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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
MAY 29, 2014**

Chairman Runyan, Ranking Member Titus and Members of the Subcommittee:

On behalf of the DAV and our 1.2 million members, all of whom are wartime wounded, ill or injured veterans and their families, we thank you for extending this invitation to us to testify on aspects of the joint venture between the Departments of Defense (DOD) and Veterans Affairs (VA) to operate the Integrated Disability Evaluation System (IDES) program and other functions of the pre-separation process.

DAV is actively engaged in providing claims assistance to military members before they leave active duty. This service is provided to active duty personnel through our Transition Service Officer (TSO) program. In 2013 DAV TSOs assisted over 30,892 at 80 military installations across the country.

During the same time in 2013, DAV NSOs interviewed over 187,000 veterans and their families; reviewed more than 313,000 VA claims files; filed over 215,000 new claims for benefits; and obtained more than \$4.3 billion in new and retroactive benefits for the wounded, injured, and ill veterans we represented before the VA. Our NSOs also participated in more than 272,000 VA Rating Board actions.

IDES OVERVIEW

IDES originated in 2007. It was launched as a pilot project by the DOD and the VA. Since its roll-out, it was found to be conducive and beneficial towards accomplishing the mission of transitioning wounded, ill and injured service members from active service. Based on its success, it ultimately replaced the legacy Disability Evaluation System (DES) in October 2012 and now operates at a total of 139 locations worldwide.

A previous comparison between the IDES pilot and legacy DES found active component military members completed the pilot in an average of 289 days, and reserve component military members completed it in an average of 270 days, compared to the legacy DES average of 540 days. Surveys revealed significantly higher

satisfaction among IDES pilot participants. On July 30, 2010, the DOD Senior Oversight Committee co-chairs directed IDES be expanded worldwide.

The legacy DES was replaced with the IDES in four stages and was fully deployed in October 2012.

- Stage I-West Coast and Southeast (October–December 2010)—28 Sites
- Stage II-Mountain Region (January–March 2011)—24 Sites
- Stage III-Midwest and Northeast (April–June 2011)—33 Sites
- Stage IV-Outside Continental United States (OCONUS) (July–September 2011)—28 Sites
- Total IDES currently: 139

Under this system, military members are referred to IDES when their continued service is questioned, resulting from wounds, injuries or illnesses incurred in active service that adversely affect the state of their physical or mental health. These active-duty service members would then be placed in a status making them ineligible for deployment or unable to carry out the duties of their rank or military specialty.

As a result of treatment and health status, military members are evaluated by a Medical Evaluation Board (MEB), which is typically comprised of at least two physicians. If the MEB determines that the member has a medical condition(s) that would hinder or impede continued military service, an MEB narrative summary is prepared and the case is referred to a Physical Evaluation Board Liaison Officer (PEBLO).

PEBLOs guide service members through the IDES process to ensure they are aware of the options available to them and to help with the many decisions they need to make while still on active duty. The PEBLO compiles administrative data, informs military members of the IDES process and the MEB, and then refers them to the VA Military Services Coordinator (MSC).

The VA MSC then meets with the military members to advise them about the next phase of the IDES process, assist in completion of documentation, establish a formal VA disability claim, and initiate case development. The VA MSC is charged with requesting the appropriate VA medical examinations, monitoring their progress, providing copies of the completed examination reports to the PEBLO, and completion of any additional development actions as needed.

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Once medical examinations are complete, the VA MSC provides them to the PEBLO and the VA Disability Evaluation System Rating Activity Site (D-RAS) which prepares the proposed disability rating. The PEBLO incorporates the medical examination results in the IDES case file and provides it to the MEB convening authority. The Military Treatment Facility then conducts an MEB and provides the results back to the PEBLO, including the results of the MEB's response to any rebuttal of the member about the MEB findings. The PEBLO then provides a copy of the MEB findings, to include the completed VA medical examination results, to the military member and forwards the case to the PEB administrator if the MEB did not return the military member to duty. The PEB administrator prepares and provides the member's case to the Informal PEB (IPEB).

The IPEB is typically comprised of a two- or three-member board. The IPEB adjudicates the case and requests the D-RAS provide the proposed ratings for the military member's conditions that the IPEB has determined to be unfit. The D-RAS prepares the proposed disability ratings, and reconsideration of the proposed ratings, if the military member so requested. Once all information is received, the IPEB decides whether the member can continue in the military. If so, the individual is designated "fit" and returned to duty. If not, he or she is found "unfit." There are three broad types of medical separations the member can receive as a result of being found unfit: separated without severance pay, separated with severance pay, or retirement.

Once the military member is informed of the IPEB's decision, the member can either accept those findings or appeal the decision to the Formal Physical Evaluation Board (FPEB). The FPEB is comprised of a three-member board, two personnel officers and a physician. They review all the information that the IPEB possessed, with the added feature of the member being able to personally appear before the FPEB and offer additional evidence. The FPEB then holds a hearing, weighs the prior evidence, the member's testimony as well as any new evidence presented, and renders its recommendation. The member can accept the decision of the FPEB, or request reconsideration of the proposed ratings. Similar to the IPEB, three broad types of medical separations can be issued: separated without severance pay, separated with severance pay, or retirement.

Military members have a final appeal option of the FPEB findings regarding fitness for duty through all subsequent levels allowed by their branch of service, such as the Department of the Navy Council of Review Boards and the Department of the Air Force Personnel Council.

The three categories of medical separations can result in several types of medical discharges. Specifically, those with a disability rating of 20 percent or less receive a Discharge With Severance Pay or DWSP. Those whose medical conditions were found to exist prior to military service and found unfit can be discharged without disability compensation if their conditions were not permanently aggravated through military service.

Those who receive a disability rating of 30 percent or more may receive permanent retirement, or be placed on the temporary disability retired list and reevaluated at least every 18 months until their conditions become stable with a final disability rating decision rendered at the five-year point. An exception would be mental disorders due to traumatic stress on active duty, which require re-evaluation within six months after discharge, if assigned a disability rating of not less than 50 percent.

IDES & OTHER PRE-SEPARATION PROGRAM CONCERNS

While DAV is generally pleased with the IDES program, we find several aspects to be of some concern. One area is service members participating in IDES not having ready access to representation from a veterans service organization (VSO) in the same manner as they did under the legacy DES. Delays in awards of disability compensation payments upon separation from active service, and PEBLOs' full understanding of program aspects and awareness regarding VA Vocational Rehabilitation and Employment (VR&E) services are other areas where additional oversight and improvement may be required.

Prior to the implementation of the new IDES process, DAV was actively engaged in the legacy DES, but now VSOs are drastically limited in their scope and functionality within the IDES process, or are excluded altogether. Under the legacy DES, our TSOs represented 282 military members before DOD's Physical Evaluation Boards from July 2008 to June 2009. In the following year, that number dropped to 92 and to 22 in the year after. This change was based on the DOD and VA's focus on speeding the delivery of benefits so they could be placed in the hands of separating military personnel closer to the time of their discharge.

In DAV's 29 Palms area of operation, our TSO notes that IDES classes doubled in 2014. Classes now take place every other week; previously they were conducted once a month. Attendance averaged less than 10 participants prior to 2014, but now average anywhere from 7-10 participants every other week.

Proposed ratings from the Rhode Island D-RAS processing site are delayed and average anywhere from three to six months; however, program standards stipulate that 30 days after the D-RAS receives completed examination reports, the proposed rating must be completed. There are currently two MSCs covering this location, but there is some concern regarding their availability, only providing partial coverage anywhere from three to four days each week. There is also a concern with their inability, or unwillingness, to accept Benefits Delivery at Discharge (BDD) claims.

Beginning this Summer in the 29 Palms area, DAV's role may even be reduced further as we will no longer have the ability to review STRs, and one-on-one counseling services are slowly being taken over by MSCs.

Our Seattle office reports that since October 2013, the preliminary ratings being returned to the PEB fell from 9,000 to the current level of 7,141 as of April 2014, with

average processing time of 79.5 days. Since October 2013, the final ratings to the service member or veteran dropped from 7,000 pending to the current level of 1,100. As of April 2014, the average processing time was 27.4 days, below VA's requirement of 30 days.

Our personnel find the D-RAS in Seattle is operating more efficiently given the Day 1 Brokering Center (D1BC) mission has been removed and the employees were folded into the IDES mission. The communication with the Army has improved because the VA is receiving electronic discharge records now, rather than paper copies, and the Army is not dumping thousands of IDES claims on the VA at one time. Moderation of delivery of these records is easier to manage.

Just as with the larger disability claims process and its current focus of "breaking the back of the backlog," IDES is similarly focused. It is our view that while speed is an important factor, any claim, whether while on active duty, or as a veteran should be done right the first time with an emphasis on timeliness, access to available resources and rating decision accuracy.

Most service members do not understand the complexity of the IDES disability adjudication process. We believe their best interests would be served if they had access to the free assistance of certified representatives, such as DAV. We can provide them with a full understanding of the process and their rights, and also act as their advocates and attorneys-in-fact.

Most military members undergoing the discharge evaluation process may find the complexities of the disability adjudication and retirement systems overwhelming. As a result, they may be accepting PEB decisions that are not in their best interest and/or the benefits they receive may be less than what they would have been had they understood the long-term consequences of their decision to accept a particular PEB decision. As stated in the September 2013 Recovering Warrior Task Force (RWTF) report, "service members going through the IDES process often do not have a clear idea about where they are going and what their futures hold."

The RWTF is charged with conducting an assessment of the effectiveness of DOD programs and policies for Recovering Warriors (RWs). Their findings continue to highlight the importance of providing legal counsel throughout the IDES program. The relationship between access to legal counsel and satisfaction with the IDES process is clear. The issue of access to counsel to advise military members on the VA disability claims process was cited as a concern by the RWTF in several of its annual reports, to include in their most recent one published September 2013.

To DOD's credit, some improvement has occurred in VSO access to IDES. The Directive-Type Memorandum (DTM11-015) pertains to IDES. Within this document, the DoD provides guidance to, "establish procedures for their respective Military Departments to inform service members upon referral to the IDES that they may seek assistance during the IDES process from Government legal counsel provided by the

Military Departments, private counsel retained at their own expense, or from a VA-accredited representative of a service organization recognized by the Secretary of Veterans Affairs, using VA Form 21-22, "Appointment of Veterans Service Organizations as Claimant's Representative," or from a VA-accredited claims agent or attorney using VA Form 21-22a."

Furthermore, the PEBLO is charged with informing the service member of the DOD IDES process and the availability of assistance from government legal counsel provided by the military departments, private counsel retained at their own expense, or from a service organization recognized by the VA.

The VA MSCs are also charged with advising service members about representation opportunities before the VA by any attorney, agent, or officer of a service organization. These multiple information points that disclose options for representation to service members help to mitigate any potential miscues during this often difficult and lengthy process. DAV believes there is still room for improvement and suggests that PEBLOs and MSCs, not only advise service members about the availability and benefits of representation, but to also make service members aware of any VSO presence on military installations.

Although some trends are heading in the right direction, another one is of some concern. A report from one of DAV's senior supervisory National Service Officers in San Diego, finds that "since July 23, 2012, when the administration launched its Transition GPS and September of 2013 when the pilot program for the revamping was held here in San Diego, the DAV has had little to no input. DOD contractors were hired and this organization's TSOs and DSOs were very underutilized initially. We were told we would be included in the pilot; we were not. Office space was reduced to accommodate DOD contractors. Some of these contractors went so far as to try and get all VSOs off the base. However, the military, specifically the Marine Corps, would not allow it. These DOD contractors were hired and basically we were told our services wouldn't be needed. They would answer questions and provide advice [to individuals] on what to do. We were eventually allowed to put a power point slide up or a sign to inform transitioning military personnel of DAV's ability to assist. We are now allowed to give a 10 to 30-minute presentation and screen service medical records depending on the base. Several bases have now given us access to TAP/GPS Transition Readiness Seminar (TRS) classes, including Camp Pendleton, 29 Palms, Miramar, MCRD, Port Hueneme and Ft. Irwin, while Navy bases locally do not allow us to inform or screen service treatment records (STRs). Again, in my opinion, the transitioning military member is losing out on a valuable service that should be left to the experts like the DAV, not a DOD contractor who is ill equipped to handle it."

A local TSO from California reports that DAV has not been allowed back into the Navy bases located in San Diego even though they were given Under Secretary Allison Hickey's memo requesting the VSOs be permitted to participate during the Transition GPS process. It was explained to our staff that DAV would encroach in VA's allotted

time and additional time could not be spared. While DAV continues to be excluded from the TAP GPS classes, our client workload has only declined by about 30%.

Our clients from local Navy bases visit DAV TSOs because they are referred by senior personnel at the command or have heard about our office and/or the reputation of the service officers. At the local Marine Corps bases, DAV provides STR screenings to TAP GPS personnel. Our service officers only perform lectures at MCRD and Camp Pendleton. No lectures are performed at MCAS Miramar but again, DAV does have access to these personnel for record reviews. As to all other bases in the Southern California area, (Ft. Irwin, 29 Palms, China Lake and Port Hueneme) outside of the San Diego area, we provide both lectures and record reviews.

The service officers at Miramar are constantly asked why we are not going out to the Navy bases because that was part of the reason they attended the classes. They also stated that information received during the veterans' benefits lectures was confusing and it appeared VA contractors were just reading the lesson plans. DAV's reputation at the Miramar, Camp Pendleton and 29 Palms TAP offices is noted for its efficient and fast service. Waiting times for appointments to file a BDD or Quick Start claim at the Miramar office are less than a day, with submission of the claims to the VA satellite office following the appointment with DAV TSOs.

Concerning the IDES program within the San Diego area, our office does not have direct interaction within this process, however, the majority of the time, personnel undergoing the IDES program also attend the TRS/GPS program, so our TSOs see them at that time, or in some cases service members make an appointment with DAV for one-on-one counseling.

Issues identified at our DAV office in San Antonio, Texas pertain to IDES, BDD and Quick Start. Our office reports that BDD and Quick Start need to be completely revamped. Our personnel report the programs are good overall, but with fine tuning they could be much better. They find both programs are too slow. That is the single biggest complaint DAV receives from its clients regarding these programs in this location.

Veterans are being told their claim processing will take a certain amount of time and when they do not have an answer, they express their concern and frustration to DAV personnel. DAV is able to provide each veteran with his or her claims status.

It is reported that veterans have been removed from the BDD or Quick Start programs and they do not know the reason for removal, and removals occur with some regularity. Veterans are prohibited from supplying additional evidence while in the program and they find this to be unreasonable, which adds to their frustration. Occasionally, DAV must direct service members to avoid BDD and Quick Start altogether because of their individual circumstances; they may be relocating within the very near future, or other personal matters may interfere with their claims.

The IDES system at this location has basically eliminated DAV's involvement within the program. At one time, DAV staffed 2 TSOs at SAMMC and now we have only one. DAV provides representation at the Formal Physical Evaluation Boards, however, because DAV is not involved until the service member receives their Informal Physical Evaluation Board results, service members are unaware, or do not recall that DAV provides legal representation.

DAV is permitted to provide formal briefings twice a month at San Antonio Military Medical Center (SAMMC), formerly Brooke Army Medical Center, for those service members in the IDES process, but most service members utilize military attorneys at the FPEB. DAV's role has been diminished. The Army has posted two military lawyers and a paralegal to handle the FPEBs and they are on site. As a result, DAV represented fewer than 10 service members at the FPEB during the past twelve months.

DAV brings vast experience, a renowned reputation and expertise concerning claims processing and holds power of attorney for hundreds of thousands of veterans and their families. Our NSOs and TSOs continue to be actively engaged in informing military members of their eligibility for VA and DOD benefits through briefings at Transition Assistance Program GPS classes. With the realization of the TAP GPS program, DAV and other VSOs found themselves with lessened exposure and declining DOD support at military installations. This is seen as limiting, or altogether eliminating the participation of the VSO during these important junctures through the separation process. The ability to address and assist active duty service members on military bases was garnered over years of hard work and great effort after proving that VSO services during the active duty period were in fact worthwhile and represented a vital resource.

We continue to provide assistance to those active duty service members that request accelerated receipt of their VA disability benefits under VA's BDD and Quick Start, but, we see our role as being continually marginalized, reduced with the possibility of elimination.

DAV and other VSOs play an integral part in the overall claims process and make the VA's job easier by helping veterans prepare and submit better claims, requiring less time and resources for them to be developed and adjudicated. If provided broader access and working in a collaborative fashion with the DOD, its military facilities and other program affiliates, we can make the DOD's job easier as well, by ensuring military members going through IDES have a better understanding of the paths within the IDES program and beyond.

Another issue involves access to and awareness of VA's Vocational Rehabilitation & Employment (VR&E) program and services offered to those migrating through the IDES program. Basic eligibility requirements to gain access to VA's vocational rehabilitation counselors and services is met when a service member is set to be released from active duty with a disability rating greater than 20%.

Within the VR&E program, service members work with vocational rehabilitation counselors towards an employment goal outlined within one of the five tracks to employment, which are reemployment, rapid access to employment, employment through long-term services, self-employment, and independent living.

The benefit of entering the VR&E program at the earliest point within the IDES process cannot be overstated. This gives the service member that head start he or she will need before making the transition from the military to the civilian sector and more importantly, identify potential employment opportunities that would be conducive to their service related disabilities.

In the RWTF's 2013 report, it found "significant value on VR&E, recognizing the key role VR&E plays in supporting transitioning RWs and will continue to play after the current conflict ends and drawdowns are completed. The RWTF sought and received briefings on the availability of VR&E at numerous site visits and made recommendations on VR&E in both their FY2011 and FY2012 reports. Recovering Warriors (RWs) focus group participants more often than not stated that job readiness activities including VR&E met their needs and mini-survey results from participants with first-hand experience with VR&E indicated high satisfaction. However, despite such positive satisfaction, mini-survey results also indicated that VR&E utilization was low; only 18 percent of respondents had first-hand experience. Site briefers identified a number of barriers that likely contribute to the low utilization. At several installations, the chain of command and RWs displayed a lack of awareness of VR&E and/or a misunderstanding of the program. The RWTF also observed poor coordination between VR&E counselors and other installation staff, or poor integration of VR&E into the IDES process."

The RWTF does an excellent job illustrating the importance of the VR&E program and the benefit of availing this program to those members meeting the basic eligibility requirements. Congress must ensure that every service member receiving a medical separation with a rating of 20% or greater is made aware of the program. Counselors at military installations should make meeting with eligible service members a routine duty. This would ensure the relationship is established and maintained throughout the ongoing IDES process and prepare service members to utilize benefits they may be entitled to receive once they become service-connected veterans.

Another issue is delayed receipt of finalized VA rating board decisions upon separation from active military service. One of the goals within the IDES process is to complete the VA disability compensation delivery phase for active component service members in no more than 30 days from the date of separation to the date VA issues the disability benefits decision letter.

DAV NSOs report that since April 2014, VA has been gaining efficiencies and completing the final rating process within 27 days. It is reported that VA has been largely aided in reaching this target processing time at one site due to the elimination of D1BC operations and aligning remaining resources toward IDES support. Any delay in

the finalization of the VA rating process is of serious concern to DAV and this issue must be closely monitored. Delayed payments to wounded, ill and injured veterans just out of the military and fending for themselves and in some cases without the benefit of continued employment, places an unnecessary and undue hardship upon newly separated veterans. Now service-connected wartime veterans, no longer in the employ of the DOD, they will come to rely on their disability compensation benefits to support themselves and in many cases, their families.

Lastly, PEBLO observations from our staff in the field indicate mixed assessments pertaining to their performance. There are some concerns regarding the availability of PEBLOs when sought after by service members within IDES and information gaps concerning programmatic elements.

In order to bolster the proficiency of the PEBLO and in turn, offer the greatest level of support to IDES participants, continued and enhanced training must be afforded. Additionally, no program can ever hope to achieve its maximum effectiveness if it does not contain a quality review and accountability component. Work performed by those entrusted to shepherd our wounded, ill and injured through the IDES process and ease their transitions from active military service into the civilian sector is of the highest importance and should be equally regarded in terms of support that is required to meet their objectives.

DAV RECOMMENDATIONS

With this testimony in mind, on behalf of DAV, I offer the Subcommittee the following recommendations:

- Provide greater access and support throughout the entirety of the IDES and Pre-Separation process to qualified, capable and duly recognized VSOs;
- Ensure proper resource allocation to meet or exceed all established IDES programmatic timeframes;
- Ensure VR&E services are highlighted and emphasized to service members meeting basic eligibility entitlement;
- Ensure proper PEBLO resource allocations;
- Establish and maintain proper client-to-counselor ratios for PEBLOs and MSCs;
- Ensure PEBLOs receive adequate training to increase comprehension of all programmatic elements, services and benefits available to IDES participants; and
- Ensure proper and continued accountability within the IDES program by performing effective and ongoing oversight.

DAV thanks the Subcommittee for this opportunity to express our views and recommendations concerning the IDES and pre-separation process. This concludes my testimony and will gladly answer any questions posed by the members of this committee.