



**TESTIMONY OF**

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**Before a**

**JOINT HEARING**

**HOUSE and SENATE COMMITTEES ON VETERANS AFFAIRS**

**March 2019**

**Chairmen Isakson, Chairman Takano, Ranking Member Tester and Ranking  
Member Roe, and distinguished members of both Committees**

It is an honor and privilege to testify to the Joint Committee to share The Retired Enlisted Association's (TREA) legislative priorities, goals and concerns for FY 2019 to assist you in providing benefits and services to America's veterans and military retirees as well as their families and survivors. TREA looks forward to continuing our strong working relationship with you as Congressional leaders and with your respective staffs to secure the benefits and services our veterans and servicemembers deserve.

TREA welcomes the chance to share our views and help Congress enact laws to improve the lives of men and women who serve to protect our American way of life. Our veterans and military prove every day that freedom is not free and all Americans are thankful and grateful for their service.

I am Philip Hilinski, National President of The Retired Enlisted Association (TREA). TREA was created in 1963 to give the men and women who serve or have served in America's enlisted ranks a voice to speak to our Government. Our members are from all the branches of the Uniformed Services. They serve or have served on active duty, in the Reserves and many spouses or surviving spouses are veterans in their own right, or are members of our Auxiliary. Originally all our members were military retirees or those who were planning to serve a full military career. TREA evolved and opened our membership to all veterans from the enlisted ranks as well as retirees. As a

Congressionally chartered VSO since 1992 with members who were Department of Defense retirees as well as veterans we have always worked on and studied veteran issues.

TREA wishes to thank you as Members of Congress for your leadership on veterans' issues and the dedicated work of both Committee staffs for your active and important oversight of the Department of Veterans Affairs (VA). Your work is crucial and led to the passage of legislation to reforms of VA programs and services. Congress enacted the laws and VA is now challenged to implement the provisions, a truly monumental undertaking requiring both Committees continual and robust oversight and review.

TREA knows that you and your staffs are already working to hold VA accountable to meet the requirements of and to implement three major reforms: 1) Community Care Program -- MISSION Act; 2) Appeals Modernization Act (AMA); and 3) Forever GI Bill. Our testimony will also address the following: 1) Women Veterans; 2) Navy Blue Water Veterans; 3) CHAMPVA at 26; and 4) Survivor Financial Benefits. TREA knows there is more work to be done and stands ready to continue to work with you to protect and improve services to veterans and military members.

### **VA Community Care – MISSION Act**

TREA, and the rest of the Veterans Service Organization (VSO) community provided input to and partnered with Congress to develop reforms in how VA delivers health care, benefits and transition services. Perhaps, the most significant law is the VA MISSION

Act. The Act expands veterans' access to health care through a new community care network program and increases VA's internal capacity to provide care to veterans.

During the 115<sup>th</sup> Congress, TREA worked with VA, the Administration and you, the Senate and House leadership to address concerns and assure that our members concerns as users of the VA health care system were heard. While not perfect, the MISSION Act is a generally supported stakeholder compromise for eligible veterans to have the opportunity for expanded access to care, if desired, as well as maintaining and improving VA's own health care system. VA's implementation must be **clear and reasonable as well as produce results that are achievable**.

TREA calls on Congress to provide **full funding** for the MISSION Act, so it is properly and effectively implemented. Full funding is especially important to support the private sector care option. Cost estimates for FY 2020 and beyond vary widely, and TREA is closely watching VA's soon to be released budget. Taking funds from VA's health care system to pay for private sector provided care is unacceptable and not an option.

Veterans who use VA, must be protected and assured that funding for their VA provided medical care is not diverted to fund care at private care providers.

On February 22, 2019, VA published new eligibility criteria for eligible veterans to use private sector care providers. The proposed rule outlines who will have access to community care without preapproval, what type of care, and how the care will be paid for. Not all healthcare will be funded by VA without preauthorization. Eligible veterans

must consider other factors and meet specific criteria to trigger entitlement to care under the new access standards.

Under the newly proposed access standards, drive time replaces miles/distance for veterans to use private sector health care options. Veterans who must drive more than 30 minutes to reach their VA mental health or primary care providers - or wait longer than 20 days for an appointment would be allowed to use a private doctor. For specialty care, veterans could go outside VA for medical treatment if a VA provider was longer than a 60-minute drive away or there was longer than a 28-day wait. In most cases, VA remains the primary provider of care and is the lead for coordinating care, including scheduling appointments. Congress must assure that VA consistently applies the standards across the system, as written, the proposed rule does not provide information on how VA will assure consistent application to all veterans.

VA estimates the new rules would extend eligibility for community care from 8 percent of VA patients now to 20 percent for primary care and 30 percent for specialty care. VA estimates costs to increase by \$1.1 billion for fiscal year 2019, ending on September 30. VA confirms funding is available to cover these increased costs through FY 2019. VA needs to reconfirm sufficient funds are present to cover FY 2019 costs and that the FY 2020 budget request contains dollars to fund this increased use.

According to VA, drive times would be calculated according to a private-sector program based on Microsoft's Bing search engine maps. About 600,000 veterans enrolled in VA

health care are eligible for the existing community care programs. The proposed expanded standards will raise that number to between 1.5 million and 2.1 million patients, based on VA's own estimates. VA needs to confirm sufficient funds are present in FY 2020 budget request to fund this potential increased use.

In addition, VA must confirm that private sector care providers are available across the country to furnish primary and specialty care services. Providing access to private care is one piece, however, having private medical care providers in place to actually furnish the care is the greater challenge facing VA. Much can be learned from Choice, as VA had difficulty attracting and retaining private sector providers in some locations.

While the 30-day public comment period ends on March 25, 2019, the access standards will not be implemented until June 2019. VA must still provide answers to questions.

One very important question concerns the text "*if it is in the best medical interest of the veteran,*" which is used throughout the proposed rule. VA's lack of clarity in defining the meaning, leads to the real possibility of some veterans receiving care at one location while others at a different location being denied care. VA must clearly define the text and be consistent in applying that definition across both its system as well as private health care systems.

TREA and Congress know there are no simple answers regarding MISSION Act implementation. TREA will work with the Committee to continue to closely monitor VA's actions and push VA for answers to difficult questions, including:

- 1) Will VA request full funding to cover the cost of the MISSION Act?
- 2) What type of delay in implementation is expected due to contract protests? While VA already awarded contracts for Regions 1, 2 and 3, protests were filed for Regions 2 and 3.
- 3) Will VA communicate with veterans so that billing by private care providers is transparent, efficient and provide VA the ability to track costs? Billing and payments to private care providers must improve based on the issues that surfaced under Choice.
- 4) How will veterans identify participating providers in the private sector and will providers be available to furnish care to veterans in the same manner VA does?
- 5) How will private sector providers share their clinical findings with VA to assure the veterans medical record is complete? Under Choice, VA often learned that private provider records were not added to VA's medical record.
- 6) How will VA provide consistent application of average drive times to address the impact of weather, as well as differences in city and rural traffic patterns? Is the proposed rule too broad? Does it provide VA with too much discretion to apply the standards consistently across the country?

**TREA urges VA to be open, timely, and transparent in its communications with VSOs, veterans and Congress at the beginning of its strategic communications.**

All are partners and all want to provide the best care and access options for veterans as key decisions are made in implementing the MISSION Act. The overall quality of care provided to veterans must remain at the highest levels and never be compromised.

Just as important, the MISSION Act expands VA's caregiver support program from those with post 9/11 service to all military service eras for seriously injured veterans.

TREA greatly appreciates your strong leadership of and advocacy for the expansion of caregiver provisions. VA must fully fund this expansion of services to pre 9/11 veterans.

TREA is concerned that VA already missed the October 1, 2018, deadline requiring VA to implement an information technology (IT) system to support the caregiver program and allow for data assessment and comprehensive monitoring. VA must correct this immediately and get an IT system running as quickly as possible to cover both current participants as well as those now eligible by expansion.

As VA approaches the October 1, 2019, deadline to certify that the required IT system has been implemented prior to expansion of access to family caregivers of those injured before 9/11, TREA calls on the Committees and Congress to exercise strong oversight and hold VA accountable. VA must provide sufficient resources for the expansion as well as streamline and improve hiring practices for Caregiver Support Coordinators.

Caregivers deserve a robust program that is staffed with the best coordinators and implemented in a timely and efficient manner.

### **Appeals Modernization Act (AMA)**

TREA thanks the Committees and Congress for passing the Appeals Modernization Act (P.L. 115–55). The Act streamlines the appeals process and provides for more efficient quicker decisions.

On February 14, the U.S. Department of Veterans Affairs (VA) discontinued the Rapid Appeals Modernization Program (RAMP). RAMP provided eligible veterans with early resolutions to their appealed claims, ahead of full implementation of the AMA.

Under the AMA, thousands of veterans, some of them stuck in a complex system of trying to obtain benefits from VA, will get new options promised to deliver decisions in days or months, instead of years. VA implemented the new process on February 19, for veterans to appeal their claims for VA disability compensation.

TREA applauds VA's biggest change to appeals in decades. The system was devised by VA, with input at the front end from VSOs, including TREA and lawmakers and approved by Congress in 2017. VA should use this model of collaboration and communication in future implementations of major programs.

According to VA, leaders are hoping the most difficult reviews can still be completed in under a year in the majority of cases. The target for cases which do not go before the

Board of Veterans Appeals is an average of about four months for a final decision.

Decisions appealed to the Board under its direct docket will average 365 days. Prior to this new process, appeal resolutions averaged three to seven years.

The new system involves multiple avenues for veterans, including an option to appeal their claims with a higher-level adjudicator or directly with the Board of Veterans' Appeals. Another option is to add information to their claim and appeal it with the same adjudicator who reviewed it. TREA understands VA officials will track the amount of time it takes veterans to get through each option and make that information public to help veterans decide which route to take. IT support for the AMA is crucial and must be closely monitored.

Now that the law is fully implemented Congress and VSOs must continue oversight to assure that VA's ambitious appeals new timelines under the AMA are met. TREA looks forward to working with the Committees to monitor VA's progress on meeting AMA requirements and reducing the time to issue appeal decisions.

### **Education**

TREA is grateful to the Committees for the passage of the Harry W. Colmery Veterans Educational Assistance Act of 2017, also known as the "Forever G.I. Bill," which became Public Law 115-48. The law allows all Purple Heart recipients to receive Post-9/11 GI Bill benefits, makes Fry Scholarship recipients and Purple Heart recipients eligible for the Yellow Ribbon Program, and makes members of reserve components of the Armed Forces who lost eligibility for educational assistance under Reserve Educational Assistance Program (REAP) eligible for the Post-9/11 GI Bill. It also restores Post 9/11

GI Bill eligibility for veterans affected by school closure or disapproval, enhances Post 9/11 GI Bill transferability to dependents, and makes the Post 9/11 GI Bill a lifetime benefit with no expiration date to be used to improve veterans' education and employment prospects at any point in their life.

These are some highlighted provisions and TREA is incredibly grateful for each one. However, VA struggled to implement certain provisions, like the Basic Allowance for Housing (BAH), which proved to be more difficult than expected. Hardships were created for almost 200,000 student veterans who received delayed or incorrect BAH payments. The negative impact on student veterans and the loss of time and money is unacceptable. VA must do better in implementing benefits correctly and that the benefits are being used properly. TREA understands VA has taken corrective actions, learned from its mistakes and beneficiaries have been provided payments to make them whole. TREA continues to watch closely and calls on Congress to do the same. Student veterans deserve nothing less.

TREA signed a letter to Secretary Wilkie on February 14, 2019, with more than 30 other VSOs regarding Oversight of the State Approving Agency Program. The letter highlighted a December 3, 2018, VA Inspector General report, "VA's Oversight of State Approving Agency Program Monitoring for Post-9/11 GI Bill Students," concluding that VA will waste an estimated \$2.3 billion over the next 5 years in Post-9/11 GI Bill "improper payments to ineligible colleges," including colleges with deceptive advertising and recruiting prohibited under 38 U.S.C. § 3696.

The Inspector General's concerns are not new. In 2016, Yale Law School published a report, "VA's Failure to Protect Veterans from Deceptive College Recruiting Practices," specifying VA's failure to abide by 38 U.S.C. § 3696. Based on this December 2018 Inspector General's report VA remains out of compliance with the statute, despite numerous federal and state law enforcement actions against colleges for deceiving veterans. This has resulted in significant ramifications to VA and student veterans. TREA remains concerned about ineligible colleges receiving improper GI Bill payments that could be avoided with proper and improved VA oversight. VA must address the IG's findings and comply with the requirements of 38 U.S.C. § 3696.

### **Women Veterans**

TREA supports VA providing increased services women veterans. More women are serving in the military and thus, more women are seeking VA health care services. VA has responded but more needs to be done. Women veterans must have their unique needs met and have access to timely, comprehensive health care at all VA locations.

Women are clearly the fastest growing segment of veterans and by 2040, VA projects women will make up more than 17% of living veterans. VA hospitals and clinics should be designed to be more comfortable for women including more areas of physical privacy. There should be more focus given to specific female medical needs, like full time gynecologists on staff at VA Medical Centers.

TREA thanks you for your leadership in the House to swiftly pass H.R. 840, the Veterans' Access to Child Care Act providing veterans with options to have their children cared for while their mothers and fathers are seeing a VA doctor. TREA urges the Senate to take similar action.

VA reports that women veterans are more intensive users of VA outpatient and mental health services when compared to male veterans and are at higher risk for homelessness and suicide compared to nonveteran women. For example, reports show women veterans suffer from a suicide rate 2.4 times higher than civilian women. VA must identify, study, treat and devote sufficient resources to address these alarming statistics.

VA has made progress in meeting the needs of women veterans but much remains to be done. TREA urges VA to be proactive in conducting research on women's health issues, eliminating barriers to providing services and continuing to recognize the unique health needs of women veterans. Congress must continue to exercise oversight of VA's Women Health Program and work to assure women's that the specialized services are appropriately funded.

### **Navy Blue Water Vietnam Veteran Act of 2019**

TREA continues to strongly support H.R. 299 and is pleased that both the House and Senate Committee on Veterans Affairs will continue to push for Congress to pass the

bill. TREA appreciates your hard work and that you are working to overcome the efforts of two Senators, who blocked a Senate vote in the 115<sup>th</sup> Congress.

The appeals court in *Procopio v. Wilkie*, reverses a ruling and potentially provides a way for the paying of benefits to approximately 90,000 Navy Blue Water veterans. TREA also appreciates the leadership of Chairmen Isakson and Takano and Ranking Members Tester and Roe in writing to Secretary Wilkie, urging him not to appeal a January ruling by the U.S. Court of Appeals for the Federal Circuit in favor of extending Agent Orange health care and benefits to offshore sailors.

TREA thanks you for your continued support and urges the 116th Congress to not fail these veterans again.

### **CHAMPVA until the Age of 26**

There is continuing debate about who should pay for healthcare and how it should be paid for. During the debate one proposal was embraced by all – to provide coverage to young adults up to the age of 26. Many carriers provide coverage to young adults, until they reach the age of 26, by staying on their parents' healthcare policies. TRICARE, Federal Employee Health Benefit Plans and private insurance plans provide coverage to young adults through the age of 25. Unfortunately, dependents of 100 percent service connected disabled veterans after age 23 are not covered under CHAMPVA. Now is the time to correct this inequity. **TREA strongly urges your Committees and Congress to support legislation to provide CHAMPVA to age 26 coverage to this small group** of deserving dependents.

## **Survivors Financial Benefits**

### **Concurrent Receipt**

TREA has long believed that retired pay and VA service-connected disability compensation are different benefits and earned for different reasons. Military retired pay is earned by 20 or more years of service while service-connected disability compensation is a benefit used to supplant a veteran's lost earnings. Military retirees who are less than 50% service-connected are required to offset their retired pay with the amount of VA disability received. TREA is pleased to continue to support and work with Members on legislation like H.R. 333 or H.R. 303 to eliminate the offset and permit concurrent receipt of retired military benefits and VA disability benefits.

### **Survivor Benefit Plan (SBP) Dependency and Indemnity Compensation (DIC)**

TREA continues to support efforts and urges Congress to pass legislation to allow military retiree survivors to receive full Survivor Benefit Plan benefits. H.R. 553 in the House and S. 622 would end the deduction of Survivor Benefit Plan (SBP) annuities from Dependency and Indemnity Compensation (DIC) paid to survivors of fallen service members, also known as the "widows tax."

The SBP was enacted into law in 1972. It includes a dollar-for-dollar offset of DIC from SBP, called the SBP/DIC offset, for surviving spouses of retired service members who voluntarily participated in the insurance annuity program, paid premiums, and then died of a service-connected issue. Post-9/11 active duty surviving spouses also are impacted. The offset affects more than 60,000 military surviving spouses.

TREA is well aware that VA pays its DIC program and that correcting this issue is under the jurisdiction of the Armed Services Committees. However, TREA asks you to contact your colleagues so that this is injustice is corrected.

### **Conclusion**

The Senate and House Committees on Veteran Affairs lead by example in performing vital work to support our Nation's veterans and military members. TREA understands and thanks each of you for your individual and collective efforts. TREA knows that sharing information and communicating with you and your outstanding staffs helps improve services to veterans.

TREA recognizes that oversight is often a thankless but necessary function of government. While VA is large and often bureaucratic there are literally hundreds of thousands of dedicated employees working every day to provide first-class services to veterans. TREA knows there are areas for improvement, including systems, business models, communications and collaborations.

TREA knows that both Committees will continue to do all in your power to assure the continuing improvement of all aspects of VA's mission. TREA is thankful for your efforts and to be your partner, now and in the future, in working to provide the benefits and services veterans have earned and deserve.

**Philip Hilinski** is in his first year of a two-year term as National President of The Retired Enlisted Association (TREA). He was elected National President in September 2018, at the last TREA Convention in Florida. Phil joined TREA in 2000 as a member of Chapter 111 in Akron, Ohio. Phil served on the Chapter's Board as President, First Vice President, Treasurer, Secretary, and is its Immediate Past Chapter President. Prior to being elected National President, Phil served on TREA's National Board of Directors focusing on four National Committees: Information Technology; Five-Year Plan; Legislative; and Awards. Phil retired from the US Army in 1994 as an E8. He holds a Bachelors' Degree in Business Administration as well as several certifications in Computer Programming. Philip lives with his wife Judith in Dublin, Ohio.

#### DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Retired Enlisted Association (TREA) does not currently receive, nor has it received during the current fiscal year or either of the two previous years any federal money for grants or contracts. All activities and services are accomplished completely free of any federal funding.