



Paralyzed Veterans
of America

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UPDATE

Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.

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PRIORITY

The Government Relations staff is still looking for stories about problems that our members have experienced during air travel. Please visit www.AirAccess30.org and share your story.

PVA Outlines Policy Priorities for the 1st Session of the 115th Congress

Prior to the Christmas holiday, the Government Relations Department finalized our primary policy priorities for 2017. A brief outline of those issues that will comprise our point papers for the Advocacy and Legislative Seminar in March is below:

- A. *Protection of Specialized Services:*** The highest priority is to strengthen and sustain VA's specialized services, such as spinal cord injury/disease care, blinded care, poly-trauma care, and mental health care, which are not duplicated in the private sector. This will include advocating for sufficient funding to hire additional physicians, nurses, psychologists, social workers and rehab therapists. We will also focus on the need to retain title 38 U.S.C. protections for veterans getting care in the community.
- B. *Expand Eligibility for VA's Comprehensive Family Caregiver Program:*** Congress must expand eligibility for caregiver services provided through the VA's Comprehensive Family Caregiver Program veterans with service-connected injuries or illnesses incurred prior to September 11, 2001.
- C. *Comprehensive Reform of the Claims Appeals Process Needed:*** Support comprehensive reform of the benefit claims and appeals process to modernize and streamline the process, in accordance with the legislation developed and agreed to in 2016 by senior leaders of VA, VBA, the Board of Veterans Appeals, VSOs and other stakeholders.
- D. *Improve Benefits for Catastrophically Disabled Veterans:*** Improve benefits for veterans with the most severe disabilities, to include increasing the rates of Special Monthly Compensation as well as Aid and Attendance benefits.
- E. *Air Carrier Access Act (ACAA) Problems for People with Disabilities:*** Improve access to air travel for people with disabilities by strengthening protections in the ACAA to ensure safe and efficient assistance and accommodations in air travel and increasing enforcement of these protections.



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- F. *Americans with Disabilities Act (ADA) Notification:*** Protect the rights of people with disabilities to seek redress of discriminatory barriers in public accommodations under the ADA by refusing to enact notification requirements under the ADA.
- G. *Protect and Strengthen Social Security and Medicare (Entitlement Reform):*** Social Security and Medicare should be strengthened and efforts to undermine these programs through benefit cuts or privatization must be rejected.

Members of House VA Committee Chosen

The House Committee on Veterans' Affairs recently announced the members who will sit on the Committee for the 115th Congress. As previously discussed, Rep. Phil Roe (R-TN), will serve as the Committee Chairman. The following Republicans were also chosen to serve on the Committee:

Doug Lamborn (R-CO)
Gus M. Bilirakis (R-FL)
Mike Coffman (R-CO)
Brad Wenstrup (R-OH)
Amata Coleman Radewagen (R-American Samoa)
Mike Bost (R-IL)
Jodey Arrington (R-TX)
Jim Banks (R-IN)
Jack Bergman (R-MI)
Neal Dunn (R-FL)
Clay Higgins (R-LA)
John Rutherford (R-FL)

Additionally, the following assignments for Subcommittee leadership were made:

Rep. Mike Bost (R-IL): Chairman, Subcommittee on Disability Assistance and Memorial Affairs
Rep. Jodey Arrington (R-TX): Chairman, Subcommittee on Economic Opportunity
Rep. Brad Wenstrup (R-OH): Chairman, Subcommittee on Health
Rep. Jack Bergman (R-MI): Chairman, Subcommittee on Oversight and Investigations

Announcements for the Democratic membership of the Committee have yet to be made. However, we anticipate a number of previous members of the Committee to be moving on to other House Committee assignments.

Meanwhile, as previously reported, the Senate Committee on Veterans' Affairs will be chaired by Senator Johnny Isakson (R-GA), and the new Ranking Member will be Senator Jon Tester (D-MT). While it has not been formally announced, the Committee membership is not expected to change significantly.

Camp Lejeune Presumption of Service-Connection Granted for Eight Conditions

On January 13, 2017, the Department of Veterans Affairs published a Final Rule granting presumptive service connection to certain diseases associated with contaminants present in the base water supply at U.S. Marine Corps Base Camp Lejeune, North Carolina. The presumption is rebuttable. The rule covers veterans who served a minimum of 30 days at Camp Lejeune during the period of August 1, 1953 through December 31, 1987. Reservists and members of the National Guard meeting the 30-day requirement will be considered veterans for purposes of this presumption. The rule is expected to become effective on approximately March 15, 2017.

The presumption of service-connection applies to the following eight diseases: 1. Kidney cancer; 2. Liver cancer; 3. Non-Hodgkin's lymphoma; 4. Adult leukemia; 5. Multiple myeloma; 6. Parkinson's disease; 7. Aplastic anemia and other myelodysplastic syndromes; 8. Bladder cancer. This list of diseases now receiving a presumption of service-connection does not affect the list of fifteen diseases which qualify for free medical care through the VA as provided in the "Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012."

Affordable Care Act Repeal Begins But Raises Many Questions

Congress has begun taking the first steps toward repealing the Patient Protection and Affordable Care Act (ACA) with a Senate vote on January 12. The vote was on a fiscal year 2017 budget reconciliation measure and followed party lines with 51 Republicans voting in favor to 47 Democrats opposed. Sen. Rand Paul (R-Ky.) also voted no, in part over concerns that GOP leaders have not committed to a plan to replace the Affordable Care Act after it is repealed. The bill was expected to go to the House of Representatives for a vote on Friday January 13 and be passed easily. The reconciliation bill contains instructions to several House and Senate Committees to work out the details of repeal and report back with legislation to implement repeal by the end of January.

A large part of the ACA can be repealed through reconciliation, which only needs the support of 51 senators - an easier threshold to achieve than the 60 votes required by most other pieces of legislation in the Senate. Among the elements of the ACA that are targeted for removal are the individual penalties for non-coverage, premium supports and tax credits making coverage affordable, the Medicaid expansions with federal matching funds that have been adopted by over 30 states and taxes on high-income

households and the health care industry that helped pay for the ACA's coverage expansions.

The dilemma facing the Republican leadership is that they and President-elect Trump have promised to offer a replacement health care proposal in conjunction with ACA repeal. They have also offered assurances that many of the popular provisions in ACA will be retained, including the protections against discriminatory health insurance policies and coverage of dependents up to age 26. Some in the leadership have suggested that the effective date of repeal could be delayed for several years while a replacement plan was developed and put in place. Aides to House leaders have cautioned that any replacement legislation will only be partial because of the need to get changes through the Senate with 51 votes and the reconciliation rules that require measures to have a budgetary impact. Developing a more comprehensive replacement to the ACA would need 60 Senate votes and significant Democratic support.

According to some analyses, removing the coverage mandates and premium subsidies could cause turmoil in the individual insurance market as some companies that had expected more customers pull out and those companies that remain are forced to raise premiums to account for uncertainty. The Congressional Budget Office has estimated that eliminating the individual mandate would cause premiums in the individual market to rise by 20 percent. This in turn would likely cause large numbers of younger, healthier individuals to drop their insurance, leaving people with serious health conditions to remain in the individual market facing ever increasing premiums.

Other effects of passage of the reconciliation bill as outlined by the Urban Institute include:

- An increase in the number of uninsured people from 28.9 million to 58.7 million in 2019, an increase of 103 percent. The share of nonelderly people without insurance would increase from 11 percent to 21 percent, a higher rate of uninsured than before the ACA because of the disruption to the non-group insurance market. Of the 29.8 million newly uninsured, 22.5 million people become uninsured as a result of eliminating the premium tax credits, the Medicaid expansion, and the individual mandate. The additional 7.3 million people become uninsured because of the near collapse of the non-group or individual insurance market.
- A reduction in numbers of those covered by Medicaid or the Children's Health Insurance Program by 12.9 million people.
- A reduction in Federal government spending on health care for the non-elderly [including many people with disabilities under age 65] by \$109 billion in 2019 and by \$1.3 trillion from 2019 to 2028 because the Medicaid expansion, premium tax credits, and cost-sharing assistance would be eliminated.

Several amendments were offered during the Senate budget reconciliation debate by Senators Bernie Sanders (I-VT) and Bob Casey (D-PA) to protect Medicaid, Medicare and other safety net programs. They were all defeated on partisan votes with only one or two Republicans voting in their favor. Once the committees return with their plans at the end of January, a clearer picture of any replacement legislation will emerge. Subsequent actions on health reform are likely to arise in the context of tax reform proposals and possibly reauthorization of the Childrens' Health Insurance Program. As deliberations on the fate of ACA continue, PVA will continue working with its allies in the disability community and in Congress to raise with policymakers the severe, adverse impact on people with disabilities that will attend repeal of the ACA.

DOT Releases New Air Carrier Access Act Training Materials

The U.S. Department of Transportation (DOT) has released new training materials targeted at the top areas in which passengers with disabilities encounter difficulties in air travel.

In December 2015, DOT originally announced its intent to develop new materials that airlines and their contractors can use to supplement their current training programs addressing the four issues on which DOT receives the largest number of disability-related complaints. The materials cover (1) wheelchair and guide assistance; (2) stowage, loss, delay, and damage of wheelchairs and other mobility assistive devices; (3) aircraft seating accommodations; and (4) travel with service animals. PVA participated in DOT-led focus groups along with other members of the disability community and the airlines in the development of the materials.

The training materials, which are available online, include videos, brochures, digital content designed for viewing on a mobile device, and a tip sheet and are organized by topic. DOT will also be posting two interactive guides in the near future. In addition to developing materials for airline personnel and their contractors, companion pieces for passengers with disabilities are also available.

To access the materials, please visit:

<https://www.transportation.gov/airconsumer/disability-training/>. These materials should be circulated broadly to ensure that people with disabilities have a better understanding of their rights and responsibilities under the Air Carrier Access Act.

Consent Order Issued Against American Airlines In Response to ACAA Training Violation

The U.S. Department of Transportation (DOT) has issued its first consent order for 2017 under the Air Carrier Access Act (ACAA) in response to a formal complaint filed by Mr. Kevin Crowell, a veteran with a disability, against American Airlines.

Mr. Crowell, who uses a service animal for PTSD and mobility issues, encountered difficulties in securing a bulkhead seat on an American flight in April 2014. Under the ACAA, people who use service animals have priority access to bulkhead seats. Mr. Crowell contacted American prior to his travels to secure the accommodation. Once he arrived at the gate for a connecting flight, however, his wife was informed that pets are not allowed to sit in the bulkhead. Despite providing information to the agent showing that his animal was not a pet, he was directed to a non-bulkhead seat. His animal would not fit and he requested his original seating assignment. American allegedly asked him to take his assigned seat or deplane. Once he deplaned, he alleged that a Customer Care Manager was called to meet with him, and offered to accommodate him on the next flight to his destination, but he declined the offer.

In his formal complaint, Mr. Crowell alleged that American Airlines denied him transportation on the basis of his disability, failed to accommodate his service animal, and failed to train their staff to proficiency as required under the ACAA. DOT found that American did not deny transportation or fail to accommodate his service animal because American asserted in its response to the complaint that although there was initial confusion they offered to accommodate him on his originally scheduled flight. As a result of the errors that led to the confusion, DOT found that the airline failed to train its staff to proficiency regarding the ACAA rights of passengers using service animals. The order requires American to provide supplemental training to reservations and gate agents and to ensure that supplemental materials are included in the training programs for new agents. The order is available here:

<https://www.transportation.gov/airconsumer/eo-2017-1-11>.

PVA Trains Wheelchair Attendants for Virgin America Airlines

In early December, Senior Associate Advocacy Director Lee Page and Heather Ansley, Associate General Counsel for Corporate and Government Relations, met with representatives from Virgin America Airlines at Dulles International Airport (DIA) in northern Virginia. The meeting was at Virgin's request to facilitate a discussion around the boarding process and demonstrate proper techniques for transfers in and out of an aisle chair. Virgin America contracts with Huntleigh USA Corp. at Dulles for wheelchair



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assistance to assist passengers with disabilities in boarding and deplaning as part of their responsibility under the Air Carrier Access Act (ACAA).

After introductions, Mr. Page and Ms. Ansley thoroughly explained the Air Carrier Access Act and the legal responsibilities of the airline--Virgin America—and its contractor—Huntleigh—in what services are required to be provided to qualified passengers with disabilities. Mr. Page with the assistance of Huntleigh personnel demonstrated proper transfer technics on and off two different aisle chairs that were provided. Whereas Huntleigh personnel knew what to do in the transfers, Mr. Page emphasized that they need to take direction from the passenger with the disability.

The discussion lasted about two hours and included approximately 25 participants from Virgin America, Huntleigh USA, and a few representatives from Alaska Airlines. PVA agreed to work with Virgin America and Alaska Airlines to develop future opportunities to educate personnel on the specific needs of passengers with disabilities.

U.S. Access Board Releases Accessibility Standards for Medical Diagnostic Equipment

The U.S. Access Board has issued new accessibility standards for medical diagnostic equipment (MDE) in response to a requirement in the Affordable Care Act. The standards provide design criteria for examination tables and chairs, weight scales, radiological and mammography equipment, and other diagnostic equipment that are accessible to people with disabilities. They include requirements for equipment that requires transfer from mobility aids and address transfer surfaces, support rails, armrests, and other features. PVA was a member of the MDE Accessibility Standards Advisory Committee that made recommendations to the Access Board.

Barriers to diagnostic equipment include equipment height and other dimensions, the lack of supports and features necessary for transfer, and the characteristics of contact surfaces. The standards address these as well as other features such as operable parts and patient instructions. The provisions are organized based on use position and whether transfer from wheelchairs is necessary.

As issued by the Board, the standards are not mandatory on health care providers and equipment manufacturers. The U.S. Department of Justice, which has issued guidance on access to medical care, may adopt them as mandatory requirements under the Americans with Disabilities Act. Other federal agencies may implement them as well under the Rehabilitation Act which requires access to federally funded programs and services.

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The standards are available here: <https://www.access-board.gov/guidelines-and-standards/health-care/about-this-rulemaking/final-standards>.

An overview of the standards are available here: <https://www.access-board.gov/guidelines-and-standards/health-care/about-this-rulemaking/background/overview-of-the-mde-standards>.



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