



WASHINGTON UPDATE

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

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ACTING HEAD OF VA INSTALLED FOLLOWING THE DISMISSAL OF SECRETARY SHULKIN

On March 28th, President Trump announced the removal of Dr. David Shulkin as Secretary of Veterans Affairs. In his place, the President stated his intent to nominate Rear Admiral Ronny L. Jackson, MD. In the interim, he appointed Robert Wilkie, Under Secretary of Defense for Personnel and Readiness, to serve as Acting Secretary.

Following the announcement, PVA Executive Director Carl Blake released the following statement:

"We look forward to understanding more about the qualifications of Admiral Ronny L. Jackson, MD to helm the VA during this critical time. The VA has a broad mission and the Secretary must be someone who is eminently qualified to lead the nation's second largest cabinet agency. In particular, reforming VA's health care system to better serve the needs of veterans and their families is of great importance. We encourage the Senate Committee on Veterans' Affairs to take these concerns very seriously as it considers Admiral Jackson's nomination."

Much has been made of Dr. Shulkin's departure from VA and in particular what it means for the future of the VA's health care system. The struggle to define the role of community care in serving the health care needs of veterans has torn open the debate on what some see as efforts by the Administration to privatize the provision of VA health care. Thus, we were pleased to see that Acting Secretary Wilkie has given his support to an existing bi-partisan, bi-cameral proposal with broad VSO support pending in Congress that would reform community care, expand eligibility for the program of comprehensive caregiver benefits, and launch a review of VA's assets and infrastructure.

Rear Admiral Jackson's confirmation hearing is currently scheduled for April 25th. In the meantime, PVA is anxious to learn more about him and hear his views on the issues that impact the services and benefits that PVA's members depend on. During this time of change, VA needs a strong, capable leader who will focus on the needs of veterans in receiving the care they have earned.

OMNIBUS NEGOTIATIONS BREAKDOWN

In November 2017, the Senate VA Committee passed, 14-1, S. 2193, a bill that would reform the current VA Choice Program and all care in the community programs by consolidating them into one program. It also included the full expansion of the caregiver program to veterans injured in service in any era.

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Amidst budget hearings in March 2018, there was speculation parts of S. 2193 would be included in the omnibus spending deal. Within a week, House and Senate committee leadership had crafted a deal, supported by the VSOs that included care in the community reform, asset review, and full expansion of the caregiver program.

Ultimately, these provisions were removed last minute in a round of political tradeoffs between House and Senate leadership. While a disappointing loss, we are pleased that members of Congress who were once opposed to expansion are now supportive. In the months to come, we hope to see such momentum push forward on behalf of caregivers.

FORTY-TWO SENATORS JOIN WITH SENATOR DUCKWORTH IN OPPOSITION TO THE ADA EDUCATION AND REFORM ACT

On March 29th, Senator Tammy Duckworth (D-IL) and 42 of her colleagues sent a letter to Majority Leader Mitch McConnell (R-KY) expressing opposition to the ADA Education and Reform Act (H.R. 620). Signatories to the letter include Minority Leader Chuck Schumer (D-NY) and Senate Judiciary Ranking Member Diane Feinstein (D-CA). In the letter, the Senators noted their strong opposition to not only H.R. 620, but also to “any legislation that would repeal or weaken rights under title III of the Americans with Disabilities Act.” The letter further requests that Leader McConnell join with them in ensuring that either H.R. 620 or any notification legislation “will never receive a vote in the United States Senate during the 115th Congress.”

PVA and other disability and civil rights organizations joined with Senator Duckworth to encourage Senators to sign on to the letter. In releasing the letter, Senator Duckworth specifically noted the opposition of PVA to H.R. 620. PVA Executive Director Carl Blake stated in a March 2nd letter to Senator Duckworth that, “Passing H.R. 620 would be devastating to the promise of the ADA to increase opportunities for people with disabilities.”

The formal opposition of 43 Senators means that any efforts to move ADA legislation that includes a notification requirement and cure period in the Senate would be up against very difficult odds. Nonetheless, to guard against the possibility of this or similar legislation moving this year, PVA staff recently participated in a briefing for Senate staff to educate them about the dangers of limiting the opportunity for people with disabilities to enforce their rights under the ADA. Moving forward, PVA will continue to strongly oppose the ADA Education and Reform Act, or any other legislation that rolls back the obligations of businesses under the ADA to accommodate people with disabilities.

For more information about Senator Duckworth’s efforts to stop ADA notification, please visit: <https://www.duckworth.senate.gov/news/press-releases/duckworth-and-senate-democrats-vow-to-defeat-house-gop-led-effort-to-curtailed-civil-rights-of-americans-with-disabilities>.

FAA REAUTHORIZATION HAS TO MOVE

The Federal Aviation Administration Re-Authorization Act of 2017–S.1405, introduced by John Thune (R-SD) Chairman of the Senate Commerce, Science, and Transportation Committee and Ranking Member Bill Nelson (D-FL) along with Aviation Subcommittee Chair Roy Blunt (R-MO) and Ranking Member Maria Cantwell (D-WA) is must pass legislation in order to keep airports and general / commercial aviation in operation. The Senate is expected to take up debate in June after the House of Representatives finishes its business on H.R. 4–The FAA Reauthorization Act of 2018.

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The House version is scheduled for debate at the end of April. Both versions of the legislation have amendments affecting passengers with disabilities as originally drafted in the Air Carrier Access Amendments Act (S.1318/H.R. 5004). Committee staff report that they would like to be through a conference committee by the end of July and have the legislation ready to go to the President, prior to September's expiration of the current FAA authorization.

HOUSE ADDS COSPONSORS TO THE ACAA

Representative Jim Langevin (D-RI-2) introduced the Air Carrier Access Amendments Act (H.R. 5004) in the House on February 13th. This is the companion piece to S.1318 introduced by Senator Tammy Baldwin (D-WI) last year. H.R. 5004 has been referred to the House Subcommittee on Aviation for further action. To date, the bill has added four cosponsors: Robert Brady (D-PA-1), Richard Neal (D-MA-1), Gwen Moore (D-WI-4), and David Young (R-IA-3), making the legislation bipartisan. This legislation would provide many improvements affecting passengers with disabilities including:

- Strengthening ACAA enforcement through referral of certain complaints to the U.S. Attorney General, increased civil penalties for damaged wheelchairs, and a private right of action.
- Ensuring airlines acquire airplanes that meet broad accessibility standards. Improved structural access includes safe and effective boarding and deplaning processes, procedures, and equipment along with better stowage options for assistive devices.
- Improving training for air carrier personnel and their contractors, including requiring heightened training for personnel who assist with the boarding and deplaning process.
- Requiring the Secretary of Transportation to work with stakeholders to develop an Airline Passengers with Disabilities Bill of Rights.
- Creating a U.S. Department of Transportation Advisory Committee on the Air Travel Needs of Passengers with Disabilities.

DOL VETS VSO MEETING

Advocacy staff attended the Department of Labor Veterans' Employment and Training Service (DOL VETS) monthly briefing with veterans service organizations (VSOs) on March 30th. Senior Advisor for DOL, Matt Miller, gave an update on the omnibus appropriation that had just been enacted, noting the increases that were included for VETS.

The Jobs for Veterans State Grants program received an additional \$5 million, as did the Transition Assistance Program (TAP) program and the Homeless Veterans Reintegration Program (HVRP).

HVRP is now funded at its authorized level. Miller also reported that 230 companies have signed up for the pilot run of the HIRE Vets Medallion program that seeks to recognize businesses that undertake special efforts to recruit and hire veterans.

The main focus of the meeting was a presentation by James Borbely with the Bureau of Labor Statistics (BLS) on the release of that agency's annual report on the employment situation of veterans. The jobless rate for all veterans declined from 4.3 percent in 2016 to 3.7 percent in 2017. Veterans with a service-connected disability had an unemployment rate of 4.3 percent in 2017, which was little different from the rate for veterans with no disability. The unemployment rate measures those persons that are out of work but actively seeking employment.

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Labor force participation rates are another measure and tell a somewhat different story when looking at the most recent cohort of veterans and their employment experiences.

The labor force participation rate of Gulf War-era II veterans with no service-connected disability is 85.5 percent. Among veterans with a service-connected disability, 75.8 percent are in the labor force. However, among veterans rated 60% or higher, only 61.7 percent are working. Detailed information from BLS on veteran employment can be found at: <https://www.bls.gov/news.release/vet.toc.htm>.

NEXT GENERATION AMTRAK CARS TO REPLACE ACELA

On April 3rd, Senior Associate Advocacy Director, Lee Page went to Wilmington, DE to view a “mockup” of the next generation high speed trainset business car. The new design by Alstom, a French manufacturer, has an extendable bridge plate that deploys from the train car to accommodate the gap. Upon entering the train car you will notice a wide open vestibule with a wider turning radius connecting two cars (business and café) with an accessible path to go between the cars. Immediately entering the business car, you will see the accessible restroom with a circular door operated by electronic push button. The restroom is large enough to accommodate a person in a power chair or 3 wheeled scooter. After the restroom, you pass through an automatic glass partition into the seating area where on your left is a cut out for wheelchair space adjacent to a table that is accessible for the passenger to use for work or eating. Across from the wheelchair cut out space is an accessible passenger seat that a passenger could transfer into and his wheelchair would be placed behind his seat in a designated space for wheelchair stowage on the car.

The train ordered by Amtrak is Avelia Liberty, the latest development of Alstom’s high-speed train range Avelia. The new trainset will be able to carry up to 33% more passengers than the current Acela trains. The trainset configuration includes an innovative compact power car and nine passenger cars, with the possibility of three more being added if demand grows. The train is capable of travelling at speeds up to 186 mph, but will initially operate at a maximum speed of 160 mph based on Northeast Corridor (NEC) track speed limits.

Alstom is contracted to design and build 28 new high-speed trains, which will run on the NEC between Boston and Washington D.C. eventually replacing the Acela.

Amtrak and Alstom also signed a long-term contract under which Alstom will provide Amtrak with long-term technical support and supply spare components and parts for the maintenance of the new trainsets. Together, these contracts are worth \$2 billion.

LIMITED CAREGIVER EXPANSION DISCUSSED

On April 5th the Republican staff of the House Veterans’ Affairs Committee held a roundtable to further discuss their proposed legislation to both expand and limit the caregiver program to veterans of any era who require assistance with three Activities of Daily Living (ADLs). At the same time, this draft is being considered, PVA, along with other VSOs, are working to advance a deal negotiated last month that would expand the caregiver program to all eras with the current eligibility criteria of one ADL. As this approach is most ideal, and would serve most of PVA’s members, we continue to advocate the Congress pursue it without hesitation. We hope to see a vote before Memorial Day recess.

If the effort of full expansion does not succeed, PVA will continue to support any legislative measure that opens any access to the caregiver program.

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PVA has been clear, incremental expansion is not success, only a first step. Our priority remains equal access to the caregiver program for all veterans regardless of era served.

MILITARY TO CIVILIAN TRANSITION SUMMIT

On April 10th, Associate Legislative Director Steven Henry attended the Military to Civilian transition summit that convened leaders from public and private sector organizations who are committed to the seamless transition of military service members, veterans, families, and caregivers.

During the summit, multiple presentations were conducted regarding transition of service members and personal stories were provided by the families of veterans who had committed suicide. During breakout sessions, it was determined that the greatest barriers to a seamless transition are: gender; lack of a support network, to include family support; financial difficulties; and a lack of job prospects. Everyone in attendance agreed that for a seamless transition, all of these factors must be addressed.

HOUSE AND SENATE VETERANS' AFFAIRS COMMITTEE UPDATES

On April 11th, a markup of pending legislation was scheduled with the House Disability Assistance and Memorial Affairs subcommittee; however, that markup was cancelled.

That same day, the House Economic Opportunity subcommittee marked up the following bills that PVA currently supports:

- H.R. 1206, Reducing Barriers for Veterans Education Act of 2017: *This bill makes an individual who is eligible for educational assistance under the Post 9/11 Educational Assistance program eligible for assistance with the fees for applying to Institutions of Higher Education (IHEs)*
- H.R. 3023, To Amend Title 38, United States Code, to eliminate the Authority of the Secretary of Veterans Affairs to pay reporting fees to educational institutions: *This bill eliminates the authority of the Department of Veterans Affairs to pay reporting fees to educational institutions.*
- H.R. 3940, Veterans Education Disaster Assistance Act: *This bill provides housing stipends and supply fee payments under the Post-9/11 Educational Assistance Program for individuals affected by extended school closures due to natural disasters.*
- H.R. 4451, Homeless Veterans' Reintegration Programs Reauthorization Act of 2017: *This bill reauthorizes Department of Veterans Affairs (VA) homeless veterans' reintegration programs through FY2022. The bill includes among those for whom job training, counseling, and placement services are to be provided to expedite their reintegration into the labor force:*

- (1) *veterans participating in the VA supported housing program for which rental assistance is provided under the United States Housing Act of 1937,*
- (2) *Indians who are veterans receiving assistance under the Native American Housing Assistance and Self Determination Act of 1996,*
- (3) *veterans who are transitioning from being incarcerated, and*
- (4) *veterans participating in the VA's rapid re-housing and homelessness prevention program.*

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- H.R. 4830, SIT-REP Act: *This bill provides for the disapproval of any course of education for purposes of the educational assistance programs of the Department of Veterans Affairs unless the educational institution providing the course permits individuals to attend or participate in courses pending payment by Department, and for other purposes.*
- H.R. 4835, Job TOOLS for Veterans Act: *This bill extends the pilot program on off-base transition training for veterans and spouses.*
- H.R. 5044, Service-Disabled Veterans Small Business Continuation Act: *This bill clarifies the treatment of certain surviving spouses under the contracting goals and preferences of the Department of Veterans Affairs.*

Additionally on April 11th, the Senate Veterans' Affairs Committee held a hearing on the nominations of Paul R. Lawrence to be VA Undersecretary for Benefits; and Joseph L. Falvey Jr., to be a judge for the U.S. Court of Appeals for Veterans Claims (CAVC).

During the hearing, both gentleman were allowed five minutes to provide opening remarks where each gave a brief description of his background, experience, and veteran status.

Mr. Lawrence, a graduate of West Point, thanked his family and explained that one of his priorities is to address over payments within the Department of Veterans Affairs. He also stated that he had not been interviewed by the White House, has no intention of privatizing the Department of Veterans Affairs, and is committed to ensuring all veterans receive the benefits they have earned, timely and accurately.

Mr. Falvey is a 30-year veteran of the United States Marines who has vast experience as a Judge Advocate but very limited experience in veterans law. Mr. Falvey did state that in the past few months he has been reading up on precedential decisions made by the CAVC and that his lack of VA experience does not hamper his ability to be an effective judge; instead, he will effectively apply the law without allowing outside influences to affect his decisions.