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***STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
MARCH 26, 2014***

Chairman Runyan, Ranking Member Titus 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 1.2 million wartime wounded, injured and ill veterans and dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. DAV is pleased to be here today to present our views on the bills under consideration by the Subcommittee.

H.R. 2018

H.R. 2018, the Honor Those Who Served Act of 2013, would amend title 38, United States Code, to identify those persons who are eligible to request headstones or grave markers furnished by the Department of Veterans Affairs (VA). Currently Section 2036 of the law specifies who may request a headstone or marker from the VA. H.R. 2018 clarifies this issue by expanding the language of Section 2036 to identify eligible persons as the decedent's next of kin; a person authorized in writing by the decedent's next of kin to make such request; a personal representative authorized in writing by the decedent to make such request; when none of the aforementioned apply, a state veterans service agency, a military researcher, local historian, or a genealogist or other person familiar with the research sources and methods necessary to prove the identity of the decedent; or any person may make the request if the decedent's active military service preceded the application for headstone or marker by at least 62 years.

While DAV has no specific resolution to support this particular matter, we are not opposed to enactment of H.R. 2018.

H.R. 2088

H.R. 2088 would direct the VA to establish a pilot program for the designation of 12 Regional Offices as Centers of Excellence that will each focus or specialize on claims involving the most complex and time consuming issues such as post traumatic stress disorder (PTSD),

traumatic brain injury (TBI), and military sexual trauma (MST), as designated by the Secretary. While demonstrated progress was achieved last year in reducing the backlog of claims, other VBA initiatives similar to the Centers of Excellence, such as a national work queue model and centralized mail centers, are currently being proposed within the Veterans Benefits Administration (VBA).

Although VBA has not provided detailed information about any national work queue model, our understanding is that this will allow all claims to be processed nationally by Veterans Service Representatives (VSRs) and Rating Veterans Service Representatives (RVSRs), regardless of their physical location or the origin of the claim. This is essentially the same approach VBA took last year when they processed all claims pending more than two years within a short period. With all claims now becoming virtual once submitted and/or converted electronically, claims processing can be done by any fully trained VSR or RVSR regardless of their physical location. This approach is not unlike the process of brokering claims from one Regional Office to another when assistance is needed, which VBA has relied heavily upon over the years. So taking the basic concept of brokering claims and VBA's "all hands" strategy they used last year to process the oldest claims and applying it to national workload may have the potential for success; however, we are just learning more details of how the national work queue model will work.

For the past several years, VBA has discussed the general concept of establishing Centers of Excellence, wherein specific Regional Offices would be designated to process specific types of claims for the entire country. For example, a particular Regional Office would be designated as a Center of Excellence for claims involving PTSD, TBI, and MST, and all claims containing such conditions would be processed by that facility for the entire country.

While Centers of Excellence could relieve the majority of VAROs from processing some of the more time consuming, complex claims, it must be done properly, with certain principles guiding such as model. One key question is would multiple issue claims be split by issues and processed by multiple centers? What would happen when a VARO receives a claim for PTSD and an orthopedic condition – would the origin VARO process the orthopedic condition or would a PTSD Center of Excellence process all issues? Such questions are crucial and we believe that VBA must move in a deliberate and thoughtful manner to ensure that Centers of Excellence are truly "excellent," not just "centers" for complex, time consuming claims. For these reasons, we recommend that VBA begin with just four Centers of Excellence and that they carefully study whether or not they are successful before expanding to additional ROs. In addition, it is important that employees at these Centers of Excellence receive comprehensive training on their specialty.

Additionally, with the national work queue model being developed and all claims becoming virtual, is an entire Regional Office being designated as a Center of Excellence still a viability? Since all claims are virtual and physical location may be less important now, maybe it would be more prudent for VBA to designate particular individuals or teams in every Regional Office who would process certain issues such as PTSD, TBI and MST instead of an entire Regional Office being dedicated to those issues. To be clear, DAV is not opposed to the concept of establishing Centers of Excellence as there are certain advantages, such as all specialized

claims being processed by a select group of experts. However, given the progress with VBA's technology, specifically the Veterans Benefits Management System, contemplation should be given to the alternatives through technology versus designating an entire Regional Office as a Center of Excellence, which may very well become a centralized repository of the most backlogged claims because they are most time consuming and complex.

While we do have questions about establishing Centers of Excellence, we agree with the principal intent of the legislation, which is to redirect the most time consuming and complex claims away from the national workload, possibly reducing the backlog, and into the hands of select individuals who receive support and training as experts in particular matters. However, we do request DAV, other veterans service organizations and interested stakeholders be included in as much of the deliberation, development, and strategy process as possible, as well as kept apprised throughout.

H.R. 2119

H.R. 2119, the Veterans Access to Speedy Review Act, would allow the Board of Veterans' Appeals upon receiving a request for hearing to determine, for the purposes of scheduling the hearing for the earliest date possible as well as the location of the hearing and the type of hearing, be it in person or by use of videoconferencing equipment. Once the appellant is notified of the Board's determination of the type and location of the hearing, the veteran would be able to request a different type or location, and if so, the Board may grant such request while ensuring the hearing is scheduled as soon as possible and without delay.

While we support the purpose of H.R. 2119 and take no issue with the Board determining the type and location of a hearing, we do not agree with the language of the bill where it states "if so requested, the Board may grant such request." Specifically, this bill as written would allow the Board to determine the type and location of a hearing and deny a request from a veteran who prefers to have an in-person hearing with a Board member rather than a videoconference hearing. We believe the veteran's right to a hearing also includes the right to choose the type and location, which could be adversely impacted with this bill as written, so in order to preserve such right, we recommend the aforementioned sentence be changed to, "if so requested, the Board shall grant such request..."

DAV would support enactment of H.R. 2119 if the language is amended to prevent the Board from overriding a veteran's requested venue for a hearing.

H.R. 2529

H.R. 2529, the Veteran Spouses Equal Treatment Act, would amend title 38, United States Code, redefine the term "spouse" to recognize new state definitions of such term for the purpose of the laws administered by the VA.

DAV has no resolution on this particular matter, and has no position on this bill.

H.R. 3671

H.R. 3671 would amend title 38, United States Code, to expand the eligibility for a medallion furnished by the VA, which is used to signify the status of a deceased individual as a veteran. Currently, Section 2306(d)(4) states, “in lieu of furnishing a headstone or marker under this subsection, the Secretary may furnish, upon request, a medallion or other device of a design determined by the Secretary to signify the deceased’s status as a veteran, to be attached to a headstone or marker furnished at private expense.” H.R. 3671 would expand eligibility to persons “regardless of the date of the death of individual for whom the medallion or other device is furnished.”

While DAV has no specific resolution on this particular matter, we are not opposed to enactment of H.R. 3671.

H.R. 3876

H.R. 3876, the Burial with Dignity for Heroes Act of 2014, would direct the Secretary of Veterans Affairs to carry out a program to make grants to eligible entities to provide for the cost of burials for homeless veterans who are eligible to be buried in national cemeteries and when the Secretary determines the veteran has no next of kin. Currently, the law allows the surviving spouse, dependent child or dependent parent to receive a \$2,000 burial allowance when the death is service related, and \$300 when the death is not service related. H.R. 3876 does not specify the amount of the intended grant, which would be payable to an individual who may not even be related to the decedent homeless veteran. While we certainly agree with the intent of H.R. 3876, we do not believe the amount should exceed the burial allowance provided to eligible survivors.

While DAV has no specific resolution on this particular matter, we would not be opposed to its enactment as long as our concerns above are addressed.

H.R. 4095

H.R. 4095, the Veterans’ Compensation Cost-of-Living Adjustment Act of 2014 would increase, effective December 1, 2014, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of certain disabled veterans. A cost-of-living adjustment (COLA) was passed last year at the modest increase of 1.5%, which did not include the long standing practice of rounding down to the nearest whole dollar amount. As you know, many disabled veterans and their families who rely heavily or solely on VA disability compensation or DIC as their only means of financial support have struggled during these difficult times. While the economy has faltered, their personal economic circumstances have been negatively affected by rising costs of many essential items, including food, medicines and gasoline. Rising inflation continues to be a major factor, so it is imperative that veterans and their dependents receive a timely COLA and DAV supports enactment of H.R. 4095, which is in accordance with our resolution.

However, in keeping with another longstanding resolution, DAV is adamantly opposed to Section 2(c)(2) of the bill that once again requires the unacceptable practice of “rounding down”

COLA increases to the next lower whole dollar amount, which incrementally reduces the support to disabled veterans and their families and survivors. The practice of permanently “rounding down” a veteran’s COLA to the next lower whole dollar amount can cause undue hardship for veterans and their survivors whose only support comes from these programs and it is time to end this practice, which was only intended to be a temporary measure more than twenty years ago.

H.R. 4102

H.R. 4102 would expand title 38, United States Code, to include the estate of a deceased veteran as an eligible recipient of certain accrued benefits upon the death of the veteran when such benefits would not be payable to any survivor. Currently, Section 5121 does not allow accrued benefits payable upon death of the veteran to be paid to any entity other than eligible survivors, and if there are none, essentially those benefits, which can be in the hundreds of thousands of dollars, are lost or forfeited. Enactment of this bill would allow the deceased veteran’s estate to be eligible for such benefits.

This legislation is designed to correct an unfair practice that currently denies the lawful heirs of a deceased veteran from receiving these earned funds. Accordingly, DAV supports enactment of H.R. 4102.

H.R. 4141

H.R. 4141 would amend title 38, United States Code, authorizing the VA to enter into enhanced-use leases for excess property of the National Cemetery Administration, which has been deemed unsuitable for burial purposes.

While DAV has no specific resolution on this particular matter, we are not opposed to enactment of H.R. 4141.

H.R. 4191

H.R. 4191, the Quicker Veterans Benefits Delivery Act, would expand Section 5125 of title 38, United States Code, to improve how private medical evidence submitted in support of a claim for disability compensation is treated by the VA.

Currently, Section 5125 states, “for purposes of establishing any claim for benefits...a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim...may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.” Currently the VA has the option of accepting such private medical evidence within the present language of “may be accepted” as contained within Section 5125. H.R. 4191 removes such option and replaces “may” with “shall,” which will require the VA to accept private medical evidence submitted by the veteran, while also clarifying the term “sufficiently complete” to mean evidence that is competent, credible, probative, and containing such information as may be required to make a decision on the claim for which the evidence is provided.

DAV is very much interested in the VBA reducing the backlog of pending disability claims, but as we have consistently maintained, not at the risk of reducing quality. Likewise, DAV has been a longtime proponent of certain actions VBA could take, which could have a positive impact on the speed of the claims process. Requiring VBA to accept private medical evidence submitted by the veteran, so long as it is adequate for rating purposes, as is the intent of Section 2 of this bill, is one type of action DAV has strongly advocated for in recent years.

In accordance with our resolution to improve the claims process, DAV strongly supports enactment of H.R. 4191.

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