

STATEMENT OF CARL BLAKE
ASSOCIATE EXECUTIVE DIRECTOR OF GOVERNMENT RELATIONS
PARALYZED VETERANS OF AMERICA
FOR THE
SENATE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING
PENDING HEALTH CARE LEGISLATION

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Chairman Isakson, Ranking Member Blumenthal, and members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to testify today on the pending health care legislation. Several of these proposed bills address very high priorities for PVA and our members, veterans with spinal cord injury or disease (SCI/D). We encourage the Committee to give swift consideration to these measures and move them to the floor of the Senate for passage as soon as possible.

S. 469, the “Women Veterans and Families Health Services Act of 2015”

PVA strongly supports S. 469, the “Women Veterans and Families Health Services Act of 2015.” This bill will allow the Department of Veterans Affairs (VA) to provide reproductive assistance to severely wounded veterans. For many disabled veterans, one of the most devastating results of spinal cord injury or disease is the loss of, or compromised ability, to have a child. As a result of the recent conflicts in Afghanistan and Iraq, many service members have incurred injuries from explosive devices that

have made them unable to conceive a child naturally. While the Department of Defense does provide assisted reproductive technologies (ART), such as in vitro fertilization (IVF), to service members and retired service members, VA does not. When a veteran has a loss of reproductive ability due to a service-connected injury, they must bear the total cost for any medical services should they attempt to have children. It is often the case that veterans cannot afford these services and are unable to receive the medical treatment necessary for them to conceive. For many paralyzed veterans procreative services have been secured in the private sector at great financial and personal cost to the veteran and family.

Procreative services, provided through VA, would ensure that certain catastrophically disabled veterans are able to have a full quality of life that would otherwise be denied to them as a result of their service. For decades, improvements in medical treatments have made it possible to overcome infertility and reproductive disabilities. Veterans who have a loss of reproductive ability as a result of a service-connected injury should have access to these advancements.

Additionally, this bill addresses specific procreative options for women veterans. Some women veterans with a catastrophic injury may be able to conceive through IVF but be unable to carry a pregnancy to term due to their disability. In such an instance the implantation of a surrogate may be their only option. This legislation would allow VA to provide services to a veteran, their partner, or gestational surrogate.

Further, this legislation would allow for genetic material donation. For veterans whose injuries result in the loss or damage of genitalia, a third-party donation may be their only option. If the role of VA is to restore to veterans and their families what has been sacrificed in service to this country, then passage of this legislation is essential.

As of 2013, the Congressional Budget Office estimated that more than 3,000 veterans injured since September 11, 2001, would benefit from these services. Overturning the existing policy would save catastrophically disabled veterans and their families between \$25,000 and \$36,000 and allow the federal government to fulfill the moral obligation it has to these men and women.

Additionally, the bill would also cover expenses involved in the adoption of children, further providing veterans with an option they couldn't otherwise afford. Other elements in the legislation include infertility research, expansion of counseling retreats for women and expansion of the highly successful child care program. These are invaluable services that will improve the well-being of our service members and veterans.

S. 901, the "Toxic Exposure Research Act of 2015"

PVA understands the intent of and generally supports this legislation. This bill would require the VA Secretary to select one VA medical center to serve as the national center for research on the diagnosis and treatment of health conditions of descendants of

individuals exposed to toxic substances while serving in the Armed Forces. It would also require the establishment of an advisory board for the national center to determine links between exposure and health conditions. However, the bill does not discuss the processes should the advisory board conflict with the findings of the IOM. We encourage the Subcommittee and VA to work together to ensure the legislation fulfills the IOM Committee recommendations.

S. 1082, the “Department of Veterans Affairs Accountability Act of 2015”

PVA supports S. 1082, the “Department of Veterans Affairs Accountability Act of 2015.” The events over the past year have clearly demonstrated the need for greater flexibility for VA leadership to effectively discipline and manage the failures of their staff.

The incompetence, negligence and seemingly willful misconduct at the Phoenix VA medical center and other VA facilities around the country have provided a clear signal that VA has to change its personnel processes. We continue to see growing problems with claims processing, even while VA lauds their successes in reducing the backlog, and despite the ever-growing wave of appeals. Recent hearings conducted by the House Committee on Veterans’ Affairs highlighted the failed operations and personnel policies of the Philadelphia and Oakland VA Regional Offices, and these are likely not anomalies. Even more troubling is the billion dollar cost overrun for the Denver VA medical center, a facility critical to PVA members in that region who will rely on the new spinal cord injury center that is included in that project.

Yet in all these events, we have been left wanting when it comes to holding these bad actors accountable in a manner that goes beyond the preemptive resignations of several senior VA executives whose professional negligence or misconduct was rewarded with “golden parachute” retirement packages and benefits. Moreover, accountability for many of these failures should go well beyond just the senior executives of VA.

PVA believes that Secretary McDonald and Deputy Secretary Gibson want to hold any bad employees at the VA accountable in the most appropriate fashion. Unfortunately, at this point accountability seems to only be defined by transfers, admonishment and retraining, not termination. We realize that termination of federal employees is a complicated proposition, but it should not be impossible. If this legislation eases the ability of VA to truly hold bad employees accountable, then we encourage the Committee to move this bill quickly. However, we must emphasize that we do not believe this legislation really represents the solution. In fact, it remains to be seen if this legislation can move VA to actually hold individuals accountable.

S. 1085, the “Military and Veteran Caregiver Services Improvement Act of 2015”

PVA strongly supports S. 1085, the “Military and Veteran Caregiver Services Improvement Act of 2015.” PVA’s members would benefit from the passage of this bill

more than any cohort of the veterans population. And yet, because of an arbitrary date, most of them are denied a critically needed service. The needs of catastrophically disabled veterans are not different because they became injured or ill prior to September 11, 2001. No reasonable justification can be provided for why veterans with a catastrophic service-connected injury or illness should be excluded from the Comprehensive Family Caregiver Program.

Moreover, the need for a caregiver is not lessened simply because a veteran's service left him or her with a catastrophic illness, rather than an injury. PVA is pleased to see that S. 1085 includes catastrophic illness as a program qualifier. For PVA's members, a spinal cord disease is no less devastating than a spinal cord injury. Veterans that have been diagnosed with Amyotrophic Lateral Sclerosis (ALS) and Multiple Sclerosis (MS) will eventually experience significant decline in their ability to perform activities of daily living and unquestionably become dependent on a caregiver.

Caregivers are the most critical component of rehabilitation and eventual recovery for veterans with a spinal cord injury or disease. Their well-being directly impacts the quality of care provided to veterans. For this reason, PVA includes caregivers in our advocacy for veterans. In fact, PVA has partnered with the Elizabeth Dole Foundation to work to raise awareness of the role of caregivers in this country and to address alarming gaps in caregiver support services.

Pre-9/11 caregivers have provided decades of uncompensated work to our disabled veterans, often with no support services of any kind and at the expense of their own health and livelihood. A study by the Rand Corp. in 2014 estimated that veterans' caregivers save taxpayers \$3 billion a year.

The cost of the services the VA Caregiver Program currently denies to veterans who became catastrophically injured or severely ill prior to September 11, 2001 will ultimately be paid for by society as a whole. The well-being of a family inevitably declines without essential supports. Ensuring that a veteran is able to reside in their home in their community has been shown time and again to reduce medical complications, hospital stays, and costs. At the same time, the veteran and their family maintain a psychosocial wellness that is impossible to achieve in an institution.

No group of veterans understands the importance of caregivers more than PVA members and their families. As many as 70,000 veterans (with estimates as high as 88,000) would be eligible for the Comprehensive Family Caregiver Program if the September 11, 2001 date was eliminated as a barrier. Similarly, nearly half of all PVA members (approximately 10,000) and nearly 20,000 veterans with spinal cord injury would benefit from this change.

PVA understands the costs concerns with expanding the program. The Congressional Budget Office estimated that full expansion would be \$9.5 billion over the next five years. While cost is offered as a barrier to expanding access to this program, these concerns ignore the possible net cost savings that the VA could reap by providing

services to thousands of veterans through the Comprehensive Family Caregiver program rather than through institutional care. Unfortunately, Congress generally ignores these principles of “dynamic scoring” except when it is politically expedient. When considering the cost of providing caregiver services versus the cost of institutional services, expansion could save the federal government between approximately \$2.5 billion and \$7.0 billion in a given year. Moreover, the health outcomes for veterans served at home by caregivers would likely improve.

Chairman Isakson, we appreciate the positive comments you made concerning the need to expand the Comprehensive Family Caregiver Program during the joint hearing of the House and Senate Committees on Veterans’ Affairs when our National President testified in May. We hope that the interest you expressed will translate to real action on this measure.

S. 1117, the “Ensuring Veteran Safety Through Accountability Act of 2015”

Much like our position with regards to S. 1082, PVA supports S. 1117, the “Ensuring Veteran Safety Through Accountability Act of 2015.” Accountability for misconduct of VA employees should go beyond the senior executives of VA. S. 1117 would apply the provisions outlined in P.L. 113-146, the “Veterans Access, Choice and Accountability Act,” for holding Senior Executive Service employees accountable to health care providers who exhibited poor performance or misconduct. This legislation would expand on the expedited disciplinary authority given to the VA secretary.

H.R. 91, the “Veteran’s I.D. Card Act”

PVA has not official position on H.R. 91, the “Veteran’s I.D. Card Act.” This bill directs the Secretary of Veterans Affairs to issue, upon request, veteran identification cards to certain veterans. We do question why veterans should have to pay a fee for a card that identifies them as a veteran.

The “Jason Simcakoski Memorial Opioid Safety Act”

PVA supports the “Jason Simcakoski Memorial Opioid Safety Act.” This bill targets problems recently identified in the VA’s use of opioids in treating veterans. Additionally, it seeks to improve patient advocacy by the Department and expand availability of complementary and integrative health Services.

This bill would require the Department of Defense (DOD) and the VA to jointly update the VA/DOD Clinical Practice Guideline for Management of Opioid Therapy for Chronic Pain that has not been updated since 2010. VA would also be required to adopt safe opioid prescribing guidelines for chronic, non-cancer pain in outpatient settings. It would require each health care provider of VA and DOD to use VA’s Opioid Therapy

Risk Report tool before starting opioid therapy, emphasizing discussions with patients about alternative pain management therapies. The education and training of health care professionals would be improved for identifying patients at-risk for addiction and effective tapering programs for patients on an opioid regimen.

Additionally, the VA would be given the authority to increase the availability of naloxone, or “Narcan,” a highly effective opioid antagonist. This drug is on the World Health Organization’s list of essential medicines in a basic health system. Naloxone reverses the effects of an opioid overdose (typically depression of the central nervous system). When one is prescribed opioids there is always a possibility of an overdose. The ability to respond to a worst case scenario of overdose, accidental or otherwise, must be available at every medical facility. According to a 2011 VA study based on 2005 data, veterans ages 30-64 who received care at VA died of accidental overdoses at two times the rate of their civilian peers. Naloxone has no risk of dependency and can be administered by a layman in the nasal spray form. It is a critical tool that can save lives while the department works to address the widespread use of opioids.

VA would also be required to develop mechanisms for real-time patient information on existing opioid prescriptions from VHA as well as patient prescription information from the state drug monitoring program. This mechanism would alert pharmacists of potential “double-prescribing.” A pain management board would be established in each Veterans Integrated Service Network (VISN). It would serve as a resource of best practices recommendations for veterans, families, and providers alike.

Finally, this bill would require VA to incorporate alternative pain management therapies like yoga and acupuncture. PVA fully supports the use of complementary and alternative medicine and believes such care options will give veterans with catastrophic injuries and disabilities additional options for pain management and rehabilitative therapies.

The “Biological Implant Tracking and Veteran Safety Act”

This proposed bill intends to have the VA adopt and implement a standard identification protocol for use in the tracking and procurement of biological implants by the Department of Veterans Affairs. While we understand and generally support some of the provisions of this legislation, PVA objects to the provisions of the draft legislation that would exclude the purchase of biological implants from the authority of title 38 U.S.C., Section 8123. The use of this authority has been under fire in recent hearings, but the concerns raised ignore the critical importance of this authority.

Section 8123 states, “the Secretary may procure prosthetic appliances (which includes surgical biological implants) and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Secretary may determine to be proper, without regard to any other provision of law.”

The Federal Acquisition Regulations (FAR) were issued pursuant to the Office of Federal Procurement Policy Act of 1974. Statutory authority to issue and maintain the FAR resides with the Secretary of Defense, the Administrator of General Services, and the Administrator, National Aeronautics and Space Administration—agencies that do not bear the responsibility of providing lifelong care for disabled veterans. However, the VA does bear the heavy weight of that responsibility.

With this in mind, it is important to note the distinction between VA's responsibility to meet specialized needs versus a federal agency's responsibility to respond to emergency needs. The FAR provides for procuring prosthetics in cases where, for example, a natural disaster damaged a veteran's equipment. However, the writers who formulated the FAR in 1974 recognized there was a need for special provisions under which VA could purchase prosthetics for disabled veterans with specialized needs in a timelier manner than the FAR allowed, irrespective of whether a bona fide emergency existed. The authors of the FAR recognized this fact and the need for Section 8123 as evidenced by the fact that it is referenced in the FAR. This was reconfirmed in subsequent updates and amendments to the FAR.

Unfortunately, this draft legislation seems to imply that the Federal Supply Schedule and the FAR is all that is needed to procure Prosthetic appliances (biological implants) and services based on a misunderstanding of the difference between "specialized needs" and "emergency needs." Rather than erode a clinician's ability to acquire these prosthetics in a timely manner or manipulate how these prosthetics are defined in order to exclude them from the authority of Section 8123, we believe that the legislation should focus on accountability and oversight. It should not be making efforts to overturn a system that has served veterans well for over half a century. We encourage the removal of the provision of the draft legislation that eliminates the authority of Section 8213.

Draft bill, including provisions derived from S. 1021 and S. 1358

PVA generally supports the draft bill that includes provisions from S. 1021 and S. 1358. We have particular interest in the provisions that would authorize \$10 million to help to establish or expand advanced degree programs in prosthetics and orthotics to improve the availability of such resources to veterans. PVA supports the intent of this provision and fully understands the need that this legislation seeks to address. No group of veterans understands the importance of prosthetics and orthotics more than veterans with spinal cord injury or disease. However, in order to ensure that VA receives a proper return on its investment for these advanced degree programs, we recommend that students whose education is provided through these VA-financed programs be required to provide a term of service back to VA immediately following their completion of the program. This would allow the VA to cultivate future prosthetics and orthotics specialists who may be called to serve veterans.

PVA would like to thank you once again for considering these important bills. Our members understand the importance of the provisions of these key measures. We encourage you to consider their point-of-view as you give these bills final consideration.

This concludes my statement. I would be happy to answer any questions you may have.

William Carl Blake
Associate Executive Director for Government Relations
Paralyzed Veterans of America
801 18th Street NW
Washington, D.C. 20006
(202) 416-7708

Carl Blake is the Associate Executive Director for Government Relations for Paralyzed Veterans of America (PVA) at PVA's National Office in Washington, D.C. He is responsible for the planning, coordination, and implementation of PVA's National Legislative and Advocacy Program agendas with the United States Congress and federal departments and agencies. He develops and executes PVA's Washington agenda in areas of budget, appropriations, health care, and veterans' benefits issues, as well as disability civil rights. He also represents PVA to federal agencies including the Department of Defense, Department of Labor, Small Business Administration, the Department of Transportation, Department of Justice, and the Office of Personnel Management. He coordinates all activities with PVA's Association of Chapter Government Relations Directors as well with PVA's Executive Committee, Board of Directors, and senior leadership.

Carl was raised in Woodford, Virginia. He attended the United States Military Academy at West Point, New York. He received a Bachelor of Science Degree from the Military Academy in May 1998.

Upon graduation from the Military Academy, he was commissioned as a Second Lieutenant in the Infantry in the United States Army. He was assigned to the 2nd Battalion, 504th Parachute Infantry Regiment (1st Brigade) of the 82nd Airborne Division at Fort Bragg, North Carolina. He graduated from Infantry Officer Basic Course, U.S. Army Ranger School, U.S. Army Airborne School, and Air Assault School. His awards include the Army Commendation Medal, Expert Infantryman's Badge, and German Parachutist Badge. Carl retired from the military in October 2000 due to injuries suffered during a parachute training exercise.

Carl is a member of the Virginia-Mid-Atlantic chapter of the Paralyzed Veterans of America.

Carl lives in Fredericksburg, Virginia with his wife Venus, son Jonathan and daughter Brooke.