

JEFFREY C. HALL
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 6, 2012

EXECUTIVE SUMMARY

H.R. 2996 – the Gulf War Presumptive Illness Extension Act of 2011 would extend the period of time through December 31, 2018, in which the Secretary of Veterans Affairs presumes the service connection of certain disabilities of veterans who served in the Persian Gulf War, Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn. DAV supports this bill.

H.R. 4299 – the Quality Housing for Veterans Act would extend the authority of the Secretary of Veterans Affairs through December 31, 2014, to provide specially adapted housing assistance to individuals residing temporarily in housing owned by a family member. DAV is supportive of the bill's intent; however, we believe the amount authorized for temporary housing should not be deducted from the total specially adapted housing grant; rather, it should be a separate and distinct benefit.

H.R. 2355 – the Hallowed Grounds Act would exclude individuals who have been convicted of committing certain sex offenses from receiving certain burial-related benefits and funeral honors which are otherwise available to certain veterans, members of the Armed Forces who served honorably, and related individuals. DAV has no resolution or position on this particular matter.

H.R. 5735 – would establish a Tomb of Remembrance at Arlington National Cemetery for interment of cremated fragments of the remains of members of the Armed Forces killed in Afghanistan, Iraq, or a subsequent conflict when the fragments are unidentifiable by use of DNA testing or other means, or are unclaimed, or are identified and authorized by the person designated to direct disposition of the remains for interment in such memorial. Although DAV has no resolution on this particular matter, we would not oppose passage of this legislation.

H.R. 5880 – the Disability Examination Improvement Act would extend the authority of the Secretary of Veterans Affairs through December 31, 2017, to enter into contracts with private physicians to conduct medical disability examinations. Although DAV has no resolution on this particular matter, we are not opposed to passage of this legislation.

H.R. 5881 – the Access to Veterans Benefits Improvement Act would amend title 38, United States Code, to provide certain employees of Members of Congress and certain employees of local governmental agencies with access to case-tracking information of the Department of Veterans Affairs. DAV is supportive of the bill's intent; however, we have concerns about the broad language, which would seemingly allow certain individuals unrestricted access to veteran's claims information without accreditation or security clearance. As such, DAV cannot support the bill without significant changes in the language.

H.R. 2720 – would clarify the role of the Department of Veterans Affairs in providing a benefit or service being related to the interment or funeral, memorial service, or ceremony of a deceased veteran. Additionally, this bill would require that each VA cemetery director be a veteran themselves, while also prohibiting officials of the Federal Government, including the Secretary of Veterans Affairs, from interfering with the content and creed of a funeral, memorial service, or ceremony of a deceased individual or veteran as expressed by the individual's last will and testament or as determined by the family or agent of such individual or veteran. DAV has no resolution or position regarding this matter.

**STATEMENT OF
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Chairman Runyan, Ranking Member McNerney and Members of the Subcommittee:

Thank you for inviting the Disabled American Veterans (DAV) 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 1.2 million wartime service-disabled veterans focused on building better lives for America's disabled veterans and their families. DAV is pleased to be here today to present our views on the bills under consideration by the Subcommittee.

H.R. 2996

H.R. 2996, the Gulf War Presumptive Illness Extension Act of 2011, would extend the period of time through December 31, 2018, in which the Secretary of Veterans Affairs presumes the service connection of certain disabilities of veterans who served in the Persian Gulf War, Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn. Countless veterans who have served in Southwest Asia since the first deployment of the Gulf War in 1990 still suffer from chronic unexplained illnesses. The numerous symptoms experienced by these veterans still are not understood, answers remain elusive, and significant research is still needed. Extending this presumptive period would allow for continued research for all who have and are still serving in Southwest Asia. VA must be vigilant in their research and treatment and Congress must not waiver in their oversight to ensure these men and women are being cared for and compensated for their illnesses. Therefore, H.R. 2996 being consistent with our longstanding resolution, DAV supports this bill.

H.R. 4299

H.R. 4299, the Quality Housing for Veterans Act, would extend the authority of the Secretary of Veterans Affairs through December 31, 2014, to provide specially adapted housing assistance to individuals residing temporarily in housing owned by a family member. While DAV is supportive of extending this program, we believe the grant amount of \$14,000 allowable for temporary residence adaptation (TRA) should be a stand-alone benefit. As our current resolution seeks, we believe this amount should not be deducted from the total amount of \$60,000 allowed for a specially adapted housing (SAH) grant. Although we do not have the current statistics, we do know that in the four years following inception of the TRA grant

program, less than 20 applications had been received by the Department of Veterans Affairs (VA). In our opinion, this number was extremely low due to the amount of the TRA grant being subtracted from the SAH grant. The intent of this benefit is to afford qualified, seriously disabled veterans the ability to make some modifications to a residence they reside in temporarily, such as their parents' home; however, as they move forward into their own residence requiring adaptations they should not have less than the maximum benefit available to them to accomplish such.

H.R. 2355

H.R. 2355, the Hallowed Grounds Act, would exclude individuals who have been convicted of committing certain sex offenses from receiving certain burial-related benefits and funeral honors that are otherwise available to certain veterans, members of the Armed Forces who served honorably, and related individuals. Specifically, this legislation would expand title 38, United States Code, section 2411(b), to include those who are tier III sex offenders under the Sex Offender Registration Notification Act. Being outside the scope of our mission, DAV has no resolution or position on this particular matter.

Of concern, however, is the treatment to be accorded veteran status once earned through satisfactory fulfillment of service to the nation. Veteran status is a legal status, which, as a practical matter, is realized through the special rights created for veterans to enjoy as restitution for the sacrifices of military service. Almost without exception, this status, once accrued, is considered indefeasible. It is conferred by the completion and honorable character of the recipient's military service and is not conditioned upon subsequent conduct in civilian life. Logically, that is as it should be. Veterans should be secure in the knowledge that their veteran status, and benefits that flow therefrom, is vested and will not be held hostage to irrelevant, post-service factors. If veterans' rights are intended to remunerate for disabilities incurred, opportunities lost, extraordinary rigors suffered, or contributions made in connection with and during the time of military service, such rights should, like wages earned, not be withheld or recalled because of subsequent performance or unconnected actions or events, even when such actions or events are of a character that evoke very negative public sentiments. The special value of service to one's country and the integrity of veteran status would be defeated by departure from that tradition. Fidelity to this principle admits exceptions for only the most highly exceptional circumstances.

H.R. 5735

H.R. 5735 would establish a Tomb of Remembrance at Arlington National Cemetery for interment of cremated fragments of the remains of members of the Armed Forces killed in Afghanistan, Iraq, or a subsequent conflict when the fragments are unidentifiable by use of DNA testing or other means, or are unclaimed, or are identified and authorized by the person designated to direct disposition of the remains for internment in such memorial. Although DAV has no resolution on this particular matter, we support the intent of this legislation to give proper respect and dignity to our servicemen and servicewomen in cases such as this and would not oppose passage of this legislation.

H.R. 2720

H.R. 2720 would clarify the role of the VA in providing a benefit or service being related to the interment or funeral, memorial service, or ceremony of a deceased veteran. Additionally, this bill would require that each VA cemetery director be a veteran themselves, while also prohibiting officials of the Federal Government, including the Secretary of Veterans Affairs, from interfering with the content and creed of a funeral, memorial service, or ceremony of a deceased individual or veteran as expressed by the individual's last will and testament or as determined by the family or agent of such individual or veteran. Being outside the scope of our mission, DAV has no resolution or position regarding this matter.

H.R. 5880

H.R. 5880, the Disability Examination Improvement Act, would extend the authority of the Secretary of Veterans Affairs through December 31, 2017, to enter into contracts with private physicians to conduct medical disability examinations. Although DAV has no specific resolution on this particular matter, our resolution regarding reforming the VA's disability claims process provides a reasonable corollary for us to support the bill, as the utilization of privately contracted disability examinations is intended to improve the disability claims process.

H.R. 5881

H.R. 5881, the Access to Veterans Benefits Improvement Act, would amend title 38, United States Code, to provide certain employees of Members of Congress and certain employees of local governmental agencies with access to case-tracking information of the VA. DAV supports the intent of the bill; however, we have concerns about the broad language, which would seemingly allow certain individuals to gain unrestricted access to veterans' claims information without accreditation or security permission. Clearly, the primary benefit in this legislation will be for authorized individuals to gain remote access to the VA's electronic database system for the single purpose of determining the status of a veteran's pending claim for benefits; however, Congress must consider making significant changes to the language to ensure a veteran's privacy and personal information is safeguarded from illegal or fraudulent activity.

DAV National Service Officers (NSOs) are accredited by the VA and given access to veterans' records and computerized processing systems, but only for those in which we hold power of attorney. DAV NSOs regularly interact with certain local government employees, such as County Veterans Service Officers (CVSOs), who provide local assistance to veterans. When the assistance desired involves obtaining an update as to the status of a pending claim, CVSOs generally are not able to access the information and they must contact the accredited representative of record, such as a veterans service organization (VSO) to obtain a status of the pending claim, and then inform the veteran. If the veteran does not have an accredited representative, such as a VSO, the CVSO is very limited as to the information that may be accessed. Likewise, an accredited representative only has access to those cases for which they hold power of attorney.

Allowing certain covered employees of Members of Congress or local government agencies to access the VA's case-tracking system to obtain a status of a claim submitted by a veteran without a properly executed power of attorney poses many serious questions. As a matter of privacy, veterans or other claimants must be protected from anyone without accreditation from being allowed to access VA's system and gain private information on the veteran or other claimant.

This legislation sets out to amend title 38, United States Code, by adding a new subsection 5906, which, as written, would allow virtually any covered employee to gain access to any veteran's private information; far greater access than afforded to an accredited representative. First, the bill should contain the explicit language contained in title 5, United States Code, section 552a(b), requiring the covered employee to have the written permission of the veteran or claimant requesting assistance from the covered employee. Without such request and written permission, the covered employee has no proprietary reason to access any veteran's information.

Secondly, before the covered employee is able to access the VA's system, he or she should be required to complete an electronic certification affirming that written consent from the veteran has been obtained to access the status of the veteran's pending claim. Thirdly, the access should be limited to only the status of a pending claim and the specific issues contained therein. Lastly, the bill should plainly set forth the penalties for any violations, such as accessing or attempting to access the status of any pending claim without the expressed written consent of the veteran or claimant.

Moreover, we believe the bill should also contain an additional safeguard provision wherein the veteran or claimant is notified when his or her record is being accessed by a covered employee. This would further assure the veteran or claimant, especially those without representation, has authorized the covered employee to perform such action on their behalf and is aware when it is occurring. This would also alert VA when a covered employee is attempting to gain access without the express written consent of the veteran or claimant.

Again, the intent of this bill is to help veterans by providing these covered employees limited access to VA's electronic database solely for the purpose of obtaining the status of a claim. DAV believes this could be very beneficial to the veteran or claimant, the covered employee, as well as our National Service Officers when DAV is the accredited representative of record. DAV simply wants to ensure that proper security measures are in place to protect the privacy of veterans and claimants. As such, without changes in the bill's language, DAV cannot offer our support for H.R. 5881. We feel the bill's current language is not explicit enough to ensure the privacy of a veteran or claimant is safeguarded; however, DAV would be pleased to work with the Subcommittee to make these necessary changes in the bill's language.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions from you or members of the Subcommittee.