



National Service & Legislative Headquarters
807 Maine Avenue, S.W.
Washington, D.C. 20024-2410
Phone (202) 554-3501
Fax (202) 554-3581
www.dav.org

***STATEMENT OF
LEROY ACOSTA
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
APRIL 5, 2017***

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs. As you know, DAV is a non-profit veterans' service organization comprised of 1.3 million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to present our views on the bills under consideration by the Subcommittee, and we appreciate your invitation.

H.R. 105, Protect Veterans from Financial Fraud Act of 2017

H.R. 105 would require the Secretary of Veterans Affairs to repay the misused benefits of veterans by fiduciaries and establish an appeals process for determinations made by the Secretary of a veteran's mental capacity.

While DAV does not have a resolution specific to this issue, we would not oppose passage of this legislation.

H.R. 299, Blue Water Navy Vietnam Veterans Act of 2017

H.R. 299 would amend title 38, United States Code, to expand the definition of the Republic of Vietnam to include its territorial seas for the purposes of the presumption of service connection for diseases associated with exposure by veterans to certain herbicide agents while in Vietnam such as herbicides containing dioxin, including Agent Orange, during the Vietnam War.

This legislation would provide Blue Water Navy Vietnam veterans the disability and health care benefits they earned as a result of exposure to Agent Orange. Eligibility for VA benefits under this legislation would be retroactive to September 25, 1985, the date VA began providing disability compensation to veterans with medical disorders related to Agent Orange.

During the Vietnam War, the U.S. military sprayed Agent Orange in Vietnam to eradicate jungle vegetation. This toxic chemical had chronic and debilitating health effects on millions of veterans who served in Vietnam and aboard ships operating in the territorial waters of Vietnam.

The Agent Orange Act of 1991 required the Department of Veterans Affairs (VA) to provide presumptive service connection to Vietnam veterans with illnesses that the National Academy of Sciences directly linked to Agent Orange exposure. Yet, in 2002, the VA decided to only cover veterans who could prove that they had “boots on the ground” during the Vietnam War. Because of this decision, thousands of Vietnam veterans were excluded from receiving benefits although these Blue Water Navy veterans had significant Agent Orange exposure from drinking and bathing in contaminated water just offshore.

Veterans who served on ships no more distant from the spraying of herbicides than many who served on land are arbitrarily and unjustly denied benefits of the presumption of exposure, and thereby are ineligible for presumption of service connection for herbicide-related disabilities.

DAV supports H.R. 299 based on DAV Resolution No. 018, supporting legislation to expressly provide that the phrase “served in the Republic of Vietnam” includes service in the territorial waters offshore.

H.R. 1328, American Heroes COLA Act of 2017

H.R. 1328 would provide automatic annual cost-of-living adjustments (COLA) in the rates of disability compensation for veterans with service-connected disabilities and in the rates of additional compensation for dependents, clothing allowance, and in dependency and indemnity compensation for survivors of certain service-connected disabled veterans.

H.R. 1328 also proposes to permanently index future COLA rate adjustments to Social Security rate adjustments. The method used to determine the level of the COLA is tied to the United States economy on a very broad basis. The formula to calculate COLAs is prescribed by law and determined by the Social Security Administration, utilizing Department of Labor statistical information. The calculation of COLAs has been linked directly to the Consumer Price Index since 1975.

In general, a COLA is equal to the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), from the third quarter of one year to the third quarter of the next. If there is no increase in the index, there is no COLA. In these cases, ill and injured veterans are denied necessary increases in disability compensation due to a formula that has little to do with the real costs they bear.

It has become customary for Congress to determine COLAs in parity with Social Security recipients, but it is important to note there have been years in which there were no COLA increases, or such as in 2017, the COLA increase was quite small, only 0.3 percent. While we do not oppose the automatic adjustment, this permanent coupling does subject VA beneficiaries to the same rate adjustments of Social Security beneficiaries, which can adversely impact veterans and their families as in the case when there is no increase, or when the increase is minuscule,

especially for those veterans and their dependents who heavily rely on disability compensation as their sole source of income.

DAV supports legislation that provides veterans with a COLA increase in accordance with DAV Resolution No. 013, and recommends the COLA calculation to provide a realistic cost-of-living allowance for our nation's disabled veterans, their dependents and survivors.

We do not oppose the automatic adjustment; however, DAV has concerns with permanently indexing COLA increases to the Social Security Administration. Further, annual consideration by Congress of a COLA bill provides the oversight needed to ensure compensation rates continue to bring the standard of living in line with that which ill and injured veterans would have enjoyed had they not suffered their service-connected disabilities. In the event of a zero percent COLA, the automatic index would not provide these veterans, their dependents and survivors the benefits to maintain their standard of living.

H.R. 1329, Veterans' Compensation Cost-of-Living Adjustment Act of 2017

H.R. 1329 would also provide for increased compensation rates for wounded, injured and ill veterans, their dependents and survivors commensurate to that provided to Social Security recipients effective December 1, 2017. Unlike H.R. 1328, mentioned above, H.R. 1329 does not propose automatic adjustments to COLAs.

As discussed above, DAV calls on Congress to support legislation to provide a realistic increase in disability compensation. Injured and ill veterans, their dependents and survivors rely on their compensation benefits to maintain their standard of living. Compensation rates must bring the standard of living in line with that which they would have enjoyed had they not suffered their service-connected disabilities.

DAV supports H.R. 1329 in accordance with DAV Resolution No. 013 and recommends the COLA calculation provide a realistic cost-of-living allowance for our nation's disabled veterans, their dependents and survivors.

H.R. 1390

This bill would permit the Secretary to cover the costs associated with the transportation of deceased veterans, not only to national cemeteries, but also to other recognized veterans' cemeteries. H.R. 1390 defines "covered veterans cemeteries" as a veterans' cemetery owned by a state or tribal organization in which the deceased veteran is eligible to be buried, consistent with the definition currently codified in section 3765 (4), of title 38, United States Code. The payment for transportation may not exceed the cost of transportation to the nearest national cemetery from the deceased veteran's last place of residence in which burial space is available.

H.R. 1390 would benefit veterans' survivors by helping to offset the cost transporting the veteran to their final resting place. DAV does not have a resolution specific to this bill; however, we would not oppose passage of this legislation.

H.R. 1564, VA Beneficiary Travel Act of 2017

H.R. 1564 would amend section 504 of the Veterans' Benefits Improvements Act of 1996 to specify the funding source for travel related to examinations by physicians not employed by the Department of Veterans Affairs regarding medical disabilities of applicants for benefits under title 38, United States Code. This legislation codifies section 504 of the Veterans' Benefits Improvements Act of 1996 by transferring Section 504 to title 38, United States Code, subsection 5109C, and provides clerical amendments.

DAV does not have a resolution specific to this bill; however, we would not oppose passage of this legislation.

Draft Bill, Quicker Veterans Benefits Delivery Act of 2017

This draft bill would amend title 38, United States Code, section 5125, to improve the treatment of medical evidence provided by non-Department of Veterans Affairs (VA) medical professionals in support of veterans' claims for disability compensation.

The bill would eliminate the VA practice of ordering unnecessary compensation and pension examinations. Unnecessary examinations lead to delays in delivery of benefits, tie up VA resources and add to the frustration of veterans who in many cases have provided sufficient medical evidence to support their claim. Requesting a VA examination when acceptable private medical evidence has already been provided, indicates that the private medical evidence is of less weight than evidence provided by a VA clinician.

DAV continues to press for changes to improve and streamline the veterans' benefits claims processing system. This legislation would give due deference to private medical evidence that is competent, credible, probative, and otherwise adequate for rating purposes. Currently acceptance of private medical examinations is not standardized across the VA. This draft legislation moves toward a more efficient, less redundant disability claims process.

For these reasons, DAV is pleased to support this bill, consistent with DAV Resolution No. 230, which seeks the enactment of legislation that would require VA to consider private medical evidence supplied by licensed private health care providers to include, but not be limited to, reports from nurse practitioners and physician assistants in private practices.

Mr. Chairman, this concludes DAV's testimony. Thank you for inviting DAV to testify at today's hearing. I would be pleased to address any questions related to the bills being discussed in my testimony.