DEPARTMENT OF VETERANS AFFAIRS

ADVISORY COMMITTEE ON DISABILITY COMPENSATION

September 12-13, 2016

MINUTES

Members Present:

Joseph Kirk Martin, Jr., Chairman
Hal K. Bird (via telephone)
George Fay
Elder Granger
Warren Jones
Timothy J. Lowenberg*
Thomas Pamperin
Elizabeth Savoca
Michael Simberkoff

Members Not Present:

Doris Browne
Jonathan Roberts

Staff Present:

Ioulia Vvedenskaya, DFO
Peter J. Ahn, Acting Director, Office of the Actuary, VA*
Carol Borden, Attorney, Office of General Counsel (OGC), VA*
Laurine Carson, Assistant Director, Compensation Service, VBA
Anna Crenshaw, Assistant Director, Office of Special Emphasis Programs & Outreach, Benefits Assistance Service, VBA*
Erin Gittens, Program Analyst, Office of Special Emphasis Programs & Outreach, Benefits Assistance Service, VBA*
Jerry Hersh, VBA**
Alohalani Pickett, VBA*

Also Present:

Kimberly Hall, Policy Analyst, RAND Corporation**
Krishna B. Kumar, Senior Economist, RAND Corporation**
Kea Matory, WWP*
Diane Boyd Rauber, NOVA
Ronald Steptoe, Warrior Centric Health**
Monday, September 12, 2016

Opening Remarks

Chairman Martin called the Committee to order at 8:38 a.m. Committee members, Department of Veterans Affairs (VA) staff, and public observers introduced themselves. The Chairman outlined the agenda for the meeting.

Annual Ethics Training

Ms. Borden provided the training. Topics discussed included the definition of a special government employee (SGE), how and why to get ethics advice, when ethics rules apply, financial disclosure, categories of ethics laws, conflicts of interest, persons whose financial interests are imputed to members, the importance of appearances, prohibited compensation, side switching, standards of conduct, misuse of position, gifts, charitable fundraising, the Hatch Act, and other laws and regulations.

ACDC 2016 Biennial Report Preparation

Chairman Martin and Mr. Pamperin had each submitted drafts on simplifying the VA appeals process. The average processing time of an appeal in 2015 was 3.1 years; remanded appeals tended to take twice as long. In response, a fully developed appeal process was being developed with the intention of faster consideration and decreased waiting time. Bills had been introduced in the House and Senate, but they remained in committee and were unlikely to pass in the current Congress.

Mr. Lowenberg pointed out that ACDC never reviewed either bill, but that it was important to acknowledge interest outside the Committee in resolving this issue. Since legislation was necessary, Dr. Simberkoff suggested recommending the bills be reintroduced in the next Congress. Mr. Pamperin added that the proposals were initiated by the agency and based on input from Veteran service organizations (VSOs); Mr. Lowenberg said that should be reflected in the report.

Mr. Pamperin observed that the Board of Veterans Appeals (BVA) considered appeals in docket order, and asked where a fully developed appeal would fit in such a system. Dr. Granger expressed concern about what to do if a Veteran died while a lengthy appeal was pending. Mr. Pamperin said that there was legislation allowing a spouse or other interested
party to pursue an appeal. Mr. Lowenberg suggested that a separate tracking or docketing mechanism was necessary for fully developed appeals.

**Veteran Population Projection Model (VetPop) Update**

Mr. Ahn gave the update. VetPop2014 is a model designed to produce the official VA projections of the number of Veterans classified by various demographic characteristics from 2013 to 2043. It consists of three major modules: separations from the Department of Defense (DoD), mortality, and migration.

The VetPop2014 process consists of three phases: the baseline as of September 30, 2013, one of the three core modules, and additional demographic characteristics such as branch of service, period of service, race and ethnicity, and rank.

Over the next 30 years, the total number of Veterans is expected to decrease 1.4 percent per year; the number of male Veterans will decrease 1.7 percent per year; the number of female Veterans is projected is to increase 0.6 percent per year. The population center for Veterans will move to the west and south. Starting in fiscal year 2015 (FY2015), Gulf War era Veterans were projected to supplant their Vietnam era counterparts as the largest Veteran cohort.

VetPop2016 will have projections at the national level on September 30 and the county level on December 31. It will include more recent data, a distinction between urban and rural areas, projections of Compensation and Pension (C&P) recipients, and updated modules.

The Committee recessed from 10:47 a.m. to 11:03 a.m. to await the next presentation.

**Women Veteran Issues**

Ms. Crenshaw and Ms. Pickett gave the update. Ms. Pickett explained that women Veteran coordinators were assigned in each of the 58 regional offices (ROs). The Women Veteran Call Center answers questions and responds to concerns from women Veterans, their families, and caregivers across the nation. The Veterans Benefits Administration (VBA) is dedicated to women Veteran outreach, and includes specialized training on military sexual trauma for all employees.

In FY 2015, 393,185 women Veterans received compensation benefits, a nine percent increase from 2014; 12,371 received pension benefits, a two percent decrease from 2014; 27,251 participated in vocational rehabilitation and employment (VR&E), a nine percent increase from 2014; and 65,841 were guaranteed education loans totaling $15.9 billion, a 41 percent increase from 2014. Overall the October 2015 unemployment rate for all women Veterans was 5.4 percent, down 0.1 percent from October 2014; this was 1.7 percentage points higher than the unemployment rate for male Veterans.

Of the women Veterans who completed claims in FY2015, 7,001 were under the age of 25, 35,684 were 25-34, 44,354 were 35-49, 32,728 were 50-64, and 5,935 were over 65. Women Veterans account for 9.0 percent of all Veterans and 9.8 percent of Veterans with completed rating-related claims. Mr. Lowenberg asked if the number of women currently
serving was in that nine percent range. Dr. Vvedenskaya said about 16 percent of current Servicemembers were women.

In FY2015 there were 42,511 original claims completed for women Veterans, and 83,196 supplemental claims. The top five claimed conditions for women Veterans were knee condition, back condition, hearing loss/tinnitus, post-traumatic stress disorder, and headaches/migraines. The grant rate for women Veteran compensation claims was 66 percent, compared with 64 percent for their male counterparts.

The Committee recessed from 11:46 a.m. to 1:05 p.m. for lunch.

Afternoon Session

Veteran Homelessness Issues

Ms. Gittens gave the presentation. VA policy dictates that each RO have a designated homeless Veteran coordinator, and that at least one full time coordinator be on staff at the ROs determined to have the largest homeless Veteran population. VA has reintegration programs for homeless Veterans, including homeless women Veterans and homeless Veterans with children. The Department coordinates outreach activities and provides outreach and plan oversight. Program operations include grants and appropriations, training and outreach, treatment and rehabilitation, housing assistance, and a loan guarantee.

National outreach comes in the form of national conferences, stand downs, point-in-time counts, homeless Veteran outreach coordinators (HVOCs), and homeless Veteran claims coordinators (HVCCs). In FY 2016, through the end of the third quarter, HVOCs and HVCCs made 1,098 contacts with homeless shelters; referrals to the Veterans Health Administration (VHA) and the Department of Labor (DOL) Jobs for the Homeless Program totaled 741; RO staff conducted 4,271 hours of outreach targeted to homeless Veterans; and 21,749 Veterans attended outreach events. Dr. Simberkoff noted that these figures were down from FY 2015, which might suggest there were fewer homeless people. Ms. Gittens cautioned that VBA had changed the way it collected data, so it was hard to tell.

Each RO has a plan to expedite homeless Veteran claims. In FY 2016 through the end of the third quarter, VBA has processed 10,001 compensation claims and 1,549 pension claims for homeless Veterans. The average processing time for homeless rating claims is 84.5 days; the national goal is 75 days.

VBA collaborates with VHA and DOL to help formerly incarcerated Veterans. During FY 2015, VA sold 93 properties under the Homeless Shelter Program, and helped 90,262 Veterans and Servicemembers retain their home or avoid foreclosure. Key homeless Veterans programs and resources involve health care, mental health services, housing assistance, and employment services. VA operates a toll-free national call center and a website for homeless Veterans.

On a single night in January 2015 there were 47,725 homeless Veterans identified; on a similar night in 2016 there were less than 40,000, a 17 percent decrease. Since 2010, Veteran homelessness has decreased 47 percent. California had the largest number of Veterans experiencing homelessness, followed by Florida, New York, and Texas.
The National Work Queue (NWQ) is aimed at standardizing wait times. VA has new initiatives such as homeless shelter address matching, claims clinics, and rural outreach. Upcoming initiatives involve standardizing roles and responsibilities for public contract team staff and coordinators, analyzing the role of HVOCs and HVCCs to reduce homelessness, and revising policies for outreach and expediting homeless claims.

Mr. Lowenberg asked about the role of VSOs in addressing homeless issues. Ms. Gittens did not believe there was any formal role but that VSOs were almost always present at stand downs. Dr. Simberkoff asked what the biggest challenge to getting to zero homelessness was. Ms. Gittens said she thought it was making people aware of the resources available. Mr. Fay said he had difficulty seeing when Veteran homelessness would get to functional zero. Ms. Gittens acknowledged that absolute zero Veteran homelessness was unrealistic; VA’s goal was to make sure it had the resources available at any given time to house someone within 30 days.

Dr. Jones suggested partnering with rural health centers. Ms. Gittens agreed that rural outreach was one of VA’s biggest challenges. Mr. Pamperin asked who was involved with social media outreach. Ms. Gittens said it was VSOs, Veterans, family members, and local community partners. Dr. Granger commented that libraries were a great place to do homeless Veteran outreach. He and Dr. Jones proposed exploring the issue of tribal homeless Veterans. Dr. Vvedenskaya said the Committee could reach out to the appropriate offices in VA.

VA Response to GAO IU Report

The Committee’s 2015 Interim Report had addressed a study the Government Accountability Office (GAO) had completed in 2015 on individual unemployability (IU). GAO had recommended that VA issue updated guidance to determine eligibility, identify a comprehensive quality assurance approach to assess benefit decisions, verify Veteran self-reported income, and move forward on studies suggested by its advisory committee.

The Compensation Service is in the process of conducting a study with the VA Office of Policy and Planning. Instead of looking at age, the study is looking at disability, employment history, and other factors, such as quality of life versus earnings loss. The study data will be matched with Census and other demographic data to try to find out more about the IU population.

VA is currently asking the Census Bureau for more information about the Veteran population, unemployment, and other information in an attempt to match it up with its own data. Economists from West Point are determining what that data represents. Ms. Carson expects the report will be ready by March 2017. She added that there was an internal report, but she did not have clearance to share it with the Committee.

VA’s response to GAO’s report is that it has done what it can with the IU program as it exists. Every report from accountability groups indicates that the program is not doing what it was intended to do. VA is not ready to draw conclusions based on the data so far. Compensation Service is working with VR&E to determine what sort of regulatory changes would be necessary to use a vocational rehab assessment in determining IU. Under 38
Code of Federal Regulations (CFR) 4.16, the determination of IU derives mostly from the opinion of a medical doctor and a rating specialist. Given the growth of this program, Compensation Service believes some type of assessment document is necessary.

Mr. Pamperin commented that the GAO studies all focus on cost, whereas IU was intended to be a safety valve when the rating schedule fails to meet a specific Veteran’s needs. He suggested that the program has grown out of control because of a problem with the rating schedule itself. Mr. Fay asked if the study would be conducted in sync with the reform of the ratings. Ms. Carson said it would.

Chairman Martin asked when the Veterans Affairs Schedule for Rating Disabilities (VASRD) will be complete. Ms. Carson said the target is September 30, 2018. Mr. Lowenberg said he did not believe would be possible unless current leadership established unequivocal deadlines. Mr. Pamperin asked if the rating schedule to be completed in 2018 would be something people could use. Ms. Carson said if a final rule was completed and drafted, it would probably be implemented 60 days afterwards. Dr. Simberkoff noted that there were plans to revise VASRD every five years, and asked when that cycle would start. Ms. Carson said the cycle would start immediately at the end of FY 2018. Mr. Lowenberg stressed the importance of demonstrating irreversible progress before a new administration decided to go a different direction.

The Committee recessed from 3:14 p.m. to 3:24 p.m.

Addendum—ACDC 2016 Biennial Report Preparation

The Committee continued its work on simplifying the appeals process. Mr. Pamperin commented that the BVA would need more personnel to handle its caseload. He added that his draft provided a means of closing the record.

Mr. Lowenberg observed that ACDC had an opportunity to reinforce VASRD, which was central to its charter. He did not feel the Committee could be specific enough to resolve issues surrounding fully developed appeals. Chairman Martin said that historically the Committee had taken the approach of offering advice to the Secretary on broader issues, but that it could be as specific as it wished.

Dr. Simberkoff asked if there was any news on the status of VASRD updates. Mr. Fay, Mr. Pamperin, Mr. Bird, and Dr. Granger had worked on drafts concerning this issue. Chairman Martin suggested the report note that no final rules had been published to illustrate how far behind schedule VA was on the VASRD revision.

Mr. Pamperin said the key point of his draft was the importance of the viability and credibility of the VASRD. He observed that the completion date of March 2017 had been moved back to September 2018. Mr. Lowenberg said the report should contain the recommendation that completion dates be met.

Dr. Vvedenskaya reported the Committee had deleted the section beginning with “The status of initial VASRD update...” Mr. Pamperin said it should just say that after seven years there were still no final rules approved. Dr. Jones proposed, “As of September 30, 2016,
after seven years of effort, no final rules have been published.” Mr. Lowenberg said everything else should be deleted prior to recommendations.

Mr. Bird pointed out that there was another short section concerning VASRD speaking to the application of Lean Six Sigma to try to solve some of the VASRD review problems. The Committee agreed to include a fifth VASRD recommendation supporting the adoption of Lean Six Sigma.

Mr. Fay reported that the VA had achieved the virtual management of its claims system. Mr. Lowenberg asked if the Committee should add to the recommendation that this should be looked at as a process for addressing the claims and appeals backlog. The Committee approved this suggestion.

The Committee next addressed the VBA Live Manual. Lucas Tickner and Aimee Benson had reported that the integration was already complete and the manual was functioning normally. Chairman Martin had drafted two recommendations, one praising VBA for its work, and the other calling for continued maintenance and contemporaneous revision. Dr. Savoca noted that the recommendation praising VBA was not really a recommendation, and suggested including it in the discussion itself. Dr. Granger agreed.

The Committee agreed to delay discussion of IU until the following day, after the representatives from the RAND Corporation made their presentation.

Mr. Lowenberg proposed the Committee next address Guard and Reserve issues. Dr. Simberkoff said the first recommendation on this issue should be “Continue to express the importance with DoD for full implementation of separation exams.” Mr. Bird said he did not believe the process was anywhere near fully implemented. Chairman Martin pointed out that it was supposed to be fully implemented in January 2016.

The second recommendation under Guard and Reserve issues dealt with eBenefits management, which was not happening in the Guard, in large part. Chairman Martin suggested specifying the need for Transition Assistance Program (TAP) briefings. Mr. Bird agreed.

Mr. Lowenberg thought the third recommendation would be stronger if phrased in a declarative fashion. Dr. Granger felt there should be a structure in VA dealing with Guard and Reserve affairs. Mr. Lowenberg added that the current administration had been very inclusive of VSOs, and argued that that should be sustained.

Mr. Fay observed that the fourth recommendation tied in to the beginning narrative of the NWQ. He argued that the recommendation should end with the words “transformation plan,” and that “The objective of NWQ…” should be at the beginning of the discussion of NWQ. Mr. Bird agreed that those words ended up in the wrong place.

Chairman Martin asked that the last sentence in Recommendation 3, “Facilitate an informed transition experience,” be followed by “which should include TAP.” He felt TAP worked better in Recommendation 3 than Recommendation 1. Mr. Bird agreed.
Mr. Lowenberg pointed out there was still a vacancy on the Committee left by the late John Maki. He proposed Chairman Martin write a letter to the Secretary on behalf of the Committee stressing the importance of having a VSO representative. Dr. Vvedenskaya offered to ask Tom Murphy, the Under Secretary for Benefits, permission to draft and send such a letter.

The issues had been numbered as follows: (1) VASRD, (2) IU, (3) NWQ, (4) VBA Live Manual, (5) Guard and Reserve issues, (6) VA appeals process, and (7) advisory committee crosslinking.

Chairman Martin noted the first sentence of Recommendation 4 under Guard and Reserve issues said, “Suggest that DoD track and provide metrics on separation health exam to VA,” but ACDC did not have the authority to make recommendations to DoD. Dr. Jones suggested making the recommendation to the Joint Executive Council (JEC).

There being no further business on the day’s agenda, at 5:08 p.m., Chairman Martin declared the Committee in recess until 8:30 a.m. the next day.

Tuesday, September 13, 2016

Opening Remarks

Chairman Martin reconvened the meeting at 8:36 a.m. He summarized some of the previous day’s discussions and outlined the agenda for the remainder of the meeting. He reminded the Committee that its meetings were open to the public, and that both a transcript and minutes were being kept.

Opportunity for Public Comments

There were no oral or written public comments.

Addendum—ACDC 2016 Biennial Report Preparation

The Committee addressed Issue 7, advisory committee crosslinking. Jeffrey Moragne of the Advisory Committee Management Office (ACMO) had told ACDC that the Secretary would like to see more collaboration among the VA advisory committees on issues of parallel interest.

Chairman Martin reported that to date there was no evidence of crosslinking between ACDC and other advisory committees. Dr. Vvedenskaya suggested making a recommendation to convene meetings of all committee chairs with the Secretary on a regular basis. Chairman Martin agreed.

Chairman Martin's draft included two recommendations, one endorsing the recommendation to establish and encourage crosslinking, and one encouraging ACMO to detail the guidelines for use. Dr. Simberkoff asked if there should be a third recommendation on the Chairman's interaction with other committees. Chairman Martin said the recommendation Dr. Vvedenskaya proposed addressed that issue.
The Committee revisited how to merge the drafts Chairman Martin and Mr. Pamperin submitted in regard to simplifying the VA appeals process. Between the two documents there were six recommendations. Mr. Pamperin said he was willing to delete his second recommendation; he felt that his first, calling for a communication plan, was critical. Dr. Simberkoff argued it was necessary to first say what the Committee was recommending VA should do, then talk about a communication plan.

**RAND Individual Unemployability**

Dr. Kumar, Dr. Wenger, and Ms. Hall gave the presentation. Ms. Hall discussed a study she led for the 100,000 Jobs Mission (now the Veteran Jobs Mission). The goals of the study were enhancing Veterans' employment options, improving opportunities for employers to hire Veterans, and highlighting coalition successes and challenges. The key findings were that employers valued Veteran employees; reaching Veterans, skill translation, and educating managers were the primary challenges; that there was less focus on managing Veterans once they were in the door; and that there was a lack of metrics to support the business case for employing Veterans.

To increase the study’s impact, RAND hosted workshops with stakeholders that addressed key challenges identified in the study, like facilitating earlier access to transitioning Servicemembers for recruitment, and closing the skill gap in the transition to civilian employment. The workshops identified areas where research would further benefit Veteran employment efforts: measuring program effectiveness, building the business case for hiring Veterans, and assessing Veterans’ career paths over time.

Dr. Wenger discussed the RAND Deployment Life Study, which tracked 2,700 married, deployment-eligible families before, during, and after deployment. The most significant changes for military families occurred during deployment; there was significant variation among family members in how they experienced deployment. Deployment had no significant long-term impact on adult family members, but there were significant results for children and teens. Trauma exposure mattered, but the relationship was nuanced; combat trauma was more consistently associated with worse outcomes.

Chairman Martin asked if the 2,700 study participants were drawn from all branches of the service, and if Guard members and Reservists were listed separately. Dr. Wenger said they were from all service components, but she would have to check as to whether the Guard and Reserve were listed separately. Dr. Jones pointed out that Reservists were not always deployed a unit at a time. Dr. Wenger noted that RAND had programs to assist Veterans when they return, like the Beyond the Yellow Ribbon Program. Dr. Granger observed a relative lack of programs geared at teenagers.

The Committee recessed from 10:37 a.m. to 10:49 a.m.

Dr. Kumar offered four things that might improve the well-being of military families: (1) programs, services, and policies targeting families that experience deployment trauma, (2) programs facilitating communication between and within military families during deployment, (3) support for relationships between Servicemembers, spouses, and their teen children after deployment, and (4) addressing the psychological problems around the time of separation.
As of 2014, more than 2.5 million post-9/11 Veterans had returned from active duty deployment. RAND estimates that this cohort will grow to 4.2 million over the next 10 years. Longitudinal data on this population is scarce, although cross-sectional survey data is more common. Existing surveys of Veterans cover a variety of topics, but fewer surveys focus on recent Veterans.

RAND has proposed an American Veterans Panel. Modeled after RAND’s American Life Panel, it would be a nationally representative internet panel of about 5,000 members who receive regular online surveys about a range of topics.

The mission of RAND’s Labor & Population Division is to conduct research and analysis to improve social and economic well-being around the world. Its research includes analysis of the Post-9/11 GI Bill and spousal scholarship programs; employment, unemployment, and earnings of Veterans, Reservists, and spouses; and disability compensation studies. Potential future studies include analyses of disability processing, disability ratings-related work, and measuring and improving communication with Veterans.

The Committee recessed from 11:57 a.m. to 12:57 p.m. for lunch.

**Afternoon Session**

**Addendum—ACDC 2016 Biennial Report Preparation**

The Committee discussed the section of the report on IU. Mr. Pamperin and Dr. Savoca had each composed drafts, which the Committee would merge into one document. Dr. Vvedenskaya guided the Committee through the combined draft, asking members to tell her what to keep and what to delete. Members could revise the exact wording of the text later. The Committee decided to keep the first paragraph, which began with “The [total disability individual unemployability] TDIU was established to accommodate….“ It also opted to keep the second paragraph, which started with “The number of Veterans receiving total disability based on individual unemployability.” It deleted the third paragraph, which started with “Studies of the claims adjudication process have demonstrated internal inconsistencies,” because it did not relate to any of the recommendations. The Committee opted to keep the next three paragraphs.

The Committee decided to keep the text of Recommendations 2.1 and 2.2. Dr. Vvedenskaya struck the phrase “Secretary Breakthrough Priority” and the word “discussion.” The next paragraph began, “TDIU is not expressly found in the statute.” The Committee deleted it, feeling it was redundant. It also took out the next line, beginning with “The regulatory authority of TDIU,” as well as the quotation for Section 4.16, the sentence beginning, “TDIU authority is found in the first rating schedule of the modern era,” and the next several paragraphs.

The Committee decided to delete everything in Recommendation 2.3 but the first sentence, “The Department should, as part of its modernization of the VASRD, conduct an analysis through identifiable, specific disabilities…,” and let VA communicate with its researchers on what needed to be done.
Mr. Pamperin commented that Recommendation 2.4 was merely an outcome, and the Committee could delete it. He also deemed Recommendations 2.5 and 2.6 unnecessary. Recommendation 2.7 was identical to Recommendation 2.2, except the latter was more specific. Dr. Vvedenskaya placed the two recommendations next to one another, and members could edit them as they saw fit. Mr. Pamperin said that made Recommendation 2.8 redundant.

The Committee discussed language concerning the Secretary’s January 6, 2014 response. Dr. Savoca said she found it confusing. Dr. Vvedenskaya offered to move it to the end of the discussion section, and the Committee could decide what to do with it later.

Next the Committee addressed Issue 3, the National Work Queue. In order to maintain a consistent format, Dr. Vvedenskaya proposed deleting the section Quantitative Results. Mr. Fay said that portion was meant to go at the start of the discussion section. Chairman Martin pointed out that there were no other headings besides Quantitative Results. Mr. Fay agreed the heading could be excised. The Committee decided not to combine the sentences on quantitative results into one paragraph because it wanted to grab the reader’s attention. It agreed to add language on progress toward meeting goals.

There were three proposed recommendations under NWQ. The Committee chose to retain all of them.

Chairman Martin and Mr. Pamperin had met in conference to merge their drafts on the VA appeals process. They had agreed to keep Chairman Martin’s discussion, and four recommendations. Chairman Martin’s fourth recommendation would be Recommendation 6.1, and his sixth would be Recommendation 6.2. Mr. Pamperin’s third recommendation would be Recommendation 6.3, and his first would be Recommendation 6.4.

In addition to the issues discussed above, the report would also contain a cover letter to the Secretary, a preamble, and biographies of Committee members. Dr. Vvedenskaya said she would send biographies to each member for revision and approval.

**Committee Deliberation**

The Committee brainstormed dates for its December meeting, and settled on Tuesday, December 6 and Wednesday, December 7.

**Adjournment**

There being no further comments, Chairman Martin adjourned the meeting at 2:46 p.m.

Toby Walter  
Neal R. Gross & Company  
Preparer of the Minutes
Ioulia Vvedenskaya, Committee DFO

Joseph Kirk Martin, Jr.
Committee Chairman