
Biennial Report dated 31 October 2022
Committee Charter
Brief Biographies of Current Committee Members
Previous Reports:
Biennial Report dated 31 October 2020 with VA Responses
Biennial Report dated 31 October 2018 with VA Responses
Biennial Report dates 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
Biennial Report Recommendations
Advisory Committee on Disability Compensation
March 2024

Subject:

2022 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 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 (Secretary), 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, 2022. Previous Biennial Reports were submitted on October 31, 2020; 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 enclosed.

Committee Organization and Reconstitution:

The Committee was originally organized in fiscal year (FY) 2009 with 11 members appointed to terms ending October 31, 2011, and October 31, 2012. The Committee was reconstituted in FY 2013, with 12 members to terms ending October 31, 2013, October 31, 2014, and October 31, 2015. The Committee was then reconstituted in FY 2015, with 12 members to terms ending October 31, 2015; May 31, 2017, and October 31, 2017. The Committee was reconstituted in FY 2016, with 12 members to terms ending May 31, 2017, October 31, 2017, and October 31, 2018. The Committee was reconstituted in FY 2019, with 12 members to terms ending December 31, 2020. In FY 2020 the Committee added 1 member to a term ending December 31, 2021. The Committee was reconstituted in FY 2021, with 13 members appointed to terms ending December 31, 2021, and December 31, 2022. A membership package was created and submitted to VA leadership to continue 1 existing member's term to December 31, 2023, and continue 7 existing members to terms ending December 31, 2024. The reappointment of these members is pending.

Committee Meetings:

During the period covered by this report, the Committee conducted seven meetings held in a virtual environment due to the onset of the coronavirus disease 2019 (COVID-19) pandemic. The first meeting, held for two days on December 1 and 2, 2020, was held both telephonically on a Veterans Affairs National Telecommunications System (VANTS) line for the public to listen and via Cisco WebEx to provide viewing of the proceedings. The VANTS system was decommissioned on May 31, 2021, and replaced by Cisco WebEx and Microsoft Teams (MS) meeting platform applications. The next two meetings were held entirely via Cisco WebEx on June 22 and 23, 2021, and November 9, 2021. Subsequent meetings held on March 15, 2022; April 26 and 27, 2022; May 31 and June 1, 2022; and September 20 and 21, 2022 were all held utilizing the MS Teams meeting platform for both telephonic and visual attendance. 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 five to eight individuals in attendance), the remote meetings have drawn significantly larger participation by the public.

Current Members of the Committee:

Evelyn Lewis, Acting Chair; Bradley Hazell; Joyce Johnson; Michael Maciosek; James Lorraine; Frank LoGalbo; Steven Wolf; John Shaver; Eloisa Tamez; Kimberly Adams; and Thomas "Patt" Maney. Brief biographies of the current members are enclosed. The Committee Designated Federal Officers (DFO), as of this report, are Ms. Sian Roussel and Ms. Claire Starke.

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 ACDC, as set forth in the Charter, is to advise the Secretary with respect to the maintenance and periodic readjustment of the VASRD. The formal Program Management Plan (PMP), to revise the VASRD is dated October 2009, with a timeline for final rules to be published in 2016. This represented the first comprehensive revision of the 14 body systems in 73 years. Earnings and Loss Studies were to focus on VA's Disability Compensation Program to modernize the VASRD. At the time, the Committee concurred that the Management Plan, if executed as presented, would meet the requirement; however, in addition to the major setback to the scheduled plan by the decision to start over on the review of the mental-disorders body system, other delays continue to significantly impact the PMP revision, which was revised to a new completion date of 2020. In 2018, a major reset of the program was conducted associated with the development of a formal Project Management Office.

The revised date of completion was 2022. While the Committee applauds the Department for instituting a formal, project-management process, as we indicate in this report, the end of FY 2022 completion was achievable only if leadership at the most senior levels of the Department exercised strict and decisive management of the within-VA concurrence processes.

Total Disability Based on Individual Unemployability (TDIU):

Discussion:

ACDC was tasked in the January 6, 2014, VA Response to the Committee's 2012 Biennial Report; to conduct a study of the issue of TDIU and make recommendations based on earnings-and-loss studies. 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 now engaged contractors for a more robust study which has not been completed. Analysis is still pending access to databases from other Federal agencies. The Committee remains concerned about the approach being taken as is discussed in the TDIU Issue below.

SUBJECT: 2022 BIENNIAL REPORT TO THE SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

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

Secretary's Strategic Goals:

The following recommendations address three of the four Strategic Goals as noted in the *2022–2028 Veterans Affairs Strategic Plan*:

- VA will consistently communicate with customers and partners to assess and maximize performance, evaluate needs, and build long-term relationships and trust.

- VA will deliver timely, accessible, and high-quality benefits, care, and services to meet the unique needs of Veterans and all eligible beneficiaries.

- VA will build and maintain trust with stakeholders through proven stewardship, transparency, and accountability.

References:

- ACDC 2012, 2014, 2016, 2018, 2020 Biennial Reports
- eCFR: 38 C.F.R. § 4.118 -- Schedule of ratings – skin
- https://www.eCFR.gov/current/title-38/chapter-I/part-4/subpart-B/subject-group-eCFRf82e301cdb0c0e7/section-4.118
- eCFR: 38 C.F.R. § 3.307 -- Presumptive service connection for chronic, tropical, or prisoner-of-war related disease, disease associated with exposure to certain herbicide agents, or disease associated with exposure to contaminants in the water supply at Camp Lejeune; wartime and service on or after January 1, 1947
- Board of Veterans' Appeals Hearing: *Entitlement to service connection for leukoplakia, including as secondary to exposure to herbicides* (https://www.va.gov/vetapp18/Files3/1819217.txt)
- Board of Veterans' Appeals Hearing: *Entitlement to service connection for larynx cancer with residuals, to include leukoplakia of the larynx, et al.* (https://www.va.gov/vetapp14/Files5/1434423.txt)
- Proposed Rule: Schedule for Rating Disabilities: Mental Disorders (https://www.federalregister.gov/documents/2022/02/15/2022-02051/schedule-for-rating-disabilities-mental-disorders)
- https://archive.defense.gov/News/NewsArticle.aspx?ID=120620
- Preface to "Invisible Wounds of War: Psychological and Cognitive Injuries, Their Consequences, and Services to Assist Recovery" iii (T. Tanielian & L.H. Jaycox eds., 2008)
- Department of Veterans Affairs Fiscal Years (FY) 2022-28 Strategic Plan
- Digestive (Proposed Rule) 87 FR 1522, published January 11, 2022
- Mental Disorders (Proposed Rule) 87 FR 8498, published February 15, 2022

- Respiratory/Ear, Nose, and Throat (ENT) (Proposed Rule), published February 15, 2022
- Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022
- *National Vietnam Veterans' Readjustment Study (NVVRS)*-Data and Statistical Services (princeton.edu)

Discussion:

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 was implemented in October 2009. In order to ensure the VASRD remained current, a provision was made to begin an ongoing review and update of the PMP beginning in March 2017.

As previously stated, since 2009, the VA has been engaged in revising and updating the VASRD. The first completion date scheduled for 2016, was subsequently revised to 2018. As of the 2020 Biennial Report, the completed rewrite of all body systems was scheduled for 2022. This Committee has received briefings multiple times per year about the project's progress. During the March 2022 ACDC advisory meeting, VA's Compensation Service provided an update to the VASRD modernization progress. The VASRD Program Office advised that it had received thousands of responses to the proposed regulation changes for the Mental Disorders and Respiratory/Ear, Nose, and Throat (ENT) body systems and anticipated publishing final rules in the first quarter (Q1) of FY 2024.

The VA Strategic Plan for FY 2022–2028, states the VA plans to modernize the VASRD to incorporate medical and scientific advancements and objective criteria for a more accurate basis of evaluations for disability compensation. Modernizing the VASRD will result in evaluations for service-connected disabilities that reflect modern medicine and benefits that adequately compensate for loss in earning capacity based on a more contemporary assessment of disability and employment. VA has initiated a pilot for a comprehensive military exposure model to consider possible relationships of in-service environmental hazards to medical conditions to lower the burden of proof for Veterans impacted by exposures and to accelerate the delivery of health care benefits. The Committee believes that continued analysis is needed — (1) to understand the impact and changes of the VASRD; (2) to understand the timeline for the ongoing review/updates of the VASRD; and (3) to ensure VA is utilizing available resources for timely updates to the VASRD — while maintaining trust and transparency to align with the Secretary's strategic goals 2 and 3.

Recommendation 1.1: VASRD Program Office (PO) Operations

Though numerous amendments have been added, the last comprehensive update of the VASRD was completed in 1945. In 2009, a formal PMP to completely revise and update the 14 body systems under VASRD was implemented. The first completion date

of 2016 was delayed to 2018 which was subsequently changed to 2022 for the rewrite of all body systems. While this is a full 13 years from the inception of the project, at the time of the last Committee briefing on this topic, it appears the 2022 completion date will not be met.

The VASRD Program Management Office (PMO) must be sufficiently staffed in order to implement timely updates to applicable regulations in alignment with Recommendation 1.1. In order to attain this, it is recommended that the PMO: (1) conduct an analysis and determine if the current allotted number of full time equivalent (FTE) employees is sufficient to make timely revisions of the VASRD; (2) conduct a review of the current hiring, onboarding, and retainment practices; (3) analyze potential manpower and human resource capital to determine if the use of specialist contractors (e.g., medical doctors) could help meet concentrated review timeframes; and (4) make use of additional available resources to ensure timely and transparent changes to the VASRD. Prior to the next revision of body systems, and no later than FY 2028, it is recommended that the PMO implement these manpower changes based on the results of the aforementioned analysis.

External stakeholders are eager to collaborate with VA to assist in providing services to help ensure proposed changes are in alignment with the Secretary's priorities; therefore, prior to publishing final rules of pending VASRD changes, it is recommended that the PMO make full use of available resources through active collaboration with federal advisory committees, Veteran Service Organizations (VSO), private attorneys and state and local government agencies (to name a few) by presenting them with proposed changes and related supporting medical literature. This collaboration should occur at the beginning of the process allowing information from collaboration sessions to be factored into the proposed rule changes. This collaboration should occur prior to future proposed VASRD changes, but no later than FY 2028.

VA Response 1.1: Concur in Principle.

VA agrees that the VASRD PMO must be sufficiently staffed in order to implement timely updates; however, the VASRD PMO has already analyzed and determined that its current staffing is sufficient to make timely revisions to the VASRD. As of October 2023, the VASRD PMO has filled 33 of its 37 positions (89%). VA continues to prioritize fully staffing the VASRD PMO and filling critical vacancies by detailing individuals, as a developmental opportunity, to ensure the PMO has sufficient capacity to draft and implement VASRD revisions.

Additionally, VA is scheduling the initial phases of its second iteration of VASRD updates (iteration-2) to begin after FY 2024. VA is also considering conducting a similar VSO Summit to the one it conducted in June 2012, which provided VSOs an opportunity for engagement and a forum to provide comments. This Summit could include additional external stakeholders as well. When VA has iteration-2 drafts of rulemakings ready to share, it is possible that VA may conduct such a summit again, which would likely be by FY 2028.

Recommendation 1.2: Prioritize Mental Health Section

One of the greatest weaknesses of the 1945 VASRD was the mental health section. Economic validation of the schedule by the research efforts 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%. In the Committee's 2020 Biennial Report, attention was focused on the current mental health evaluation criteria for 100% disability which required an extreme level of impairment. While Veterans were not being denied payment at the 100% rate, it is the application of the TDIU rule that has resulted in undesirable outcomes. The VA concurred and reported that the Veterans Benefits Administration (VBA) was engaged in rulemaking to update the mental disorders rating criteria with a publication date in FY 2021.

Prior to and after September 11, 2001, the United States deployed millions of American Service members to Vietnam, Iraq, Afghanistan, and other dangerous regions around the world. These deployments have exposed Service members to a variety of stressors, including sustained risk of, and exposure to, injury and death, as well as an array of family pressures. Multiple deployments involve prolonged exposure to combat-related stressors. Reports from the *National Vietnam Veterans' Readjustment Study* and the *Invisible Wounds of War* research study underscore the urgency to prioritize mental disorders.

The various programs and initiatives to decrease suicide will remain at risk until the reassessment and applicable adjustments of mental disorders rating criteria is complete. To achieve healthy outcomes for Veterans with mental disorders, all components to operationalize these updates must be prioritized. Proper initial training on how to conduct examinations, particularly for the Veteran population, and continued/refresher instruction for examiners must be provided. Qualified examiners must be given the Veteran's medical treatment records (whether VA or private) prior to an examination in order to ascertain a full picture of the Veteran's current disability level. Additionally, prompt scheduling of these examinations must be prioritized.

Considering the issues faced by Service members, Veterans, and their families, related to mental and behavioral health (e.g., posttraumatic stress disorder (PTSD), military sexual trauma, traumatic brain injury, depression, anxiety, etc.); the mental disorders rating criteria should have been among the very first updated. While the Committee recognizes the VA's efforts to increase access to appropriate mental health care, many challenges remain. VA should look into establishing a periodic review timeline of the VASRD body systems and, if not already created, establish a revolving five-year timetable. In addition, VA should take pro-active steps to review the VASRD to update various body systems as medical evidence and studies become available. The ongoing delays of previous reviews extending from 17–35 years is not acceptable. Current updates for the VASRD should be complete by FY 2028 to align with current medical understanding of disabilities and how they affect the body and impact earnings loss. VA

might consider aligning with the U.S. Protective Services Task Force which has a working medical model that requires a systemic review for updating clinical preventive services every five years.

VA should provide a briefing to the Committee by February 2023, regarding the above recommendations. This briefing should contain information used for the update, implementation, and evaluation process and metrics (i.e., Veterans'-civilian earnings and labor-force participation, etc.) that will be used to examine the adequacy of disability compensation to offset the reduction in civilian-earning opportunities.

VA Response 1.2: Concur in Principle.

VA acknowledges that mental health among the Veteran population is and should be a priority. In terms of prioritizing all components related to the mental disorders update, it should be noted that VA already uses properly trained medical examiners who are provided instructions and refresher training as needed. Also, VA's existing practices require examiners to review the Veteran's relevant medical records for mental disorders claims where an examination is required. In addition, the current mental disorders update, which is scheduled for finalization and implementation in FY 2024, addresses shortcomings in the criteria that were found to historically under-evaluate all mental disorders as referenced in the EconSystems study and others.

Additionally, VA has established an integrated master schedule with a periodic process for reviewing and updating VASRD body systems, including Mental Disorders, on a multi-year cycle.

Lastly, VA published its proposed rulemaking for its Mental Disorders update on February 15, 2022. The publication contained all of the evaluation process and metrics used to revise the rating criteria, but that did not include any Veterans'-civilian earnings and labor-force participation data because analysis and results from VA's earnings loss studies (ELS) are not yet complete for utilization in iteration-1 updates. VA plans to utilize such data in future iterations of VASRD updates. VA provided the Committee with general information regarding the ELS project during meetings held in May, June, and August of 2023.

Recommendation 1.3: Re-Examine 38 C.F.R. § 4.129 - Mental Disorders Due to Traumatic Stress

There are longstanding concerns regarding various elements of 38 C.F.R. § 4.129. In particular, there have been repeated concerns raised over whether there is any scientific evidence to justify the mandatory, six-month reevaluation. Additionally, there are concerns over whether the condition must occur while in the same period of active military service from which the Veteran was released. As a result of 10, U.S.C. § 1216a, the Department of Defense (DoD) is required to follow 38 C.F.R. § 4.129; however, it results in high numbers of Service members with PTSD diagnoses being placed on the

Temporary Disability Retired List (TDRL) which hamstrings their ability to reintegrate and find consistent care for their mental conditions.

The Committee recommends that VA conduct a joint study with the DoD to analyze the impact of 38 C.F.R. § 4.129: Mental Disorders Due to Traumatic Stress to determine if the six-month mandatory re-evaluation of mental health disorders is harming transitioning Service members (active-duty National Guard, and Reserve personnel) as they reintegrate into society as Veterans. This should lead VA to research whether feasible alternative approaches exist. This recommended study should be initiated with DoD no later than FY 2025 with results compiled by FY 2028.

VA Response 1.3: Non-concur.

The purpose of 38 CFR § 4.129 is to provide transitioning Service members with immediate evaluations when discharged for a mental disorder due to in-service trauma. The temporary initial evaluation of 50% or more is based on a Service member being discharged due to the mental disorder. Likewise, the purpose of the examination is to assess the Veteran's functioning after the Veteran has been removed from the stressful environment that led to their discharge.

It is also worth noting that the initial evaluation of 50% or more does not require any examination. Therefore, the first VA mental health examination for disability evaluation purposes that these transitioning Service members will undergo will most likely be the one scheduled within six months of their discharge. The decision to evaluate the condition within six months of discharge is based on the need to assess the Veteran's functioning once they have been removed from the stressful environment that caused the development of the mental disorder and resulted in their release from service, and to assign an appropriate rating. The requirement of § 4.129 is based on VA's statutory mandate to establish a rating schedule. In short, § 4.129 does not impose a mandatory, six-month reevaluation; it only requires VA to schedule an examination within six months of the Veteran's discharge.

DoD's requirement to comply with the VASRD, including § 4.129 is expounded upon in DoD Instruction (DoDI) 1332.18. Additionally, DoDI 1332.18 requires an initial evaluation of 50% or more and the scheduling of an examination "to determine whether a change in rating and disposition is warranted." In addition, like § 4.129, DoDI 1332.18 requires the "reexamination" to be "*scheduled* within 6 months from the date of placement on the TDRL." Therefore, like § 4.129, DoDI 1332.18 does not impose a mandatory, six-month reevaluation; it only requires the military department to schedule an examination within six months of placement on the TDRL.

38 C.F.R. § 4.129 should only be applied when a Service member has been released from military service, as the regulation explicitly indicates. The TDRL is an alternative to medically separating Service members to determine if the Service member can return to active duty within three years. 38 C.F.R. § 4.129 should not be triggered if a Service member is placed on TDRL because the Service member has not been released from

military service. VA has already been in discussions with DoD and will continue to monitor to ensure this regulation is not being applied to Service members placed on TDRL.

Since it is incorrect to apply the provisions of 38 CFR § 4.129 to Service members placed on TDRL, VA does not agree that a joint study with DoD to analyze whether 38 CFR § 4.129 is harming transitioning Service members is necessary at this time.

Finally, VA notes that 38 CFR § 4.129 does not explicitly define when the stressful event must occur nor when the development of a mental disorder occurs in relation to when the Veteran is released. The only condition that must be met is the fact that the Veteran develops a mental disorder in service and is released because of that mental disorder.

Recommendation 1.4: Expansion of Compensable Skin Cancer Conditions

38 C.F.R. § 4.118 currently notes the following regarding diagnostic code (DC) 7818 *Malignant skin neoplasms (other than malignant melanoma)*: Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or impairment of function. Note: If a skin malignancy requires therapy that is comparable to that used for systemic malignancies, *i.e.*, systemic chemotherapy, x-ray therapy more extensive than to the skin, or surgery more extensive than wide, local excision, a 100% evaluation will be assigned from the date of onset of treatment, and will continue, with a mandatory VA examination six months following the completion of such antineoplastic treatment, and any change in evaluation based upon that or any subsequent examination will be subject to the provisions of §3.105(e) of this chapter. If there has been no local recurrence or metastasis, evaluation will then be made on residuals. If treatment is confined to the skin, the provisions for a 100% evaluation do not apply. In addition, under DC 7819 *Benign skin neoplasms*: Rate as disfigurement of the head, face, or neck (DC 7800), scars (DC's 7801, 7802, 7803, 7804, or 7805), or impairment of function.

If a Veteran was exposed to an herbicide agent during active military, naval, or air service, the following diseases shall be service-connected if the requirements of 38 C.F.R. § 3.307(a)6) are met even though there is no record of such disease during service, provided further that the rebuttable presumption provisions of C.F.R. § 3.307(d) are also satisfied.

The Committee recommends that VA expand the list of presumptive conditions granting access to health care, benefits, and other services to Veterans known to have toxic exposure. The Committee is grateful to both the Secretary and Congress for adding specific cancers related to particulate matter; for the addition of presumptive conditions related to herbicide exposure and for the inclusion of Blue Water Navy Veterans; however, despite these efforts, many Veterans are without the ability to access their VA benefits and services as they are left with the burden of proof to link their disabilities to toxic exposures despite studies showing the association.

Specifically, it is recommended that a related condition, leukoplakia, be incorporated into the VASRD. Granting service connection for limited specific neoplasms related to herbicide exposure prohibits VA from granting benefits and services to related neoplasms not covered due to the specificity of many presumptive conditions. Exposure to herbicides has an increased risk of incidence of head and neck cancer (in particular head and neck neoplasms, mouth neoplasms, nose neoplasms, salivary gland neoplasms, and thyroid neoplasms). These occurrences may also show up as leukoplakia of the tongue and lesions external to the mouth as well as facial. Leukoplakia of the tongue can develop into squamous cell carcinoma, a common type of skin cancer. In the Board of Veterans Appeals (BVA) cases referenced above, Veterans report occurrences of lesions in the face and around the mouth after splashing through herbicide-contaminated water as they traversed rice paddies and other aquatic trails. The outcome was the development of skin lesions which occurred years later. Despite these cases, neither skin cancer nor leukoplakia has been added as a condition presumed to have been caused by herbicide exposure.

The Secretary should use his authority to expand the list of presumptive conditions to include skin cancers (including leukoplakia) for Veterans exposed to herbicides and expand list of presumptive conditions to align with the legislation, Honoring our PACT Act of 2022. The recommendations should be implemented by FY 2024.

VA Response 1.4: Non-concur.

As part of its process to evaluate medical conditions that may be considered presumptive, VA regularly considers work conducted by the National Academies of Sciences, Engineering, and Medicine (NASEM). Since 1994, NASEM has regularly conducted studies about Veterans and Agent Orange and their last report, *Veterans and Agent Orange: Update 11 (2018)*, supported the frequent determination that skin cancers are not associated with exposure to Agent Orange (herbicide). VA scientific and medical experts scrutinize NASEM reports, in addition to other scientific literature, and continue to agree with NASEM's repeated findings pertaining to this issue.

Additionally, VA subject matter experts reviewed the two BVA cases in the recommendation and as listed in the report's references section. The BVA decision dated March 30, 2018, citation number 1819217, denied direct and presumptive service connection for leukoplakia. The Veteran served in Vietnam; therefore, exposure to Agent Orange (herbicide) was conceded. The decision documents an affirmative opinion from a private examiner linking leukoplakia to Agent Orange (herbicide) exposure with no supporting rationale to support the medical opinion. The decision also documents a negative opinion from a VA examiner supported by multiple medical research studies that do not support a relationship between exposure to herbicides and oral, nasal, and pharyngeal cancers. BVA found the preponderance of the evidence against the Veteran's claim. This BVA decision does not support the findings to recommend leukoplakia due to Agent Orange (herbicide) exposure as a presumptive condition.

The BVA decision dated August 1, 2014, citation number 1434423, discusses entitlement to service connection for larynx cancer with residuals, to include leukoplakia. The Veteran served in Vietnam; therefore, exposure to Agent Orange (herbicide) was presumed. BVA granted entitlement to service connection for leukoplakia of the larynx as a residual of the Veteran's larynx cancer. The medical evidence showed the Veteran had larynx cancer, with complaints of speech and throat irritation, supported by a CT scan of the neck which revealed a 2.7 cm soft tissue mass. Please note, larynx cancer is a presumptive disability for VA purposes under 38 C.F.R. § 3.309(e). In addition, the Veterans Law Judge urged that "the medical evidence show[ed] that the Veteran ha[d] a diagnosis of leukoplakia of the larynx which ha[d] been medically attributed (by VA) to herbicide exposure." Based on these findings, BVA granted service connection for larynx cancer with residuals, to include leukoplakia, under 38 C.F.R. § 3.309(e), due to herbicide exposure. This BVA decision does not support a consideration that leukoplakia in and of itself becomes or should become a presumptive condition due to Agent Orange (herbicide) exposure. Additionally, BVA decisions are non-precedential and have no bearing on claims of other Veterans. It is also worth noting that this BVA decision relied, in part, on a definition of leukoplakia that established that the condition is not a cancer and that its "etiology" is "unknown."

VA is not aware of any recent medical or scientific literature or other information that would necessitate a reexamination of the potential association between exposure to Agent Orange (herbicide) and skin cancers, to include leukoplakia, but welcomes credible information on this and related issues moving forward. VA is constantly conducting surveillance of evolving medical literature and will take necessary action to explore any pertinent documentation on this topic.

Even in the absence of a presumption or presumptions, all Veterans are encouraged to file a claim for any condition incurred in or aggravated by military service. Each claim is evaluated on a case-by-case basis for direct service connection, regardless of whether a presumption is applicable.

Issue 2: TOTAL DISABILITY BASED ON INDIVIDUAL UNEMPLOYABILITY (TDIU)

Secretary's Strategic Goals:

The following recommendations address two of the four Strategic Goals as noted in the *2022–2028 Veterans Affairs Strategic Plan*:

- VA will deliver timely, accessible, and high-quality benefits, care, and services to meet the unique needs of Veterans and all those we serve.

- VA will build and maintain trust with Veterans, their families, caregivers, and survivors—as well as our employees and partners—through proven stewardship, transparency, and accountability.

References:

- ACDC 2012, 2014, 2016, 2018, 2020 Biennial Reports
- Government Accountability Office (GAO) Report 15-464

Discussion:

TDIU was designed to compensate Veterans who are unable to secure and maintain substantially gainful employment due to their service-connected disabilities. Although their combined schedular rating may not total 100%, TDIU will provide the same monetary benefit to Veterans due to their inability to work.

In 2014, the Secretary tasked this Committee to study the TDIU benefits and make recommendations based on our findings. In addition, VA stated its intent to consider the use of age to determine vocational assessments in TDIU eligibility determinations. As a result of the Committee's recommendations, VBA initiated a study in March 2016, with a target completion date of September 2017. The Committee has repeatedly requested VA disseminate the summary of methods and results of the 2017 study. The Secretary responded to the 2018 Biennial Report saying that VBA is reviewing the study and results to assess a recommended course of action for the TDIU modernization effort. The Committee in the 2020 report again requested the result of the 2017 study. The Secretary then responded that VA will not share the results of this study with the Committee, nor the public, unless utilized in rulemaking on TDIU, as it is considered an internal deliberative document. VA will not share the study results with this Committee, nor will they share their overall TDIU modernization effort. This response is contradictory to the tasking by the Secretary in 2014 and prevents the Committee from making recommendations based on the study's results. This is also contradictory to the Secretary 's priorities of maintaining trust with Veterans and partners through transparency. This Committee agrees that the TDIU benefit should be modernized, but we continue to express that age cannot be a factor in TDIU determinations, nor should the TDIU benefit ever be offset due to receipt of retirement or Social Security.

Recommendation 2.1: Provide the Committee with a report of VA's TDIU modernization efforts and VA's stance on legislation of Individual Unemployability.

Through research and briefings provided by VA subject matter experts and leadership and biennial report responses, it is public knowledge that VA intends to change the TDIU program. Through our work, the Committee has previously identified disparities with evaluations of mental disorders as TDIU was a common avenue for Veterans to receive adequate compensation when under-rated for mental health. Collaborating with the Committee and having transparent discussions of TDIU modernization efforts will help build trust with the public while being transparent about the Department's intent. Advanced collaboration efforts with the Committee should be implemented in Q1 of FY 2023.

VA Response 2.1: Concur in Principle.

VA is not currently engaged in any TDIU modernization efforts. However, we provide the following related information. On February 15, 2022, VA published a proposed rule in the Federal Register to amend the portion of the rating schedule that deals with mental disorders. VA received over 800 submissions during the comment review period, which ended on April 18, 2022. The comments are currently under review for incorporation into the final rule. The proposed rule reflects changes made by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5), advances in medical knowledge and recommendations from VA's Mental Disorders Work Group. The proposed evaluation criteria measure a Veteran's essential ability to participate in a work environment and the impact of the mental disorder on earning capacity via a comprehensive assessment of occupational and social functioning. The proposed new evaluation criteria more accurately captures the occupational impairment caused by mental disabilities and provides more adequate compensation for the earnings losses experienced by Veterans with service-connected mental disorders. The proposed changes will help alleviate current disparities with evaluations of mental disorders, so Veterans with mental health disorders may receive adequate compensation, rather than a grant of TDIU.

Recommendation 2.2: Provide the TDIU analysis started in 2016 and completed in 2017.

The Committee is unable to provide the Secretary with appropriate recommendations to modernize the TDIU program if the data acquired by VA is not shared with the Committee, nor the public. Withholding the analysis and study results creates mistrust and does not align with Secretary 's principles. By delaying the dissemination of the study results, VA is preventing the Committee from making recommendations based on current data. TDIU study results and analysis should be provided to the Committee no later than the second quarter of FY 2023.

VA Response 2.2: **Non-concur.**

VA shares the Committee's continuing desire to ensure that potential changes to TDIU are examined in a comprehensive way and ensure that TDIU is appropriately awarded. The study in question was precipitated, at least in part, by the Committee's 2014 recommendation 2.1, which advised that "a study be conducted to determine whether age should be considered as a factor when a veteran initially applies for TDIU." The Committee has since expressed a desire to eliminate age as a factor from any TDIU modernization initiative.

Since 2017, VA has engaged in research and rulemaking to update the VASRD (38 C.F.R Part 4) and ensure that its provisions accurately reflect the average impairment in earnings capacity resulting from diseases or injuries related to military service. For example, in February of 2022 VA proposed amending our criteria for evaluating mental disorders (https://www.regulations.gov/document/VA-2022-VBA-0010-0001). VA

believes those changes, if enacted, will generally lead to more accurate compensation for Veterans than current rating criteria and make more Veterans with diagnosed mental disorders eligible for 70% and 100% schedular disability evaluations.

The internal information on TDIU stemming from the Committee's 2014 recommendation is now dated. As noted in the response to Recommendation 2.1, VA is not currently engaged in TDIU modernization efforts. As such, the content of this dated report is moot.

Issue 3: VA OFFICE OF INFORMATION AND TECHNOLOGY (VAOIT) & VETERANS SERVICE ORGANIZATION (VSO) COLLABORATION

Secretary's Strategic Goals:

The following recommendations address three of the four Strategic Goals as noted in the *2022–2028 Veterans Affairs Strategic Plan*:

- VA will consistently communicate with customers and partners to assess and maximize performance, evaluate needs, and build long-term relationships and trust.

- VA will build and maintain trust with Veterans, their families, caregivers, and survivors—as well as our employees and partners—through proven stewardship transparency, and accountability.

- VA will strive toward excellence in all business operations including governance, systems, data, and management—to improve experiences, satisfaction rates, accountability, and security for Veterans.

References:

- ACDC 2012, 2014, 2016, 2018, 2020 Biennial Reports
- Briefings on VAOIT Updates

Discussion:

In 2003, the Veterans Health Administration (VHA) released My HealtheVet (MHV), a VA website which allows Veterans to access different components of their health care needs with VHA. Four years later VBA initiated creating secure self-service tools. After two years of development, VA launched the website eBenefits in 2009. eBenefits is a VA portal that provides Veterans with real time capabilities to take various actions regarding benefits administered through the VBA. VA additionally launched the Veterans Benefits Management System (VBMS) which allowed VA to start fully digitizing the claim process. Although this project would take years of work converting paper records and claim files, VA increased efficiency and transformed VA's ability to process claims in a virtual environment. Two years after the launch of VBMS, VA and DoD implemented an Interagency Program Office with the goal of developing and

implementing a joint Electronic Health Record (EHR) that would allow a seamless transition of Service Treatment Records (STRs) between DoD and VA. VA intends to complete their portion of the EHR initiative by 2028.

In 2013, VA created the Stakeholders Enterprise Portal (SEP). SEP was a similar self-service tool as eBenefits that allowed accredited representatives, such as VSOs, to take claim actions for Veterans they represent. As years progressed VA continued to make improvements and add functionality to eBenefits, SEP, and MHV. In 2017, VA intended to simplify websites to allow Veterans to access all of their VA data by accessing one central website: Vets.gov. Although Vets.gov was shortly discontinued, the concept of creating a single point of entry for Veterans to access VA Health care and Benefits was well received. So, in lieu of Vets.gov, VA chose to begin using the website VA.gov. Since the establishment of VA.gov, VA Office of Information & Technology (OIT) has been migrating functions from eBenefits and MHV to the consolidated VA.gov website. Additional self-service tools have been added to VA.gov; however, SEP has not been updated and none of its functionality has been migrated to VA.gov.

In the past VA held regular collaboration meetings with external stakeholders to obtain feedback as well as conduct Veteran workgroups to ensure planned updates would enhance system capabilities instead of overcomplicating them. The feedback sessions were well received and gave stakeholders an opportunity to provide input into the creation of tools intended to be used by them. Unfortunately, due to changes in VA leadership, the inability to confirm an Undersecretary for Benefits, and changes in meeting formats and frequency due to the COVID-19 pandemic, these collaboration meetings ended.

Recommendation 3.1: Migration to VA.gov

The Committee recommends complete migration of all functions from eBenefits and MHV to the VA.gov website. Upon successful completion of migrating all functions to the consolidated website, initiate a plan to sunset eBenefits and MHV to prevent confusion among Veterans. Migration of these functions should be completed by FY 2025.

VA Response 3.1: Concur in Principle.

VBA began the digital modernization during FY 2018, which included the redesign of the VA.gov homepage and the migration of content and functionality from various websites including eBenefits, MHV, and others to VA.gov. This effort was intended to create a single front door where Veterans can file claims, manage their benefits, and find information related to the benefits and services provided by VA. By FY 2025, all core features of MHV (secure message, prescription refill, medical records, appointments, newsletter, and health content) will be built on VA.gov, also with Cerner's data integrated into those applications. MHV will keep its branding, which Veterans have come to trust. A planned phased approach to rollout MHV applications on VA.gov will allow learning from past experiences, for example, from the eBenefits migration.

The full sunset of eBenefits through migration to VA.gov is on track for August 2024. Ninety-eight percent of all functionalities have been migrated to VA.gov. The remaining functionality to be migrated are related to submissions via the Stakeholders Enterprise Portal (SEP), which is covered under Recommendation 3.2.

Recommendation 3.2: Migration from SEP to VA.gov

The Committee recommends creating a login for external stakeholders, with accredited representative authorization (as authorized by VA's Office of General Counsel), within VA.gov that would grant equivalent functions to the SEP. VA OIT would collaborate regularly throughout the process with stakeholders to make sure that system functionality will reflect the needs of this population of users.

Initiation of stakeholder collaboration sessions should occur in FY 2023, with a target goal for all stakeholder functionality by FY 2026. In the interim, VA should update SEP features, forms, and databases on a regular basis until such time as the new stakeholder features are available on VA.gov. Updates to SEP should be completed in quarter two of FY 2023.

VA Response 3.2: Concur in Principle.

VBA agrees with the recommendations to create a login for external stakeholders with accredited representative authorization (as authorized by VA's Office of General Counsel), using the approved login credentials. VBA, OIT, and stakeholders' collaboration will commence during FY 2023 to identify the most used SEP functionality that can be incorporated into a modernized self-service platform to meet the needs of this population of users. Once use cases have been identified, a development timeline will be established in early FY 2024. Ultimately, SEP will be migrated to a modernized platform to include updates to existing functionality based on identified use cases.

Recommendation 3.3: VSO Collaboration Meetings

Re-establish regular VA/VSO collaboration meetings to be conducted quarterly (unless more frequent meetings are needed to meet project demands) to provide feedback and insight on VAOIT related concerns in a timely fashion, receive updates on VAOIT projects that impact accredited stakeholders. Meetings should be conducted in a physical conference format when safe to do so with an option to attend virtually when in-person attendance is not feasible. Collaboration meetings should begin no later than Q2 FY 2023.

VA Response 3.3: Concur.

In September 2021, with the onboarding of the new VSO Liaison, VBA re-established regular quarterly VA/VSO collaboration meetings. During these collaboration sessions, VBA provided information, feedback, and insight across all lines of business. VBA's Office of Automated Benefits Delivery also provided technology updates, which included IT projects that impacted Veterans and accredited stakeholders. VBA will continue to host these meetings virtually and in-person as determined appropriate.

Additionally, starting in FY 2022, VA has held numerous PACT Act-specific collaboration offsites in person with a wide array of stakeholders and has hosted stakeholders at VBA Senior Leadership Symposiums to enhance partnership and transparency on PACT Act implementation and other key VBA efforts.

Recommendation 3.4: Consolidated Uniformed-Personnel Records System Study

Conduct a study and compile data to identify inefficiencies in current business processes for the transfer of personnel records and equivalents for all individuals and groups considered to have performed active military, naval, air, or space service as outlined in 38 C.F.R. § 3.7. The study should identify current estimated times for transfer of personal records and equivalents for all groups identified. Upon completion of the study and analysis of data, determine and implement recommendations for a consolidated, uniformed-personnel, records system for a individuals entitled to VA Health care, Benefits, and Services. Initiation of study should occur by FY 2025, with a target completion date of FY 2027. Upon completion of analysis, develop and implement consolidated system within five years.

VA Response 3.4: Non-Concur.

A study is not necessary since a consolidated, uniformed-personnel records system already exists. VA currently operates the VA/DoD Identity Repository (VADIR) that allows VA and DoD to share military history information through near real-time database replication. Military history information is key to facilitating a seamless transition from active duty to Veteran status. The mission of VADIR is to provide authoritative data from DoD to VA business lines to assist in registration, automated eligibility determination, outreach, notifications, and other common business functions, supporting improved Veteran-centric services across the enterprise.

Military history information in VADIR supports efficient determination and delivery of healthcare and benefits for Service members, Veterans, and eligible family members. Data in VADIR includes Veteran identification information; Branch/Rank; Contact information at the time of discharge; Military Service Periods/Enlistments; Deployment Locations and Dates; Guard/Reserve Episodes; Military Occupation; Military/Combat/Retirement Pay; and Education Benefits/Insurance enrollment. VA and DoD work together closely to continually improve the quality of the data and enhance this data sharing capability as new, innovative use cases are identified by VA programs.

Additionally, VA has established mediums to coordinate records and data exchange between VA and DoD through the Joint Executive Committee (JEC), chaired by the VA Deputy Secretary and the DoD Under Secretary of Defense for Personnel and Readiness. VA and DoD have established working groups dedicated to improving joint coordination and resource sharing, including the Service Treatment Record Electronic Sharing Enhancements Working Group and the Military Personnel Data Working Group. These working groups meet frequently and report to the JEC quarterly on their progress, stop gaps, and added efficiencies.

Recommendation 3.5: Electronic Health Record (EHR) Project Analysis

Conduct analysis of current progress and projected milestones of the VA/DoD Interagency Program Office for the implementation of a seamless Electronic Health Record (EHR). Determine if current projected timelines are feasible when compared with the project's past and current progress and identify recommendations for efficient advancement. Conduct a feasibility study to determine if remaining groups identified in 38 C.F.R. § 3.7 can be incorporated into the EHR Interagency Program Office. Analysis of the project's progression should be initiated in FY 2023 with the target to implement efficiency improvements by FY 2025.

VA Response 3.5: Concur in Principle.

VA continually analyzes the progress of the Electronic Health Record Management (EHRM) program and adjusts the deployment schedule to address challenges with the system to ensure it is functioning optimally for Veterans and for VA health care personnel. Most recently, in Q1 FY 2023 VA established a 12-week sprint to assess and remediate issues at live sites as identified by VHA's Clinical Episode Review Team (CERT) and design for safety at future deployment sites. This enterprise-wide effort includes stakeholders across VA, from the central office to the Veterans Integrated Service Networks (VISN) and field employees. Over the coming months, VA will continue to work closely with EHRM stakeholders to resolve issues with the systems performance, maximize usability for VA health care providers, and ensure the Nation's Veterans are served by an effective records system to support their health care. Currently, VA is working to assess and address outstanding issues—especially those that may have patient safety implications—before restarting deployments at other VA medical centers.

The VA's Electronic Health Modernization Integration Office, which also reports to the JEC, established a Performance Excellence team that includes representatives from the VA's Office of Information and Technology, the Veterans Health Administration, DoD, the Federal Electronic Health Record Modernization (EHRM) office, vendors, and others to evaluate each outage systematically and diligently to determine root cause and prevent reoccurrence. All mission partners are working together to improve from lessons learned, while also increasing engineering excellence and strengthening joint management, governance, and oversight.

Successful execution of the VA, DoD, and U.S. Coast Guard EHRM programs will unite all three organizations on a single, common EHR system, creating a health record that provides seamless care for all Service members and all Veterans.

Issue 4 – QUALITY OF CARE

Secretary's Strategic Goals:

The following recommendation addresses one of the four Strategic Goals as noted in the *2022–2028 Veterans Affairs Strategic Plan*:

- VA delivers timely, accessible, high-quality benefits, care, and services to meet the unique needs of Veterans and all eligible beneficiaries.

References:

- ACDC 2012, 2014, 2016, 2018, 2020 Biennial Reports
- (House Committee on Veteran Affairs 2021). Statement of the Honorable Denis McDonough Restoring Faith by Building Trust–VA's First 100 Days.
- https://www.va.gov/performance/
- VA Office of Inspector General (OIG) report No. 21-01237-127 from June 8, 2022

Discussion:

When Veterans file claims for disability benefits, VBA may request medical exams of those Veterans before making decisions on the claims. Results of medical exams are critical pieces of evidence in supporting Veterans' claims for benefits, and the exams represent a significant investment by VBA. The exams help establish service connection and determine the severity of each Veteran's disabilities related to military service. The severity translates into a disability rating, which defines the monthly monetary benefit the Veteran receives.

Either Veterans Health Administration (VHA) examiners or examiners working under contract may complete the medical exams using VA-provided disability benefits questionnaires (DBQ) (i.e., exam reports). Completed exam reports are added to the Veteran's claim file, which VBA claims processors review before making a final decision on a Veteran's claim. VBA's Medical Disability Examination Office (MDEO) manages the contract medical disability exam program and does quality reviews to determine whether vendors complied with contract requirements. VBA currently has 14 contracts with three vendors: Logistics Health Inc. (LHI), QTC Management Inc. (QTC), and Veterans Evaluation Services Inc. (VES).

VA Office of Inspector General (OIG) report No. 21-01237-127 from June 8, 2022, found that the VBA governance of and accountability for the contract medical disability exam program needs improvement. OIG identified deficiencies stemming from the VBA's

limited management and oversight of the program and failure of the program to hold vendors accountable for correcting errors and improving exam accuracy.

OIG found that the MDEO generally performed quality reviews correctly. The quality reviews evaluated whether exams were accurate, meaning that exams complied with contract requirements, such as whether examiners provided all elements of a medical opinion and a definitive diagnosis when needed. These reviews are used to calculate an accuracy percentage for each vendor. The OIG team examined a statistical sample that consisted of 198 of 12,152 MDEO quality reviews completed from January 1, 2020 through December 31, 2020 (review period). The sample was equally divided into two categories, exams with contract compliance errors and exams with no identified errors. The OIG substantiated MDEO's results, estimating that MDEO reached the correct conclusion on at least 95.1% of reviews completed in 2020.

Recommendation 4.1: Training and Education of Contract Providers

As a result of these findings and others, VBA needs to make improvements to the medical examination program to help ensure vendors produce accurate exams and accurate completion of DBQ forms to support correct decisions for Veterans' claims. The VA should develop a variety of resources for the contracted company's leadership and for those providers responsible for conducting the exams to equip them with the knowledge needed to provide accurate information and to consistently remain above the 92% accuracy requirement. The template for this type of training already exists within the Mission Act of 2018 (Mission Act) §§131 and 133 and should be embedded in the contract agreements. These sections require the VA ensure that all community providers who treat Veterans meet certain requirements regarding opioid prescribing practices and meet certain competency standards. VA has determined that providers must complete training within 180-days of enrolling in a VA Network (Patient-Centered Community Care (PC3), Community Care Network (CCN), or signing a Veterans Care Agreement (VCA).

The critical need for training and its impact is clearly delineated in the following public comment:

"Approximately 2 years ago, I was a new disability examiner and my training consisted of taking 23 on-line Disability Management Assessment (DMA) courses. These assessment and examination courses were comprehensive covering current and former topics such as traumatic brain injury (TBI), military sexual trauma (MST) to cold injury residuals. My education continues with new courses from the DMA along with War-Related Illness and Injury Study Center (WRIISC) courses that provide post-deployment expertise on topics of Gulf War illness and chronic multisystem illness (CMI). The quality and timeliness of the claimed condition DBQs were enhanced by a supervisor and mentor, both DBQ subject matter specialists, who were on-site to ensure goniometer joint range of motion (ROM) measuring was accurate and consistent on all musculoskeletal DBQs. They also reviewed and provided their expertise on each DBQ/medical opinion prior to their release. This procedure was for 6 months in order to

develop the knowledge and skills to provide accurate and timely examinations, which ultimately resulted in quicker processing time and reduction in insufficient and clarification exams. My supervisor and mentor remain on-site and available for any questions or concerns. Lastly, review of available medical records in its entirety is procedural.

My experience above is juxtaposed to a colleague (APRN) who, approximately 1 year ago, became a new disability examiner. The training was also through DMA, however it consisted of only seven (7) on-line courses with no requirements for ongoing education on disability conditions. The quality of the DBQs and medical opinions is reviewed by off-site supervisors and only on the first 10 DBQs/medical opinions submitted. There is no online or on-site goniometer education or supervision provided to assure a standardized use of the goniometer to assure consistent joint ROM for all musculoskeletal DBQs. Questions are handled by calling a 1-800 number if the Veteran is present or an email if the Veteran is not present. Lastly, review of available medical records consists only of the potentially relevant evidence listed with the claimed condition and not the entire available medical record. As previously stated, I am writing this statement as a private, tax paying American citizen and the views expressed are mine and mine alone. Thank you in advance for your time and attention to this matter."

Training can be completed through the VHA Train Mission Act (VA TRAIN MA) curriculum training site. VA TRAIN MA is an external learning management system that provides direct access to training required under the Mission Act. Topics could include how to write a Nexus letter, VA criteria for certain exams, completion of DBQ forms, how to communicate with Veterans and gain trust, review of contract requirements (required training), timeliness and compliance, use of non-physician providers, etc. This training should be Veteran-focused, accredited, and provide continuing medical education unites to community providers who wish to partner with the VA to provide care to our Veterans. The following characteristics are recommended:

a. Physicians will be required to complete basic education and training as part of the application process to enroll as a provider, and then to complete additional hours of training at annual contract renewals.
b. The education will be granted continuing education credits applicable to the provider's discipline (medical, nursing, etc.).
c. Among other things, the training should include the importance of primary care provider timeliness in processing specialty referrals.
d. Providers should be educated about the need to complete the NEXUS document.
e. Providers should be trained about how to explain to Veterans the purpose of the disability and examination process.
f. Additional areas of provider cultural competence should be included in the training, so that it is comprehensive and leads to the provider meeting the individual Veteran's medical and VA administrative needs and prepares the provider to educate the Veteran about the disability evaluation process as warranted.

g. To assure these objectives are met, a performance evaluation of the training as well as the contract physician performance should be designed and implemented.

Additionally, the VA can also provide a variety of other resources and support via additional web pages. Oversight of the contracted organizations should occur quarterly for the first two years of implementation and then biannually thereafter. If vendor scores are below 92% accuracy, they can be held accountable through several mechanisms, (i.e., provider suspension, reallocation of work, non-execution of contract option periods, and the issuance of cure notices and letters of concern). These recommendations should be completed by January 2024, and the results published for the public to read and submitted to ACDC with the appropriate briefing by March of each year.

VA Response 4.1: Concur in Principle.

The MDEO Contract Examiner Training Program consists of the following required certification courses, which offer continuing education credit for practitioners:

- General Certification Overview
- Military Sexual Trauma and the Disability Examination Process
- Medical Opinions (to include Aggravation Opinions)
- Gulf War General Medical Exam

All examiners are required to take the following courses:

- Understanding Military Culture and Veterans
- Suicide Awareness and Prevention
- Assessing Deployment Related Environmental Exposures (WRIISC Module 1)

Certain exam types require the provider to complete a specialty Certification Course on the topic prior to completing the specialty exam. Specialty Certification Courses are shown below:

- Mental Health Certification
- Traumatic brain injury (TBI) Examination
- Musculoskeletal Examination
- PACT Act: Key Terms and Medical Opinions for Examiners
- Camp Lejeune Contaminated Water (CLCW)
- Spina Bifida

The applicable courses must be completed by contract examiners prior to an examiner conducting an examination. Examiners must recertify every five years, or after not having completed an exam within the last year.

The following is provided in response to specific recommendations:

a. Physicians will be required to complete basic education and training as part of the application process to enroll as a provider, and then to complete additional hours of training at annual contract renewals.
b. The education will be granted continuing education credits applicable to the provider's discipline (medical, nursing, etc.).
c. Among other things, the training should include the importance of primary care provider timeliness in processing specialty referrals.

Response: MDE contract examiners are not treating physicians. Their role is to evaluate specific medical conditions. They are not a primary care provider. This recommendation discusses using MISSISON Act curriculum; however, this curriculum is aimed at providers who provide care for treatment purpose. This is not the intent of MDE contract examiners.

d. Providers should be educated about the need to complete the NEXUS document.

Response: The Medical Opinion Certification course covers in detail the process of providing a medical nexus opinion when one is requested in the Exam Scheduling Request (ESR).

e. Providers should be trained about how to explain to Veterans the purpose of the disability and examination process.

Response: In addition to the training courses listed above, each vendor is required to provide examiners with an orientation and instructions for conducting examinations for VA purposes. This includes explaining the differences between a VA disability examination protocol versus the examination protocol for treatment purposes; and providing information about appropriate notification requirements to follow-up on abnormal findings.

f. Additional areas of provider cultural competence should be included in the training, so that it is comprehensive and leads to the provider meeting the individual Veteran's medical and VA administrative needs and prepares the provider to educate the Veteran about the disability evaluation process as warranted.

Response: In addition to the training courses listed above, each vendor is required to provide examiners with an orientation and instructions for conducting examinations for VA purposes. This includes explaining the differences between a VA disability examination protocol versus the examination protocol for treatment purposes. We again note that disability examinations are not for treatment purposes.

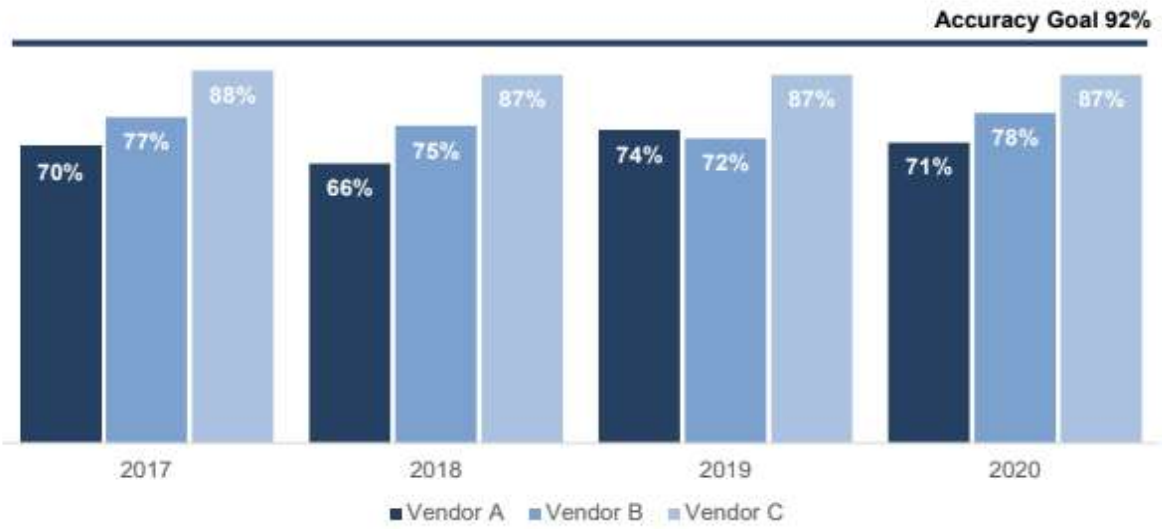
g. To assure these objectives are met, a performance evaluation of the training as well as the contract physician performance should be designed and implemented.

Response:

- MDEO has deployed a comprehensive training evaluation plan to assess the effectiveness of the examiner training program. This is an ongoing, cyclical effort for continuous improvement.
- MDEO has no privity over the subcontracts with each examiner. All examiners must have an active and unrestricted license and must complete the mandatory training. How the prime vendors evaluate their subcontractors' performance is not something MDEO directs or tracks. MDEO does hold prime vendors accountable through provisions in the contract and the federal acquisition regulations.
- MDEO evaluates contract physician performance by providing oversight of the quality of examinations as well as reviews customer service card responses provided by Veterans after their appointments. Oversight of the Vendors quality performance is conducted quarterly. The required accuracy is 96.5%. Vendors are held accountable via provider suspension, reallocation of work, negative incentives, non-execution of contract option periods, and the issuance of cure notices and letters of concern.

Recommendation 4.2: VA Contracted Medical Examiners – Quality Control and Accountability

In VA's OIG June 2022 report all three vendors were noted to have failed to consistently provide VBA with the accuracy of exams required by their contracts. As shown in the graph below, MDEO reported that all three vendors have been below the contract's 92% accuracy requirement since at least 2017.



Summary figure 1. *Vendor exam quality has consistently been below the 92 percent accuracy requirement.*

Source: MDEO-provided data.

Note: This figure reflects aggregate accuracy rates for each vendor's completed exam reports for calendar years 2017–2020. Numbers in the figure have been rounded.

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[3] Appendix A contains contract requirements and the contract medical disability exam checklist.

[4] Appendixes B and C describe the review scope, methodology, and sampling methodology.

While MDEO identified errors in the quality reviews, the errors identified were not shared with claims processors before or after they made their decisions. Based on the results of MDEO's 12,152 quality reviews on vendor exams, the OIG estimated 2,700 to have errors. Two thousand of those exams had the potential to affect claims decisions which indicated that errors were not corrected for about 35% of potentially insufficient exams before claims processors decided these claims.

Exams are a critical piece of evidence used in deciding Veterans' disability claims and the benefit amount received. Although the VA spends billions on the contract medical disability program, contract language hinders the program's ability to hold vendors accountable for correcting errors and improving accuracy. As a result of these findings, the OIG recommended that any renewed contracts be assessed and modified to ensure vendor accountability by applying monetary disincentives, and ensure procedures are established to correct errors identified by the MDEO. In addition, it was recommended that procedures be implemented that required the MDEO to communicate exam errors to the Office of Field Operations and regional offices to demonstrate progress and that the MDEO analyze all available error data to provide to vendors.

VBA's actions regarding vendor contracts were responsive to recommendations 1 and 2 and requested that they be closed. OIG replied that they will continue to assess VBA's actions regarding the contracts and will close the recommendations when satisfied with

their progress. Corrective actions for recommendations 3 and 4 were responsive to the intent of the recommendations and the OIG will monitor VBA's implementation of planned actions.

In addition to oversight and monitoring by the OIG, VBA should provide, at a minimum, biannual briefings to the ACDC to include error trend data resulting from incorrect exams, the procedure for obtaining and assessing rework data, and monetary incentives and disincentives implemented. A portion of this briefing should also include the impact on Veterans and their families and training that has been provided to vendor leadership and providers.

VA Response 4.2: Concur.

VBA will provide biannual briefings as requested.

Also, VA continues to actively engage in remediation efforts responsive to the recommendations in the June 2022 OIG audit report and to obtain closure of the report.

Issue 5 – COMMUNICATION AND OUTREACH

Secretary's Strategic Goals:

The following recommendations address two of the four Strategic Goals as noted in the *2022–2028 Veterans Affairs Strategic Plan*:

- VA will consistently communicate with customers and partners to assess and maximize performance, evaluate needs, and build long-term relationships and trust.

- VA will build and maintain trust with Veterans, their families, caregivers, and survivors—as well as our employees and partners—through proven stewardship transparency, and accountability.

References:

- ACDC 2012, 2014, 2016, 2018, 2020 Biennial Reports
- ACMV 2017, 2018, 2019 Reports
- (House Committee on Veterans Affairs 2021). Statement of the Honorable Denis McDonough Restoring Faith by Building Trust - VA's First 100 Days
- The Biden Plan to Keep Our Sacred Obligation to Our Veterans
- Executive Order 13985 Advancing Racial Equity and Support for Underserved Communities Through the Federal Government 2021 (January 25, 2021)
- Executive Order 14058 Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government 2021. (2021-27380.pdf (federalregister.gov)
- 111th Congress 2010. Public Law 111-274, Plain Writing Act of 2010
- HR 7287–To clarify the licensure requirements for contractor medical professionals to perform medical disability examinations for the Department of Veterans Affairs

- Ensuring Equitable Representation and Support for Minority Veterans *Written Testimony Provided for the Open Session Legislative Hearing Covering H.R. 6039, HR 6082, H.R. 4908, H.R. 2791, H.R. 4526, H.R. 3582, H.R. 96, H.R. 4281, H.R. 3010, H.R. 7163, H.R. 7111, H.R. 2435, H.R. 7287, H.R. 3228, H.R. 6141*
- Ward RE, Nguyen XT, Li Y, Lord EM, Lecky V, Song RJ, Casas JP, Cho K, Gaziano JM, Harrington KM, Whitbourne SB, On Behalf of the VA Million Veteran Program. Racial and Ethnic Disparities in U.S. Veteran Health Characteristics. Int J Environ Res Public Health. 2021 Mar 2;18(5):2411. doi: 10.3390/ijerph18052411. PMID: 33801200; PMCID: PMC7967786.

Discussion:

The Secretary's priority issue regarding communication is to ensure communications are clear and messages are consistent across VA and the ecosystem of Veteran-supporting partners. The purpose is to deliver information to Veterans the way the Veteran wants to receive it, so Veterans understand their eligibility for benefits, care, memorialization, and services and how to access the benefits they have earned. It is also intended to ensure the VA knows Veterans, understands their needs and how the benefits, care, and services they are to deliver impacts their lives.

VA communicates via social media networks, mail, email, telephone, text, outreach events, and online platforms and delivers step-by-step guidance, checklists and updates on new programs, processes and policy revisions that address all Veteran issues, including the civilian-military divide and stigma associated with mental health conditions.

VA collaborates with partners to understand and share communication preferences of Service members, Veterans, their families, caregivers and survivors and tailored outreach to meet their needs and preferences. VA customizes all forms of communications for groups and individuals whose primary language is not English and individuals with hearing, vision, and/or speech impairments. Multi-channel, two-way communications allow recipients to easily provide feedback with recommendations that enhance VA's understanding of needs and experiences, ensures equitable access and improves the quality of benefits, care and services provided, especially to at-risk, underserved, and marginalized Veterans.

Recommendation 5.1: VA Examination of Equity Disparity of Benefits and Services

The Committee recommends that VA examines the persistent disparities in equity of access to claim-submittal assistance, determination, and adjudication; transportation access to and correct performance of medical exams; gaps in medical treatment; and disability benefit percentages assigned for minority Veterans.

Racial and ethnic minorities face barriers to accessing medical care in the United States, with historically racist policies reverberating into the current health care system through the maldistribution and underfunding of medical facilities in minority-dominant areas. When minority individuals do receive care, it may not be equivalent to that of non-minority groups. This is a complex issue including economic barriers, such as the ability to pay for care, patient preferences, differential treatment by providers, and geographic variability. This has been seen especially in the case of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people, black women, and those living at the intersection of marginalized identities.

The VA disability compensation system, while increasing in scope and monetary benefit payments over several decades, continues to lack in its ability to overcome barriers that would ensure culturally relevant communication to Veterans in general and diverse and marginalized Veterans regarding access to understanding and accessing compensation benefits.

These barriers can be extremely detrimental to Veterans' livelihoods and trust in the VA to care for those who served their country. Outreach to diverse and marginalized Veteran communities are based on a commitment to: (1) acknowledge that barriers exist; (2) understand the need to meet those Veterans where they are; (3) develop programs responding to those needs through active listening, proactive conversations, and engagement; and (4) having a follow-through plan in place with local VA medical centers, VA Community Based Outpatient Clinics (CBOCs), and clinic champions in addition to Veteran-centric community partners available to respond to questions, concerns, and provide a warm handoff to agencies/individuals that can assist them with navigating the compensation-application process, as well as addressing other health and health care needs.

In the most recent Committee briefing on this topic, it was again agreed that the work of the Committee regarding disability compensation and VASRD is of little merit if the Veteran is ultimately unable to access, comprehend, or navigate the system containing this information. This outreach is particularly critical for Veterans who are confused and may not know if they are eligible. During the question and answer following this briefing, the presenter acknowledged that the VA publishes much of their information on the internet, but there are Veterans who do not have access. The presenter also stated that there is an issue with not physically going to Veteran communities to share that information with them, because VA depends too much on the internet and that outreach efforts need to be diversified.

A glaring example of published information being misunderstood was provided by a participant of the ACDC meeting, who shared that they tried and failed to find how to get the COVID-19 vaccine through the VA via the internet; however, once they located the information on the internet, they drove 45 minutes to a specific clinic to receive the vaccine. Once they arrived, they were informed by the clinic that they did not give vaccines and that they needed to go to the VA hospital. The member emphasized that there are a lot of details and nuances of communication that need help, especially when millions of people need the information to be easily received and understood. The frustrating example shared by this member and others is echoed by the many Veterans and family members that are encountered almost daily. Communication is key, and while in some cases VA does an exceptional job at communicating, in many cases, they are not establishing a mechanism to integrate culturally resilient education for contractors to facilitate the removal of barriers to care for minority Veterans and reaffirm VA's commitment to diversity and inclusion.

Such a mechanism would ensure that contractors abide by the VA's non-discrimination policies, making clear that provision of care is not subject to a provider's claim and that personal liberties are being violated by caring for certain Veterans whose existence they find disagreeable. Ensuring this provision requires a reporting requirement and making Veterans aware of their rights as patients seeking care through VA. It also involves the examination of current collaborations with VA benefits, health care organizations, VSOs, and other partners contracted by the VA with Veterans that are an essential part of our communities. The ACDC could serve as a sounding board via briefings by the various departments and other entities to include the Veterans Engagement Board about the education and training programs and their impact on Veteran understanding, registration, navigation and ultimately appropriate compensation for their injuries, illnesses, and/or diseases.

In 1994, along with the Advisory Committee on Minority Veterans (ACMV), the Center for Minority Veterans (CMV) was established to address these shortfalls. While VA has made major strides in recent years to address the changing demographics in the Veteran community, several key issues persist. Veterans continue to face difficulties accessing digestible information and understanding the eligibility requirements and scope of services available to them. This information gap is acutely felt among minority Veterans. Problems with outreach and trust among minority Veterans seeking care through VHA persist and serve as a barrier to optimal clinical outcomes for those health areas (e.g., PTSD, hypertension, multiple cancers, cardiovascular events, MST, diabetes, etc.) most impacted by the inequities in care for racial and ethnic minority Veterans. In the 2018 ACMV report, it was recommended that VA require VBA to collaborate with the National Center for Veterans Analysis and Statistics (NCVAS) to publish disability award reports biannually to identify and address potential racial/ethnic award disparities by the end of FY 2019.

In 2016, during the ACMV meeting, former VA Secretary David Shulkin committed to addressing this longstanding recommendation as it was necessary information for the ACMV to fulfill its Congressionally mandated responsibilities. At that time, the Deputy

Assistant Secretary for Data Governance and Analytics confirmed that they had the capability through data matching to identify Veterans by race and ethnicity and, therefore, could produce the data that was required. While VA concurred, in principle, there has been no follow through. VBA data on race and ethnicity is much more comprehensive than it was in 2016, and the data quality issues and voids should be rectified or reduced significantly. Although challenges existed for the Vietnam-era Veterans, it was stated that USVETS data file refresh could improve the completeness of the information. It was also acknowledged that the necessary funding will be explored with NCVAS.

In a recently published article, Racial and Ethnic Disparities in U.S. Veteran Health Characteristics (Int J Environ Res Public Health. 2021 Mar 2;18(5):2411), researchers reported that racial/ethnic health disparities persist among Veterans despite comparable access and quality of care. Both racial and ethnic differences in self-reported health characteristics among 437,413 men and women (mean age (SD) = 64.5 (12.6), 91% men, 79% White) within the Million Veteran Program (MVP) were examined. The Cochran–Mantel–Haenszel test and linear mixed models were used to compare age-standardized frequencies and means across race/ethnicity groups, stratified by gender. Black, Hispanic, and other race men and women reported worse self-rated health, greater VA health care utilization, and more combat exposure than Whites. Compared to white men, black and other men reported more circulatory, musculoskeletal, mental health, and infectious disease conditions while Hispanic men reported fewer circulatory and more mental health, infectious disease, kidney, and neurological conditions. Compared to white women, black women reported more circulatory and infectious disease conditions and other women reported more infectious disease conditions. Smoking rates were higher among black men, but lower for other minority groups compared to whites. Minority groups were less likely to drink alcohol and had lower physical fitness than whites. By identifying differences in burden of various health conditions and risk factors across different racial/ethnic groups, our findings can inform future studies and ultimately interventions addressing disparities.

The study also identified several racial/ethnic disparities in disease burden and other health-related factors as well as potential risk factors. These findings provide a better understanding of differences in disease burden and risk factors among racial and ethnic groups which is needed to begin to address health disparities and achieve equity in health care and health outcomes. The data requested by the ACMV can provide further insights and clarity regarding the complex relationships between these risk factors and health disparities to inform interventions and policy changes to better serve minority Veteran men and women.

VA (to include the VHA, VBA and the National Cemetery Administration (NCA)) should provide a comprehensive report addressing the ethnic and racial disparities (even if the data is not fully complete), indicate the progress achieved since the initial request was made, and provide a timeline beginning with the request date through to the current time with a dotted line to indicate next steps. VA should complete this recommendation in calendar year 2022.

VA Response 5.1: Concur in Principle.

VA acknowledges that throughout the years, several VA advisory committees, OIG audits, and GAO reports, along with other external studies, have shown disparate findings that may cause inequities in access to and outcomes in VA benefits, healthcare, and other services that our Nation's Veterans have earned and deserve. VA agrees that the recommendations should be addressed more concretely to ensure that there are tangible actions to overcome these disparities and to eliminate them. However, VA needs to be able to better understand the root causes that lead to the gaps and disparities between demographic groups, and to develop tangible solutions to address these issues—whether through outreach, education, awareness, policy change, systems/tools, employee training, organizational culture. That is why VA recently established an Agency Equity Team and VBA'S Office of Equity Assurance, whose first order of business is to identify any disparities that exist at VA, understand them, and eliminate them. VA has taken action to address matters related to outreach and engagement for Veterans who are underserved—conducting several targeted outreach programs and events; holding Listening Sessions and Veteran Trust Surveys; hosting targeted training symposiums that include Veterans, Survivors, their families and advocates; providing training, education and awareness related to applying for benefits for the PACT Act; hosting VA Townhalls for the public; and widely distributing information in the form of social media, websites, pamphlets, and brochures. VA has held Veteran Claims Clinics, Stand Downs, and Economic Development Initiative forums to ensure that outreach and engagement are ongoing. However, VA recognizes that there is more to do. Therefore, VA is working on extensive plans for incorporating equity into the fabric of its organizational culture, as well as with its programs, policies, and practice to ensure that every Veteran gets the world-class care and benefits they deserve–no matter their age, race, ethnicity, gender, religion, disability, or sexual identity.

On February 14, 2024, VA released its 2024 Agency Equity Action Plan to help ensure that VA delivers on its promise to provide world-class care and benefits to *all* Veterans, their families, caregivers, and survivors regardless of their age, race, ethnicity, sex, gender identity, religion, disability, sexual orientation, or geographic location. VA released this 2024 update to our Agency Equity Action Plan (https://department.va.gov/wp-content/uploads/2024/02/Department-of-Veterans-Affairs-Equity-Action-Plan.pdf) in coordination with the Administration's whole-of-government equity agenda. VA's Equity Action Plan is part of the Department's efforts to implement the President's Executive Order, "Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government" (https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/16/executive-order-on-further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/), which reaffirmed the Administration's commitment to advance equity and build an America where we serve all Veterans, their families, caregivers, and survivors.

Recommendation 5.2: VHA/VBA Information Sharing and Communication

VA must increase outreach to Veterans with qualifying service in which toxic exposure is presumed (e.g., herbicide exposure, particulate matter, radiation, etc.). As research is expanded on the effects of toxic exposure on the human body, VA is responsible for ensuring affected Veterans are receiving timely access to health care, benefits, and services. VA can expand awareness of these benefits and services by increasing collaboration among administrations.

Although Veterans may be established in both VHA and VBA, increased communication among the administrations and changes to regulations can greatly increase a Veteran's access to their entitled health care and benefits. For example, although a toxic-exposed Veteran may be in receipt of VBA benefits for other disabilities, upon being diagnosed by VHA with a related presumptive condition, corresponding VA benefits and services are not automatically established.

The Committee recommends the administrations should share this information within 60-days and inform the Veteran of the benefits and services to which they are entitled. The effectiveness of this recommendation should be tracked by VA. This recommendation should be implemented by FY 2024, with an initial analysis to determine effectiveness completed by FY 2026.

VA Response 5.2: **Concur.**

VA is committed to ensuring Veterans are aware of the benefits and services to which they are entitled. Since November 2022, VBA has been sending out outreach letters to Veterans previously ineligible for benefits who may now be eligible under the PACT Act. As a general rule, VBA invites claims to be submitted directly from Veterans when potential additional benefits are identified during the claims process. While the law does not permit VA to pay benefits unless an application for benefits is received, VBA invites claims when unclaimed disabilities that are subject to a presumption of service are recognized in the Veteran's records.

Finally, VHA implemented a Toxic Exposure Screening (TES) in accordance with the PACT Act. During the TES process, Veterans are provided local and national information resources, as well as instructions on how to file a claim. VBA is receiving lists from VHA of Veterans who screen positive for potential toxic exposures and subsequently sending additional outreach letters to them. However, VBA is not able to determine whether the outreach letters prompted Veterans to file toxic exposure claims since the decision to file a claim can be driven by various factors.

Recommendation 5.3: Improved VA Outreach to Veterans

Congress and the Secretary made a giant step forward with the passage and signing of the PACT Act. Despite the efforts of VA to articulate the differences in purpose and process between the Airborne Hazards and Open Burn Pit Registry (AHOBPR) and the process and benefits available under the PACT Act, VA should increase efforts of

outreach to those Veterans who do not have computer access. Additionally, VA should increase information efforts to Veterans who have cognitive or patience challenges. Anecdotally, some Veterans confuse the medical examination available through the environmental health coordinator with a Compensation & Pension examination just as some Veterans think signing up for the AHOBPR, constitutes submittal of a disability claim. Thus, staff throughout VA, should actively seek those who need information similar to the way VHA seeks those who have been subject to domestic violence or neglect. For instance, VA should contact Vietnam Veterans or their surviving spouses to notify them of their potential entitlement under the PACT Act.

The Committee recommends that VA utilize any and all means of communication to assist in the expansion across VA to include RCS (Rich Communication Services), also called advanced or text messaging, television, radio, print, social media, enterprise webpages2, and the postal system.

VA Response 5.3: Concur.

VA is committed to providing Veterans and their families with information on the PACT Act and its impact on eligibility for VA benefits and services. Internally, VBA has provided frontline employees and outreach personnel with the necessary training, information, and tools to ensure successful engagements with Veterans, survivors, and dependents when they connect with VA for assistance with PACT Act-related inquiries. Externally, VA is reaching out to Veterans and survivors through direct communications; in-person and virtual outreach events; social media; and media interviews to increase PACT Act awareness. VA held the PACT Act Week of Action from December 10-17, 2022, to inform Veterans, their families, and survivors about the PACT Act and encourage them to apply for the health care and benefits they have earned. This campaign hosted more than 120 events across all 50 states, the District of Columbia, and Puerto Rico. VA has planned national and local outreach events. Events include a survivors' forum with DoD, a virtual rural symposium and a virtual VSO workshop with state and county VSOs, which expands VA's reach in disseminating information. All symposiums will focus on sharing PACT Act information and materials directly with Veterans, survivors, and community partners.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
March 22, 2016

The Honorable Jeff Miller
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to provide Department of Veterans Affairs (VA) response to the 2014 Biennial Report of the Advisory Committee on Disability Compensation pursuant to 38 United States Code, section 546. The Report provides an assessment of VA's administration of programs, services, and benefits affecting disabled Veterans.

VA is grateful for your continuing support of Veterans and appreciates your efforts to pass legislation enabling VA to provide Veterans with the high-quality care they have earned and deserve. As the Department focuses on ways to help provide access to health care in your district or state and across the country, we have identified a number of necessary legislative items that require action by Congress in order to best serve Veterans.

Flexible budget authority would allow VA to avoid artificial restrictions that impede our delivery of care and benefits to Veterans. Currently, there are over 70 line items in VA's budget that dedicate funds to a specific purpose without adequate flexibility to provide the best service to Veterans. These include limitations within the same general areas, such as health care funds that cannot be spent on health care needs and funding that can be used for only one type of Care in the Community program, but not others. These restrictions limit the ability of VA to deliver Veterans with care and benefits based on demand, rather than specific funding lines.

VA also requests your support for the Purchased Health Care Streamlining and Modernization Act. This legislation would allow VA to contract with providers on an individual basis in the community outside of Federal Acquisition Regulations, without forcing providers to meet excessive compliance burdens. Already, we have seen certain nursing homes not renew their agreements with VA because of these burdens, requiring Veterans to find new facilities for residence. VA further requests your support for our efforts to recruit and retain the very best clinical professionals. These include, for example, flexibility for the Federal work period requirement, which is not consistent with private sector medicine, and special pay authority to help VA recruit and retain the best talent possible to lead our hospitals and health care networks.

A similar letter has been sent to other leaders of the House and Senate Committees on Veterans' Affairs.

Sincerely,

Robert A. McDonald

Enclosures

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
March 22, 2016

The Honorable Johnny Isakson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

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Sincerely,

Robert A. McDonald

Enclosures

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
March 22, 2016

The Honorable Corrine Brown
Ranking Member
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Brown:

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A similar letter has been sent to other leaders of the House and Senate Committees on Veterans' Affairs.

Sincerely,

Robert A. McDonald

Enclosures

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
March 22, 2016

The Honorable Richard Blumenthal
Ranking Member
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Senator Blumenthal:

I am pleased to provide Department of Veterans Affairs (VA) response to the 2014 Biennial Report of the Advisory Committee on Disability Compensation pursuant to 38 United States Code, section 546. The Report provides an assessment of VA's administration of programs, services, and benefits affecting disabled Veterans.

VA is grateful for your continuing support of Veterans and appreciates your efforts to pass legislation enabling VA to provide Veterans with the high-quality care they have earned and deserve. As the Department focuses on ways to help provide access to health care in your district or state and across the country, we have identified a number of necessary legislative items that require action by Congress in order to best serve Veterans.

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A similar letter has been sent to other leaders of the House and Senate Committees on Veterans' Affairs.

Sincerely,

Robert A. McDonald

Enclosures

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

March 22, 2016

Lieutenant General James Terry Scott, USA (Retired),
Chairman
Advisory Committee on Disability Compensation
100 S. Commercial Avenue, Suite 200
Coleman, TX 76834

Dear General Scott:

Thank you for submitting the 2014 Biennial Report of the Department of Veterans Affairs (VA) Advisory Committee on Disability Compensation. The Committee contributes valuable advice and guidance to the Department on the issues that affect the Veterans disability compensation program. VA's response to the Committee's recommendations is enclosed.

I appreciate your continued leadership and support of VA's mission.

Sincerely,

Robert A. McDonald

Enclosures

DEPARTMENT OF VETERANS AFFAIRS (VA) RESPONSE TO THE 2014 BIENNIAL REPORT OF THE ADVISORY COMMITTEE ON DISABILITY COMPENSATION

The Advisory Committee on Disability Compensation (Committee) was established under section 214 of Public Law 110-389. The Committee advises the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities (VASRD). At least every two years, the Committee must submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation. Each report must include an assessment of the needs of Veterans with respect to disability compensation and recommendations (including recommendations for administrative or legislative action). The Committee submitted its most recent report on October 31, 2014. The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

Response to Status of Issues Presented in Previous Reports

Responses to the majority of the issues presented in previous reports were in the form of action plans. The Committee indicated that it will request updates on the action plans at subsequent meetings. The priority issue contained in previous reports is the continued systematic review and update of the VASRD.

Responses to Issues Presented in the 2014 Biennial Report

Issue: The systematic review and update of the VASRD

Recommendation 1: Keep the master plan on schedule by insuring that adequate resources are provided to the project team, particularly the Mental Disorders effort.

VA Response: Concur

Maintaining the schedule of the VASRD update project, providing adequate resources for its completion, and ensuring the quality and accuracy of each body system draft remain priorities of the Veterans Benefits Administration (VBA). The project management plan continues to maintain a proposed completion date of March 2017 for all body systems under review, including the mental disorders body system.

The Mental Disorders Workgroup reconvened in 2012 due to feedback from VA leadership regarding the underlying theoretical basis of the draft. The second workgroup, which included Veterans Service Organizations (VSOs), employed additional medical and economic data to produce revised evaluation criteria that offer a more thorough and adequate method for measuring the impact of mental disorders. The underlying bases of the new proposed criteria include consideration of occupational impairment as well as the impact of social impairment on occupational functioning. VA

has received positive feedback from group members and stakeholders. Based on the findings and conclusions of the second workgroup, a proof-of-concept study was completed to test the validity, accuracy, and adequacy of the proposed amendments to the mental disorders body system. VBA continues to maintain the current schedule for this and all other VASRD rulemakings.

Recommendation 2: Maintain continuity of personnel dedicated to the revision process in the project management plan.

VA Response: Concur

VBA continues to maintain the continuity of personnel dedicated to the revision process in the project management plan, as well as in the process of drafting and rulemaking. A contract program management specialist continues to serve as the VASRD update project manager and is responsible for updating all documents and the program schedule, as well as assisting in maintaining project trajectory.

Recommendation 3: Ensure that the current review includes the diagnosis, treatment, and levels of disability associated with diabetes.

VA Response: Concur in Principle

VBA is presently revising all criteria applicable to VASRD body systems in accordance with current medical science and available economic earnings loss data. An Endocrine Workgroup considered the available medical and economic updates with regard to diabetes mellitus, but could not reach a consensus on revised diagnostic, treatment, and evaluation criteria.

VBA is exploring the establishment of a new working group, composed of VA and private medical professionals, subject matter experts, rating specialists, attorneys, VSOs, and other stakeholders, to specifically address diabetes mellitus.

Recommendation 4: Establish an action plan for obtaining current economic loss data for all body systems.

VA Response: Concur in Principle

VBA is exploring options to conduct earnings loss studies on both individual and multiple body systems that it could apply to future VASRD updates. However, VBA has determined that existing earnings loss studies are available at no additional cost and sufficient for initial revisions of the VASRD.

Issue: Total disability based on individual unemployability (IU)

Recommendation: The Committee recommends that VA continue the study of IU and incorporate the results of the ongoing Government Accountability Office

(GAO) study into the deliberations and results of the study. The Committee's recommendations will be included in either an interim report in 2015 or the biennial report due October 31, 2016.

VA Response: Concur in Principle

VBA supports the Committee's continued study of IU and will assist the Committee's efforts. VBA is prepared to consider options to revise its criteria for awarding IU and its procedures concerning management of the IU benefit based upon the Committee's conclusions and recommendations, as well as the GAO study. That study recommended VA issue updated guidance to determine eligibility, identify a comprehensive quality assurance approach to assess benefit decisions, verify Veterans' self-reported income, and move forward on studies suggested by the Committee.

Issue: Utilization of decision review officers (DRO) at VA regional offices (ROs)

Recommendation 1: The Committee continues to strongly recommend that DROs be utilized for appeals processing in order to reduce the average elapsed processing time for appeals activities under the jurisdiction of and control of the ROs.

VA Response: Concur

VA completed over 1 million claims in each of the last 5 years and is on track to complete 1.4 million this fiscal year. On average, between 11 and 12 percent of all VA claim decisions are appealed, a rate that has held steady over the past 20 years irrespective of increased production. DROs continue to focus on appeals processing during their regular duty hours. DROs are primarily used to process notices of disagreement (NODs) and substantive appeals (i.e., VA Form 9) received from Veterans. They may also conduct hearings. DROs are authorized to adjudicate rating claims only on overtime.

Recommendation 2: The Committee recommends that the DRO appeal option be clearly stated on the NOD form as it offers a timely solution to some appeals issues at the RO.

VA Response: Concur

VA concurs that VA Form 21-0958, *Notice of Disagreement*, should be updated to reflect upfront the option to elect either the DRO review or traditional appeals processing. On September 25, 2014, VA published a regulation mandating use of VA Form 21-0958 when filing an NOD with a compensation decision issued on or after March 24, 2015, in cases where the form is provided in connection with VA's initial decision. The purpose of this change is to provide Veterans with a standardized format for filing NODs that the field can process more quickly and accurately. Providing Veterans with the option to elect an appeal processing method (i.e., DRO versus

traditional) at the earliest stage of filing an NOD will assist VA's efforts to improve appeals processing times. Veterans who do not elect either method on the form will still be provided notice regarding the appeals process methods and 60 days in which to elect one. The table below reflects the approximate timeline for implementation of the form change.

Actions to Implement:

VA Action Plan – DRO Appeal Option on NOD Form						
Steps to Implement	**Lead Office**	**Other Offices**	**Tasks**	**Due Date**	**Current Status**	**Contact Person**
Draft new form language	Compensation Service (CS)	Board of Veterans' Appeals (Board)	Draft and receive concurrence on form revision	3/2015	Complete	Christi Greenwell
Upload form for Office of Management and Budget (OMB) submission	CS	Publications, Office of OMB, Office of Information Technology (OIT)	Upload supporting documents, statements, and new form for OMB	4/2015	Complete	Christi Greenwell
60-Day Federal Register Notice (FRN) Published	CS	OMB	Comment Period closed	7/2015	Complete	Christi Greenwell
30-Day FRN Published	CS	OMB	Comment period open	9/2015	Complete	Christi Greenwell
Submission to OMB for review and approval	CS	OMB	Review of form revision	09/28/2015	Approved	Christi Greenwell
Update VBA systems and integrate form in the next scheduled release	CS	VBA	Systems update requested	ASAP	In progress	Christi Greenwell
Update of VBA procedures to reflect changes in form	CS	CS	Manual update requested	Approximately 12/2015	In progress	Christi Greenwell

*Note: Systems have been notified and will be integrating new form version in their next releases. VBA is updating our procedures to reflect changes required for use of the updated form. The new form will be released once instructions are available.

Recommendation 3: The Committee recommends that the Secretary and Congress favorably consider adding manpower to the appeals process at the RO level as requested by VBA.

VA Response: Concur

VBA requested funding to hire 200 full-time employees for appeals processing in the budget submission for fiscal year 2016. On receipt of an appropriation that includes the requested level of funds, VBA will distribute the additional resources across ROs based on workload and staffing levels.

Issue: Use of the disability benefits questionnaire (DBQ)

Recommendation 1: The Committee recommends that VA analyze the acceptability of DBQs among VA and civilian physicians by disability and adapt future iterations to the requirements of all examining physicians and claims adjudicators.

It has also been stated in testimony before the Committee that both the Board of Veterans' Appeals (BVA) and the United States Court of Appeals for Veterans Claims (Court) have questioned the use of the DBQ as the sole or primary evidence for determining disability levels. The concern appears to be lack of supporting information describing how the conclusion(s) on the completed DBQ were reached.

VA Response: Concur in Principle

VBA's Compensation Service, in coordination with the Veterans Health Administration's (VHA) Office of Disability and Medical Assessment (DMA), maintains regular and ongoing communication with field users of DBQs, including both VHA examiners and VBA adjudicators. DMA and VBA conduct joint weekly calls to discuss changes, identify issues, and solicit input from field users on potential improvements. Additionally, both DMA and Compensation Service maintain corporate mailboxes to which users submit questions and suggestions. Due to the relatively small number of DBQs completed by private or VA treating clinicians, and the absence of any formal method to solicit feedback from such a small number of users, VBA has little information regarding civilian physician comments or suggestions to allow for any meaningful analysis.

Recommendation 2: Ensure that future iterations of DBQs meet BVA and Court guidelines for sufficiency.

VA Response: Concur

VA has established a DBQ Change Control Group consisting of members from the Board, VBA, VHA, and the Veterans Benefits Management System (VBMS) Program Management Office. This group will coordinate all future revisions to existing DBQs and

submit recommendations to the VA DBQ Implementation Board for approval. Additionally, members from the Board as well as the Office of General Counsel (OGC) have participated in work groups tasked with revising DBQs, such as the most recent updates to the 11 musculoskeletal DBQs. The involvement of multiple VA staffs, including the Board and OGC, ensure DBQs reflect the latest jurisprudence regarding the sufficiency of VA examinations and examination reports.

Issue: Medical doctors in ROs and claims adjudicators in medical centers

Recommendation: The Committee strongly recommends that medical doctors continue to be co-located with ROs to expedite claims processing and that claims personnel be available at VA medical facilities to assist patients with claims.

VA Response: Concur in principle

VHA DMA will continue to support the allocation of compensation and pension (C&P) medical examiners in VA ROs. This collaborative effort has led to more timely completion of examinations under the Acceptable Clinical Evidence (ACE) Program, more timely clarification of existing medical evidence, and enhanced understanding of medical evidence by benefits decision makers.

In the past, some RO staff spent time in the C&P clinics helping facilitate the claims process. Some ROs rotate employees to VA medical centers (VAMCs) for targeted special missions or when requested by a VAMC employee or VSO because of a specific need. Given the current success of having VHA examiners in every RO, VBA is considering a national pilot to assign RO employees to VAMCs.

Issue: Separation health exams

Recommendation: The Committee recommends that VA continue to press the Department of Defense (DoD) and the Services to implement separation health exams for all total force service members. This can be done through the Joint Executive Council and through emphasis by the Secretary and key VA leaders in their discussion with DoD counterparts and testimony before Congress.

VA Response: Concur

VHA DMA continues to keep this issue in front of senior DoD policy staff. DMA hosts a bi-monthly call with DoD's Health Affairs and partners with them for separation health assessment (SHA) presentations to the Joint Executive Committee and the two subordinate committees – the Benefits Executive and the Health Executive Committees. In the fall of 2014, DMA successfully worked with the Air Force to develop a pilot program to test the SHA.

Actions to Implement:

VA Action Plan – Separation Health Assessments						
Steps to Implement	**Lead Office**	**Other Offices**	**Tasks**	**Pilot Rollout Date**	**Current Status Confirmed**	**Contact Person**
Final implementation plans with DoD and Military Services	Disability Medical Assessment (DMA)	VBA, VHA Health Affairs, and Military Services	Final plans and final MOAs	1/2015	Deployed Live.	Acting Under Secretary of Health

Issue: Use of zero-percent evaluation criteria in the VASRD

Recommendation: The Committee recommends that VA consider listing a zero-percent evaluation level for all diagnostic codes representing diagnosed diseases or manifestations of injuries when it is relatively common for the residuals to be very minor or asymptomatic, with generally no current effect on activities of daily living or earning capacity, but for which subsequent impact is likely. An example would be a diagnosis of "Pre-diabetes." Appropriate descriptions of zero-percent evaluations in the revised VASRD will facilitate the rating evaluation process.

VA Response: Concur in Principle

VBA is presently revising all criteria applicable to VASRD body systems in accordance with current medical science and available economic earnings loss data. As part of this revision, VBA is reviewing all evaluation criteria and levels for accuracy and adequacy. When supported by current medical science and economic data, VBA will consider the use of a specified zero-percent evaluation level and criteria when revising individual diagnostic codes.

However, 38 C.F.R. § 4.31 provides a regulatory method to acknowledge the existence of a service-related disease or injury which may in the future warrant compensation if an increase in the degree of disability occurs. This regulation allows VA to assign a zero-percent evaluation in cases where the Veteran's disability does not meet the criteria for a compensable evaluation but does meet the criteria to establish service-connection. Generally, VA lists the criteria for a zero-percent evaluation only where minimum diagnostic criteria, or minimum manifestations of disease or disability, are necessary to establish a diagnosis for VA purposes.

Issue: Determining presumption of service connection

Recommendation: VA should consider adopting the presumptive categories proposed by the Institute of Medicine (IOM) Study: Improving the Presumptive Disability Decision-Making Process for Veterans (2008).

VA Response: Concur in Principle

VA concurs that simplifying the presumptive process is desirable. Therefore, VBA will consider adopting the proposed categories, which more closely follow the standard of "at least as likely as not" used in direct service connection. However, there are stakeholders who may see the proposed "equipoise evidence" category as more restrictive than the current process. As a result, further evaluation is needed before VA adopts this recommendation.

Issue: Creation of a new "fully developed appeals" pilot program

Recommendation: The Committee most strongly recommends that VA support, and Congress enact, a pilot program for fully developed appeals that follows the proposal developed by VSOs and VBA. The program must be authorized by Congress as a nationwide pilot program for a limited number of years and include sufficient oversight and reporting requirements to ensure it operates as intended. Properly enacted and supervised, such a program offers great potential benefit to all parties involved with the appeals process, particularly veterans who are appealing a decision.

VA Response: Concur in Principle

Similar to VBA's Fully Developed Claims (FDCs) Program, the Fully Developed Appeals (FDA) pilot should be specifically designed to expedite decisions for appellants who have provided all evidence upfront. The FDA election form would make the appellant aware of the appellate procedures being waived, as well as the fact that submission of additional evidence may preclude further participation in the program.

Much like FDC, the traditional process would remain available to those appellants initially electing FDA; however, they would be removed from the expedited docket if they opted to no longer comply with the terms of the pilot.

Legislation submitted to the 113th Congress entitled "The Express Appeals Act" proposed to enact a pilot FDA process that is substantially similar to the Committee's recommendation. The Act would have required VA to submit a report to Congress 180 days after implementation that contains recommendations for any changes to improve the pilot program and an assessment of the feasibility of expanding the program. A similar proposal, "The Express Appeals Act," was introduced and referred to the House Veterans' Affairs Committee during the 114th Congress of fiscal year 2015. The bill remains pending.

Issue: Reserve component personnel, medical records, access, and claims

Recommendation 1:

The Committee recommends that VA continue to emphasize the importance of recognizing and resolving National Guard and Reserve component-unique issues at the Joint Executive Council with Department of Defense (DoD) counterparts.

VA Response: Concur in Principle

VA is currently examining the feasibility of establishing a joint Benefits Executive Committee Working Group/Subcommittee, which would report to the Joint Executive Committee, to unilaterally focus on National Guard and Reserve matters. If approved, the working group will provide recommendations to senior-level decision makers in order to improve the understanding and resolve issues surrounding Reserve Components. Working group membership will consist of DoD representation of all seven Reserve Components and subject matter experts from VBA, VHA, and the Board.

Recommendation 2:

The Committee recommends that VA continue to support, staff, resource, and expand as appropriate the VBA National Guard & Reserve Matters office. This office has been almost singularly responsible for elevating Veterans Administration and ACDC awareness and focus on National Guard and Reserve component issues.

VA Response: Concur

VBA has established the Office of Transition, Employment, and Economic Impact (OTEEI), which contains the key position of policy lead for National Guard and Reserve matters. This position was created to ensure continued awareness, focus, and integration of issues that affect members of the National Guard and Reserve across all VBA business lines. In support of this policy lead position, OTEEI has established support positions across Program Evaluation and Analysis, Community Engagement, and Training and Curriculum Staffs to ensure National Guard and Reserve concerns are fully integrated in all programs.

Recommendation 3:

The Committee recommends that VA emphasize the importance of the Transition Assistance Briefings for Traditional Guard and Reserve members. This should be implemented as soon as possible, as it was mandated for Active Components in November 2012. Consider presentations for members of all Reserve Components at Army and Air National Guard facilities in each state, as these facilities are most often located near other Reserve Component members and rarely co-located with

Title 10 Active Duty installations. Providing the TAP Briefings through DoD Joint Knowledge Online does not reach Traditional Guard and Reserve members who do not have .mil access at their home of record.

VA Response: Concur in Principle

The VOW to Hire Heroes Act of 2011 mandated all members of the armed forces transitioning from active duty, to include National Guard and Reserve Component members activated for at least 180 days, to participate in the Transition Assistance Program (TAP). Regarding the "Traditional Guard," participation in TAP is not generally allowed for Reserve Component, Army National Guard, and Air National Guard unless the individual completed 180 days of active duty .

VA has permanent transition support staff at demobilization sites located at Fort Hood, Texas; Fort Bliss, Texas; and Fort Dix, New Jersey. Through formal TAP outreach efforts, the same network of benefits advisors is available to provide briefings to Reserve and Guard units in each state upon request. Additionally, each VA RO has a Public Contact Team that also provides transition assistance support upon request. The entire TAP curriculum is available through the eBenefits portal, as well as through the DoD website, Joint Knowledge Online.

Recommendation 4:

The Committee recommends that DoD and the Services work with the National Guard and Reserve components on availability and access to Electronic Medical Records, including HAIMS.

VA Response: Concur in Principle

In order to support claims for benefits from Reserve and National Guard members, the Navy and Air Force are reviewing the Army's Health Readiness Repository (HRR) as the source to scan and upload medical documentation while a Reservist or Guard member is actively serving. Currently, when VA requests the service treatment record (STR), the Army downloads the documents into a single .PDF and uploads it into DoD's Healthcare Artifacts and Image Management Solution (HAIMS) so VBA can access the STR.

The pilot program for centralizing requests for records for Reserve and National Guard members is complete. During the month of March 2015, VBA delivered training on the final process to its 56 ROs and deployed the request process nationally. VBA transitioned from sending the requests electronically to DoD Single Points of Entry (SPoEs) via the United States Army Aviation and Missile Research Development and Engineering Center Safe Access File Exchange application to using the VBA application titled Personnel Records Information Exchange System (PIES).

This process allows the VA Liaison Office (VALO) to act as the VBA SPoE for processing requests for Reserve and National Guard STRs. It also provides a single point for all 56 ROs to submit their requests for Reserve and National Guard STRs versus going to multiple DoD points of contact. VALO continues to use a manual workaround to retrieve and upload some STRs from HAIMS into VBMS. VBA anticipates the system enhancement to eliminate this manual process will be deployed in the VBMS December 2015 release.

Recommendation 5:

The Committee recommends that VA emphasize the importance of capturing civilian treatment records and their inclusion in electronic STRs between tours of Title 10 active duty and prior military separation and/or retirement.

VA Response: Concur in Principle

VBA and DoD are currently negotiating a new STR memorandum of agreement (MOA). VBA and DoD are discussing whether to define the STRs to include the records from active, Reserve, and Guard components from accession to the end of benefit eligibility in this MOA. The STRs would include civilian treatment records of Reserve and Guard members who sought medical treatment during periods of active duty or active duty for training. The MOA is currently at DoD for their review. Once DoD's review is complete, VBA will review the MOA.

Recommendation 6:

The Committee recommends that VA work with DoD and the Services to ensure that multiple DD214s for National Guard and Reserve Members (often used for non-consecutive deployments and duty with different units) become part of the Official Military Personnel File (OMPF).

VA Response: Concur in Principle

VBA and DoD are currently working toward fully implementing the electronic DD214 system, which will ensure an accurate and complete OMPF. While DoD issues DD214s to all Servicemembers released from a qualifying period of active duty, DoD policy does not always provide DD214s to individuals released from active/inactive duty for training. If established, the Benefits Executive Committee National Guard and Reserve Working Group will recommend process improvements to simplify and ensure the issuance of DD214s for Veterans assigned to 4,400 reserve duty locations, study the impact of DD214s missing from the OMPF upon the boards for military corrections, and analyze the impact of using documents in lieu of the DD214, such as the *National Guard Report of Separation and Record of Service*, National Guard Bureau (NGB) Form 22. These steps should help ensure a more accurate documentation of Guard and Reserve service.

Recommendation 7:

The Committee recommends that VA work with DoD and the Services to ensure Separation Health Assessments (SHAs) be provided for National Guard and Reserve members, as they are being fully implemented for Active Components by the end of Calendar Year (CY) 2014. This is especially important when the National Guard or Reserve member is separating from a qualifying period of title 10 active duty or retiring.

VA Response: Concur in Principle

During the period October 1, 2013, through December 3, 2013, VA and DoD established an MOA that addresses responsibilities of each party to support a coordinated SHA process that meets the needs of the VA disability compensation program and the mandatory DoD Separation History and Physical Examination initiative.

The Servicemembers affected by this MOA are all members of the Military Services who are scheduled to be separated from active duty, including Reserve Component Service members to be released from active duty, after being called or ordered for more than 180 days of active duty. Certain Selected Reserve members who were never activated or deployed are not covered by the MOU.

Recommendation 8:

The Committee recommends that VA continue education within VA to foster a common operating picture of the new generation of Total Force Veterans.

VA Response: Concur

VA finalized its National Guard and Reserve study report in May 2015. The report provided a comprehensive review and perspective with regard to the disposition of service treatment records, military personnel records, deployed medical records, and documentation required to submit a fully developed claim for all separating and currently serving National Guard and Reserve Component personnel. The overall assessment and recommendations found in the report specifically focused on eliminating the disability claims backlog. VA conducted a senior-level environmental scan to identify factors and issues specifically pertaining to National Guard and Reserve key business processes with the VBA claims processing environment. From the scan and analysis, the study identified findings and recommendations grouped under five themes related to processing National Guard and Reserve disability compensation claims: enhance education and training (of both VA personnel and the VA claimant); enhance VBA's ability to support all Veterans equally; enhance claims processes for National Guard and Reserve; enhance stakeholder partnerships; and enhance data collection and analysis.

Actions to implement:

The National Guard and Reserve study report was completed in May 2015.

In July 2015 VBA conducted a consistency study that tested individuals responsible for disability claims processing. The study assessed the knowledge and ability to:

- Establish Veteran status based on Reserve and National Guard service
- Differentiate between full-time active duty and not full-time active duty
- Verify Reserve or National Guard service using PIES requests

The study documented the results for participants who did not pass the pre-test. VBA provided remedial training tailored to each RO's needs. The training included a pre-test question, the correct response, and the percentage who correctly answered the question followed by a post-test question, the correct response, reference, and percentage who correctly answered that question. The post-test was designed to allow participants to demonstrate competence. Improvements to the training materials were developed based on the results of the consistency study.

DEPARTMENT OF VETERANS AFFAIRS
Advisory Committee on Disability Compensation

October 31, 2014

Honorable Robert A. McDonald
Secretary, Department of Veteran 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 110-389 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, 2014.

The Committee has held 11 public meetings since the last report and has heard from many stakeholders 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 to work with you.

Sincerely,

James Terry Scott,
Chairman
Advisory Committee on Disability
Compensation

Enclosures:
Current Biennial Report dated 31 October, 2014
Committee Charter
Brief Biographies of Current Committee Members
Previous Reports: Interim Report dated 18 June, 2013 with VA Responses
Biennial Report dated 31 October, 2012 with VA Responses
Biennial Report dated 27 July, 2010 with VA Responses
1st Interim Report dated 7 July, 2009 with VA Responses

Department of Veterans Affairs
Advisory Committee on Disability Compensation

Subject: 2014 Report to the Secretary of Veterans Affairs

Reference: Charter of the Advisory Committee on Disability Compensation dated October 29, 2009, established under the provisions of 38 U.S.C. 546, Public Law 110-389, with no termination date.

In addition to the guidance from the Committee Charter, the Committee has received guidance and taskings from the Secretary, Under Secretary for Benefits, Chief of Staff 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 31st, 2014. Previous biennial reports were submitted on October 31st 2012 and July 27, 2010. Interim reports were submitted on June 18th 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 30, 2011 and September 30, 2012. The Committee was reconstituted in October 2013 with twelve members.

Current Membership of the Committee: James Terry Scott, Chairman, Ms. Doris Browne, Ms. Bonnie Carroll, Mr. Robert J. Epley, Mr. Warren A. Jones, Ms. Deneise Turner Lott, Mr. John L. Maki, Mr. Joseph K. Martin, Jr., Mr. Timothy J. Lowenberg, Ms. Elizabeth Savoca, Mr. Michael Simberkoff, and Mr. Mark W. Smith. Brief biographies of the current members are enclosed.

Status of Issues Presented in Previous Reports

Responses to the majority of the issues presented in previous reports were in the form of action plans. The Committee will request updates on the action plans at subsequent meetings.

Previously Presented Priority Issue of Concern to the Advisory Committee: The systematic review and update of the VASRD

Discussion: The key responsibility of the Advisory Committee as stated in the charter is to advise you with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

The formal program Management Plan to revise the "VA Schedule for Rating Disabilities", is dated October 2009, with a timeline for final rules to be published in 2016.

We concur that the Management Plan, if executed as presented, will meet the requirement. However, the Committee is concerned that the Mental Disorders body system is still in the drafting stage. The decision to essentially start over on the review of the Mental Disorders body system was a major setback in completing the master plan on schedule. Also, the Committee received a briefing in August, 2014 that consideration was being given to delaying the preparation of the section dealing with diabetes due to difficulty in achieving consensus in the medical community as to diagnosis, treatment and determining level of disability.

The Committee is also concerned that no plan to study current economic loss data has been developed. The last studies, by CNA and Econ Systems, used data from 2006 and earlier. Significant changes in the U.S. economy and employment picture have occurred since then. A new study could be done covering all body systems or multiple studies could be done covering one or more body systems.

Recommendations:

1. Keep the master plan on schedule by insuring that adequate resources are provided to the project team, particularly the Mental Disorders effort.

2. Maintain continuity of personnel dedicated to the revision process in the project management plan.

3. Ensure that the current review includes the diagnosis, treatment, and levels of disability associated with diabetes.

4. Establish an action plan for obtaining current economic loss data for all body systems.

Issue: Total Disability Based on Individual Unemployability (IU)

Discussion: The Secretary's January 6, 2014 response to the Committee's October 31, 2012 report tasked the ACDC to conduct a study the issue of IU and make recommendations based on the study. The Committee is reviewing available literature and past studies of IU. We are also aware of an ongoing GAO study of IU which we expect to be published in 2015.

Recommendation:

The Committee continue the study of IU and incorporate the results of the ongoing GAO study into the deliberations and results of the study. The Committee's recommendations to you will be included in either an interim report in 2015 or the biennial report due October 31, 2016.

Issue: Utilization of Decision Review Officers (DRO) at VA Regional Offices

Discussion: Reports from visits, inspections and discussions with the Board of Veterans' Appeals indicate that DRO's at regional offices continue to be used for claims adjudication rather than appeals processing. This continuing diversion of these senior technical experts from holding post-decisional hearings and processing appeals exacerbates the appeals processing backlog.

It was stated in testimony before the Committee that current policy regarding DRO utilization is that they "Work appeals during regular duty hours and adjudicate claims during overtime". Whether or not this policy is in followed at regional offices, the effect is still to delay work on appeals and to increase the appeals backlog.

It was also briefed to the Committee that an option for DRO review is not included in the latest Notice of Disagreement (NOD) form.

The Committee was also informed that VBA requested 1700 full time equivalent spaces to assist the DRO's in managing and processing current and backlogged appeals in a timely manner.

Recommendations:

1. The Committee continues to strongly recommend DROs be utilized for appeals processing in order to reduce the average elapsed processing time for appeals activities under the jurisdiction of and control of the VAROs.

2. The DRO appeal option be clearly stated on the NOD form as it offers a timely solution to some appeals issues at the RO.

3. The Secretary and the Congress favorably consider adding manpower to the appeals process at the Regional Office level as requested by VBA.

Issue: Use of the Disability Benefits Questionnaire

Discussion: The DBQ has been in effect for some time now and appears to be generally accepted by VA doctors. However, there is apparently still significant resistance to its use by examining physicians outside VA. It is important that future iterations of DBQs meet the needs of all examining physicians as well as claims adjudicators.

It has also been stated in testimony before the Committee that both the BVA and the Court of Appeals have questioned the use of the DBQ as the sole or primary evidence

for determining disability levels. The concern appears to be lack of supporting information describing how the conclusion(s) on the completed DBQ were reached.

Recommendations:

1. Analyze the acceptability of DBQs among VA and civilian physicians by disability and adapt future iterations to the requirements of all examining physicians and claims adjudicators.

2. Insure that future iterations of DBQs meet BVA and Court guidelines for sufficiency.

Issue: Medical Doctors in Regional offices and Claims Adjudicators in Medical Centers

Discussion: Testimony before the Committee has been universally supportive of stationing medical doctors at regional offices and claims adjudicators at VA medical centers. The presence of medical doctors at Regional Offices offers opportunities for clarifying medical examinations that may be otherwise considered insufficient or unclear by adjudication personnel. Such clarifications prevent the necessity for ordering new or additional exams, thus delaying claims processing.

The Committee was informed on October 20, 2014 that consideration is being given to taking the medical doctors out of regional offices to address patient care needs. The Committee considers this a short sighted approach that will impede claims processing and backlog reduction.

At present, there are no VBA personnel in most VHA facilities. Patients seeking information about benefits to which they may be entitled, filing or pending claims, appeals, or guidance about any of these must be referred to the RO. This is not consistent with the One VA concept promulgated in the past.

Recommendation:

The Committee strongly recommends that medical doctors continue to be collocated with regional offices to expedite claims processing and that claims personnel be available at VA medical facilities to assist patients with claims.

Issue: Separation Health Exams

Discussion: Both the Veterans Disability Benefits Commission and this Committee have continued to strongly recommend separation health exams for all separating service members. While VA has been strongly supportive of separation health exams, the DoD and Services have resisted separation health exams for resource reasons. The Committee was briefed on October 20, 2014 that the DoD and the Services have finally

agreed to implement separation health exams for all departing service members in December of 2014 or early in 2015.

A complete separation health exam will assist greatly in future VA medical and claims activities by benchmarking the individual's health and conditions at separation.

Recommendation:

Continue to press the DoD and the Services to implement separation health exams for all total force service members. This can be done through the Joint Executive Council and through emphasis by the Secretary and key VA leaders in their discussion with DoD counterparts and testimony before Congress.

Issue: Use of zero percent evaluation criteria in the VASRD

Discussion: In recent briefings on the status of VASRD revision, briefers have expressed uncertainty regarding establishment and use of zero percent evaluations and what levels of disabling effects distinguish a zero percent evaluation from a 10 percent evaluation.

The regulation establishing a noncompensable evaluation for each diagnostic code is 38 C.F.R. § 4.31. It states "In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met".

Zero percent criteria are not listed for every condition. Zero percent evaluation criteria are listed for diseases that have been diagnosed or for manifestations of injuries when it is relatively common for the residuals to be or very minor or asymptomatic, so as not to affect the activities of daily living. This evaluation level distinguishes from situations assigned the 10% evaluation, which is assigned for manifestations that normally have some minor impact on employment settings or activities of daily living, but medication and/or accommodations may allow full employment and activities. Used appropriately, proper descriptions of zero percent evaluations can facilitate the rating evaluation process and should be included in the current revision of the VASRD.

Recommendation:

Consider listing a zero percent evaluation level for all diagnostic codes representing diagnosed diseases or manifestations of injuries when it is relatively common for the residuals to be very minor or asymptomatic, with generally no current effect on activities of daily living or earning capacity, but for which subsequent impact is likely. An example would be a diagnosis of "Pre-diabetes. Appropriate descriptions of zero percent evaluations in the revised VASRD will facilitate the rating evaluation process.

Issue: Determining Presumption of Service Connection

References:
Title 38, Section 1116 and 1118
IOM Study: Improving the Presumptive Disability Decision-Making Process for Veterans; 2008, National Academy of Sciences.

Discussion: The Agent Orange Act of 1991 required VA to contract with the National Academy of Science (NAS) to perform periodic reviews and evaluations of the scientific evidence regarding the association between disease and exposure to herbicide used in Vietnam. This requirement is now codified in Section 1116 of Title 38, which describes the standard for finding of an association, as follows: "An association between the occurrence of a disease in humans and exposure to an herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association." Later, a similar requirement for presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War. This second requirement is codified in Section 1118 of Title 38.

In conducting its reviews, the NAS has used the following categories to define levels of association:

1. Sufficient evidence of an association;

2. Limited/suggestive evidence of an association;

3. Inadequate/Insufficient evidence of an association;

4. Limited/Suggestive evidence of NO association.

These four categories do not align clearly with the VA's standard for establishing an association, described above. Similarly, the VA's standard for establishing direct service-connection - that a disease or disability is as likely as not related to military service- does not directly correlate with the NAS study categories. Some current presumptions were assigned after an IOM study group assigned category two for a disease – limited or suggestive evidence of an association.

The Institute of Medicine conducted a study on Presumptions, at the request of the Veterans Disability Benefits Commission (VDBC). Among its many recommendations, the IOM study proposed using a different categorization scheme (see page 189 of the study). This revised categorization assumed a standard of causation, which was another recommendation of the IOM Study team. While the VA declined to accept causation as the presumptive standard, the different categorizations could easily be adapted using "association" as the standard. A suggested adaptation is shown below. This revision would be more consistent with the language of Title 38, Section 1116.

1. Sufficient: The credible evidence for an association outweighs the credible evidence against the association.

2. Equipoise: Evidence for and against an association is equal.

3. Insufficient: The credible evidence against an association outweighs the credible evidence for the association.

Recommendation:

The VA should consider adopting the categories above, derived from the IOM Study on presumptions.

Issue: Creation of a new "Fully Developed Appeals" Pilot Program

Discussion: The normal (or "traditional") appeals process leading to the Board of Veterans Appeals (the "Board") involves many steps and can take years before an appellant receives a final decision from the Board. An appeal of a benefit claim begins with the filing of a Notice of Disagreement (NOD) within one year of the claim's decision. Subsequently, the VA Regional Office (VARO) must draft and issue the appellant a Statement of Case (SOC), which includes a VA Form 9 for the appellant to complete and return within 60 days of receipt in order to continue the appeal. In the Form 9, the appellant may request a hearing, either at the Board's central office in Washington, DC, from a travel Board or via videoconference. Before finalizing the appeal for consideration of the Board, the VARO will perform any required development for evidence necessary to make the appellate record complete and ready for review. Once the appeal is ready to be transferred the Board, the VARO must complete a Form 8 certifying it is ready to be called up by the Board. The average time it takes from the filing of the NOD to the certification via the Form 8 is over 1,000 days.

Once appeals are certified to the Board, they are called up in docket order. At the Board, appeals that have Veterans Service Organization (VSO) representation will be referred to the VSO for review and submission of an argument on the appeal. Once the VSO returns the appeal to the Board, the Board will review it and make a decision to allow the claim, deny the claim or remand the claim due to errors or for additional development. Multi-issue appeals may contain allowances, denials and remands for individual issues all in the same claim. Most remands are returned to the Appeals Management Center (AMC) for development of evidence, ordering of exams or independent medical opinions. Some remands must be returned to the VARO of original jurisdiction for specific reasons. When remands are completed, the AMC (or VARO) will either issue a new rating decision that allows the claim in full, or returns the appeal to the Board, where it is placed back on the docket for VSO review, followed by the Board's review and decision, which could include a subsequent remand. The average cycle time for appeals once they are called up by the Board is approximately 240 days, including both the VSO review and the Board review and decision.

In order to improve the appeals process for veterans, representatives of veterans service organizations (VSOs), the Veterans Benefits Administration (VBA), and the Board have informally collaborated to develop a new proposal that would create a "fully developed appeals" (FDA) pilot program. The FDA proposal is modeled on the Fully Developed Claims (FDC) program. In the FDA program, the appeal would move directly to the Board, without any intervening processing at the VARO, thereby reducing significantly the time it takes for an appellant to get a decision from the Board.

Under the proposed pilot program, an appellant could choose to file an FDA when filing their NOD. The veteran would be able to submit any additional evidence to the claims record they believe will support the appeal; they would also be able to submit any argument at that time. The appellant would also waive the right to a hearing, either locally or at the Board. If the appellant submits any additional evidence or argument in relation to that FDA after it is filed at the NOD stage, the appeal would be removed from the FDA program and placed back in the normal appeals process. In addition, since this is a voluntary program, the appellant has the right to withdraw the appeal from the FDA program and have it placed back in the normal appeals process. There would be no SOC, no Form 9, no hearings either locally or at the Board, no Form 8 certification and no development of private medical evidence.

Once at the Board, if the Board requires additional development of federal evidence (including Guard and reserve records), or requires a medical examination or independent medical opinion, the Board would perform the development using a development unit at the Board. If the development unit obtains new evidence, examinations or opinions, that new information will be provided to the appellant and the VSO representative at the Board, allowing them an additional 45 days to review the evidence and provide any additional evidence or argument in relation to it. Following that, the appeal would be decided by the Board.

If successful, the FDA program would reduce the burden on VBA by eliminating the SOC, Form 9, SSOC, all hearings and the VA Form 8 for those appeals. In addition, VAROs would not have to undertake any development of private evidence. The FDA program could also reduce the burden on the Board since by receiving appeals significantly closer to the filing of the NOD, it would receive "fresher" and smaller evidentiary records, requiring less time and effort to review and make decisions. The Board's new development unit would initially consist of professionals transferred from the AMC and would be directly accountable to the Board. While some costs would be associated with the development unit, more complete and accurate work should result.

A Fully Developed Appeal would eliminate years of unnecessary wait for some veterans.

Recommendation:

The Committee most strongly recommends that VA support, and Congress enact, a pilot program for fully developed appeals that follows the proposal developed by the

VSOs and the VBA. The program must be authorized by the Congress as a nationwide pilot program for limited number of years and include sufficient oversight and reporting requirements to ensure it operates as intended. Properly enacted and supervised, such a program offers great potential benefit to all parties involved with the appeals process, particularly veterans who are appealing a decision

Issue: Reserve Component Personnel, Medical Records, Access, and Claims

Discussion: Our 31 October 2012 Biennial Report discussed Reserve Component (RC) Personnel and Medical Records. Since that report, the Committee has received at least seven briefings related to Reserve Component members. Many factors uniquely affect the Reserve Component including their geographic dispersion, military service at locations not co-located with Active Duty installations, and traditional civilian lives and careers mixed with periods of Title 10 active duty. These matters have not been systematically addressed by the Department or the Committee in the past. However, creation of the VBA National Guard & Reserve Matters office within the VBA DoD Program Office has begun to shed light on gaps in National Guard and Reserve Component members' access to DoD and DVA medical and benefits programs. Over the past decade and a half, more than 900,000 Reserve Component members have been mobilized, resulting in a generational metamorphosis from a Strategic Reserve to an Operational Reserve and a fundamentally different continuum of service for members of all Components.

Mandating Department of Defense electronic transmission of certified Service Treatment Records by 31 Dec 2013 has helped. Still, much of the medical care of Reserve Component members is performed by civilian providers and institutions, and capture of these records as part of official Service Treatment Records (STR) remains problematic. Separation Health Assessments have not traditionally been required of Traditional Reserve Component members when separating from a qualifying period of Title 10 active duty. This is true for separating, retiring, and currently serving veterans. Despite improvements in Transition Assistance Program (TAP) briefings for Title 10 members, including registering for eBenefits, the Committee notes that many Traditional National Guard and Reserve members still do not receive TAP briefings or other Transition Assistance. Multiple periods of active duty and multiple deployments throughout a RC career may generate numerous DD214s as well as a patchwork quilt of civilian and military medical records. The seven Reserve Components also lag significantly behind Title 10 Active Duty components due to the fractured processes and lack of commonality of RC Electronic Medical records, including the Health Artifact and Image Management Solution (HAIMS). Improvements have been made in the Reserve Component Integrated Disability Evaluation System (IDES) process, but the IDES process still takes 90 days longer for Reserve Component members (428 days in the Reserve Component vs. 338 days for the Active Duty Component in FY14).

Recommendations:

1. Continue to emphasize the importance of recognizing and resolving National Guard and Reserve Component–unique issues at the Joint Executive Council with DoD counterparts.

2. Continue to support, staff, resource, and expand as appropriate the VBA National Guard & Reserve Matters office. This office has been almost singularly responsible for elevating Veterans Administration and ACDC awareness and focus on National Guard and Reserve Component issues.

3. Emphasize the importance of Transition Assistance Briefings for Traditional Guard and Reserve members. This should be implemented as soon as possible, as it was mandated for Active Components in November 2012. Consider presentations for members of all Reserve Components at Army and Air National Guard facilities in each state, as these facilities are most often located near other Reserve Component members and rarely co-located with Title 10 Active Duty installations. Providing the TAP Briefings through DoD Joint Knowledge Online does not reach Traditional Guard and Reserve members who do not have .mil access at their home of record.

4. Encourage DoD and Services to work with National Guard and Reserve components on availability and access to Electronic Medical Records, including HAIMS.

5. Emphasize the importance of capturing civilian treatment records and their inclusion in electronic STRs between tours of Title 10 active duty and prior to military separation and/or retirement.

6. Work with DoD and Services to ensure that multiple DD214s for National Guard and Reserve Members (often used for non-consecutive deployments and duty with different units) become part of the Official Military Personnel File (OMPF).

7. Work with DoD and Services to ensure Separation Health Assessments are provided for National Guard and Reserve members, as they are being fully implemented for Active Components by the end of CY14. This is especially important when the National Guard or Reserve member is separating from a qualifying period of Title 10 active duty or retiring.

8. Continue education within the Veterans Administration to foster a common operating picture of the new generation of Total Force Veterans.

DEPARTMENT OF VETERANS AFFAIRS
CHARTER OF THE
ADVISORY COMMITTEE ON DISABILITY COMPENSATION

A. OFFICIAL DESIGNATION: Advisory Committee on Disability Compensation.

B. OBJECTIVES AND SCOPE OF ACTIVITY: The Committee's objective is to advise the Secretary of Veterans Affairs with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

C. PERIOD OF TIME NECESSARY FOR THE COMMITTEE TO CARRY OUT ITS PURPOSE: The Committee was established under provisions of 38 U.S.C. § 546 and has no termination date.

D. OFFICIAL TO WHOM THE COMMITTEE REPORTS: The Committee will report to the Secretary of Veterans Affairs.

E. OFFICE RESPONSIBLE FOR PROVIDING SUPPORT TO THE COMMITTEE: The Compensation and Pension Service, Veterans Benefits Administration, will provide necessary support to the Committee. The Secretary shall ensure that appropriate personnel, funding, and other resources are provided to the Committee to carry out its responsibilities.

F. COMMITTEE MEMBERSHIP: The Committee shall consist of not more than 18 members appointed by the Secretary from among individuals who have experience with the provision of disability compensation by the Department; or are leading

medical or scientific experts in relevant fields. The Secretary shall determine the terms of pay and allowances of the members of the Committee.

The terms of service for Committee members may not exceed four years and shall be staggered to ensure that the dates for the termination of the members' terms are not all the same. The Secretary may reappoint any member for one or more additional terms of service. The Secretary shall select a Chair from among the members of the Committee. Several members may be Regular Government Employees (RGE), but the majority of the Committee's membership will be Special Government Employees (SGE).

G. DUTIES OF THE COMMITTEE: In providing advice to the Secretary under 38 U.S.C. § 546, the Committee shall assemble and review relevant information relating to the needs of veterans with disabilities; provide information relating to the nature and character of disabilities arising from service in the Armed Forces; provide an on-going assessment of the effectiveness of the VA's Schedule for Rating Disabilities; and provide on-going advice on the most appropriate means of responding to the needs of veterans relating to disability compensation in the future. In carrying out its duties, the Committee shall take into special account the needs of veterans who have served in a theater of combat operations.

Not later than October 31, 2010, and not less frequently than every two years thereafter, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation.

Each such report shall include an assessment of the needs of veterans with respect to disability compensation; and such recommendations (including recommendations for administrative or legislative action) as the Committee considers appropriate. The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

H. REPORTS TO CONGRESS: Not later than 90 days after the receipt of a biennial report as described above, the Secretary shall transmit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a copy of such report, together with such comments and recommendations concerning such report as the Secretary considers appropriate. The Secretary shall submit with each biennial report a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous report transmitted by the Secretary in response to the Committee's most recent biennial report.

I. ESTIMATED ANNUAL OPERATING COSTS IN DOLLARS AND STAFF-YEARS: Annual financial and personnel support for the work of the Committee is estimated at $850,000 per year and 2.0 FTE staff years. Members will receive travel expenses and a per diem allowance in accordance with the Federal Travel Regulation for any travel made in connection with their duties as members of the Committee.

J. ESTIMATED NUMBER AND FREQUENCY OF MEETINGS: The Committee will meet as necessary in order to conduct deliberations and make its reports and

recommendations to the Secretary. The Designated Federal Officer (DFO), a full-time VA employee, will approve the schedule of Committee meetings. The DFO or designee will be present at all meetings, and each meeting will be conducted in accordance with an agenda approved by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so.

K. COMMITTEE TERMINATION DATE: The Committee's statutory authority provides for no termination date.

L. DATE CHARTER IS FILED: 10/29/2008

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James B. Peake, MD

Secretary of Veterans Affairs

Current Members

Lieutenant General James Terry Scott, USA (Retired) - Committee Chairman

General Scott is a rancher in Coleman County, Texas. He also teaches political science at Howard Payne University in Brownwood, Texas. He is a member of the Board of Directors of Calibre Corporation, a technical services company based in Alexandria, Virginia. He previously served as the Director of the National Security Program at the John F. Kennedy School of Government at Harvard University. General Scott retired from the U.S. Army after more than 32 years of service as an Infantry and Special Operations Officer. He commanded tactical units from platoon through division and received five awards for valor and two Purple Hearts for wounds received in action. He has a Master's Degree in Business Administration from Fairleigh-Dickinson University and a Bachelor's Degree from Texas A&M University. (Term Expiration TBD).

Ms. Bonnie Carroll

Ms. Carroll is the National Director for Tragedy Assistance Programs for Survivors, the national Veterans service organization that provides peer support, grief and trauma resources and information, casualty casework assistance and crisis intervention for Veterans and their families. Previously, she served as Deputy Senior Advisor for Programs in the Ministry of Communications, Coalition Provisional Authority, in Baghdad, Iraq, and as Deputy White House Liaison for the Department of Veterans Affairs. Ms. Carroll served in the United States Air Force Reserve from 2001-2004. She holds a degree in Public Administration and Political Science from American University. (Term Expires Oct 2014).

Deneise Turner-Lott, J.D.

Judge Turner-Lott has served as an Administrative Judge with the Mississippi Workers' Compensation Commission since November 1988. She is currently senior judge and is the first woman to hold that position. Judge Turner-Lott was previously engaged in private law practice with an emphasis on disability claims before joining the Commission as a staff attorney. She later served the Commission as senior staff attorney. Judge Turner-Lott received her law degree from the University of Mississippi School of Law. She has served on several bar committees and has twice served as chair of the Administrative Law and Workers' Compensation Section of the Mississippi Bar. Judge Turner-Lott regularly provides programs for continuing legal education credit on workers' compensation topics. (Term Expires Oct 2014).

Robert J. Epley

Mr. Epley is an independent consultant working in the areas of strategic planning, training, performance management, and the operations of federal entitlement programs. Mr. Epley served with the Department of Veterans Affairs for 31 years. He was Director of the Compensation and Pension Service for three years before his promotion to the position of Associate Deputy Under Secretary for Policy and Program Management. In that capacity, Mr. Epley coordinated the activities of five major programs that collectively administered about $29 billion in annual benefits at the time. He received a Bachelor of Science Degree in Political Science from Western Michigan University. (Term Expires Oct 2015).

Mr. John L. Maki

Mr. Maki has served as Assistant National Service Director for the Disabled American Veterans (DAV) since June 2008. He is a service-connected disabled Veteran, having served in the 2d Armored Cavalry Regiment as a reconnaissance scout. He is a member of the National Service Department at DAV National Service and Legislative Headquarters in Washington, DC. Mr. Maki has served in the DAV as a National Service Officer Trainee at the Denver, Colorado, DAV National Service Office; an Associate National Service Officer to the St. Louis, Missouri, National Service Office; and as a supervisor in the National Service Offices in Wichita, Kansas, and Cleveland, Ohio. He was promoted in 2000 to the position of Supervisor at the DAV National Appeals Office at the Board of Veterans' Appeals in Washington, DC. While serving in that position, Mr. Maki was appointed in 2005 as a DAV National Area Supervisor of Area 3, comprised of the National Service Offices located in Pennsylvania, Maryland, Washington, DC, Virginia, West Virginia, and Kentucky. He currently serves as an officer of the DAV Arlington-Fairfax Chapter 10 in Arlington, Virginia. Mr. Maki earned a B.S. degree in Broadcasting and Communications in 1978 and a M.J. degree in 1980 at the University of Wyoming. (Term Expires Oct 2014).

Colonel Doris Browne, M.D., M.P.H., USA (Retired)

Dr. Browne retired from the U.S. Army with 27 years of service at the rank of Colonel. She is currently the Senior Scientific Officer of the Breast and Gynecologic Cancer Research Group, Division of Cancer Prevention, National Cancer Institute, in Bethesda, Maryland. Dr. Browne is President and Chief Executive Officer of Browne and Associates, Incorporated, Washington, DC. She is affiliated with the Tougaloo College Board of Trustees; a former member of the American Red Cross National Capital Chapter; Intercultural Cancer Council Governing Board; Leadership Washington; and Trinity Episcopal Church. Dr. Browne holds an M.D. degree from Georgetown University School of Medicine (1979); M.P.H. in Health Education from University of California at Los

Angeles School of Public Health; and a B.S. in Biology, Cum Laude from Tougaloo College. (Term Expires Oct 2014)'

Captain Warren A. Jones, M.D., USN (Retired)

Dr. Jones is a retired Captain of the U.S. Navy. He is the Endowed Chair of Health Disparities Research and Professor of Chemistry at Dillard University in New Orleans, LA. Former Director of Healthcare Quality and Disparities at Provider Resources, Inc. He is the founding Executive Director of the Mississippi Institute for the Improvement of Geographical Minority Health Disparities at the University of Mississippi Medical Center. Dr. Jones is a Professor of Family Medicine and Distinguished Professor of Health Policy and Senior Health Policy Advisor as well as Assistant Clinical Professor of Family Medicine at Howard University School of Medicine in Washington, DC. He has served as the Executive Director of the Division of Medicaid in the Office of the Governor of Mississippi, on the Emergency Medical Treatment and Labor Act Technical Advisory Group to the Secretary of Health and Human Services, and as President of the American Academy of Family Physicians. Dr. Jones has also served as the director of medical and clinical services for the Pacific region of the TRICARE Military Health Program, coordinating care for U.S. Servicemembers and their families from Alaska to Madagascar. Dr. Jones presently serves as the Chair Designee of the Advisory Council to the National Center on Minority Health and Health Disparities at the National Institutes of Health. Dr. Jones holds an M.D. degree from Louisiana State University School of Medicine (1978) and a B.S. in Chemistry from Dillard University. (Term Expires Oct 2014).

Major General Joseph K. Martin, Jr., M.D., Air National Guard

Major General Martin is the Air National Guard Assistant to the Surgeon General, United States Air Force, Pentagon, Washington, DC, and is also the Director, Office of the Joint Surgeon, National Guard Bureau, Pentagon, Washington, DC. He advises the Air Force Surgeon General of information on external and internal matters pertaining to the Air National Guard, and conducts courses, special studies, and analyses as required or directed. He is also responsible for reviewing proposals on Air National Guard matters of programs, policy, and operations. As Director, Office of the Joint Surgeon, National Guard Bureau, Major General Martin is responsible to the Chief, National Guard Bureau for developing, communicating, and implementing National Guard medical policies, procedures, and operational response in collaboration with state, Federal interagency, international medical partners, and the Army National Guard and Air National Guard Surgeon offices. He also develops and coordinates guidance for medical operations conducted by National Guard Chemical, Biologic, Radiation, and Nuclear (CBRN) Enterprise (Civil Support Teams, CBRN Enhanced Response Force Package, and Homeland Response Force) medical elements. Major General Martin has served as a Flight Surgeon in the 934th Tactical Airlift Group in Minneapolis, Minnesota, and as an Air National Guard Chief of

Aerospace Medicine and Professional Services. He holds an M.D. degree from University of Alabama School of Medicine (1974) and a B.S. in Biology from the University of South Alabama. (Term Expires Ocg 2014).

Timothy J. Lowenberg, Major General, ANG

General Lowenberg is the current Adjutant General for the State of Washington, an attorney and former Air Force judge advocate. As Adjutant General, he is the commander of all Washington Army and Air National Guard forces and Director of the State's Emergency Management and Enhanced 911 programs. General Lowenberg earned a Bachelor of Arts degree from the University of Iowa and Juris Doctor degree from the University of Iowa College of Law. Previously, as Air National Guard Assistant to The Air Force Judge Advocate General, General Lowenberg oversaw the formulation, development, and coordination of legal policies and programs affecting more than 114,000 Air Guard members. (Term Expires Oct 2015).

Elizabeth Savoca, Ph.D.

Dr. Savoca is a Professor of Economics at Smith College, where her research interests focus on applied econometrics (applications in Health Economics, Labor Economics, and Economics of Education). Previously, she has served as a visiting associate professor at the Yale University School of Medicine, Department of Health and a visiting assistant professor at the University of Virginia Department of Economics. Dr. Savoca has also served as an economist on the President's Council of Economics Advisers. She has published research papers on a wide range of topics including Posttraumatic Stress Disorder among male Veterans; the influence of psychiatric disorders on the labor market experiences of Vietnam-Era Veterans; and gender differences in earnings. Dr. Savoca received her Ph.D. in Economics and her Masters in Statistics from the University of California, Berkeley. She also has a Bachelor's degree in Economics from Rutgers University. (Term Expires Oct 2015).

Michael Simberkoff, M.D.

Dr. Simberkoff is the Chief of Staff of the VA New York Harbor Health System and a Professor of Medicine at the New York University School of Medicine (NYU). He served as Lieutenant in the Medical Corps at the National Naval Medical Center in Bethesda, Maryland. Dr. Simberkoff's research has spanned the areas of pathogenesis and treatment of bacterial infections, treatment of HIV infection, vaccines, and the prevention and treatment of opportunistic infections. He was the co-chairman of a VA Cooperative Study, which compared early with later zidovudine treatment for HIV-infected patients. Dr. Simberkoff was the chairman of a VA Cooperative Study of pneumococcal vaccine efficiency in high-risk patients. He is currently a site investigator in the Veterans Aging Cohort Study and the Respiratory Protection Effectiveness Clinical Trial Study. Dr.

Simberkoff received his medical degree from the NYU School of Medicine. (Term Expires Oct 2015).

Mark W. Smith, Ph.D.

Dr. Smith is the Director of Analytic Consulting and Research Services at Truven Health Analytics (formerly Thomas Reuters Healthcare Inc.), in Washington, DC. He leads studies on mental health and substance abuse treatment for the Agency for Healthcare Research and Quality. Previously, Dr. Smith worked in the VA Palo Alto Health Care System as an Economist and Associate Director of the Health Economics Resource Center. While at VA, he planned and led research in health services studies and clinical trials, and developed guidelines for use of VA financial and utilization databases. Dr. Smith has published research papers on a wide range of topics including mental health treatment in VA Veterans Health Administration; the costs of inpatient rehabilitation in VA; and military sexual trauma. Dr. Smith received his Ph.D. in Economics and his Masters in Economics from Yale University and his Bachelor's degree in Economics from Oberlin College. (Term Expires Oct 2015).

THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

JUL - 8 2014

Lieutenant General James Terry Scott, USA (Retired)
Chairman
Advisory Committee on Disability Compensation
100 S. Commercial Avenue, Suite 200
Coleman, TX 76834

Dear General Scott: Terry

Thank you for your memorandum containing four recommendations resulting from the June 2013 meeting of the Department of Veterans Affairs Advisory Committee on Disability Compensation. Veterans Benefits Administration's response to the Committee's recommendations is enclosed. I regret the delay of this response.

I appreciate your continued leadership and support of our mission.

Sincerely,

Allison A. Hickey

Enclosure

Veterans Benefits Administration
Responses to the
Advisory Committee on Disability Compensation
June 17-18, 2013

Recommendation 1: Have C&P examinations be given by VA doctors to insure that the two separate tests for diagnosing sleep apnea are properly conducted.

VBA Response: VA concurs in principle. Where records do not document a properly completed sleep study and VA examination is warranted, the Veterans Benefits Administration (VBA) requests that the Veterans Health Administration (VHA) and contract examiners perform a sleep study, when clinically indicated, as part of the compensation examination process. The sleep apnea Disability Benefits Questionnaire currently makes this clear in the following note: "The diagnosis of sleep apnea must be confirmed by a sleep study, provide the sleep study results in Section V, Diagnostic Testing."

However, there are many cases where service treatment records and post-service records submitted in support of the claim adequately document the completion of a sleep study. In those cases, VBA will generally not require the performance of another sleep study.

Recommendation 2: Request the Institute of Medicine conduct a detailed study on the degree of actual disability associated with sleep apnea, particularly for those Veterans prescribed and using a CPAP machine.

VBA Response: VA concurs in principle. The Institute of Medicine reviews studies performed by other entities, as well as all available literature on a given subject. These studies can cost up to $1.5 million. It is not financially feasible for VA to request such a study at this time; however, as part of the VA Schedule for Rating Disabilities (VASRD) Update Project, experts from VHA and VBA are already conducting a similar review of all available information on sleep apnea and related earnings loss.

Recommendation 3: Conduct a review of the criteria and methodology for establishing service connection for sleep apnea.

Recommendation 4: Review the criteria for establishing average earnings loss for Veterans diagnosed with sleep apnea.

VBA Response to Recommendations 3 and 4: VA concurs. The Compensation Service is fully engaged in the VASRD Update Project. A group of physicians is carefully studying the current schedule used to evaluate diseases of the respiratory system to determine how best to revise the rating criteria and methods of rating for these diseases, including sleep apnea. Review of average earnings loss associated

with sleep apnea is intertwined with the segment of the VASRD Update Project associated with the respiratory system. In this regard, consideration of average earnings loss is a component of determining percentages of disability for each diagnostic code found in this body system, including the diagnostic code for sleep apnea. VASRD update for the respiratory system is currently projected to be completed by January 2016.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

January 6, 2014

Lieutenant General James Terry Scott, USA (Retired)
Chairman
Advisory Committee on Disability Compensation
100 S. Commercial Avenue, Suite 200
Coleman, TX 76834

Dear General Scott: Jerry - Many thanks for your leadership and support. It was great seeing you —

Thank you for submitting the 2012 Biennial Report and recommendations of the Department of Veterans Affairs (VA) Advisory Committee on Disability Compensation. The Committee contributes valuable advice and guidance to the Department on the issues that affect the Veterans disability compensation program. VA's response to the Committee's recommendations is enclosed.

I appreciate your continued leadership and support of our mission.

Sincerely,

Eric K. Shinseki

Enclosures

DEPARTMENT OF VETERANS AFFAIRS (VA)
RESPONSE TO THE
2012 BIENNIAL REPORT OF THE
ADVISORY COMMITTEE ON DISABILITY COMPENSATION

The Advisory Committee on Disability Compensation was established under section 214 of Public Law 110-389. The Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). By October 31, 2010, and at least every 2 years thereafter, the Committee is required to submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation. Each such report must include an assessment of the needs of Veterans with respect to disability compensation and recommendations (including recommendations for administrative or legislative action). The Committee's second Biennial Report was submitted on October 31, 2012. The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

Responses to the Status of Issues Presented in Previous Reports dated July 7, 2009, and July 27, 2010

Previously Presented Priority Issue of Concern to the Advisory Committee: The systematic review and update of the VASRD

Discussion: The key objective and scope of activity of the Advisory Committee as stated in the charter are to advise you with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. Previous Committee recommendations included: (1) Task Deputy Secretary to oversee effort; (2) Increase VBA staff to execute the review and update; (3) Establish a full-time VHA staff element to participate in the review and update on a continuing basis; (4) Prioritize VASRD body system review; (5) Include updated medical designations and disabling effects; (6) Address horizontal equity among body systems; and (7) Update the C&P exam templates and require their use in examinations.

Your response stated that VA is meeting the Committee's intent through the formal Program Management Plan to revise the "VA Schedule for Rating Disabilities," dated October 2009, with a timeline for draft rules for the 15 body systems to be submitted to the USB by April 2016.

We concur that the Management Plan, if executed as presented, addresses the intent. However, in the last few months of 2012, execution of the plan has lost momentum and the latest estimate for completion of the review and update was recently briefed to us as sometime in 2018. The decisions to essentially start over on the review of the mental health body system and to revise the introductory paragraphs for the musculo-skeletal body system are major setbacks in completing the master plan on schedule. Cancelling the contract to provide economic loss data for the musculo-skeletal body system without

offering another solution to obtain the data is another major factor delaying execution of the master plan. Also, the recent separation of revision efforts into two parts, one responsible for revising the legal and administrative rules and one for revising the medical rules makes it less likely that a coordinated, timely effort will result.

VA Response:

(a) Execution of the Program Management Plan in 2012 lost momentum –
The pace of the VASRD review work continued as planned throughout calendar year 2012. For instance, the VASRD working-group activities proceeded steadily, with teleconferencing and scheduled consultations with subject matter experts, including face-to-face meetings. To date, the Secretary has not discerned any clear indicators that would show VA would not complete the publication of proposed rules by mid-2016, as originally planned.

(b) Latest date of completion: 2018 –
Statements that were made to the Committee regarding projected timelines were made in response to multiple directed questions from the Committee and were offered only as theoretical discussion points. No official and authorized commitments were made by any representatives of the Secretary, with the exception of the 2016 end date. As part of the standard "give and take" environment within which the Committee's public sessions are conducted, VASRD update completion and end dates have always been expressed as a priority.

(c) Mental Health Restart –
The VASRD staff was informed by VA leadership that the initial draft was not acceptable because its underlying theoretical basis, which was a novel and experimental approach to rating disability for mental health disease based on work performance standards, was incomplete. Also, the May 2013 publication of the American Psychiatric Association's Diagnostic and Statistical Manual (DSM), version 5, presents nomenclature of diseases that are different from the current nomenclature for Mental Diseases that are contained in the DSM-4. As a result, a new panel of subject matter experts was selected and convened. Although the restart was necessary, lessons learned from the original program will benefit the new and energized effort.

(d) Musculoskeletal Preamble Restart –
A peer review examination and analysis of the initial draft of the musculoskeletal preamble that was performed by VASRD Staff Medical Officers, in collaboration with the Veterans Health Administration (VHA) National Director for Orthopedic Surgery, determined that significant corrections and revisions were necessary. Scheduled end dates remain a priority; however, quality driven and accurate drafting is also a critical priority.

(e) Cancelling the George Washington University (GW) contract to provide economic loss data for the musculoskeletal system without offering another solution to obtain data delays execution of the master plan –

The cancellation of the earnings loss contract with GW was primarily the result of information obtained from the Internal Revenue Service that states individual earnings loss data is not legally obtainable for use in any type of Government study. Additionally, cell data for all of the VASRD diagnostic codes was not sufficient to develop a statistically meaningful end-product. For these reasons, VA made the decision to end the contract with GW and recast the goals and deliverables in a revised statement of work to reflect the use of aggregate earnings loss data. Furthermore, the revised goals will allow individual assessment of diagnostic codes that are frequently rated while combining the assessment of diagnostic codes that are only rated in a limited number of cases.

Since the musculoskeletal earnings loss study is essentially a prototype and developmental contract, the Secretary determined the best way to help the Veteran population was to take the steps described above. In this regard, VA leadership is considering several options such as using the EconSystems study of 2008, which is based on aggregate earnings loss data and a selection of diagnostic codes based upon the number of filed claims.

(f) Recent separation of the revision efforts into two parts responsible for revising legal and administrative rules makes it less coordinated that a timely effort will result – The Regulatory Staff was split into two groups to handle the discretely different sets of regulations, Part 3 and Part 4 of Title 38 Code of Federal Regulations (CFR), in order to take full advantage of personnel expertise to work more efficiently. In this regard, the Secretary notes that Part 3 staff is also responsible for all Part 3 rulemakings, which do not pertain to the VASRD update project. Additionally, Part 4 staff (Medical - VASRD) is assigned an attorney for legal consultation and drafting. Other staff attorneys provide legal guidance as necessary.

Recommendation 1: Increase management emphasis on the systematic review and update of the VASRD by establishing a senior position with authority over both legal and administrative rule revision and medical rule revision.

VA Response: Concur

Veterans Benefits Administration (VBA) Compensation Service leadership appointed Mr. Brian Lawrence as Chief of the VASRD Regulatory Staff. This is a senior position with authority over legal, administrative, and medical aspects of the review process. Mr. Lawrence has led the VASRD staff since February 2013.

Recommendation 2: Get master plan back on schedule by increasing the resources available to the project team, particularly the body system work groups, with additional expertise drawn from the VSO community and a combination of active and retired VA employees with experience and expertise to assist the medical doctors in converting medical terminology into levels of disability and economic loss.

VA Response: Concur in principle

The pace of the VASRD review process accelerated during the early part of 2013. In this regard, a new physician was appointed and started duties in March 2013. The new physician is a family practitioner with extensive experience in both civilian and military areas. He previously worked in troop clinics as a Public Health Service officer, while holding a leadership role at the Walter Reed National Military Medical Center clinics.

With the exception of musculoskeletal and mental disorders, all working groups have concluded their teleconferencing phase and face-to-face meetings. Each working group appointed chairs, including a VHA clinical director and a VBA physician, working together on the final drafting of the initial submission. The draft includes a preamble with change justifications and updated diagnostic codes and rating schedules.

The Veterans Service Organization (VSO) Summit held during June 2012 for body systems provided VSOs an opportunity for pre-publication review of completed drafts and a forum to provide comments on these drafts. After these comments were collected, they were distributed to each of the corresponding working group coordinators to analyze and integrate into the drafts. The body systems presented and discussed in the June 2012 Summit included the Hemic and Lymphatic Systems; Dental and Oral Conditions; Infectious Diseases; Digestive, Genitourinary, Musculoskeletal Systems; and Mental Disorders. With the exception of the Musculoskeletal System and Mental Disorders, the drafts, primarily as the result of the VSO/VHA/VBA combined effort, have advanced to the internal review phase (i.e., drafts have been submitted for concurrence within VBA at the Compensation Service Assistant Director and Senior Executive Service levels).

In addition to VSO working group members, each working group was also comprised of several senior experienced Rating Veterans Service Representatives (RVSR), Systematic Technical Accuracy Review (STAR) officers, and leading Department of Defense (DoD), VHA, and private physician/surgeon representatives.

Recommendation 3: Maintain continuity of personnel dedicated to the revision process in the project management plan.

VA Response: Concur

VA is striving to maintain the continuity of personnel dedicated to the revision process in the project management plan and the process of drafting and rulemaking. The VBA Compensation Service Director appointed a contract Program Management Specialist to serve as the new project manager. This individual will update all documents, maintain the program schedule, and assist in keeping the project on track.

Recommendation 4: Decide if currently available economic loss data from previous studies is adequate to go forward with determining compensation for Veterans with musculo-skeletal disabilities. If not, establish a means for obtaining current economic loss data for all body systems.

VA Response: Concur

VA continues to analyze and consider the various options available to obtain earnings loss data. While it is important and desirable to obtain data from research based on a controlled statistical study, experience shows this is a complex, difficult, and lengthy task.

Consistent with the Committee's recommendation, VA is currently considering the application of data provided by previous economic loss studies (e.g., Econsys Kettner 2008) to supply applicable information to this phase of the VASRD review. In this regard, please see VA's response to (e) above.

Reponses to Issues and Recommendations Presented in October 31, 2012, Report

Issue: Reserve Component Personnel and Medical Records

Discussion: The Committee has heard from a wide variety of current and former reserve component service members regarding difficulty encountered in disability claims processing. Although individual cases differ, the basic cause for the difficulty that reservists encounter is failure at the unit and individual level to ensure that personnel and medical records accurately reflect service dates, locations, and medical conditions/treatment. Entry and exit physicals, when they occur at all, are frequently cursory and inadequate to establish a base line for service connection.

This is primarily a Department of Defense issue. However, the records shortcomings delay claims resolution for the service member or veteran and contribute significantly to the case processing backlog in VA.

From testimony and discussions at Committee public meetings, it is apparent that the level of attention to personnel and medical records varies greatly among reserve component units.

Recommendation 1: Emphasize the importance of this issue at the Joint Executive Council with your DoD counterparts.

VA Response: Concur

The membership of the Joint Executive Council (JEC) includes VA and DoD co-chairs of the Benefits Executive Committee (BEC). Within the BEC, the VA/DoD Medical Records Working Group was established to oversee the entire life-cycle of the paper military service treatment records (STR), with an emphasis on ensuring accurate and complete STRs for all Servicemembers, in all components, are available to both VA and DoD. The working group provides bi-monthly updates to the BEC and to the JEC as required.

As a result of the working group's collaborative efforts, effective January 1, 2014, DoD will be providing electronic, searchable STR for departing Active Duty, National Guard, and Reserve Members. The DoD system is called Healthcare Artifacts and Images Management System (HAIMS). VA and DoD are collaboratively building an interface between HAIMS and VA's Veterans Benefits Management System (VBMS) for

deployment by January 1, 2014. DoD will continue to provide VA with 100 percent of separating Servicemembers' STRs, including TRICARE and contract medical records and certification that the record is complete. This policy will be applied to the approximately 300,000 Active Duty, National Guard, and Reserve Members departing service annually and will further increase claimants' ability to file fully developed claims (FDC).

Recommendation 2: Emphasize the importance of the individual Servicemember's role in managing personnel/medical records in the VA briefing to demobilizing reserve component service members.

VA Response: Concur

As part of the redesigned Transition Assistance Program, known as Transition Goals, Plans, Success (GPS), the new VA Benefits Briefing II provides Servicemembers an overview of the VBA disability compensation claims process. In this module, Servicemembers are encouraged to work with accredited representatives or agents to assist them in completing their claims. This instruction also emphasizes the importance of submitting all relevant evidence and information to support the claim and provides examples of the types of medical and personnel records VA needs to make a decision. The Benefits Briefing II informs Servicemembers that their assistance in retrieving these records from their units is critical to claims resolution.

Recommendation 3: Ensure that adequate VA briefings are occurring at mobilization and demobilization of units and individual reservists.

VA Response: Concur

VA continues to include separating full-time National Guard or Reserve Members (Title 10 and 32) in its implementation of the Seamless Transition provisions of the "VOW to Hire Heroes Act of 2011." VA currently provides briefings at demobilizations, Yellow Ribbon Programs, and other events that inform Reservists of the requirements for filing claims, including the need for VA to receive a complete copy of all service records to support any claim filed.

Collaboration efforts with VBA and the National Guard Bureau will continue to improve our focus on providing information on benefits and services through various outreach methods. VBA created a comprehensive Web site specifically geared to serving National Guard and Reserve Members on how to take advantage of their VA benefits (http://www.benefits.va.gov/guardreserve/). The eBenefits online portal also provides National Guard and Reserve Members personalized access to a customer service portal for life-long DoD and VA engagement.

Issue: Presumptive Disability Decisions

Discussion: In the future, as in the past, VA is likely to be confronted with decisions regarding determination of presumptive service connection. VA lacks comprehensive,

Recommendation 1: Conduct a study to determine whether age should be considered as a factor when a veteran applies for IU.

VA Response: Concur

VA agrees with this recommendation and will support the Committee conducting a study to better understand the demographics of the Total Disability Individual Unemployability (TDIU) population, including analyzing data on the number of Veterans initially granted TDIU after reaching age 65 and the employment profile of such individuals. Based on the results of the study and any recommendations made by the Committee as a direct result of the study, VA will explore options to revise its eligibility criteria for TDIU to ensure that the goal of this benefit (i.e., compensate Veterans whose disabilities render them unable to work) is being met.

Recommendation 2: As part of the VASRD update, establish criteria in the body system revisions that minimize the requirement to award TDIU based on schedule shortcomings.

VA Response: Concur

VBA is presently revising all criteria applicable to VASRD body systems. It is expected that the updated revisions reflecting current medical terminology and procedures will result in substantial improvements to VASRD and fewer TDIU awards.

Recommendation 3: Require VRE to accomplish a Vocational Assessment for all new applicants for TDIU.

VA Response: Concur in principle

Vocational evaluation of all TDIU applicants is one of many options under consideration for restructuring the TDIU benefit. The possibility of disallowing TDIU to any Veteran who may be employable with rehabilitation is under study.

Recommendation 4: Concurrent with the completion of recommendation (1) to (3), review and enforce efforts to preclude abuse of the TDIU system.

VA Response: Concur

VA anticipates that a study of TDIU demographics and options, as well as VA's own VASRD update, will enhance the consistency and integrity of VA's management of the benefit.

Issue: Motions to Advance Appeals on the Docket of the Board of Veterans' Appeals

Discussion: Appeals considered by the Board of Veterans' Appeals (Board) are

docketed in the order in which they are received, and considered in the order in which they are entered on the docket. *See* 38 C.F.R. § 20.900.

In certain situations, an appeal may be advanced on the docket by filing a motion if the case involves interpretation of law of general application affecting other claims, if the appellant is seriously ill or us under severe financial hardship, if the appellant is of advanced age (defined as 75 or more years of age), or other sufficient cause is shown including administrative error resulting in a significant delay in docketing the case.

In many cases, an appeal deserving advancement on the docket does not come to the attention of the Board until certification of the appeal by the Agency of Original Jurisdiction (AOJ) and transfer of jurisdiction. The Board does not have authority to consider an appeal unless the appellant submits a timely Notice of Disagreement and timely Substantial Appeal (VA Form 9), both actions occurring at the local agency. Neither the AOJ nor the Board provides information to appellants about advancement on the docket or the procedure to file the motion.

Recommendation: The Committee recommends that information about filing a motion for advancement of an appeal be included as part of the instructions accompanying the VA Form 9. The instructions should include a summary of the eligibility criteria contained in 38 C.F.R. § 20.900, what evidence or supporting documentation is needed to substantiate the motion, and where to submit the motion for timely consideration.

VA Response: Concur in principle

VA agrees that appellants should be provided with clear information about the eligibility requirements for advancement on BVA's docket, together with instructions for filing an advancement motion, in a timely fashion. VBA already expedites reviews of notices of disagreement (NOD) and any other appeals submissions for claimants who demonstrate a hardship such as homelessness, financial hardship, former Prisoner of War, or terminal illness.

However, VA believes that the best time to provide information to appellants about advancement on the docket is when the appeal is received and docketed at BVA, rather than at the time the substantive appeal (VA Form 9) is filed. Although an appeal's docket number is based on the date the substantive appeal is received, appeals are not actually placed on BVA's docket until the case is physically received at BVA.

VA believes that a better approach would be to inform appellants about the requirements for advancement on the docket at the time BVA physically receives the case. As a result of the Committee's recommendation, VA is currently working to revise the letter it sends to each appellant when BVA receives the case and assigns a docket number.

The revised letter will include pertinent information regarding advancing an appeal on the docket, such as a summary of the eligibility criteria set forth in 38 CFR § 20.900, what

evidence or supporting documentation is needed to substantiate an advancement motion and where to submit the motion for timely consideration. The timing of this notice is more appropriate than the timing set forth in the Committee's recommendation and will provide the appellant with an early opportunity to advance his or her appeal on the docket, while avoiding the filing of premature advancement motions.

Issue: Timely and Accurate Claims Resolution - Work Flow

Discussion: The Committee has been briefed in detail on the significant transformational changes underway inside the VBA which should greatly contribute to improved timeliness and accuracy in claims processing. We understand the complexity of the challenge and that many of these efforts include addressing work flow.

Our observations, through site visits and briefings, are that work flow is not standardized or benchmarked consistently at the regional offices. These observations are supported by recent GAO and VA Inspector General reports.

Recommendation 1: Set time expectations for each major step in the claims process to include: establishment of the claim; development of evidence; rating, and award authorization. These expectations should be consistent with the overall goal of 125 days.

VA Response: Concur

VBA has traditionally used "cycle time" metrics to track the timeliness of each of the six major components of the claims process. National goals have been set for each of these measures and tracked on the internal Director Performance Dashboard. Historically, cycle time metrics have also been used in determining the end-of-year performance evaluation for regional office directors. These cycle times measure the number of days claims take to pass through each phase of the process, allowing the assessment of timeliness and performance and identification of workload bottlenecks.

VBA's Performance Analysis and Integrity staff revised the traditional cycle time metrics to account for each claim status change and more granular, transactional-level data. These new business rules will also account for re-work and provide more accurate timeliness measures for each cycle.

VBA must also re-calibrate the cycle time standards to account for future enhanced VBMS functionality and data that will impact specific segments of the claims cycle. Once sufficient data is available and validated, VBA will set timeliness expectations for specific cycles.

Recommendation 2: Require early and continuous claims management from filing to disposition.

VA Response: Concur

As part of VBA's new organizational model, regional offices established Intake Processing Centers (IPC) focused on the unification of mail room operations and standardized triage support functions prior to claims establishment. The goal of the IPC is to increase the speed at which claims paperwork moves through the mailroom as it is routed to the appropriate place in the claims process. In addition to streamlining the intake and triaging of paper claims, a crucially important element of our technology plan is the ability to file an online claim through eBenefits, an online, self-service portal, which is part of the Veterans Relationship Management (VRM) initiative. VRM will provide multiple self-service options for Veterans and their service providers. The ability to file and track claims online will give Veterans unprecedented access to track their claims through the steps in the claims process.

Once a claim is filed and established in VBA's system, cross-functional teams apply a case-management approach to Veterans claims processing, in which Claims Assistants, Comprehensive Screeners, Veterans Service Representatives (VSR), and RVSRs work in close proximity to each other in an integrated manner from start to finish throughout the claims process. Cross-functional teams are designed to reduce re-work time, increase staffing flexibility, and balance workload more effectively. These cross-functional teams work together on one of three segmented lanes: express, special operations, or core. Claims that predictably can take less time will flow through an express lane (30 percent); those taking more time or requiring special handling will flow through a special operations lane (10 percent); and the rest of the claims flow through the core lane (60 percent).

In addition, all regional offices now have access to VBMS, VA's electronic claims processing system. VBMS allows electronic claims file management without requiring location and review of the paper file to determine claim status. In VBMS, claims can be electronically developed, rated, and assigned within the regional office allowing for streamlined claims processing.

The electronic filing capability and case-management approach will ensure that claims not only enter the VBA system through a timely and accurate conduit, but that each claim is moved through the process with the speed and accuracy that meets the standards VA have set for ourselves.

Recommendation 3: In addition to assigning claims to express, special operations or core lanes, triage all claims within 20 days of filing to award any part of the claim supported by the record; identify gaps in development and the records/exams needed to remedy the gaps; notify veterans and/or their representatives of information needed via a standard form.

VA Response: Concur in principle

VA currently has several initiatives that support VA's Transformation to a streamlined, 21st century organization to enable it to complete claims within 125 days with 98-percent accuracy. One of these initiatives is the Organizational Model, which supports the first and second parts of this recommendation. The Organizational Model is a new claims processing model that introduces, among other things, IPC and Comprehensive Screeners. IPC is a formalized process for the mailroom that drives the triaging of mail and distribution of claims for processing by the fastest means possible. IPC refines processes and uses VSRs as intake analysts to screen and route mail faster and more accurately.

Comprehensive Screeners act as the first point of contact in the claims development process and increase claims processing efficiency. The screeners are highly-skilled personnel that identify development needs for each case and the specific actions necessary to address these needs. In addition, these screeners place a high focus on increasing the number of claims that are in "ready for decision" status, immediately forwarding a claim for decision if the record contains sufficient evidence to grant any contention at issue.

Another initiative VA is implementing is the FDC Program. This initiative supports the third part of this recommendation. In November 2012, as part of the FDC Program, VA introduced VA Forms 21-526EZ, *Application for Disability Compensation and Related Compensation Benefits*; 21-527EZ, *Application for Pension*; and 21-534EZ, *Application for DIC, Death Pension, and/or Accrued Benefits*. These forms use standard language to notify the claimant of what evidence is necessary to substantiate any appropriately-filed claim. The notice on these forms fulfills VA's notification requirements codified at 38 U.S.C § 5103.

Recommendation 4: Seek out best practices in work flow management for claims and case management from subject matter experts with experience inside and outside VA.

VA Response: Concur

VA is already undergoing a major Transformation based on best practices in work flow management sought from internal and external stakeholders. VBA's Transformation Plan is designed to eliminate the disability compensation claims backlog and achieve agency priority goals of processing all claims within 125 days with 98-percent accuracy in 2015. VBA is retraining, reorganizing, streamlining business processes, and building and implementing technology solutions to support these redesigned processes. VA selected more than 40 people, process, and technology initiatives that underlie theTransformation Plan from over 600 ideas generated by employees and stakeholders, including Veterans, Veterans Service Organizations, state and county service officers, and industry, Congressional, and labor partners. Going forward, VA will continue to reach out, encourage, test, and accept best practices from internal and external subject matter experts.

Recommendation 5: Standardize hearings by video conferencing to the maximum extent possible at the regional offices and exclusively at the BVA level.

VA Response: Concur in principle

VA fully supports the expanded use of video conference hearings and believes that greater use of this technology would allow the Department to serve more Veterans, reduce wait times for hearings, conserve scarce resources, and increase productivity. Although video conference hearings have several advantages for both VA and Veterans, governing law requires that appellants have an in-person hearing unless the appellant specifically consents to having a video conference hearing. 38 United States Code § 7107. To promote increased use of video conference hearings and allow more flexibility in hearing scheduling, VA submitted a legislative proposal that would allow BVA to determine the most expeditious type of hearing to afford an appellant (i.e., a video conference hearing or in-person hearing), restricting the appellant to the hearing selected by BVA unless special circumstances or good cause are shown to warrant another type of hearing.

This legislative proposal would give BVA the opportunity to schedule video conference hearings without having to wait for a specific request for this type of hearing from the appellant, thereby promoting greater efficiency and fully leveraging the state-of-the-art video conferencing technology available for such hearings. VA is hopeful that Congress will enact this proposal into law, but until the law is changed, BVA is prohibited by law from exclusively utilizing video conference hearings.

Recommendation 6: Establish centers of excellence for the processing of complex claims, e.g. PTSD and TBI.

VA Response: Concur in Principle

VA will take this recommendation under advisement in as much as part of the new organizational model leverages the same kinds of expertise that would be embodied in a center of excellence. As mentioned above, VBA reorganized into segmented lanes: express, special operations, and core, with the special operations lane handling complex claims involving posttraumatic stress disorder or traumatic brain injury.

Until VBA is processing claims in a completely paperless environment, separating claims by contentions is challenging due to reliance on working with the claims file and hard-copy evidence. Since most claims have multiple contentions, consolidating certain contentions in centralized locations is not feasible at this time. However, once VBMS is fully developed and deployed, it will result in higher quality, greater consistency, and faster claims decisions. Once operating in a fully electronic claims environment, VBA will have the capability to manage workload through a national work queue, and potentially move work, by contention, to those stations with the highest accuracy and productivity for that specific contention.

Issue: Timely and Accurate Claims Resolution - Training

Discussion: We are aware of VBA's past and present emphasis on training at all levels. However, GAO and VA Inspector General reports indicate that focused training on observed weaknesses needs attention.

Recommendation 1: Revise a formal, standardized journeyman-level national training and mentoring program for Regional Office adjudicators.

VA Response: Concur

Compensation Service has a formal, mandatory national training program for all claims processors from entry through journey-level employees. The program is formally announced every year through a National Training Curriculum Fast Letter. The curriculum is developed and revised annually by a collaborative team that includes field subject matter experts, instructional development experts, and Compensation Service training specialists. Reports are compiled quarterly in order to track field station compliance with the mandatory training requirements.

VBA revised Challenge Training in 2011 and established Quality Review Teams (QRT) in 2012 to improve employee training and quality while decreasing re-work time. Challenge Training is focused on overall skills and readiness of the workforce, and QRTs focus on improving performance on the most common sources of errors in the claims processing cycle. The National Accuracy Team captures and analyzes data on VBA's largest sources of errors. Today, for example, QRTs are focused on the process by which proper physical examinations are ordered; incorrect or insufficient exams account for 30-percent of VBA's error rate.

The 2,431 new employees who have received the revised Challenge Training complete 150 percent more claims per day than predecessor cohorts, with a 30-percent increase in accuracy (i.e., these new employees do 30 percent more claims per day than previous groups of employees at a similar stage in their development). This is a marked improvement in performance. As of March 1, 2012, VBA initiated a new Challenge course, Station Enrichment Training, focused on improving low-performing regional offices.

VBA established QRTs in all 56 regional offices on March 1, 2012, to provide timely and responsive quality assurance and training to the regional office workforce. These QRTs reduce the lag-time in measuring quality from 4 months to 1 week and permit timely corrective actions to prevent repeat errors. VBA also focused its new QRTs on "in process reviews" for training on errors made more frequently.

VBA tracks the impact these initiatives have on claims processing quality through a 3-month rolling average accuracy metric that is reported in ASPIRE, which is available both internally and externally to VA. FY 2012 data demonstrated a 3-percent increase in national quality from 83 to 86 percent. The quality outcome objectives for the next

3 years are: 90 percent in FY 2013, 93 percent in FY 2014, and 98 percent in FY 2015.

Recommendation 2: Initiate a pilot program for law students to help regional office adjudicators conduct research and draft decisions.

VA Response: Non-concur

The RVSR inherently performs governmental work. While the position requires knowledge of Federal laws pertaining to VA compensation and pension, the position also requires knowledge of medicine and pharmacology sufficient to understand and accurately interpret medical reports and other medical evidence, including expert opinions. Further, the RVSR must become familiar with the anatomy and physiology of all body systems to interpret medical reports. All RVSRs receive initial Challenge Training, which provides standardized training to new RVSRs. This allows RVSRs to adjudicate claims in both an accurate and timely fashion. RVSRs receive at least 85 hours of additional training each fiscal year. Because of the breadth of knowledge an RVSR must have to adjudicate claims for disability, VBA does not believe untrained law students would be of benefit.

Recommendation 3: Webcast BVA individual training to the regional offices.

VA Response: Concur in principle

VA fully supports a robust training program between BVA and VBA regional offices utilizing a variety of media, including Web casting but must consider the difficulties of live Web casting BVA training to all 56 regional offices. In May 2011, both BVA and VBA entered into a memorandum of understanding designed to promote greater collaboration between both organizations in providing training to staff involved in appeals adjudication. To further these training initiatives, both BVA and VBA are investigating ways to more fully leverage video conferencing and Web casting to expand access to training programs. A variety of trainings are currently available in an electronic format, and efforts are underway to make future trainings available in different types of electronic media.

BVA's Office of Learning and Knowledge Management (OLKM) currently records and uploads all trainings performed at BVA to its SharePoint site on VA's intranet. VBA regional office personnel are able to access these trainings via the SharePoint site after requesting access from OLKM. Once permission to access the BVA Training SharePoint site is granted, the entire library of BVA training videos is available for viewing. OLKM is currently working with VA's Office of Information and Technology to help ensure that existing information technology (IT) resources can support multiple users at various VA offices accessing the same material simultaneously.

OLKM is also currently exploring the possibility of providing targeted BVA training sessions to regional office personnel via VA's Web-based Talent Management System (TMS). Part of this effort includes investigating the feasibility of making BVA training videos placed on TMS accessible to viewers with disabilities, as required by

Section 508 of the Rehabilitation Act, given recent resource and IT constraints.

Recommendation 4: Use legally trained and highly skilled personnel to manage the flow and adjudication of claims at all levels.

VA Response: Concur in Principle

In order to have the best-trained, most-efficient, and highly-skilled workforce, VBA is changing how its workforce is organized and trained to complete disability compensation claims. The productivity of the workforce and quality of decisions are being increased through new national training programs and standards. VBA's new standardized organizational model incorporates a case-management approach to claims processing. VBA is reorganizing its workforce into cross-functional teams that enable employee visibility of the entire processing cycle of a Veteran's claim. As part of VBA's current National Training Curriculum, VBA ensures that personnel are highly trained and skilled in the management and adjudication of claims, as well as the areas of the law and regulations necessary to fulfill the Department's mission.

The National Training Curriculum provides developmental training appropriate to address skill enhancement for all employees and mandatory agency-wide curricula for all employees. Topics identified as mandatory consist of issues of high interest and/or quality concerns. Each regional office is responsible for supplementing the National Training Curriculum with locally-identified training to ensure employees complete the designated number of national curricula hours.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

July 22, 2011

Lieutenant General James Terry Scott, USA, Retired
Chairman
Advisory Committee on Disability
Compensation
100 S. Commercial Ave., Ste 200
Coleman, TX 76834

Dear General Scott:

Thank you for submitting the 2010 Biennial Report and recommendations of the Department of Veterans Affairs (VA) Advisory Committee on Disability Compensation. Your report keeps us apprised of the important issues that affect the Veterans disability compensation program. VA's response to the Committee's recommendations is enclosed.

The Committee's assistance is invaluable to VA in achieving our common goal – better service to all Veterans. Thank you for your continued leadership and support of our mission.

Sincerely,

Eric K. Shinseki

Enclosure

VA RESPONSE TO THE
2010 BIENNIAL REPORT
OF THE
ADVISORY COMMITTEE ON DISABILITY COMPENSATION

The Advisory Committee on Disability Compensation was established under section 214 of Public Law 110-389. The Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). By October 31, 2010, and at least every 2 years thereafter, the Committee is required to submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation. Each such report must include an assessment of the needs of Veterans with respect to disability compensation and recommendations (including recommendations for administrative or legislative action). The Committee submitted this report on July 27, 2010. The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

Responses to Status of Issues Presented in the Interim Report dated July 7, 2009

Issue: The systematic review and update of the VASRD.

Recommendation Status 1:

The Secretary's response to the interim report endorses our recommendation for systematic review, but does not establish a standing entity, chaired by the Deputy Secretary, to oversee VHA and VBA coordination at all levels. The response committed to "appropriately staffing" the VBA to execute review and update the VASRD, but gave no numbers, and did not indicate the VBA group would be dedicated to the VASRD update. The response states that VHA is evaluating the feasibility of a VHA/VBA liaison position but gives no timeline for a decision. Additionally, there is no discussion on the Committee's recommendation for a standing VHA medical group dedicated to working on the VASRD in conjunction with VBA.

VA Response:

VA believes we are meeting the Committee's intent for systematic review and updating of the VA Schedule for Rating Disabilities (VASRD). While there currently is no formal liaison between VBA and VHA nor a standing group of VHA medical personnel dedicated to VASRD updates, VA is meeting the Committee's intent through our VASRD revision initiative. In October 2009, the Under Secretary for Benefits (USB) approved a formal Program Management Plan (PMP) to revise the "VA Schedule for Rating Disabilities (VASRD) – 15 Body Systems." This PMP has set an aggressive schedule to develop draft rules that deliver revised rating criteria for each of the 15 body systems to the USB by April 2016. The underlying premise of the PMP is to integrate current medical science information, economic earnings loss data, and VBA field rating

experience to develop revised rating criteria that are both medically and economically accurate and user friendly for VBA's disability claims adjudicators.

VHA, VBA and DoD subject matter experts (SMEs) have reviewed multiple body systems in both public and non-public forum events. Based upon current earnings loss data, VBA's Compensation Service Regulations Staff uses current medical science information that was provided during the forums, and drafts proposed rules for each body system. Proposed rules for three body systems – endocrine, hemic and lymphatic, and mental disorders – are currently under review within VBA.

This same methodology was followed for the musculoskeletal; dental and oral conditions; genitourinary; and infectious diseases, immune disorders and nutritional deficiencies body systems, with all forums being public in nature. Integrated Working Groups are currently reviewing data that was captured during the forums and will also consider data that will be provided by a local university conducting new earnings-loss studies.

This system of VBA, VHA and DoD collaboration will be followed during updates to all 15 body systems. There are four full time medical doctors now on staff within VBA who are assigned to work with VHA SMEs to update the VASRD.

While VA believes we are updating the VASRD consistent with the Committee's intent we will continue to re-examine both the need for a full time VBA/VHA liaison and additional VHA personnel to work with VASRD.

Issue: Priorities for systematically updating the VASRD.

Recommendation Status 2:

The Secretary's response generally agrees with the order of the proposed revisions to the VASRD and with the recommended scope of the revisions. The response does not address, however, Committee recommendations to make the templates user-friendly, put them on line, and mandate their use.

VA Response:

VA's Disability Benefits Questionnaires (DBQs) for various disabilities are the result of a recent innovative initiative to streamline the claims process by reducing the questions asked in compensation and pension examinations to only those pertinent to a rating decision. A working group of specialists from VBA, VHA, Office of General Counsel, and Board of Veterans' Appeals was created to review and edit the DBQs to maximize their accuracy and effectiveness. Because private physicians may complete DBQs and submit them to VA, these forms will minimize the need for Veterans to be scheduled for a C&P examination.

The DBQs are user-friendly because providers conducting disability examinations – VHA physicians, VA contract physicians, and private physicians – will all be able to answer the questionnaires with ease and in a manner that provides VA the information to make a disability determination under VASRD regulations. Completed DBQ information will directly apply to the criteria for a rating decision, minimizing ambiguity and the need for Veterans to attend follow-up medical examinations. All DBQs will be available online. DBQs for the three diseases recently established as presumptive Agent Orange disabilities (ischemic heart disease, Parkinson's disease, and hairy cell leukemia) have already been implemented and are available to the public. Final notices to the public regarding two groups totaling 33 additional DBQs have been published in the Federal Register; those groups will be released to the public in July 2011. Two additional groups comprising the remainder of the 81 DBQs will be released throughout 2011.

DBQs will be mandatory for all Compensation and Pension examinations conducted by VA. While DBQs will be available for use by private physicians, should a Veteran choose not to have his or her private physician complete them, VA will continue to evaluate any private medical evidence, along with all evidence received, in order to determine if the evidence is sufficient for rating purposes. If insufficient, then VA will continue to comply with the duty to assist by determining whether to request a medical examination or any other additional evidence.

Issue: "Quality of life" terminology is ill-defined.

Recommendation Status 3:

The Secretary's response states that the phrase "quality of life" does not appear in statutes or VA regulations, and that additional definition is needed. The Committee will continue to develop the issue and clarify the terminology.

Response 3:

Recent studies by the Institute of Medicine, the Center for Naval Analyses, and Economic Systems, Incorporated, indicate that there are non-economic aspects of disability. These non-economic aspects are frequently referred to as quality of life. The Institute of Medicine, in its 2007 report titled, A 21st Century System for Evaluating Veterans for Disability Benefits, defined loss in quality of life as "the consequences of an injury or disease other than work disability" (pg. 72). VA recognizes that there is a non-economic component to disability; however, VA disability compensation payments address average reductions in earnings capacity as authorized in statute at Title 38 USC, Section 1155.

Issue: Compensation for non-economic loss.

Recommendation Status 4:

The Secretary's response notes that Special Monthly Compensation (SMC) is paid for specific conditions. The Committee will offer recommendations to VA in order to clarify the relationship between SMC and non-economic loss and determine if broadening the purpose of SMC is a useful way to address non-economic loss.

Response 4:

VA welcomes the Committee's continued efforts to assist VA in serving Veterans most effectively with regard to SMC.

Responses to Issues with Recommendations Presented with this Report

Issue: The VASRD diagnostic codes are not correlated with the International Statistical Classification of Diseases and Related Health Problems (ICD 9 and a newer iteration, ICD 10).

Recommendation 1:

VA should include, as an appendix to the VASRD, tables which correlate the VASRD with ICD 9 and ICD 10.

VA Response: Concur

VA is studying the feasibility of developing a correlation table with codes from ICD 9 and/or ICD 10 as an appendix to the VASRD. In consultation with the Office of the General Counsel, the Compensation Service is working to determine the necessary qualifying language to ensure that the ICD codes are listed in the table only as an informational reference, and not for mandatory consideration by C&P medical examiners and claims adjudicators. Such a change would allow an examiner or adjudicator to reference the ICD codes if he or she believes it would help resolve a question that arises, but it would not mandate that such personnel use the codes in examining Veterans or adjudicating their claims. The ICD codes would not be included in the text of regulations found in the VASRD, but this contemplated appendix would correlated the VASRD to the codes for reference purposes.

Actions to implement:

VA Action Plan
Recommendation 1

Steps to Implement	Lead Office	Other Offices	Tasks	Due Date	Current Status	Contact Person
1. Obtain advice from OGC regarding qualifying language for use in informational table	Compensation Service	OGC Group 2	1. Compensation Service requests advice from OGC Group 2	07/2011	Open	Thomas Kniffen
2. Draft and publish proposed rule incorporating ICD-9/ICD-10 codes into a table outside the VASRD	Compensation Service	OSVA, 02Reg, OGC, VHA, OMB, OFR	2. Compensation Service drafts and submits into VA concurrence a proposed rule	08/2011	Open	Thomas Kniffen
3. Draft and publish final rule incorporating ICD-9/ICD-10 codes into a table outside the VASRD	Compensation Service	OSVA, 02Reg, OGC, VHA, OMB, OFR	3. Compensation Service drafts and submits into VA concurrence a final rule	11/2011	Open	Thomas Kniffen

Recommendation 2:

Future ICD revisions, as adopted by VHA, should be incorporated in the appendices to the VASRD.

VA Response: Concur

Please see Response 1.

Actions to implement:

VA Action Plan Recommendation 2						
Steps to implement	**Lead Office**	**Other Offices**	**Tasks**	**Due Date**	**Current Status**	**Contact Person**
1. VHA determines a new ICD-9/ICD-10 code should be adopted	VHA	Compensation Service	1. VHA notifies Compensation Service of its determination to adopt a code	Undetermined time	Open	Thomas Kniffen
2. Draft and publish proposed rule incorporating the new ICD-9/ICD-10 code into the table	Compensation Service	OSVA, 2Reg, OGC, VHA, OMB, OFR	2. Compensation Service drafts and submits into VA concurrence a proposed rule	One month after step 1.	Open	Thomas Kniffen
3. Draft and publish final rule incorporating the new ICD-9/ICD-10 code into the table	Compensation Service	OSVA, 02Reg, OGC, VHA, OMB, OFR	3. Compensation Service drafts and submits into VA concurrence a final rule	Three months after step 2.	Open	Thomas Kniffen

Issue: Pay disparity among physicians in the VA.

Recommendation 3:

Consider paying VBA physicians involved in VASRD review and revision Physicians Comparability Allowance (PCA) under Title 5. This will allow VBA to better compete for highly qualified physicians to improve the disability compensation program through regular review and update of the VASRD.

VA Response: Concur in principle

VA continues to investigate options for paying VBA physicians at a higher rate in order to increase our success in recruiting and retaining highly qualified physicians for this important initiative. VA is reviewing a number of options that would enable an increase in pay rate for VBA physicians.

Issue: The VASRD does not include codes for all diseases and injuries encountered.

Recommendation 4:

Include a review of analogous codes in the cyclical review and update of the VASRD. This review should identify disabilities encountered most frequently that require rating by analogy.

VA Response: Concur

VBA has previously implemented rulemakings that add diagnostic codes when a code has been determined necessary due to common rating by analogy. As part of the project management plan for the systematic VASRD revision process, VBA is reviewing the need to add new diagnostic codes where it is determined that a particular disability is frequently assigned an analogous rating.

Actions to Implement:

VA Action Plan Recommendation 4						
Steps to Implement	**Lead Office**	**Other Offices**	**Tasks**	**Due Date**	**Current Status**	**Contact Person**
1. Include in project management plan for the systematic VASRD revision process, a review of common analogous ratings to determine need to add new diagnostic codes	Compensation Service	USB	1. Compensation Service includes objective in Project Management Plan	10/1/09	Closed	Thomas Kniffen
2. Medical Officer assigned to every body system reviews analogous ratings to determine if new code should be added	Compensation Service	N/A	2. Compensation Service obtains data on analogous codes and assigned Medical Officer reviews.	Within one month of start of medical review for each body system.	Open	Assigned Comp Service Medical Officer (Thomas Kniffen, Program Manager)
3. Medical Officer reviews analogous ratings with body system working group for final decision on whether to add code	Compensation Service	VHA, DoD	3. Working group of physicians from VA, DoD, and private sector approve rating schedule that includes newly added diagnostic code with pertinent medical information	By due date of each proposed rule for each body system.	Open	Assigned Comp Service Medical Officer (Thomas Kniffen, Program Manager)

Recommendation 5:

Consider adding new diagnostic codes in the VASRD for those high volume analogous codes.

VA Response: Concur

Please see Response 4 and associated Action Plan.

Recommendation 6:

Review Title 38, Section 1155, to determine if it provides a sufficiently broad rationale for administration of the disability compensation program.

VA Response: Non-concur

VA believes the current statutory mandate for the VASRD in section 1155 is adequate but stands ready to implement any additional legislation enacted by Congress.

Issue: A fully integrated, Veteran-centered service for disabled Veterans remains an elusive goal.

Recommendation 7:

Expand and upgrade the eBenefits portal to include Department of Labor (DOL), Housing and Urban Development (HUD), and Social Security Administrations (SSA) benefits and processes.

VA Response: Concur

VA agrees with the Committee's recommendation regarding eBenefits, and the expansion and upgrade of eBenefits as recommended by the Committee remains a work-in-progress.

VA and DoD have implemented numerous features from the 2011 roadmap and are currently working on the eBenefits 2012 roadmap. eBenefits completes quarterly releases for features expanding on-line benefit capabilities. As part of our joint effort, VA is actively discussing integration with DOL's National Employment Portal, SSA's benefit eligibility screening tool, and HUD's Housing Locator Service.

- The National Employment Portal is a joint effort sponsored by DOL, VA, and the Office of Personnel Management (OPM) that will connect

- Servicemember and Veteran job seekers with federal programs and potential employers.
- The benefit eligibility-screening tool is planned for release in 2011 and will provide eBenefits users with a personalized assessment of eligibility for SSA and other benefit programs. Users will be able to access these self-service features to apply online.
- VA, DoD, and HUD are exploring inclusion of the housing locator service. This tool would allow users to search for different types of homes and indicate if they are handicapped accessible.

Other eBenefits updates planned for 2011 include approved nursing homes, discount information, caregiver resources, and information on the Veterans Homelessness Prevention Demonstration Program – a joint VA-HUD initiative launched in July 2010.

ACTIONS TO IMPLEMENT

Expand eBenefits portal to include DOL, HUD and SSA benefit process

Steps to Implement	Lead Office	Other Offices	Tasks	Due Date	Current Status	Contact Person
Completed eBenefits 2011 roadmap	(BAS)	DoD	Outline priority for improving self-service capabilities from VA and DoD		Completed	Robert Reynolds, BAS director
National Employment Portal integration	DOL, BAS	DoD	Coordination with DOL and OPM to integrate process from the employment portal (funding dependent)	July 2011	On-Hold due to DOL budget matters	
			Integration of VetSuccess.gov employment portal		In-progress	Robert Reynolds, BAS director
SSA benefits screening tool integration	SSA, BAS	DoD	Access and integration of SSA self-service benefit operations	December 2011	On-going	Robert Reynolds, BAS director
HUD housing locator services	HUD, BAS	DoD	Integration and determination when the HUD housing locator services on eBenefits		In-progress	Robert "Mike" Carr, BAS Assistant Director

Recommendation 8:

Implement the management reforms affecting disability compensation proposed in the NAPA report.

VA Response: Concur in principle

The National Academy of Public Administration (NAPA), in its August 1997 Report, concluded that VBA's most fundamental need was to develop the leadership and organizational capacities that will enable it to plan and manage its functions strategically. NAPA recommended that VA develop a long-term plan of action with carefully integrated and sequenced actions.

VA's strategic plan of action to transform to a 21st century organization that is people-centric, results-driven, and forward-looking is directly in line with the recommendations of NAPA. VA's aggressive transformation strategy is demanded by a new era, emerging technologies, the latest demographic realities, and renewed commitments to today's Veterans. One of VA's highest priority transformation goals is to eliminate the disability claims backlog by 2015 and ensure all Veterans receive a quality decision (98 percent accuracy rate) in no more than 125 days. VBA is strategically attacking the claims process and backlog through a focused and multi-pronged approach which relies on three pillars:

- Culture: A culture change inside VA to one that is centered on accountability to and advocacy for our Veterans;

- Reengineered business processes: Collaborating with internal and external stakeholders (VA employees, administrations, and staff; Congress; Veterans Service Organizations; public and private entities) to constantly improve our claims process using best practices and ideas; and

- Technology and infrastructure: Deploying leading-edge, powerful 21st century IT solutions to create a smart, paperless claims system which simplifies and improves claims processing for timely and accurate decisions the first time.

Transforming our disability claims processing system involves identifying short-term changes with immediate impact to streamline the way we currently do business, improving business processes, enabling practices which will best leverage technology, and hiring staff to bridge the gap until we fully implement our mid-range plan. The Veterans Benefits Management System (VBMS) is VA's business transformation initiative supported by technology that provides the overarching and clear vision for improving service delivery to our nation's Veterans. VBMS is a holistic solution with an integrated business-transformation strategy to address process and people, along with delivery of a paperless claims processing system. Combining a paperless claims processing system with improved business processes is the key to eliminating the backlog and providing Veterans with timely and high quality decisions.

Our end goal is a smart, paperless, IT-driven system which empowers our VA employees and engages our Veterans.

To lead the claims transformation and integrate and manage the initiatives, the Under Secretary for Benefits has established a new VBA organization, the Office of Strategic Planning (OSP). Dynamic and innovative VA officials with strong program management skills were selected to lead these initiatives. The OSP ensures a fully resourced and integrated set of strategic planning and management capabilities to support the transformation. OSP is using an accountability-based implementation system of goal-setting, performance measurement, and regular tracking of results. In addition, a strategic support services contract has been put in place to support change management, communications, and execution of VBA's transformation initiatives.

VA does not intend to implement each exact management reform affecting disability compensation proposed in the NAPA report, but the multi-faceted transformation strategy described above will address the management needs identified within the report.

Recommendation 9:

Expand the Federal Recovery Coordination Program (FRCP) to include greater face-to-face assistance for benefits.

VA Response: Concur in principle

The FRCP is designed to ensure recovering Operations Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) Servicemembers, Veterans, and their families have timely access to care, services, and benefits provided through the various programs in DoD, VA, other Federal agencies, states, and the private sector. Currently, both VA and DoD have case and care managers who provide face-to-face assistance for benefits and services. Federal Recovery Coordinators (FRC) provide client-centric assistance by coordinating benefits, services, and care throughout all transitions, regardless of where clients are located. FRC are identified as the consistent point of contact that a client can have throughout the recovery, rehabilitation, and reintegration process. VA found that, too commonly, transitions among facilities and providers, absent coordination, could result in care and benefits gaps. The FRCP provides a system that transcends all boundaries to coordinate Servicemembers' and Veterans' care and benefits. Currently, FRCP provides face-to-face care coordination when possible, but it is not the primary goal of the program design. The leadership of the FRCP will explore whether expansion of the FRCP to provide even greater face-to-face benefits assistance is feasible and would be truly effective.

FRCP is operated as a joint program of DoD and VA, with VA serving as the administrative home. Specific program eligibility criteria were approved by the VA/DoD Senior Oversight Committee in October 2007 and include those Servicemembers or

Veterans who are receiving acute care at military treatment facilities; those diagnosed with specific injuries or conditions; those considered at risk for psychosocial complication; and those self-referred or Command-referred based on perceived ability to benefit from a recovery plan.

Referral

Recovering Servicemembers and Veterans are referred to the FRCP from a variety of sources, including from the Servicemember's command, members of the multidisciplinary treatment team, case managers, families already in the program, veterans service organizations and non-governmental organizations. Generally, those individuals whose recovery is likely to require a complex array of specialists, transfers to multiple facilities, and long periods of rehabilitation are referred. When a referral is made, an FRC conducts an evaluation that serves as the basis for problem identification and determination of the appropriate level of service as well as benefits required.

Coordination

Within VA, several case management systems are available to assist Servicemembers and Veterans with access to benefits and health care. These include Veterans Health Administration (VHA) Liaisons for Health Care, Transition Patient Advocate, OEF/OIF Heath Care Management teams, Polytrauma and other specialty health case managers; Veterans Benefits Administration (VBA) Veterans Service Representatives, OEF/OIF case managers, Military Service Coordinators and other Outreach Coordinators. The FRCs work collaboratively with all of these program personnel, as well as those within DoD and the civilian sector, to facilitate and coordinate access to benefits and health care services. FRCs document their clients' goals and track progress to completion. FRCs coordinate activities and services for their clients no matter where the client is located or receives care. In doing so, they serve as the single point of contact for the client.

Recommendation 10:

Establish a national center for disabled Veterans with one telephone call center and one website. The purposes of the center would be to: 1) provide all-source information about government benefits and services, 2) determine eligibility requirements, and 3) where appropriate, assign the inquiry to a case manager for action and assistance. VA should serve as the management agency for the center.

VA Response: Concur in principle

VA has been an active partner with the General Services Administration (GSA) since 2002 on the White House-sponsored Benefits.Gov website and National Contact Center (800-FED-INFO) to provide information on government benefits and services. The website and call center provide eligibility information for 17 Government agencies and

1,000 federally funded benefit or assistance programs. VA will ensure it continues to collaborate with Benefits.Gov, including access to enhanced VA benefits information tools and contact points through the Veterans Relationship Management (VRM) initiative. VRM is a broad multi-year initiative to improve Veterans' secure access to health care and benefits information. This initiative will provide Veterans with the capability to access VA through multiple methods (phone, web, email, social media); uniformly find information about VA's benefits and services; complete actions relevant to their VA benefits and services; be quickly identified by VA without having to repeat information; and seamlessly access VA across multiple service lines (health, compensation, education, etc.). VRM will provide VA employees with up-to-date tools to better serve Veterans and their families, and Veterans will be empowered through enhanced self-service capabilities. VRM is one of the Secretary's major initiatives to transform VA into a 21st century organization that is people-centric, results-driven, and forward-looking in order to better serve Veterans.

Given the still-occurring transformational developments of VRM and the active participation of VA in Benefits.Gov and the National Contact Center, both of which, through different platforms, comprehensively address the benefits needs of Veterans, VA does not believe another similarly centralized, national system would be advantageous.

Issue: VA lacks legislative authority to use appropriated funds to provide selected services to wounded personnel still on active duty.

Recommendation 11:

VA should propose legislative relief authorizing specific non-reimbursable services and equipment for active duty Servicemembers.

VA Response: Concur in principle

VA's Prosthetic and Sensory Aids Service (PSAS) has been actively involved in addressing the issue of providing adaptive equipment, assistive technologies, and related services to active duty Servicemembers (ADSMs) that are not otherwise available to them. PSAS co-presented this issue with DoD at the June 2010 Health Executive Council (HEC) meeting and were directed to establish a VA-DoD workgroup to further identify the scope of the issues and identify potential solutions. In the meantime, PSAS continues to assist ADSMs by providing equipment that maximizes their rehabilitation and recovery.

Actions to Implement:

VA Action Plan **Recommendation 11**						
Steps to Implement	**Lead Office**	**Other Offices**	**Tasks**	**Due Date**	**Current Status**	**Contact Person**
1. Draft a charter for the workgroup	PSAS	DoD	1. PSAS drafts first version of charter and provides to DoD for comments	10/29/2010	Complete	Dr. Billie Randolph
2. Obtain Office of General Counsel opinion regarding related issues	USH	OGC	2. VHA drafts and submits request for General Counsel opinion regarding PL 110-181 section 1631	01/2011	Complete	Lisa Thomas replacing Paul Hutter
3. Reassess the need for continuation of the workgroup in light of the General Counsel opinion	PSAS	OGC	3. PSAS will meet with internal stakeholders to discuss PL 110-181 section 1631, additional proposed legislation, and the continued need for the workgroup	06/28/2011	Open	Dr. Billie Randolph
4. Present next steps to the HEC	PSAS	DoD	4. PSAS and DoD jointly present the next steps to the HEC	06/28/2011	Open	Dr. Billie Randolph

Issue: Available information indicates that VA's program of Vocational Rehabilitation and Employment is not fulfilling its objectives.

Recommendation 12:

Evaluate the VR&E program as soon as possible to determine the effectiveness of the program in serving disabled Veterans.

VA Response: Concur in principle

The Vocational Rehabilitation and Employment (VR&E) Service engages in continuous evaluation of the VR&E Program to ensure that Veterans with service-connected disabilities are offered comprehensive and effective services.

VR&E currently serves over 107,000 Veterans nationwide. Services include vocational assessments, readjustment counseling, skills development, training, employment services, subsistence allowance, independent living services, and coordination of other VA benefits. In fiscal year 2010, over 10,000 Veterans were successfully rehabilitated under the program, achieving the national rehabilitation rate target of 76 percent. VR&E counselors provide comprehensive services to every Veteran entitled to VR&E benefits or educational/vocational counseling under Chapter 36.

Although counselors perform extensive outreach and assist Veterans during the initial evaluation process, 15 percent of Veterans who apply for VR&E services do not pursue their claims. Counselors make every effort to contact these Veterans to reschedule appointments and/or discuss options to re-apply for the benefit at a future date. As of October 2010, 88 percent of Veterans who do pursue their claims were found entitled to VR&E services. Of the 88 percent found entitled to the program, 28 percent chose not to pursue services. Multiple reasons account for why Veterans do not attend scheduled appointments, including election to pursue the Post 9/11 GI Bill; financial concerns; and mobility, transportation, medical, and communication issues. The VR&E Service and our regional office counselors are working hard to mitigate these circumstances and assist Veterans in overcoming these barriers.

Remote counseling is one pilot initiative underway to reach Veterans with mobility and transportation issues. Under this initiative, Veterans receive services through an internet live-meeting environment in their own home. If the Remote Counseling Pilot Program is successful, our goal is to expand remote counseling to other areas where those barriers exist. VR&E Service is also conducting a Longitudinal Study by order of Public Law 110-389, Sec.333. This study will follow 3 cohorts of Veterans over a 20-year period. The study will provide data and evaluative input for potential enhancements to and redesign of the program.

In addition, VR&E Service launched a business process re-engineering (BPR) initiative in fiscal year 2010 to streamline and enhance service delivery and program effectiveness. Contractor support was obtained to conduct a current-state analysis and

provide future-state recommendations for program improvement. The contractor is applying an external perspective to VR&E business processes, and will offer potential technology solutions and complete a stakeholder analysis to determine program effectiveness. The results of this BPR initiative will enable VA to enhance services to meet the expectations of all Veterans and stakeholders.

Actions to Implement:

VA Action Plan Recommendation 12						
Steps to Implement	**Lead Office**	**Other Offices**	**Tasks**	**Due Date**	**Current Status**	**Contact Person**
Automated Appointments and Remote Counseling	VR&E CO	Oakland Des Moines Indian-apolis	1. Identify remote case management technology 2. Cost estimate and budgetary requirement for implementation 3. Pilot Program 4. Deploy new system to the regional offices	TBD – pending concurrence	In Progress	Scott Ward
Enhance the VR&E Operation Model	VR&E CO		1. Assess the existing operation model which includes the roles and responsibilities of the Vocational Rehabilitation Counselor and Employment Coordinator 2. Align new operation model with the mission and goals of the VA, VBA and VR&E Service	TBD – pending concurrence	In Progress	Brian Radford/ Andi Monroe
Case Load Analysis and Staffing	VR&E CO		1. Analyze and evaluate current staffing levels 2. Develop new staffing model based on the data	TBD – pending concurrence	In Progress	Cheryl Church
Enhance Quality Assurance Forms and Procedures	VR&E CO		1. Evaluate all forms used in the process and evaluation of the existing QA standards against the changes to the forms and regulation and policy guidance 2. Update, consolidate, and eliminate forms and QA standards based on current regulation and policy guidance	TBD – pending concurrence	In Progress	Lisa Atkinson Jamie Boozeman
Develop Knowledge Management Portal	VR&E CO		1. Develop a centralized, searchable and user-friendly source and links to relevant and current VR&E policies, regulations and reference materials	5/2011	Complete	Alvin Bauman
Longitudinal Study (Public Law 110-389, SEC. 333)	VR&E CO		1. Follow three Cohorts of Veterans over a 20-year period 2. Data and evaluative input from the study will be used for potential enhancements and redesign of the VR&E program	7/2011	In Progress	Pamela Salazar

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

February 23, 2010

James Terry Scott, Chairman
Advisory Committee on Disability
Compensation
100 S. Commercial Avenue
Suite 200
Coleman, TX 76834

Dear Chairman Scott:

Thank you for the 2009 interim report and recommendations from the Advisory Committee on Disability Compensation. Our response to the recommendations is enclosed.

Please express my appreciation to all of the members of the Committee for the time and effort they commit to helping us make positive changes in the Veterans disability compensation program.

Sincerely,

Eric K. Shinseki

Enclosure

INTERIM REPORT
OF THE
ADVISORY COMMITTEE ON DISABILITY COMPENSATION

The Advisory Committee on Disability Compensation was established under section 214 of Public Law 110-389. The Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). By October 31, 2010, and at least every 2 years thereafter, the Committee is required to submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation. Each such report must include an assessment of the needs of Veterans with respect to disability compensation and recommendations (including recommendations for administrative or legislative action). The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

Issue: Systematic review and update of the VASRD

Recommendation 1:

The Deputy Secretary of the VA should be tasked with providing oversight of the VASRD process, and of ensuring that the VHA and Office of the General Counsel (OGC) are fully integrated in the Veterans Benefits Administration's (VBA) process.

Response 1:

Revision of the VASRD is included as a Departmental initiative in VA's new Strategic Plan. The Compensation and Pension Service (C&P) has the lead role in this initiative, with support from the Veterans Health Administration (VHA) and counsel from the Office of General Counsel. An operating plan has been developed to facilitate review and revision of the VASRD and maintain accountability for the integration of the rating schedule changes. Accomplishment of the major milestones within the plan and initiative progress will be monitored through the Department's Monthly Performance Reviews, which are chaired by the Deputy Secretary.

Recommendation 2:

Immediately increase staff at the VBA to about 9 full-time employees (FTE) for the purpose of continuously reviewing and updating the VASRD. The staff should include a coordinating administrative person and two sub-teams comprised of one medical expert, two legal specialists and one administrative support staff each. This staff should be assigned to the C&P for administrative purposes.

Response 2:

VA is committed to appropriately staffing this initiative to ensure that updated medical knowledge and earnings loss data are reflected in the evaluation criteria. The C&P Service has one clinician and one contract medical officer on staff assigned to reviewing and updating the VASRD, and is actively recruiting additional medical officers.

Recommendation 3:

As part of its new role as full partner in the VASRD review process, VHA must establish a permanent administrative staff to participate in VASRD review. The VHA administrative staff should include at least one permanent medical expert. This staff member should have the authority to liaise with VBA, assign medical staff from VHA to participate in VBA body system reviews, and to coordinate with other medical experts as appropriate.

Response 3:

VHA is evaluating the feasibility of a VBA/VHA liaison position.

Issue: Priorities for systematically updating the VASRD

Recommendation 4:

VBA should follow the following sequence for VASRD review:

a) Revise the "General Policy in Rating" section of the VASRD first. This section includes 31 policy related topics.

b) Review/revise the 15 body systems in the following order: Mental disorders, Musculoskeletal, Neurological/Convulsive, Respiratory, Cardiovascular, Genitourinary, Endocrine, Digestive, Organs of Special Sense, Skin, Auditory Acuity Impairments, Gynecological, Hemic/Lymphatic, Infectious Diseases/ Immune System Disorders.

Response 4:

VA generally agrees with the order of the proposed review/revisions to the VASRD. However, some flexibility must be retained in the review/revision process in order to accommodate the need to address exceptional circumstances, e.g., the need to change traumatic brain injury evaluation criteria.

Recommendation 5:

Scope and conduct of VASRD review should be as follows:

a) Review and update disability descriptions and medical terminology.

b) Assess the validity of current disability designations. Disability designations should reflect classification of injuries and diseases routinely utilized in health care.

c) Review and update disabling criteria; how injuries and diseases manifest. Current medical factors should be used in determining disability.

d) Review and include, where appropriate, new diagnostic tools and functional scales.

e) Review and update treatments and their effects.

f) Assure that rating criteria reflect ascending levels of disabling effects and correlate compensation payments.

g) Analyze statistical data; ensure that each VASRD update reflects and reinforces parity among the Body Systems (vertical and horizontal equity).

h) Review literature, including pertinent court cases and medical, legal and administrative issues.

i) Revise the VASRD in language that facilitates automation of the process.

Response 5:

VA agrees with the scope outlined. Compliance with subparagraphs f and g will require significant earnings loss studies across body systems, which will impact the percentage ratings and descriptors contained in the VASRD.

Recommendation 6:

Prepare and update exam templates in accordance with altered rating criteria. These exam templates should:

(a) be user friendly and usable online,
(b) updated regularly in accordance with clinical experience
(c) be required for all examinations conducted by or for VA and
(d) be accessible and viewable by Department of Defense (DoD) as appropriate through the software program called Compensation and Pension Record Interchange (CAPRI).

Response 6:

Exam templates are updated whenever there is a change warranted by new information or publication of new regulations. VBA works with VHA's Compensation and Pension Examination Program (CPEP) staff to revise the templates and to make them as user friendly as possible. Whether use of a particular template is required is determined in consultation with the Under Secretary for Health. The Director of CPEP has gathered a Clinical Advisory Board and an Examination Template Advisory Workgroup to aid in the timely, accurate, and comprehensive review and revision of all VA examination templates; and making these templates available to the DoD is currently under review.

Issue: "Quality of Life" terminology is ill-defined.

Recommendation 7:

VA should use the term "non-economic loss" rather than "quality of life."

Response 7:

The term "quality of life" does not appear in statutes or VA regulations pertaining to disability compensation or the VASRD. However, whether discussing "non-economic loss" or "quality-of-life loss," VA agrees that additional definition is needed.

Issue: Compensation for non-economic loss

Recommendation 8:

VA should request that Congress modify the purpose of SMC to include non-economic loss.

Response 8:

Special monthly compensation is paid for specific conditions regardless of their effect on earnings or non-economic factors.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

July 18, 2016

Major General Joseph Kirk Martin, Jr., M.D., USAF (Retired)
Chairman
Advisory Committee on Disability Compensation
8489 Stables Road
Jacksonville, FL 32256

Dear General Martin:

Thank you for the Advisory Committee on Disability Compensation 2015 interim report advising me, in accordance with section 214 of Public Law 110-389, on the maintenance and periodic readjustment of the Department of Veterans Affairs (VA) Schedule of Rating Disabilities. Specifically, regarding policies that exclude certain claims from the Fully Developed Claims Program. Enclosed is VA's response to the Committee's recommendations.

The Committee's ideas, input, and support are most helpful and have assisted VA in making critical improvements to our programs. I appreciate the Committee for its unwavering dedication to our Veterans.

Thank you for your continued support of our mission.

Sincerely,

Robert A. McDonald

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
July 18, 2016

The Honorable Johnny Isakson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to provide the 2015 Interim Report of the Advisory Committee on Disability Compensation as required by 38 United States Code § 546. The report provides an assessment of the Department of Veterans Affairs' administration of programs, services, and benefits affecting disabled Veterans. Enclosed is VA's response to the Committee's recommendations.

Similar letters are being sent to other leaders of the House and Senate Committees on Veterans' Affairs.

Sincerely,

Robert A. McDonald

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

July 18, 2016

The Honorable Jeff Miller
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to provide the 2015 Interim Report of the Advisory Committee on Disability Compensation as required by 38 United States Code § 546. The report provides an assessment of the Department of Veterans Affairs' administration of programs, services, and benefits affecting disabled Veterans. Enclosed is VA's response to the Committee's recommendations.

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Robert A. McDonald

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

July 18, 2016

The Honorable Richard Blumenthal
Ranking Member
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Senator Blumenthal:

I am pleased to provide the 2015 Interim Report of the Advisory Committee on Disability Compensation as required by 38 United States Code § 546. The report provides an assessment of the Department of Veterans Affairs' administration of programs, services, and benefits affecting disabled Veterans. Enclosed is VA's response to the Committee's recommendations.

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Sincerely,

Robert A. McDonald

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

July 18, 2016

The Honorable Corrine Brown
Ranking Member
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Brown:

I am pleased to provide the 2015 Interim Report of the Advisory Committee on Disability Compensation as required by 38 United States Code § 546. The report provides an assessment of the Department of Veterans Affairs' administration of programs, services, and benefits affecting disabled Veterans. Enclosed is VA's response to the Committee's recommendations.

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Sincerely,

Robert A. McDonald

Enclosure

The Department of Veterans Affairs
Responses to the October 27, 2015, Interim Report Recommendations
Advisory Committee on Disability Compensation
July 2016

Recommendation 1: Procedures in M21-1MR that are currently based on restrictive access to paper records be reviewed and updated to reflect the current claims processing environment.

Response: The Department of Veterans Affairs (VA) concurs with this recommendation. In May 2016, the Veterans Benefits Administration (VBA) Compensation Service updated its adjudication procedures manual (M21-1) to provide guidance for processing fully developed claims (FDCs) in both a paper and paperless environment. When VA's compensation claims inventory is 100-percent paperless, VBA's Compensation Service will revise the manual to remove references to processing paper-based claims.

Recommendation 2: Specifically, the current procedure of excluding a new, properly filed, FDC claim based on the presence of a pending claim or appeal be changed to permit processing of the new claim in a more timely manner, helping to reduce the pending claims backlog.

Response: In fiscal year 2015, VBA's Compensation Service reviewed the requirement to exclude newly filed claims from the FDC program if the record shows the claimant has a pending claim or appeal. VBA's Compensation Service determined that evidence gathered pursuant to VA's duty to assist in the pending claim or appeal could affect the outcome of the FDC submission. For this reason, VBA has continued its FDC policy regarding simultaneous claims. Nonetheless, VBA is looking into different methods of processing compensation claims to include issue-based decisions. If we are able to incorporate simultaneous claims into the FDC program in the future, we will revise our policy to reflect this change.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

June 14, 2017

Major General Joseph Kirk Martin, M.D., USAF (Retired)
Chairman
Advisory Committee on Disability Compensation
8489 Stables Road
Jacksonville, FL 32256

Dear General Martin:

Thank you for the Advisory Committee on Disability Compensation 2016 Biennial report advising me, in accordance with Section 214 of Public Law 110-389, on the maintenance and periodic readjustment of the Department of Veterans Affairs (VA) Schedule of Rating Disabilities. Enclosed is VA's response to the Committee's recommendations.

The Committee's ideas, input, and support are extremely helpful and have assisted VA in making critical improvements to our programs. I appreciate the Committee for its unwavering dedication to our Veterans.

Thank you for your continued support of our mission.

Sincerely,

David J. Shulkin, M.D.

Enclosure

Major General Joseph Kirk Martin, Jr., M.D., USAF (Retired)
Chairman
Advisory Committee on Disability Compensation
8489 Stables Road
Jacksonville, FL 32256

Dear General Martin:

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The Committee's ideas, input, and support are extremely helpful and have assisted VA in making critical improvements to our programs. I appreciate the Committee for its unwavering dedication to our Veterans.

Thank you for your continued support of our mission.

Sincerely,

David J. Shulkin, M.D.

Enclosure

The Department of Veterans Affairs
Responses to the October 31, 2016, Biennial Report Recommendations
Advisory Committee on Disability Compensation
April 2017

Issue 1: The systematic review and update of the VASRD

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priorities 1, 4, 6, 9, and 10.

Discussion: The key responsibility of the congressionally-mandated Advisory Committee on Disability Compensation (ACDC), as stated in its Charter, is to advise the Secretary with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities (VASRD).

The Committee has received extensive briefing about the progress or lack thereof of the systematic review and update of the VASRD. The formal program Management Plan under which this effort is being conducted is dated October 2009, with an original timeline for final rules to be published in 2016. Further, the Plan also established that an ongoing review and update of the newly revised schedule would begin in March 2017. The Secretary's response to the 2014 Biennial Report stated that the management plan maintained a completion of March 2017, a change from the 2009 Plan. At the Committee's September 2016 meeting, we were advised that all final rules for the initial review of the VASRD would be completed in September 2018, nine years after the start of the project. Additionally, we were advised that a Request for Proposal for an earnings loss study was released on September 9, 2016, although it was unclear if this was for the actual study or for work on the design of a study. The Committee was also told that once the initial review was completed ongoing review and update of every body system would occur every 5 years.

As of September 30, 2016 the number of Final Rules Published is None.

Briefers have told us that there are no mandated timelines for review and concurrences of changes until proposed rules are forwarded to General Counsel and a RIN number is assigned.

In the view of the Committee, seven years of effort without a single final regulation being published is unacceptable.

Recommendation 1-1: VA should thoroughly review the current strategy for updating the VASRD through publishing of final rules and amend that plan to assure that final regulations are published at the earliest practicable date.

VA Response: Concur.

In June 2016, VA's Veterans Benefits Administration (VBA) revised its VASRD Schedule for Rulemaking to address all outstanding regulations. To date, VBA has published proposed regulations for six body systems, and intends to publish proposed regulations for the remaining body systems by the end of fiscal year (FY) 2017. VBA intends to publish final rulemaking for all VASRD body systems by the end of FY2018. This change in schedule takes into consideration the current status of draft rules and staffing resources.

Recommendation 1-2: VA should establish specific timelines for the development and concurrence of revisions to the VASRD that include every step of the process from initial research to initial draft, to concurrence at each level in VBA and VA. If necessary, VA should consider modifying performance standards for all individuals involved in the process to make meeting these timelines a critical element. VA, in its management of this project, should extend the timelines through publishing of final rules and provide expected timelines for entities outside of its control such as OMB. Monitoring of progress with the plan should, at the minimum, be part of the Secretary's quarterly briefing.

VA Response: Concur, in part.

VA has increased monitoring of this initiative and is in the process of reviewing its concurrence process and developing standard operating procedures to aid in the facilitation of rulemaking throughout its internal chain of approvals. Additionally, VBA has designated two employees to monitor and expedite the concurrence process for each VASRD regulation. However, we do not support establishing rigid process timelines tied to the evaluation of employee performance for each step of the regulation process. Regulations are prepared to address specific issues and are unique in scope. Regulations that are more complex require greater time to complete the initial research phase and legal review, while other more controversial regulations require greater time to address public comments and ensure the final regulation addresses these concerns.

Recommendation 1-3: VA should assure that adequate numbers of qualified clinicians and other non-medical staff are assigned to the project to ensure achievement of the plan goals.

VA Response: Concur.

Currently, there are two medical officers and one lead analyst assigned to the VASRD project. VBA is continually working to ensure that the project is appropriately staffed and will make adjustments to the team as necessary.

Recommendation 1-4: VA should intensely manage the process for the economic validation contract of the VASRD study to ensure the study asks the right questions and delivers its results in a timely fashion.

VA Response: Concur.

In FY 2017, a request for quotation (RFQ) was developed that addresses two major objectives:

1) Specific earnings loss information for eight (8) diagnostic codes, and;

2) Development of an earnings loss methodology that can be applied to any diagnostic code moving forward.

Recommendation 1-5: The Committee recommends that VA deploy the Lean 6 Sigma business management process to support data capture and analytics, and to create sustainability during and between review periods. Lean 6 Sigma will help make the VASRD review an active, sustainable process by:

- Preventing the loss of information between reviews and as a result of staffing turnover
- Enhancing automated data pull / analytics capability for constantly modernizing medical science, new clinical guidelines, related terminology, codes and technologies
- Reducing continuity gaps
- Capturing what has been established and determined to be vital in order to preserve for the interim process and the next review cycle.

VA Response: Concur in principle.

While VBA does not plan to deploy Lean Six Sigma to its VASRD initiative, we performed a review of the project plan and revised the timeline for VASRD completion to include implementation of necessary changes in its manual provisions and computer application systems. To accomplish this goal, VBA developed a SharePoint site to house all VASRD information and developed standard operating procedures for VA's VASRD concurrence process.

Issue 2: Total Disability Based on Individual Unemployability (TDIU)

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priorities 1, 4, and 6.

References:

- GAO Report 15-464
- Congressional Budget Office Report: Options for Reducing the Deficit: 2015 to 2024, November 2014

- Congressional Budget Office Report: Options for Reducing the Deficit: 2014 to 2023, November 2013
- ACDC 2012 Biennial Report
- Briefings by Subject Matter Experts

Discussion: The TDIU was established to accommodate those veterans whose scheduled disabilities do not reach 100% but are nonetheless unable to maintain substantially gainful employment due to service-connected disabilities. The perception of inconsistency and abuse of the program, though, continues to be an issue.

The Secretary's January 6, 2014 response to the Committee's October 31, 2012, report tasked the ACDC to study the issue of TDIU and make recommendations based on that work. The GAO referenced this assignment in its July 15, 2015 report titled, "Improvements Needed to Better Insure VA Unemployability Decisions Are Well Supported" – GAO-15-735T.

The number of veterans receiving total disability based on Individual Unemployability has increased dramatically in recent years, especially among older veterans. The referenced GAO study reports that in fiscal year 2012-2013, nearly half of the veterans receiving disability benefits at the 100% rating were TDIU beneficiaries, over half of the TDIU beneficiaries were over the age of 65, and nearly half of the TDIU beneficiaries over 65 years of age were new beneficiaries. These trends have generated internal and external discussions of the TDIU claims adjudication process, the TDIU eligibility requirements, and of the shortcomings in the current schedular rating system.

In its comments on the GAO report, VA also stated its intent to consider the use of age and vocational assessments in TDIU eligibility determinations. It proposed to "develop a plan to initiate any studies, legislative proposals, or proposed regulations deemed to be necessary." (p. 62). Studies of factors underlying the age-related trends in TDIU, however, have yet to be started. The referenced CBO reports on ways to reduce the federal deficit discusses the option of terminating TDIU benefits when the veteran reaches the Social Security full retirement age. The rationale for this policy change is the view that in the absence of this program many of these beneficiaries might have voluntarily retired from the labor force rather than continue to work or actively seek work for reasons unrelated to any service-connected disability. This position need to be assessed as well as more general issues about the work incentives of the program for veterans of all ages.

In its response to the Advisory Committee's 2012 Biennial Report, VA indicated that it fully expected the improvements to the VASRD to significantly reduce the need for TDIU awards. Here and elsewhere in this report, the Advisory Committee urges the VA to finalize these VASRD revisions in a timely fashion.

The Committee also wishes to reiterate the need to reconsider the eligibility requirements for TDIU. In particular, the Committee strongly urges VA to consider two of its recommendations from the Advisory Committee's 2012 Report:

Recommendation 2-1: The Committee recommends that a study be conducted to determine whether age should be considered as a factor when a veteran initially applies for TDIU.

VA Response: Concur.

In March 2016, VBA initiated a cost-neutral internal study of the TDIU benefit. The scope of the study includes, but is not limited to, consideration of age and vocational assessments. The workgroup is focused on merging data sets from VBA administrative data, the Census Bureau, and the Veterans Health Administration. The workgroup is also developing 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 is September 2017.

Recommendation 2-2: The Committee urges the Department to conduct an evidence based analysis of the resource requirements needed to implement a requirement for a mandatory vocational assessment, whether through VR&E or contract resources before granting TDIU. The Committee recommends that a Vocational Assessment be conducted for all new applicants for TDIU. We believe that current staffing in the VR&E activity should not be a factor in determining VA policy with regards to requiring such an assessment.

VA Response: Non-concur.

In order to determine the best approach to addressing problems with the TDIU program, VBA must first complete its study and analysis of the demographic and disability information on those currently in the TDIU program. The initial data pull for this review is currently underway. A final report, including data-driven recommendations, will be provided to management in September 2017. Currently, VA does not have the data or findings necessary to support the Committee's recommendation that mandatory vocational assessments are necessary to granting TDIU benefits.

Recommendation 2-3: The Department should, as part of its modernization of the VASRD, conduct an analysis to identify those specific disabilities and circumstances most frequently associated with the award of TDIU.

VA Response: Concur.

The internal TDIU study will identify the specific disabilities and circumstances that result in Veterans receiving TDIU benefits. The target completion date is September 2017. Once identified, VBA will determine whether Veterans are adequately compensated for those disabilities or whether there needs to be future regulation changes.

Issue 3: National Work Queue (NWQ)

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priorities 1, 4, 6, 7, 9, and 11.

Discussion: The National Work Queue (NWQ) initiative is a key element of the Veterans Benefits Administration (VBA) Transformation Plan. The objective of the NWQ is to make all VA pending claims electronic and thereby give VBA the ability to handle any claim from any one of its 56 regional offices. VBA can thus spread the work flow among offices, expedite and improve the claim process, increase productivity, and improve consistency and quality. NWQ relies on the Veterans Benefits Management System (VBMS), the primary claims processing system in VBA. VBMS was begun in 2009, then known as the Paperless Initiative, and has thus far consumed over $1B in funding for development, maintenance, and implementation.

One objective of NWQ was to have all disability compensation claims electronically processed in 2016. That goal has essentially been met with 99.7% electronically processed claims.

The inventory of claims has been reduced by 57% from 884,000 in July 2012 to 377,125 in July 2016.

The backlog of claims has been reduced by 87% from 611,000 in March 2013 to 77,502 in July 2016.

The objective of reducing the average days to complete (ADC) a Veterans claim to 125 days has been exceeded and now stands at 123 days. That is a 225-day reduction from 348-days in September 2013.

The average days waiting for a claims decision is now 90 days, which is a 192-day reduction from 282-days in March 2013.

In order to ensure the continued improvement of the delivery of benefits to Veterans, the rightsizing of the VBA workforce was addressed by the addition of 770 additional full time equivalent employees in 2016, and an additional 300 positions are being requested in 2017.

Recommendations 3-1: The Committee recommends continued investment as planned for continuous improvement and maintenance of VBMS.

VA Response: Concur.

VBA continues to prioritize investment in the improvement and maintenance of VBMS. In FY 2017, VBMS is deploying new functionality to support process improvement, workload management across regional offices, and integration with stakeholders to improve the ability for end-users to fully process claims. VBMS Release

12.1 was deployed in March 2016. VBMS Releases 13.0 and 13.1 are scheduled for deployment in June and August of 2017, respectively. Planned functionality in upcoming releases will include exam management deployment, iterative automation capabilities, and non-rating work routing within the National Work Queue (NWQ) reflecting VBA's priority to deliver faster, more accurate claims decisions to Veterans via process improvement and technology modernization initiatives.

Recommendations 3-2: The Committee recommends continued focus on adequate staffing to further improve the delivery of benefits to Veterans.

VA Response: Concur.

VBA continues to aggressively work to staff in accordance with its 2017 operating plan with a focus on claims production, appeals, and fiduciary workload. VBA's leadership team meets on a bi-weekly basis to discuss the overarching hiring plan against mission priorities to ensure deliberate actions are taken to onboard staff to meet Veteran expectations for the timely and accurate delivery of benefits and services.

Recommendations 3-3: The Committee recognizes the notable favorable results of NWQ as part of a comprehensive transformation process begun in 2009. The Committee strongly recommends that VBA conduct a formal After-Action Review to capture lessons-learned for use on all future major VA initiatives.

VA Response: Concur.

VBA successfully deployed National Work Queue (NWQ) to all regional offices (ROs), improving VBA's ability to strategically manage and direct production and capacity. NWQ functionality prioritizes and distributes claims at a national level and further standardizes claims processing, providing Veterans, regardless of geographic location, the same access to benefits and timely decisions. In FY 2017, among other things, new NWQ functionality will allow for national management of additional claim inventories to include appeals. Given the unique development of NWQ functionality using a rules-based process VBA controls and can change as needed, VBA will conduct an After-Action Review to capture lessons learned related to development, deployment, and maintenance of NWQ.

Issue 4: VBA Live Manual

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priorities 6, 9, and 11.

Discussion: The Advisory Committee heard briefings on the VBA Live Manual Project in July 2015, with an update in October 2015. On August 24, 2014, Under Secretary for Benefits Hickey announced that "Compensation Service will be moving over the next

few months to a 'Live Manual' where fast letters and tip sheets go directly into a 'Live Manual' and it stays current up to the moment." The project was split into two phases, (1) Migrate the content from Compensation Pension Knowledge Management into the VBA Live Manual platform (Phase I, completed April 15, 2015), and (2) provide one consolidated source for all policy and procedural information (Phase 2, rollout fourth quarter of FY2015). This huge task included (1) training all detailees on writing manual changes, (2) index existing content, and (3) complete rewrite of about 6000 pages. A demonstration of the VBA Live Manual was performed for the Committee, and the great benefit of the project was immediately apparent; moving from paper manuals which required updates to be received, indexed, and inserted, with the immediate digital changes that could be posted system-wide. The Committee asked Mr. Lucas Tickner and Ms. Aimee Benson to present a follow up on Oct 27, 2015. They reported the integration was complete. As a result, all new changes go into the VBA Live Manual, old documents get rescinded and key change documents and concurrence processes are included. The Committee congratulates VA for recognizing the need for such a paperless product to guide claims processing with more accuracy, uniformity, and speed. The Committee was also impressed by the completion in such a short timeline (14-months) with system-wide integration and implementation.

Recommendation 4-1: The Committee noted the professional, time-critical, and enthusiastic work that Mr. Lucas Tickner, Ms. Aimee Benson, initial supporting employees from 16 Regional Offices, and others performed in delivering the VBA Live Manual as the authoritative source for quality checks and errors. The Committee recommends continued maintenance and contemporaneous revision of the VBA Live Manual.

VA Response: Concur.

VBA will continue maintenance and revision of the Live Manual. VBA's Compensation Service recently held a Lean Six Sigma kaizen event to identify and eliminate waste and defects from the Live Manual revision process. A collaborative team of VBA analysts used DMAIC (Define, Measure, Analyze, Improve, and Control) principles to identify the performance gap, variation, and root cause of problems in the current process, brainstorm potential solutions, and implement plans for process improvements. The Lean Six Sigma methodology provides a documented, data-driven, and sustainable approach to managing Live Manual content and ensuring a quality product for our stakeholders.

Issue 5: Guard and Reserve Separation Health Assessment Exams

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priorities 1, 2, 4, and 6.

Discussion: Separation Health Assessment exams continue to be an emphasis item for the Committee. The Department of Defense enacted a policy that all separating service members, Active Duty and Guard and Reserve, will undergo a Separation Health Assessment exam. Policy enactment began for Active Duty members in January 2015 and for Guard and Reserve in January 2016. While this is positive, follow through percentages of members of the Guard and Reserve actually receiving these exams appear to remain low.

Completion of Separation Health Assessments are vital for post-service VA medical care and claims activities as they provide important health benchmarking at separation. Separation exams can facilitate increased access to VA health care, provide focus for Compensation and Pension (C & P) exams, and enhance the claims and appeal processes.

The Committee remains concerned that Guard members and Reservists are not yet provided a fully equivalent Separation Health Assessment. As the Guard and Reserve represent some 40% of operational forces we must ensure that they receive education, care, and Transition Assistance (TAP) at separation from service equivalent to the Active Duty forces.

Full implementation and metric follow up of these implemented DoD separation exam procedures will substantially enhance the Veteran transition experience and help facilitate appropriate VA care.

Recommendation 5-1: The Committee recommends that the VA Secretary and senior leadership, through the Joint Executive Council (JEC), continue to stress the importance of full implementation of Separation Health Assessment exams in <u>all</u> service components.

VA Response: Concur.

The Joint Executive Committee (JEC) continues to stress the importance of full implementation of Separation Health Assessment (SHA) exams in all service components. Full implementation of the SHA program is a JEC co-chair priority articulated in the JEC Priority Guidance Memo and the VA/DoD Joint Strategic Plan (JSP). The JEC co-chairs have requested progress briefings and provided guidance to the SHA team multiple times in FY 2016 and so far in FY 2017.

Recommendation 5-2: The Committee recommends an introduction to claims awareness and support, which should include VSO introduction and/or participation at the time of separation, and TAP mentoring to facilitate setting up a VA eBenefits online account, with an introduction to the VA claim process. The Committee feels it should be emphasized to the separating Servicemember that VA benefits are earned benefits.

VA Response: Concur.

VA provides awareness and support to Transitioning Servicemembers (TSM) concerning claims during VA Benefits I and II briefings. TAP provides TSM's with an introduction to the VA claims process and they are further encouraged to file disability claims either online or through a VA claims representative and/or with a Veterans Service Organization (VSO). VA Benefits I and II briefings covers eligibility and determination for disability compensation and pension claims. Additionally, there is a module incorporated in the VA Benefits I briefing that explains the VSO's role and how they support VA and the TSM. Moreover, VSOs are invited and encouraged to attend VA TAP briefings to distribute business cards and meet with TSMs during breaks in the briefings. Lastly, VA Benefit Advisors (BAs) are encouraged to introduce the attending VSOs by name and organization during the briefings.

Servicemembers are required to obtain VA eBenefits log-on credentials when they enter the military. During VA benefits briefings BAs provide an overview of eBenefits and an opportunity for any TSM that has not logged into eBenefits to do so, with personal assistance.

VA feels that TAP sufficiently addresses the recommendation in 5-2 designed to ensure that TSMs are aware of their earned benefits and that our VSO partners are available to support them.

Recommendation 5-3: The Committee suggests that the JEC recommend to DoD that they track and provide metrics on Separation Health Assessment examination implementation to VA with emphasis on the National Guard and Reserve.

VA Response: Concur.

VA and DoD agreed upon requirements in June 2016, to support the development of automated system functionality to improve elements of the SHA process, including tracking capabilities. The planned modifications to VA and DoD systems will enable feedback loops to improve both Departments' ability to perform exams to standard and track completion rates.

Issue 6: The VA Appeals Process

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priority 7.

Discussion: The Advisory Committee strongly recommended in its 2014 Biennial Report that VA support and Congress enact, a pilot program for fully-developed appeals. Over the past two years, the Advisory Committee heard at least five briefings related to the VA Appeals Process, and the fully-developed Appeal option. While a relatively constant 11-12% of Veterans' Claims Decisions are appealed, between 2012 and 2015, pending Appeals increased 35% to over 440,000. As of 31 January 2016,

approximately 438,000 Appeals were pending. VA projects that pending Appeals will increase to more than 2.2 million by the end of 2027 without reform. Between 2013 and 2014, the Board of Veterans Appeals increased its attorney staff by 150% (300 to 650). In FY2015, the average processing time of an Appeal was 3.1 years, and if the Appeal was remanded by the Board at least once, it took 6.2 years on average. Developing an Appeal option similar to Fully Developed Claims has continued. With a Fully Developed Appeal, a Statement of the Case, Form 9, Hearings, and a Supplemental Statement of the Case (required each time new evidence is obtained) are not required. During the FY2014-2016 timeframe, the time to complete Fully Developed Claims dropped from 148.7 days to 117.9 days, and perhaps a similar reduction by establishing a Fully Developed Appeal option. Transformation to permit Fully Developed Appeals will require Legislative change and increased resources. The myVA Task Force believes that subject to Legislative action, a Simplified Appeals Process would enable the VA by 2021 to resolve 90% of Appeals within one year of filing. Bills were introduced in the US Senate and US House of Representatives in 2016 dealing with Fully Developed Appeals.

Recommendation 6-1: The Committee recognizes the need for developing a Simplified Appeals Process. Experience suggests the number of pending Appeals will rise substantially, currently at more than 400,000 with projections showing over 2 million by 2027. The completion time of 3-6 years is excessive.

VA Response: Concur.

VA agrees that the current VA appeals process, which is set in law, is broken and is providing Veterans a frustrating experience. The system is complex, inefficient, ineffective, confusing, and splits jurisdiction of appeals processing between the Board of Veterans' Appeals (Board) and VBA.

Comprehensive legislative reform is required to modernize the VA appeals process and provide Veterans a decision on their appeal that is timely, simple, transparent, and fair. VA provided Congress with draft language, resulting from detailed discussions between VA, Veterans Service Organizations, and other key stakeholders. In the 114th Congress, an appeals modernization bill was introduced in the House Committee on Veterans' Affairs (HVAC), Subcommittee on Disability Assistance and Memorial Affairs, by Congresswoman Titus, as H.R. 5083, and by Representative Miller, Chairman of the HVAC, as section 9 of H.R. 5620. A legislative hearing on Rep. Titus' bill was held on June 23, 2016. The House passed H.R. 5620, but it did not become law. Further, Senator Blumenthal drafted an appeals reform bill which was considered by the Senate Committee on Veterans' Affairs (SVAC) during a May 24, 2016, legislative hearing. Currently, there are four bills pending in the 115th Congress (H.R. 457, introduced by Rep. Titus; H.R. 611, introduced by Rep. Lamborn; S. 152, introduced by Sen. Rubio; and S. 712, introduced by Sen. Blumenthal). A legislative hearing on a draft HVAC bill was held on May 2, 2017.

Recommendation 6-2: The option for the Veteran to voluntarily choose a Fully Developed Appeals Process (similar to Fully Developed Claims) may significantly reduce the processing time of these Appeals as the Fully Developed Claims Process has demonstrated. Though not appropriate for every Appeal, the Fully Developed Appeal would reduce time, requirements (no duty to develop private evidence), reduce workload for the Board, and provide Veterans a quicker decision. The Committee feels the development of a Fully Developed Appeal Process has merit and should be pursued.

VA Response: Non-Concur.

VA supported a Fully Developed Appeal (FDA) pilot program in the past; however, the growing appeals challenge requires much more widespread reform that will address all future appeals, not just the voluntary participants that might elect an FDA pilot. An FDA pilot program would not reduce the pending appeals inventory and would not significantly address the future appeals inventory. As a pilot for voluntary participants, it would not streamline the VA appeals process for all Veterans, and would not provide an improved experience for all Veterans. The current VA appeals process is lengthy, complex, confusing, and frustrating for Veterans. All Veterans, not just those who might elect to participate in an optional FDA pilot program, deserve an efficient, transparent, and streamlined appeals experience. The FDA pilot program would not be enough to change the current broken VA appeals system. True comprehensive legislative reform is required. For this reason, and as described in VA's response to recommendation 6-1, VA worked with Veterans Service Organizations and other stakeholders to design a better appeals process for all Veterans.

Recommendation 6-3: VA should seek sufficient staffing now at both the regional office level and at the BVA to ensure that the Department is able to handle the complexity of clearing out the existing inventory, conducting multiple appeals tracks concurrently and significantly increasing the capacity of the BVA to render final decisions. The Committee believes that staffing requests should be based on an assessment of what is needed to assure success of the program and avoid incremental staffing requests due to insufficient staffing at the outset.

VA Response: Concur in Principle.

Under the current appeal process, it is not possible to clear out the existing appeals inventory with increased staffing alone. Preliminary projections show that VA would have to significantly increase staffing to eliminate the existing appeals inventory and thereafter permanently maintain this staffing at an exorbitant cost to ensure that future Veterans receive a timely decision on their appeal. It is not acceptable to Veterans or taxpayers to increase resources for a flawed system. Comprehensive legislative reform is required to modernize the VA appeals process and provide Veterans a decision on their appeal that is timely, simple, transparent, and fair.

However, while legislative reform will help VA address appeals filed from decisions issued on or after the effective date of the law, the sizable inventory of appeals stemming from decisions issued prior to the effective date of the new law would be completed under the legacy process. VA would require additional resources to meet the timely service expectations of both Veterans and Congress in processing these appeals.

VA is aware that any increase in appeals resources will be contingent on annual budget appropriations and resource requirements will be validated each year in the budget process. As such, to demonstrate potential outcomes for Veterans awaiting final decisions on their appeals, VA has provided Congress with five projected scenarios that highlight possible outcomes depending on the level of funding appropriated. In VA's most aggressive budget scenario, VA assumed a budget and hiring authority sufficient to eliminate most of the legacy appeals inventory by FY 2022. VA projects that under this aggressive model, it would be able to reduce the inventory of legacy appeals from a high in FY 2018 of almost 492,000 appeals to approximately 7,400 appeals by the start of FY 2022 – a 98-percent reduction in 4 years, with legacy inventory essentially eliminated by the end of FY 2022.

Recommendation 6.4: The VA should develop a comprehensive communication and marketing plan that focuses on Veterans, oversight committees, stakeholders and the public at large. The plan should explain why the changes in the appeals process are both necessary and beneficial. The plan should extend through all phases of implementation.

VA Response: Concur.

VA has developed an 18-month appeal modernization implementation plan that includes communication with stakeholders and Veterans. Moreover, VA continues to meet regularly with Veterans Service Organizations, congressional staff, and other stakeholders on the modernization effort.

Issue 7: Advisory Committee Cross-Linking

Secretary's Breakthrough Priorities: These recommendations address the Secretary's Priority 9.

Discussion: The Advisory Committee has discussed Cross-Linking with other Federal Offices inside and outside the Department of Veterans Affairs during the past year. The ACDC former Chairman had suggested in October 2015 that it might be beneficial to meet with the Under Secretary of Health Affairs, the Under Secretary for Benefits, and other Advisory Committees with Issues of joint concern on a regular basis. On March 21, 2016, Mr. Jeffrey Moragne of the Advisory Committee Management Office said Cross-Committee Collaboration would be encouraged on issues of parallel interest,

including Preparation, Administration, and Research. The Committee has also discussed more frequent meetings with the Department of Veterans Affairs Chief of Staff to assist our Committee in gauging our efforts to address VA Priorities. We believe the Cross-Linking would lead to better Advisory Committee recommendations to the Secretary, Department of Veterans Affairs, permit each Committee to build on research of other Committees, and reduce duplication of efforts. To date, no evidence of Committee Cross-Linking has occurred with the Advisory Committee on Disability Compensation.

Recommendation 7-1: The Advisory Committee on Disability Compensation endorses the recommendation of the Advisory Committee Management Office to establish and encourage Cross Committee Collaboration on Issues of Parallel Interest.

VA Response: Concur.

The Advisory Committee Management Office believes that by collaborating with different committees on research, thought processes, and recommendations the ACDC will discover innovative ways to serve Veterans better. This can be achieved by forming an ACDC sub-committee and continually engaging.

Recommendation 7.2 The Committee recommends resuming regular meetings of all VA Advisory Committee Chairs with Secretary of Veterans Affairs. The Committee also recommends that regular meetings with VA Chief of Staff and the VA Undersecretary for Benefits be established.

VA Response: Concur.

Meeting regularly with VA Senior Leaders is a standard practice for the Department's advisory committees and will be incorporated into the ACDC standard meeting agenda.

Recommendation 7-3: The Advisory Committee on Disability Compensation urges the Management Office to detail the guidelines for use of the program, and encourage its use among Committee Chairs or full Committees, as appropriate.

VA Response: Concur.

Over the past three years, the Advisory Committee Management Office has created and incorporated, into our community of practice, three General Service Administration Committee Management Secretariat recognized best practice guides:

1) The VA Committee Manager's Correspondence Procedures (Nov 2014),
2) The VA Advisory Committee Management Guide (Oct 2015), and
3) The VA New Member's Orientation Handbook (Nov 2015).

These guides cover Committee Manager and Committee Member statutory and departmental duties, responsibilities, and policies. They are routinely referenced, updated, and used in mandatory annual training.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

May 14, 2019

Major General Joseph Kirk Martin, M.D., USAF (Retired)
Chairman
Advisory Committee on Disability Compensation
8489 Stables Road
Jacksonville, FL 32256

Dear General Martin:

Thank you for the Advisory Committee on Disability Compensation 2018 Biennial report advising me, in accordance with section 214 of Public Law 110-389, on the maintenance and periodic readjustment of the Department of Veterans Affairs (VA) Schedule of Rating Disabilities. Enclosed is VA's response to the Committee's recommendations.

The Committee's ideas, input, and support are extremely helpful and have assisted VA in making critical improvements to our programs. I appreciate the Committee for its unwavering dedication to our Veterans.

Thank you for your continued support of our mission.

Sincerely,

Robert L. Wilkie

Robert L. Wilkie

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

May 14, 2019

The Honorable Jon Tester
Ranking Member
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Senator Tester:

Enclosed is the Advisory Committee on Disability Compensation 2018 Biennial Report as required by 38 United States Code § 546. The report provides an assessment of the Department of Veterans Affairs' (VA) administration of programs, services, and benefits affecting disabled Veterans. Also enclosed are VA's responses to the Committee's recommendations.

A similar letter has been sent to other leaders of the House and Senate Committees on Veterans' Affairs.

Sincerely,

Robert L. Wilkie

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

May 14, 2019

The Honorable Johnny Isakson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Sincerely,

Robert L. Wilkie

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

May 14, 2019

The Honorable David P. Roe, M.D.
Ranking Member
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Roe:

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Sincerely,

Robert L. Wilkie

Enclosure

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

May 14, 2019

The Honorable Mark Takano
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely,

Robert L. Wilkie

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Enclosure

REPORT OF THE ADVISORY COMMITTEE ON DISABILITY COMPENSATION

2018 BIENNIAL REPORT

Department of Veterans Affairs
Responses to the October 21, 2018, Biennial Report Recommendations
Advisory Committee on Disability Compensation
March 2019

Subject: 2018 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 38 United States Code (U.S.C.) 546, Public Law 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 (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, 2018. Previous Biennial Reports were submitted on 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. One member of the Committee died in 2016, and another died in 2017. Unfortunately, the loss of these members included some important expertise (Veterans Service Organization (VSO), and military and civilian attorney). Two members have resigned from the Committee, one in 2017 due to illness, and one in 2018 due to other commitments. The current Committee is now eight members. Since some of the Members' terms expired in 2017, 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.

ACDC Subcommittee: Following SECVA's announcement at the National Press Club on November 6, 2017, that he was establishing a Veterans Benefits Advisory Board, the ACDC was asked to form this as a Subcommittee since it fit best with our Congressionally-mandated Charter. The Subcommittee would focus on Veteran's abilities, rather than their disabilities, and how to make benefits work better for Veterans. Organizational work began January 4, 2018, with a teleconference with the ACDC Chair and the Director of Compensation Services, Veterans Benefits Administration (VBA), followed by a meeting with the Principal Deputy Under Secretary for Benefits, the Director of the Office of Strategic Plans, and the Director of

Compensation Service and the Chair on January 11, 2018. Subsequently, a Teleconference was held with the DFO from the VA Specialized Medical Group Advisory Committee that has a Subcommittee to share best practices and lessons learned. Further meetings with the Chair, the Director of Compensation Service, and the USB were held between March and May 2018. Initiation of the ACDC Subcommittee was then placed on Temporary Hold, pending appointment of the new Secretary of the Department of Veterans Affairs.

Current Members of the Committee: Maj Gen Joseph Kirk Martin, Chair; Dr. Doris Browne; Dr. Elizabeth Savoca; Dr. Michael Simberkoff; Dr. Warren A. Jones; MG George Fay; Mr. Tom Pamperin; and Dr. Jonathan Roberts. The Committee Designated Federal Officers (DFO) are Ms. Stacy Boyd and Dr. Ioulia Vvedenskaya. 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, 2016. The Report contained seven Issues and 22 Recommendations. The VA Response was Concur for 17, Concur in Principal for two, Concur in Part for one, and Non-Concur in two.

Previously Presented Priority Issues of Concern to the Advisory Committee: The 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 the Secretary with respect to the maintenance and periodic readjustment of the VASRD. The formal Program Management Plan to revise the "VA Schedule for Rating Disabilities" is 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. The Advisory Committee concurred that the Management Plan, if executed as presented, would meet the requirement. However, in addition to the major setback to the scheduled Plan by the decision to start over on the review of the Mental Disorders body system, other delays continue to significantly impact the Management Plan revision, which most recently is not projected to be completed until Fiscal Year (FY) 2020.

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/loss study. The Committee expressed concern in the 2016 Biennial Report that there was no plan developed to study economic loss data. VA initiated a study in 2017; however, to date, this study has not been completed.

SUBJECT: 2018 REPORT TO THE SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

Issue 1: THE SYSTEMATIC REVIEW AND UPDATE OF THE VASRD

Secretary's Priority Issue: These Recommendations address the Secretary's Priorities Modernize Systems, Improve Timeliness, Efficiency, Greater Choice

Discussion: The Committee has received extensive briefings about the progress or lack thereof of the Systematic Review and Update of the VASRD. The existing VASRD consists of 15 body systems and was last updated in 1945. A formal Program Management plan to completely revise and update the VASRD under 14 body systems was dated October 2009, with an original timeline for final rules to be published in 2016. Further, the Plan was also established that an ongoing review and update of the newly revised schedule would begin in March 2017. The Secretary's response to the 2014 Biennial Report stated that the management plan foresaw a completion of March 2017, a change from the 2009 Plan. At the Committee's September 2016 meeting, we were advised that all final rules for the initial review of the VASRD would be completed in September 2018, 9 years after the start of the project. Additionally, we were advised that a Request for Proposal for an earnings loss study was released on September 9, 2016, although it was unclear if this was for the actual study or for work on the design of a study. The Committee was also told that once the initial review was completed, ongoing review and update of each body system would occur every 3 years.

As of May 22, 2018, **four** body systems Final Rules were published. These are:

1. **Dental/Oral**: Final Rule Published 82 FR 36080, August 3, 2017, Effective September 10, 2017.
2. **Endocrine**: Final Rule Published 82 FR 50802, November 2, 2017, Effective December 10, 2017.
3. **Eye**: Final Rule Published 83 FR 15316, April 10, 2018, Effective May 13, 2018.
4. **GYN/Breast**: Final Rule Published 83 FR 15068, April 10, 2018, Effective May 13, 2018.

Proposed Rules for **four** additional body systems were published and are in various stages of review and/or finalization.

5. **Skin**: Proposed Rule Published 81 FR 53353, August 12, 2016, Final Rule awaiting VA Central Office (VACO) Concurrence.
6. **Hematologic**: Proposed Rule Published 80 FR 46888, August 6, 2016. Final Rule awaiting VACO concurrence.
7. **Genitourinary**: Proposed Rule Published 83 FR 35140, July 28, 2017. Final Rule awaiting VBA concurrence.
8. **Musculoskeletal**: Proposed Rule Published 82 FR 35719, August 1, 2017. Final Rule awaiting VBA concurrence.

Proposed Rules for **six** additional body systems have yet to be published. These are:

9. **Infectious Diseases**: Currently awaiting VACO concurrence
10. **Cardiology**: Currently awaiting VACO concurrence.
11. **Respiratory/Audiology**: Currently awaiting VBA concurrence.
12. **Mental**: Currently awaiting VACO concurrence.
13. **Neurologic**: Currently awaiting VBA concurrence.
14. **Digestive**: Currently awaiting VBA concurrence.

Briefers have told the Committee that there are no mandated timelines for review and concurrence of changes until Proposed Rules are forwarded to General Counsel and a RIN number is assigned. In the view of the Committee, 9 years of effort with only 2 Final Regulations being published is unacceptable.

The ACDC believes that there are 3 reasons for delays in initial completion publication of final rules for the 14 body systems of the new VASRD and initiation of their periodic review and update. These are:

1. Insufficient resources (medical personnel and regulation writers) assigned to the task;
2. Lack of realistic timelines and suspense dates for each of the tasks required; and
3. Lack of Project Management.

Medical Personnel Assigned to VASRD: When it was initiated in 2009, the revision and updating of the VASRD was estimated to require 7 full-time medical personnel. That goal was never achieved. At most, 6 physicians were hired by VBA to work fulltime on VASRD. However, through attrition and retirement only two VBA medical personnel are currently engaged on this task.

The ACDC is concerned that despite their heroic efforts, the 2 full-time VBA Medical officers assigned to complete the revision and update of all the body systems of the VASRD are insufficient for this task and must be supplemented.

Regulation Writers Assigned to VASRD: Originally, one regulation writer was assigned the task of reviewing the VASRD. Over the years, the complexity of the process has increased. ACDC feels there should be sufficient regulation staff to ensure the completion of the current project to publish a revised rating schedule, maintain the stated 3-year ongoing review cycle, maintain the other regulations in Parts Three and other parts, as well as be able to respond to legislative changes.

Project Management: Personnel cannot be effectively utilized, nor can timelines and deadlines be effectively enforced without appropriate management. Revision and updating to each of the body systems of the VASRD demands a Project Management approach where personnel responsible for each step are required and held accountable for meeting timelines and deadlines. This is further addressed in Issue 2 of this Report.

Recommendation 1-1: VBA should supplement the two fulltime medical personnel currently assigned to revise and update the VASRD. If fulltime medical personnel

cannot be recruited, hired, and trained in a timely manner, VBA should consider finding additional medical personnel by requesting that subject medical experts be detailed on a part-time basis from nearby Veterans Health Administration (VHA) facilities or contracted from nearby medical schools in Washington, DC and Baltimore, MD to assist and supplement the efforts of VBA Medical Personnel assigned to revise and update body systems for the VASRD.

VA Response: Concur, in principle.

From 2009 through 2016, the VASRD staff was only comprised of Medical Officers. While technical work groups accomplished their mission to address medical aspects of the claims, none of these Medical Officers were technical regulatory writers or sufficiently-versed in all aspects of rulemaking. As a result, there were significant delays in the formulation of regulatory packages. In 2016 and 2017, VBA encountered the loss of two Medical Officers, but determined that the necessary work to ensure publication of regulatory packages required different expertise. Therefore, VBA supplemented its two remaining, fulltime Medical Officers with three GS-13 Regulations Analysts (RA) and one GS-14 Lead Analyst. These employees have been instrumental in the drafting of all 14 regulation documents for the 15 body systems—for a total of 6 final regulations published; 3 proposed regulations published; and 5 regulations drafted and in concurrence. VBA is standing up a VASRD Program Office in 2019 with the proper full-time employees, including additional Medical Officers.

Recommendation 1-2: Regulation staff writers should be considered mission critical positions to be filled on a priority basis when vacancies occur.

VA Response: Concur.

In the past 2 years, VBA has expanded its regulations staff to include additional RAs. VBA agrees that these technical employees are critical to complete the necessary work and to ensure publication of regulatory packages. Currently, there are two RAs on staff, and VBA's hiring plans include two additional RAs who are dedicated to VASRD regulations exclusively. To ensure sustainability of effort, VBA will continue to assess its full-time equivalent (FTE) resources who are dedicated to VASRD.

Recommendation 1-3: The Department should establish clear timelines and deadlines since this process includes concurrence from multiple staffs outside VBA. Establish a tool, such as the Gantt Chart with clear timelines and deadlines for completion of each of the tasks required to complete the revision, update, and publication of Proposed and/or Final Rules for each body system of the VASRD.

VA Response: Concur.

While VBA's VASRD regulations take approximately 24 months on average to revise and implement, the changes have taken longer due to several factors, such as the following: concurrence with internal and external offices; development of impact

analysis and supporting documents; and information technology (IT) systems' integration. VBA will work with the Department on refining timeliness expectations and deadlines for all internal VA offices to ensure that such timeliness controls are put in place. VBA will also establish a formal VASRD Operational Guide to set forth protocol for VASRD rulemaking protocol and project management.

Recommendation 1-4: Establish and implement a robust Project Management Office where personnel in VBA, the Office of General Counsel (OGC), the Office of Information & Technology (OIT), and VACO are responsible and accountable for meeting timelines and deadlines for completion of their tasks required for publication and implementation of Final Rules for each body system of the VASRD.

VA Response: Concur.

As noted above, VBA will work with the Department on refining timeliness expectations and deadlines for all internal VA offices to ensure that such timeliness controls are put in place. VBA will also create a formal VASRD Operational Guide to establish structure for VASRD rulemaking protocol, timeliness expectations, and project management as part of the new VASRD Program Office.

Issue 2: VASRD PROGRAM MANAGEMENT

Secretary's Priority Issue: These Recommendations address the Secretary's Priorities Modernize Systems, Efficiency, Improve Timeliness

The anticipated 2019 mandatory budget for the Compensation and Pension account is $95 billion. The VASRD is the core tool used to administer these funds.

Discussion: VA is charged with the responsibility of delivering benefits and services to America's Veterans and to their dependents and survivors. One of those benefits is disability compensation for Veterans who have incurred or aggravated disease or injury while serving the Nation. VA executes this mission using the VASRD to evaluate the level of impairment associated with an injury or disease. The current rating schedule categorizes injuries and diseases through 14 discrete body systems. The potential level of compensation associated with each impairment is assessed in 10 percent increments from 0 to 100 percent disabling. Each disability is assigned a range of potential evaluations specific to that disability. Compensation payable to Veterans who are service connected for more than one disability is determined by combining the service connected conditions through the means of a combined rating table that produces a combined disability evaluation.

The VASRD was initially developed in 1945. While it is true that over the years new disabilities have been added to the schedule and some modifications to existing rating criteria have been made over the last 73 years, no comprehensive update to the schedule has been implemented since its inception.

VA has been engaged in a comprehensive update of the schedule for the last 12 years. Those efforts have been multi-disciplinary and thoughtful. The fact remains, however, that the fruits of that effort are few. Most significantly, they include a decision to combine two body systems into one and the publication of final rules for four systems. Most, but not all, especially the most potentially significant ones (musculoskeletal, mental health, and the diabetes portion of the endocrine system) have been published in the federal register for notice and comment. All but four published final rules are in various review processes without any obvious structure and oversight to insure they proceed through necessary gate reviews in a timely and effective manner.

Additionally, the committee, which has expressed repeatedly in earlier reports its belief that VA must fully staff the clinical staff responsible for development of the schedule to assure success, was at its May 2018 meeting advised that the staffing for the project had been reduced from an authorized 7 positions to 2. We were also advised that, without regard to any process improvements which may be able to be achieved to expedite the project, the schedule is subject to programming limitations in that only two body systems can be fit into the information technology update process per quarter. Thus, a process begun 12 years ago, at the minimum, cannot be fully implemented for at least 2 years and will most likely take significantly longer.

It is not clear whether Departmental management is aware of the status of the project. Finally, while staff have briefed the Committee several times about "project management" and the "project manager" and "integrated project management teams (IPT)" on further questioning from the Committee, we can discern no evidence that the Department is applying true program and project management in the commonly understood meaning of that discipline to this critical project. It should also be noted that staff indicated that a contractor is the "project manager." A project manager is an inherently governmental personnel task since that individual is accountable for the accomplishment of the project and, in the Committee's view, cannot be delegated to a contractor.

It should be noted that the Department has a Program Management School within the VA Acquisition Academy (VAAA) located in Frederick, Maryland, which has the knowledge, skills, and ability to assist in the development of an appropriate program and project management approach for updating the VASRD. At the May 2018 meeting, the Committee was advised that the Compensation Service is in discussions with VAAA for project management training and support. Subsequently, we are aware of two meetings with that organization and the creation of a revised schedule. We believe these are positive moves. However, without senior Departmental involvement in this project, whether through direct oversight or delegation of authority that has the ability to affect the cycle time for concurrence within VBA and the Department, the project will continue to experience the delays that are well documented thus far.

The Committee believes qualified Program and Project Managers should develop accurate requirements and performance standards and manage life-cycle activities to

increase the likelihood of achieving intended outcomes. The Committee believes that a formal program and project management approach, with evidence of commonly accepted best practices, increases the ability to hold organizations, teams, and individuals accountable. The Project Management Plan (PMP) should include a work breakdown structure (WBS) along with specific plans for communications, risk management, change management, and integrated project management schedule. A concept of operations and others are not only necessary but fundamental to the management of the updating of the disability evaluation schedule upon which millions of wounded, ill, and injured Veterans depend.

Recommendation 2-1: The Secretary should direct the USB to conduct a VASRD Update Project Gap analysis in accordance with the guidelines from VA Handbook 7402, VA Acquisition Program Management Framework (APMF) Procedures. The analysis should assess the current state of project management for this effort and point the way ahead.

VA Response: Concur, in principle.

In 2018, VA held two meetings with the VA Office of Acquisitions to address VASRD issues and to discuss the use of the APMF. From those sessions, VBA is finalizing the recommendation for the creation of a program office and is working on a program charter as well as other key operating plans with assistance from Massachusetts Institute of Technology Research & Engineering (MITRE).

In addition, the USB has contracted with MITRE to provide an assessment of the VASRD as a GAO High Risk program and to make recommendations for necessary changes that will ensure program sustainability.

Recommendation 2-2: Because the success of the VASRD Update Project is dependent upon critical inputs from the Office of the USB; OIT; OGC; the VBA Budget Office; the Office of Field Operations; the Compensation Service's Policy, Procedures, Contract Exam, and Training staffs; and from VHA's Compensation Exam units, the Secretary should provide a written delegation to an appropriate official that will enable that individual to establish specific timelines for concurrence of proposed VASRD changes at the VBA, VHA, and Departmental levels.

VA Response: Concur.

Modernizing the VASRD remains a high priority for VA. As VA assesses the sustainability of these regulatory revisions (on 3- to 5-year cycles for updates), VA is seeking enterprise-wide accountability as well as the establishment of a program office with the dedicated resources. Establishing dedicated resources for VASRD program oversight will ensure the necessary agency-wide collaborations and critical inputs are timely.

Recommendation 2-3: The Director of the Compensation Service is the Business Owner for this project and should be directed to appoint a dedicated federal Project Manager with roles, responsibilities and authorities spelled out in writing within 15 days of the completion of the gap analysis discussed in Recommendation 2-1.

VA Response: Concur, in principle.

Compensation Service has created and filled the new position of Regulations Officer (Program Manager) as the dedicated leader to oversee the VASRD program. However, Compensation Service is establishing and staffing the new organizational structure of the VASRD Program Office. In addition, Compensation Service is currently coordinating with MITRE for their assistance in standing up the new program office. Therefore, the 15-day timeframe to complete the gap analysis as outlined in the above Recommendation 2-1 is dependent on final approval from the USB as well as the results of the collaboration with MITRE and staffing of the program office.

Recommendation 2-4: The Core Team should develop and submit for approval of the Executive Team a comprehensive PMP. The PMP should, at the minimum, consist of:

a. An Integrated Master Schedule;
b. A Communication Plan;
c. A Stakeholder Management Plan;
d. A Risk Plan;
e. A Change Management Plan;
f. A Concept of Operations Plan;
g. An Organization Chart;
h. A Work Breakdown Schedule (WBS); and
i. Any other plans which the Core Team may deem appropriate.

The PMP should also clearly outline the follow key factors for success:

a. A clear statement of major goals (both short term and long term);
b. A clear statement of success criteria;
c. A clear statement of how decisions will be made and, when necessary, escalated;
d. A clear statement of assumptions, dependencies and constraints;
e. A clear statement of what is in and out of scope for the project;
f. A clear statement of milestones and key decision points;
g. A clear statement of major deliverables and target completion dates; and
h. A clear assessment of the probability of delay or failure to meet schedules with the reasons for these assessments and a mitigation strategy to reduce or eliminate such delays and/or failures.

VA Response: Concur.

VA acknowledges a more sustainable strategy is necessary to address the programmatic requirements and oversight for VASRD. Compensation Service with

assistance of MITRE is currently preparing these documents, beginning with the organizational chart, concept of operations plan, and WBS. Elements listed should be included in the program office's strategic, operational, and tactical plans to ensure project management, oversight, timeliness, and risk management are achieved.

Issue 3: TOTAL DISABILITY BASED ON INDIVIDUAL UNEMPLOYABILITY (TDIU)

Secretary's Priority Issue: These Recommendations address the Secretary's Priorities Modernize Systems, Greater Choice, Efficiency, Improve Timeliness

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

Discussion: In its 2012, 2014, and 2016 Biennial Reports, the Committee urged VA to carry out a study of the TDIU program. The reports highlighted several issues: the need for improvements in the clarity and consistency in the decision-making process; the need to correct the shortcomings in the VASRD which have led to what is perceived to be excessive reliance on the program (the GAO report found that as of September 2013, nearly half of the Veterans paid at the 100 percent compensation rate received their benefits through the TDIU program); the need to conduct vocational assessments for new applicants; the need to understand the incentives of the program, particularly for Veterans nearing retirement age. The 2015 GAO review of the TDIU program endorsed many of the Committee's recommendations.

In its responses to these various reports, VA stated its intent to systematically review the program, setting targeted completion dates of July 2015 for the development of a plan to initiate a study, and, more recently, a September 2017 deadline for the completion of the study. To the best of the Committee's knowledge, the study has not been completed. We await the findings of the study.

Recommendation 3-1: Complete a study of the TDIU which addresses the issues highlighted in this and the previous three Biennial Reports.

VA Response: Concur in principle.

In 2017, VBA completed an Internal Study of TDIU. This study is currently under review with new VBA leadership to assess recommended courses of action for modernizing the TDIU program.

Issue 4: NATIONAL GUARD AND RESERVE ACCESS

Secretary's Priority Issue: These Recommendations address the Secretary's Priorities Efficiency, Improve Timelines, Greater Choice, and Modernize Systems, Suicide Prevention

Discussion: The VA Advisory Committee on Disability Compensation has carefully monitored the ability of the National Guard (Army and Air), and the Reserve Forces to

use VA programs and benefits. As the National Guard and Reserve have transformed from a Strategic Reserve to an Operational Reserve and component of ongoing Department of Defense (DoD) missions, the number of Guard and Reserve members sustaining service-connected disabilities has increased. The 2018 National Defense Authorization Act (NDAA) Authorized End-Strength of the Guard and Reserve is 823,900. The Advisory Committee previously recognized the necessity of timely Certified Service Treatment Records (STR) from the Guard and Reserve, which was mandated by the DoD in 2014. The Advisory Committee included the Issue of Guard and Reserve Separation Health Assessments (SHA) in our 2016 Biennial Report and recommended that DoD track and provide metrics on SHA implementation to VA with emphasis on the Guard and Reserve. We also recommended that VA continue to stress importance with DoD for full implementation of SHA in all branches, including Guard and Reserve.

Over the past biennium, the Advisory Committee has continued to focus on two Guard and Reserve Issues: (1) SHA; and (2) Transition Assistance programs (TAP).

The Separation Health Physical Exam (SHPE) is conducted by DoD less than 90-days prior to Separation from Active Duty. The member may instead receive a SHA between 90-180 days prior to separation from Active Duty, which may be performed by the VA. During a briefing on December 7, 2016, the Advisory Committee was told that of the 20,000 separating service members per month, 70 percent received the DoD Examination, but there were no numbers available for the Guard and Reserve. The Director of the DoD Reserve Medical Programs & Policy Office told the ACDC during the December 2016 meeting that Active Duty for 180-days, or greater than 30-days in support of a Contingency Operation was required by Guard and Reserve to receive a SHPE, which can be utilized to support a Service-Connected Disability Claim. Failing to complete a SHA or SHPE also makes participation in the VA Benefits Delivery at Discharge (BDD) program difficult.

In discussion with the subject matter experts (SME), the Committee found that a significant number of National Guard members do not separate directly from active Duty nor following a Contingency Operation. In addition, National Guard members, particularly Air National Guard members, may deploy for periods of less than 30-days. This does not result in a DD214 or serve to qualify them for an SHPE, either of which may assist the members with filing and substantiating their VA disability claims for service-connected disabilities. The Committee was told that the DoD Reserve Medical Programs and Policy Office was working to change the guidelines so that any Contingency Operation service would trigger a DD214; however, we are not aware of any action on this since December 2016. Retirement from active duty also qualifies a member for an SHPE or SHA; however, this is not true for National Guard members (unless they come directly off an Active Duty Deployment). A member of the National Guard could serve 20-30 years, including many deployments, and not be offered a SHPE or SHA prior to retirement.

The VA TAP is an excellent overview of VA benefits and VA disability claims. It offers a member the opportunity to enroll in VA online. Most TAP Programs are conducted on Active Duty bases or at Demobilization Installations. According to a TAP briefing to the Committee March 2018, TAP is presented at 300 Installations, and employs 300 Contractors. Significantly, the nearly half a million National Guard members attend duty drills at Armories and Wings in all 50 states, including Washington, DC and the four U.S. Territories, but rarely on Active Duty bases.

Recommendation 4-1: Establish a VA/DoD Task Force to implement SHA/SHPE for Guard and Reserve members.

The Committee is concerned that the Guard and Reserve represent an underserved population of Veterans in terms of VA Programs, documenting service-connected disabilities, or filing for compensation. The Advisory Committee has requested several updates over the past biennium on the Guard and Reserve but has failed to find data indicating that these members are included in SHA/SHPE, unless they are demobilizing from a deployment of 180 days or more. In fact, the Committee was told that Guard and Reserve members were not authorized SHA/SHPE unless they were coming off Active Duty. The redesigned BDD Program is also unable to provide data on Guard and Reserve numbers. ACDC recommends SECVA consider this a priority.

VA Response: Compensation Service concurs in principle.

The SHA initiative is a joint initiative between DoD and VA, to ensure all Servicemembers receive a standard separation exam prior to separating from active military service. Only Reservists or Guardsmen activated under title 10 or title 32, or who are disabled or die during active duty for training or inactive duty for training (under certain circumstances) are eligible for VA disability compensation. As such, SHA exams are conducted by VA, only for Reservists and Guardsmen demobilizing from active duty within 180-90 days remaining before transition and they plan to file a disability claim with VA. Compensation Service agrees targeted outreach is warranted for Guardsmen and Reservists who fit these specific criteria. VBA outreach at demobilization units is dependent on DoD notifying VBA in advance of dates and locations. VA disability compensation eligibility criteria do not preclude DoD from conducting SHPEs, DoD's equivalent exam to VA's SHA, for all separating Reservists and Guardsmen, as required by law. The SHA Initiative remains a VA/DoD Joint Strategic Plan priority with compliance reported quarterly. DoD reported compliance reflects 30 percent of Guardsmen, and 40 percent of Reservists had a separation exam (SHA or SHPE) as of end of the first quarter in FY 2019.

Recommendation 4-2: Institute VA TAP briefings for all retiring and separating Guard and Reserve members.

The Committee is concerned that even though this was highlighted in our prior Biennial Reports, the numbers of Guard and Reserve members receiving TAP are still unknown. Even though the TAP program has 300 Contractors presenting the program, very few

are made available at Army or Air National Guard bases. The Reserve is somewhat better off in terms of TAP, since they are usually co-located on Active Duty bases. VA should consider a rapid action team to implement TAP for all Guard and Reserve who are separating or retiring.

VA Response: Non-concur.

VA coordinates with its interagency partners to ensure that those Guard and Reserve members who are required and/or eligible to participate in TAP do so and collects information about their TAP experience in the same manner as active duty members. VA's continuous evaluation of strategy, performance, and its agile curriculum improvement process allow ongoing enhancements to VA's curriculum and delivery, including the creation of tailored briefings for members of the Guard and Reserve. The Guard and Reserve components have unique needs due to their missions and mobilizations. During FY 2016, VA designed a new curriculum specific to members of the Guard and Reserve. The new curriculum module contains information and resources tailored to the specific needs and special circumstances of Guard and Reserve members. During the summer of 2018, VA again revised the Guard and Reserve curriculum to ensure its currency and relevance.

Transition efforts need to extend beyond the members' time on active duty or in the Guard and Reserve. Through curriculum redesign and the expansion of our reach to Servicemembers throughout the military life cycle, VA is poised to have greater access to all those in uniform – Active Duty, Guard, and Reserve – and reduce the stress of transition and their being overwhelmed with information about benefits and services. Finally, our deployment of over 300 benefit advisors worldwide allows VA to be able to support the transition needs of Guard and Reserve members.

ISSUE 5: VA ADVISORY COMMITTEE CROSS-COLLABORATION

Secretary's Priority Issue: These Recommendations address the Secretary's Priorities Modernize Systems, Efficiency, Improve Timeliness

Discussion: Cross-Collaboration among the 28 VA Advisory Committees has been a Priority of the past two VA Secretaries, and it has been encouraged by the Advisory Committee Management Office (ACMO). The program was discussed at Dr. Shulkin's SECVA-Chair-DFO Strategic Summit 2018 held on January 11, 2018, in Washington, D.C. During the summit, the DFO for the Advisory Committee on Minority Veterans presented "A Phased Approach to Cross-Committee Collaboration (Educate, Engage, Collaborate, Report)."

Over the past 2 years, the Advisory Committee on Disability Compensation has participated in and utilized Cross-Collaboration on multiple occasions. On May 17, 2017, the ACDC Chairman briefed the Former Prisoners of War Advisory Committee at their meeting in the newly opened Southeast Louisiana VA Medical Center in New

Orleans, LA. An overview of the Advisory Committee on Disability Compensation's activity was presented, followed by an engaged question and answer session.

The ACDC has received briefings from three other Advisory Committees: The Research Advisory Committee on Gulf War Veterans' Illnesses, on March 6, 2017, the Advisory Committee on Women Veterans on June 21, 2017 and the Advisory Committee on Minority Veterans on September 13, 2017. The ACDC Chair met by teleconference on February 22, 2018, with the DFO of the VA Special Medical Advisory Group, and Director, Compensation Services, VBA to review best practices and lessons learned regarding Advisory Committee Subcommittees. The ACDC has been requested to brief the Research Advisory Committee on Gulf War Veterans' Illnesses this year. Our Advisory Committee has also requested a briefing from the VA Prevention of Fraud, Waste, and Abuse Advisory Committee.

Recommendation 5-1: The ACDC strongly recommends the need for more Advisory Committee Cross-Collaboration. It provides for sharing an existing knowledge base, and best practices across VA Advisory Committees, without repetition. The process is time efficient and cost-saving. The Advisory Committee recommends that the future VA Secretary continue and encourage Advisory Committee Cross-Collaboration.

VA Response: Concur

ACMO actively encourages ACDC's desire to cross collaborate on data, research, thought processes, and draft recommendations. ACMO continuously promotes its best practice to ACDC to initiate cross committee operations by forming a subcommittee, reaching out to other committees through the ACDC Designated Federal Officer, and meeting with the other desired Parent advisory committee's subcommittee (either in-person or virtual). In accordance with FACA guidance, the subcommittee meeting results must be reported directly to their respective full Parent advisory committee prior to VA leadership implementing any recommendation(s) and/or advice.

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 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 or 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 Heath 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: Quantitively 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.

<u>Recommendation 3.1</u>: 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 21st Century System for Evaluating Veterans for Disability Benefits, The Institute of Medicine – 2007
- Honoring the Call to Duty, Veterans' Disability Benefits in the 21st 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).

DEPARTMENT OF VETERANS AFFAIRS
CHARTER OF THE
ADVISORY COMMITTEE ON DISABILITY COMPENSATION

1. OFFICIAL DESIGNATION: Advisory Committee on Disability Compensation.

2. AUTHORITY: The Committee is authorized by statute, 38 U.S.C. § 546, and operates under the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

3. OBJECTIVES AND SCOPE OF ACTIVITY: The Committee's objective is to advise the Secretary of Veterans Affairs with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

4. DUTIES OF THE COMMITTEE: In providing advice to the Secretary, the Committee shall assemble and review relevant information relating to the needs of Veterans with disabilities; provide information relating to the nature and character of the disabilities arising from service in the Armed Forces; provide an ongoing assessment of the effectiveness of the VA's Schedule for Rating Disabilities; and provide ongoing advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation in the future. In carrying out its duties, the Committee shall take into special account the needs of Veterans who have served in a theater of combat operations.

Not later than October 31, 2010, and not less frequently than every two years thereafter, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the payment of disability compensation. Each such report shall include an assessment of the needs of Veterans with respect to disability compensation; and such recommendations (including recommendations for administrative, regulatory or legislative action), as the Committee considers appropriate. The Committee may submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

5. OFFICIAL TO WHOM THE COMMITTEE REPORTS: The Committee reports to the Secretary.

6. OFFICE RESPONSIBLE FOR PROVIDING SUPPORT TO THE COMMITTEE: The Compensation and Pension Service, Veterans Benefits Administration, will provide necessary support to the Committee. The Secretary shall ensure that appropriate personnel, funding, and other resources are provided to the Committee to carry out its responsibilities.

7. ESTIMATED ANNUAL OPERATING COSTS IN DOLLARS AND STAFF-YEARS: Annual financial and personnel support for the work of the Committee is estimated at $850,000 per year and 2.0 full-time equivalent staff years. Members will receive travel expenses and a per diem allowance in accordance with the Federal Travel Regulation for any travel made in connection with their duties as members of the Committee.

8. DESIGNATED FEDERAL OFFICER: The Designated Federal Officer (DFO), a full time VA employee, will approve the schedule of Committee meetings. The DFO or a designee will be present at all meetings, and each meeting will be conducted in accordance with an agenda approved by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so.

9. ESTIMATED NUMBER AND FREQUENCY OF MEETINGS: The Committee will meet as necessary in order to conduct deliberations and make its reports and recommendations to the Secretary.

10. DURATION: There is an ongoing and continuing need for the Committee to assist the Secretary in carrying out the responsibilities under 38 U.S.C. § 546.

11. TERMINATION DATE: The Committee's statutory authority provides for no termination date. The Committee's statutory authority exempts it from the termination renewal, and continuation provisions of 5 U.S.C. App. § 14.

12. MEMBERSHIP AND DURATION: The Committee shall consist of not more than 18 members appointed by the Secretary from among individuals who have experience with the provision of disability compensation by VA; or are leading medical or scientific experts in relevant fields. The Secretary shall determine the terms of pay and allowances of the members of the Committee.

The terms of service for Committee members may not exceed four years and shall be staggered to ensure that the dates for the termination of the members' terms are not all the same. The Secretary may reappoint any member for one or more additional terms of service. The Secretary shall select a Chair from among the members of the Committee. Several members may be Regular Government Employees, but the majority of the Committee's membership will be Special Government Employees.

13. SUBCOMMITTEES: The Committee is authorized to establish subcommittees, with the DFO's approval, to perform specific projects or assignments as necessary and consistent with its mission. The Committee chair shall notify the Secretary, through the DFO, of the establishment of any subcommittee, including its function, membership and estimated duration. Subcommittees will report back to the Committee.

14. RECORDKEEPING: Records of the Committee shall be handled in accordance with General Records Schedule 26 or other approved agency records disposition schedules. Those records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. § 552.

15. DATE CHARTER IS FILED:

Approved: _____ Date: 11/19/2010

Eric K. Shinseki
Secretary of Veterans Affairs