



WASHINGTON UPDATE

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

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HISTORIC CAREGIVER EXPANSION PASSED BY THE HOUSE OF REPRESENTATIVES

On May 16th, the House of Representatives passed the “VA MISSION Act of 2018” by a vote of 347-70. The legislation now heads to the Senate.

This historic, bipartisan legislation would reform the Department of Veterans Affairs (VA) community care programs by consolidating them into a single program with enough funding to get through May of 2019. Second, it would review and realign VA’s health care infrastructure and strengthen VA’s ability to hire and train medical personnel. And of highest importance to PVA, it would make caregiver services available to those veterans with service-connected injuries that were incurred before September 11, 2001. By ending this inequity, roughly 70,000 veterans would be able to receive care and remain in their homes. At the same time, their caregivers, having sacrificed their own health and employment opportunities, some for half a century, would finally have desperately needed supports, and be acknowledged for the decades of service given, and billions of taxpayer dollars saved.

On May 8th, the House Committee on Veterans’ Affairs acted to advance the bill with a vote of 20-2. Prior to the House Committee vote, PVA, alongside 37 other veteran and military service organizations signed a joint letter to Congress expressing our strong support of the bill and asking Congress make progress before Memorial Day, as the VA MISSION Act is an “historic opportunity to improve the lives of veterans, their families and caregivers.”

Since the access crisis, illustrated by wait times in Phoenix in 2014, Congress, VA, and VSOs have worked to create a system to ensure it never happens again. While the VA MISSION Act is not a perfect solution it is a monumental step forward to ensure veterans are never without options.

Also included in the markup hearing on May 8th were 15 other bills, which were favorably reported. These bills included H.R. 299, the Blue Water Navy Vietnam Veterans Act of 2017; H.R. 5520, the Veterans Affairs Medicinal Cannabis Research Act of 2018; H.R. 4245, the Veterans’ Electronic Health Record Modernization Oversight Act of 2017; and H.R. 4334, the Improving Oversight of Women Veterans’ Care Act of 2017.

Paralyzed Veterans of America

Government Relations Department

801 18th Street, NW · Washington, DC 20006
(800) 424-8200 · (800) 795-4327 · www.pva.org

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If the VA MISSION Act is not signed into law by Memorial Day, the Choice Program is set to run out of funding on June 1st. This would result in private providers unable to provide care to veterans and increased wait times at VA.

Please call your Senators and tell them to vote “Yes” on the “VA MISSION Act.”

PVA PARTICIPATES IN EVENT HIGHLIGHTING THE NEED FOR A FOURTH VA ADMINISTRATION

On May 15th, Heather Ansley, Acting Associate Executive Director of Government Relations, participated in an event sponsored by the American Enterprise Institute (AEI) titled, “Reforming the VA by Empowering Veterans: A Conversation with Rep. Brad Wenstrup (R-OH).” The purpose of the event was to highlight the need for the creation of a fourth administration at VA that would focus on VA’s economic opportunity and transition programs.

The event, which was moderated by Leo Shane, Deputy Editor of Military Times, featured Rep. Brad Wenstrup (R-OH). On April 26th, Rep. Wenstrup introduced the Veterans’ Education, Transition, and Opportunity Prioritization Plan (VET OPP) Act of 2018, H.R. 5644. This legislation would establish the Veterans Economic Opportunity and Transition Administration within VA to be overseen by an Under Secretary of Veterans Economic Opportunity and Transition. VA programs and benefits to be moved to this new administration include the vocational rehabilitation and employment (VR&E) program, educational assistance programs, and the veterans’ housing loan and related programs.

Ms. Ansley participated in a panel discussion at the event with representatives from Student Veterans of America, AEI, and the Rand Corporation. During the panel discussion, Ms. Ansley discussed the importance of VA’s economic opportunity programs to assist veterans who acquire disabilities as the result of their military service and the need for VA to place more emphasis on the administration of these programs. The full event is available for viewing here: <http://www.aei.org/events/reshaping-the-veteran-narrative-with-the-department-of-veterans-affairs-a-conversation-with-rep-brad-wenstrup-r-oh/>.

Rep. Wenstrup’s legislation will be the subject of a legislative hearing on May 23rd, before the House Veterans’ Affairs Committee, Subcommittee on Economic Opportunity. PVA strongly supports this legislation. We believe that the creation of a new administration within VA focused on veterans’ economic opportunity and transition would elevate programs like VR&E and Specially Adapted Housing and result in increased attention from VA leaders and stakeholders. Also, the removal of these programs from the Veterans Benefits Administration will allow the Under Secretary for Benefits to focus fully on disability compensation and pension.

NEW UNDER SECRETARY FOR BENEFITS BEGINS WORK AT VA

Paul R. Lawrence assumed the role as head of the Veterans Benefits Administration on May 15th. Under Secretary Lawrence arrives at VA following a career in the accounting industry, where he focused mainly on federal government practice. He has a Ph.D. in Economics from Virginia Tech and served as a captain in the United States Army.

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Under Secretary Lawrence joins Acting VA Secretary Robert Wilkie and Under Secretary for Memorial Affairs Randy C. Reeves in leading VA. At this time, Dr. Carolyn Clancy is serving as the Executive in Charge for the Veterans Health Administration. A permanent Under Secretary for Health has not been nominated.

Rumors continue to swirl about possible nominees for a permanent VA Secretary. Potential nominees include Rep. Brian Mast (R-FL), a veteran who lost both legs due to an IED while deployed to Afghanistan, and former House Veterans' Affairs Committee Chairman Jeff Miller. VSOs have been informed that a new nominee may not be immediately identified. In the meantime, PVA's Executive Director Carl Blake recently met with Acting Secretary Wilkie and pledged our support to work with the Department during this time of transition.

PROVISIONS TO IMPROVE THE AIR TRAVEL EXPERIENCE OF PEOPLE WITH DISABILITIES INCLUDED IN THE FAA REAUTHORIZATION

On April 27th, the House passed the FAA Reauthorization Act of 2018 (H.R. 4) overwhelmingly by a vote of 393-13. This legislation includes many amendments from the Air Carriers Access Amendment Act (H.R. 5004) as introduced by Congressman Jim Langevin (D-RI).

PVA supports the following provisions included H.R.4:

- Development of an airline passengers with disabilities bill of rights.
- Increased civil penalties for harm towards passengers with disabilities or their wheelchairs.
- Establishment of a Select Subcommittee on Aviation Consumers with Disabilities to the Advisory Committee for Aviation Consumer Protection.
- Evaluation of areas for improvement to increase airport accessibility and training of air carrier and contract personnel.
- Requirements for the U.S. Access Board and the DOT to investigate the feasibility of in-cabin wheelchair restraint systems for people with disabilities.
- Directions to DOT to revise its service animal regulation.
- Requirements for passengers with disabilities to receive timely and effective assistance at the airport and on the aircraft, including personnel providing hands on assistance possibly being required to receive hands on training to perform that assistance and on the use of any needed equipment.

The Senate's FAA reauthorization legislation is still pending and will likely come to the floor in June. The Senate legislation, S.1405, passed out of Committee on June 29, 2017, and has many of the same provisions affecting passengers with disabilities as the House version (H.R. 4). Of note, the Senate bill does not include specific direction for DOT to revise policies regarding service animals.

Other parts of the ACAA (H.R. 5004 / S. 1318) that could possibly be added as amendments when the Senate bill goes to the floor are a private right of action, the referral to the Department of Justice (DOJ) of alleged violations, and a requirement for airlines to use aircraft that meet accessibility standards as defined by the ACCESS Board and the DOT.

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After the Senate passes its version of FAA Reauthorization, the two measures will be conferenced to work out the differences with the goal of having legislation for the President's signature before the current FAA authorization expires at the end of September.

IMPORTANT DISABILITY DISASTER RECOVERY PROVISIONS WERE ADDED TO THE FAA REAUTHORIZATION

Included in H.R. 4, the House FAA reauthorization measure, were a number of disaster recovery related measures concerning temporary housing assistance, data reporting, duplication of benefits, and transparency in contracting. Of particular interest to people with disabilities are provisions of the bill that would increase funding for disaster mitigation and raise the ceiling on certain costs that can be excluded from maximum financial assistance that can be provided to survivors. Because funding for pre-disaster planning and development as well as post-disaster recovery is considered federal financial assistance, any construction undertaken for these purposes must comply with Section 504 accessibility guidelines. Thus, the monies in the House bill offer the potential for enhancing accessibility in post-disaster rebuilding efforts. In addition, the bill would exclude costs associated with repairing or replacing accessibility-related improvements or personal property from counting against a household's maximum allowable disaster financial assistance. The Senate has not yet determined whether it will include these House disaster relief provisions in its version of the FAA bill but advocates remain cautiously optimistic that they will be included in any final agreement.

MORE AIRLINES ANNOUNCE CHANGES TO THEIR SERVICE ANIMAL POLICIES

American Airlines is the latest to announce that it will make changes to its service animal policy. Starting July 1, American will require travelers with emotional support animals to attest to their animal's behavior via an airline provided form. The airline also announced additional changes including restrictions on types of animals and enforcement of the requirement to complete medical and the now animal behavior documentation 48 hours before takeoff.

On March 1, Delta Airlines and United Airlines made similar changes to their service animal policies. Alaska Airlines also made changes to its policy that went into effect on May 1. Additional airlines are considering revisions to their policies.

Prior to making its announcement, American met with members of the disability community to discuss our concerns. During our discussions, PVA made it clear that we do not believe that airlines have the authority to place additional requirements on passengers traveling with emotional support animals, beyond those listed in the Air Carrier Access Act (ACAA) regulations. One positive aspect of American's policy change, that is a direct result of our conversations, is the implementation of additional training for American personnel and contractors regarding service animals and emotional support animals.

PVA and nine other disability organizations sent a letter to U.S. Department of Transportation (DOT) Secretary Elaine Chao on February 6th asking the Department to deem Delta and United's policies to be in violation of the Air Carrier Access Act (ACAA). On May 16th, DOT issued an Interim Statement of Enforcement Priorities Regarding Service Animals. DOT also released an ANRRM to begin the process for revising the ACAA's service animal regulations.

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In the meantime, Senator Richard Burr (R-NC) introduced legislation in the Senate, S. 2738, which would eliminate access for emotional support animals under the ACAA. PVA does not support this legislation. We believe that DOT should continue to move forward with its regulations to allow all stakeholders to engage in the process of determining access for service animals and emotional support animals.

PVA PARTICIPATING IN “DRY RUN” OF APPEALS MODERNIZATION

In response to the growing backlog at the Board of Veterans Appeals (BVA), the President signed into law the Veterans Appeals Improvement and Modernization Act, also known as the Appeals Modernization Act (AMA). Along with AMA, the Department of Veterans Affairs (VA) implemented the Rapid Appeals Modernization Program (RAMP), a program that provides veterans with more appeals options.

This law, which is expected to go into effect in February 2019, creates a new framework for veterans who are dissatisfied with decisions rendered on their claims. Progress has been made in implementing the law; however, many questions remain unanswered, including:

- What choices will veterans make under the AMA framework, and what factors will influence those choices?
- What resources and information will veterans and their representatives need to effectively navigate the available options?
- How easy or difficult is it to understand and use AMA forms, and how can they help avoid errors and confusion?
- Will VA have all processes in place to smoothly implement AMA in February 2019?

To answer these questions and assist with the implementation of the AMA at the Board of Veterans' Appeals, VA has implemented the Board Early Applicability Appeals Modernization program (BEAAM). This program allows up to 50 veterans and their representatives to participate in a “dry run” of AMA, including all appeal options, culminating in decisions by December 2018.

VA partnered with PVA, CalVet and the National Organization of Veterans Advocates (NOVA) and veterans they are representing to take part in the BEAAM program.

BEAAM offers veterans three “lanes”, or choices; veterans may choose one of the following options:

- Direct Review: Judges will review the appeal using the same evidence that was considered in the original decision. The record is closed, so there is no submission of additional evidence.
- Evidence Submission: Veterans may submit additional evidence with their appeal, or within 90 days of filing their appeal.
- Hearing: Veterans may request a hearing before a Veterans Law Judge (VLJ); additional evidence may be submitted at the hearing or 90 days thereafter.

Currently, PVA has chosen 20 veterans who will participate in the BEAAM program.