Statement for the Record

Of

Submitted by

John Rowan
National President

Before the

Senate Veterans' Affairs Committee

Regarding

S.115, S.426, S.683, S.833, S.946, S.1153, S.1261
S.1266, S.1279, S.1325 & Discussion Drafts: "The Veterans Choice Act of 2017,"
"Improving Veterans Access to Community Care Act of 2017," and
"The Department of Veterans Affairs Quality Employment Act of 2017"

July 11, 2017

Good morning Chairman Isakson, Ranking Member Tester, and other exemplary members of the Senate Veterans' Affairs Committee. Vietnam Veterans of America is pleased to have the opportunity to present for your consideration our Statement for the Record on pending legislation before this committee

S. 115, the Veterans Transplant Coverage Act, introduced by Senator Dean Heller (R-NV). This bill would authorize the Department of Veterans Affairs to provide for an operation on a live donor to carry out a transplant procedure for an eligible veteran, notwithstanding that the live donor may not be eligible for VA health care.

According to the Health Resource Services Administration (HRSA), the demand for organs far outweighs the number of donors. Living donations offer another choice and extend the supply of organs. Of the 28,954 organ transplants performed in the U.S. in 2013, more than one-fifth (5,989) were living donor transplants.

While VVA has no objection to this bill, as it provides another avenue for veterans who receive transplants in the VA, the bill does not address potential liability issues for the department concerning operating on someone who is not eligible for VA health care. This would create a situation that will have to be addressed should S.115 be enacted.

S. 426, the Grow Our Own Directive: Physician Assistant Employment and Education Act of 2017, introduced by Senator Jon Tester (D-MT). This bill would increase assistance provided by the VA for education and training of physician assistants of the department, and establish pay grades and require competitive pay for physician assistants.

VVA supports this important bill. Access to safe, quality health care has always been critical to veterans. Physician Assistants (PAs) play a significant role in the Veterans Health Administration's model for delivering comprehensive health care. Yet in September 2016, the VA Inspector General reported that PAs ranked third among health professions experiencing troubling provider shortages (psychologists were tied with PAs in this ranking).

This bill would provide scholarships to veterans who have medical or military health experience. Upon completion of training and education, a new PA would be

required to work for the VA in a medically underserved area and in a state with a per capita veteran population of more than 9 percent (according to the National Center for Veterans Analysis and Statistics and the US Census Bureau).

Importantly, the bill also establishes pay grades for PAs as well as competitive pay requirements, and mandates that the VA implement a national strategic plan for the retention and recruitment of physician assistants.

S. 683, the Keeping Our Commitment to Disabled Veterans Act of 2017, introduced by Senator Mazie Hirono (D-HI). This bill would extend the requirement for the VA to provide nursing home care to certain veterans with service-connected disabilities through December 31, 2018.

VVA fully supports this extension.

S. 833, the Servicemembers and Veterans Empowerment and Support Act of 2017, introduced by Senator Jon Tester (D-MT), would expand VA health care and benefits for Military Sexual Trauma.

VVA supports this legislation. It is no secret that incidents of cyber-harassment of a sexual nature are on the rise. Earlier this year, it was reported in the *San Diego Tribune* that a private Facebook forum called Marines United allowed postings of sexually suggestive or explicit photos of female service members, often without their knowledge or consent. Members of the forum, both active-duty military and veterans, made lewd and offensive remarks. When some of the victims learned about this and complained, they were bullied and/or subjected to threats.

This bill seeks to expand the coverage of counseling and treatment for military sexual trauma to include cyber-harassment of a sexual nature and relax the standard of proof for service-connection of mental health conditions related to MST. The expanded coverage would include members serving on active duty, active duty for training, as well as inactive duty for training.

VVA understands that the devil is in the details and we extend to the committee an offer to work with staff to refine and clarify this legislation.

S. 946, the Veterans Treatment Court Improvement Act, introduced by Senator Jeff Flake (R-AZ), would require the Secretary of Veterans Affairs to hire additional Veterans Justice Outreach specialists to provide Veterans Treatment Court services to justice-involved veterans.

Justice-involved veterans too often are forgotten by the nation they once served. They did wrong; they do time. Yet the VA does not abandon these vets. Its Veterans Justice Outreach program specialists play a crucial role not only in assisting many to reintegrate into society but in helping others avoid incarceration. They are vital cogs in the workings of Veterans Treatments Courts.

Senator Flake's well-conceived bill recognizes the value of the work done by VJO specialists, and affirms the need to ensure that this program is available throughout the VA. And S. 946 is not an unfunded mandate: it would appropriate $5,500,000 to support this program for each fiscal year through 2027. Hence, VVA endorses this bill without reservation.

S. 1153, the Veterans ACCESS Act, introduced by Senator Tammy Baldwin (D–WI), would prohibit or suspend certain health care providers from providing non-VA health care services to veterans.

VVA has no objection to this bill. Ensuring that health care providers are fully vetted before integrating them into the VA healthcare system is the standard VVA expects from the department. Too often, however, some less-than-honorable healthcare providers fly below the disciplinary radar before something in their past catches up to them.

This bill authorizes the Secretary to review the status of each non-VA clinician. The review would include the history of any employment with the department to determine if they have violated one of several criteria as laid out in the legislation.

S. 1261, the Veterans Emergency Room Relief Act, introduced by Senator Bill Cassidy (R-LA), would require the Secretary of Veterans Affairs to pay reasonable costs of urgent care provided to certain veterans, and establish cost-sharing payments for veterans receiving care at a VA emergency room.

VVA supports the inclusion of urgent care services as a choice for veterans to receive health care. Many urgent care clinics are conveniently located in communities where veterans live and seek treatment. This is generally consistent with what VA proposed as part of their community care program.

VVA has no objection to the establishment of cost-sharing for emergency room care at a VA facility. However, there is no floor or ceiling as to how much of the cost-sharing payment for which the veteran would be responsible, nor how this figure might be arrived at, although this is a detail perhaps best left to the regulation that would follow enactment of this bill.

The VA has struggled to implement emergency care services as established by the Millennium Act with regards to non-service connected conditions. Eligibility of the veteran for what services, inappropriate denials of payment, and who should pay for what services are just a few of the problems reported by the GAO as recently as March 2014. GAO's report, "Actions Needed to Improve Administration and Oversight of Veterans' Millennium Act Emergency Care Benefit," was not flattering for the VA and demonstrated that, nearly 15 years after enactment, VA emergency care services are still in need of repair.

VVA urges the committee to provide hardcore oversight of the VA on their emergency care services in general, with the goal of making it easier for both the employees and veterans understand the benefits offered at VA emergency rooms.

S. 1266, the Enhancing Veteran Care Act, introduced by Senator James Inhofe (R-OK). This bill would authorize the Secretary of Veterans Affairs to enter into contracts with nonprofit organizations to investigate VA medical centers.

VVA does not object to the concern behind this legislation. However, VA health care is far more transparent generally than health care in the private sector is. And we question just what circumstances would warrant an outside investigation as opposed to requesting the VA OIG to step in – or asking for firm yet fair oversight on the part of Congress.

S. 1279, the Veterans Health Administration Reform Act of 2017, introduced by Senator Mike Crapo (R-ID), would permit furnishing health care for eligible veterans by non-VA healthcare providers.

This legislation, which is similar to the trio of draft bills up for discussion, would establish a Care in the Community Program through contracts, care agreements, or other laws or practices administered by the VA. We feel compelled to point out that, while we appreciate the eligibility criteria outlined in this bill for such a program, VA medical centers have long engaged outside clinicians to engage in care that the VA cannot provide, and under the guidance by the current VA Secretary and under the critical – and watchful – eye of you here in Congress, the VA is developing and implementing what we trust will be a vibrant community care program navigated by the VA, and one in which outside providers will be carefully vetted.

However, this legislation does not address the assignment of a primary care physician upon enrollment, which is essential to ensuring that care is coordinated through and navigated by the VA. Primary care, in our view, must remain in the VA.

We also must point out that, while "choice" has been the go-to word in Congress in recent years, patients don't usually have "choice" available to them in the private sector; rather, they take the advice of their doctor, or the recommendation of a friend or relative or colleague. Such "choice" for VA patients, if ordered by law, has the very real possibility of causing considerable consternation – on the part of veterans seeking to go to clinicians who do not or cannot provide the quality of care the VA would demand; on the part of the VA, which would have to tell a veteran that s/he cannot use a particular clinician with the VA footing the bill; which would only cause major headaches to members of Congress when veterans complain about the VA having rejected the clinician they have "chosen." Besides, ceding unfettered choice outside the VA was never a recommendation of the Commission on Care

VVA, though, is supportive of the provider agreement language in this bill, the authority for which the VA has asked for previously. Provider agreement authority is essential in any care in the community program.

S. 1325, Better Workforce for Veterans Act, introduced by Senator Tester, seeks to improve the authorities of the Secretary of Veterans Affairs to recruit, hire, train, and retain employees.

For years, the VA has struggled to recruit, then hire and retain employees, particularly the clinicians so essential to the provision of quality health care. VVA

has no objection to the improvements of authorities and reporting requirements set forth in this legislation. We note that the VA has reported critical staffing shortages across the system, aggravating an already stressed access issue. The VA OIG reported in September 2016 on the top five occupational staffing shortages for VHA. In order ranked as most critical is Medical Officer, followed by Nurse, Psychologist and Physician Assistant (tied), and Physical Therapist and Medical Technologist (also tied).

Title II of this legislation addresses accountability, oversight, transparency, and personnel matters. VVA has a long history of advocating for stronger programs on all of these issues.

Section 204 would establish pay for medical center directors and VISN directors. The Secretary would be required to consult not fewer than two national surveys on pay for similar positions to determine market pay. Additionally, the Secretary would be required to set forth a department-wide minimum and maximum for total annual pay once every two years. Pay inequity is one of the biggest barriers to recruiting and retaining high-quality employees to oversee the health care facilities where veterans receive care. VVA believes this reform is long overdue.

Sections 205 and 208 address long-standing problematic issues. The VA has reported a critical shortage of trained Human Resources professionals, which only adds to the already glacial hiring practice that exists across the federal bureaucracy.

Section 205 would establish a Human Resources Academy in VHA to provide annual training for and insights on how to best recruit and retain employees. While this is a solid approach to the problem, we offer this caveat: vigilant oversight by Congress and the VSOs of the establishment and implementation of this will be needed.

Section 208 requires the Secretary, via the Under Secretary for Health, to develop a comprehensive assessment tool to measure competency within the HR ranks, and to ensure that the knowledge gained by the training provided at the academy is effectively employed. Section 208 also requires the establishment and clarification of lines of authority within VHA to conduct proper oversight at all levels of the HR process. This is a critical piece in ensuring the responsible parties are held accountable for any failure to comply.

S. ____ Discussion Draft: The Veterans Choice Act of 2017 (Isakson) would permit all veterans enrolled in the patient enrollment system of the Department of Veterans Affairs to receive health care from non-VA health care providers.

Section 3 of this draft establishes the Veterans Choice Program and goes on to delineate how that establishment would take place. Of note to VVA are a few issues we would like to bring to this committee's attention:

Chairman Isakson's bill would authorize the Secretary to enter into consolidated, competitively bid regional contracts to establish networks of health care providers, who would be responsible for everything with the exception of the maintenance of interoperable Electronic Health Records. This construct is very similar to the current third-party administrator model that has been a source of problems at every level. The Secretary has expressed his desire to keep in-house the scheduling of the appointments for veterans, which this section would not allow. It is not clear to us why the legislation prohibits VA from using a tiered network. As the committee is well aware, development of a tiered network model is the basis for VA's care in the community vision going forward and was outlined in VA's care consolidation plan in October 2015. We do, however, appreciate the inclusion of language that would require a veteran to be assigned a primary care provider upon enrollment. This is of course necessary for effective and efficient care coordination.

The authorization for provider agreements is a welcome addition and would enhance the delivery of care to veterans, including those residing in state homes. This has been an ongoing legislative priority for VA moving forward with community care once the dollars remaining in the current Choice Program run out. Medicare and TriCare use provider agreement authority to bypass federal acquisition regulations. There is no reason why the VA cannot be afforded the same.

Section 9 would require the Secretary to assess the demand for health care services furnished by the department. The VA should already be doing this. It would help to inform their budget projections with real-time information. VVA supports this requirement.

Section 11 directs the Secretary to procure a COTS EHR platform for health care services that conforms to the standards of interoperability with DoD. Billions of dollars have been spent, and wasted, over the past decade to get the two agencies together on the interoperability issue. VVA supports this section as well.

S. ____ Discussion Draft: Improving Veterans Access to Community Care Act of 2017 would establish the Veterans Community Care Program of the Department of Veterans Affairs to improve health care provided to veterans by the VA.

Similar to the previous draft, "The Veterans Choice Act of 2017," this draft legislation establishes the Veterans Community Care Program. This draft legislation, however, takes a decidedly different approach. It would require the VA's Non-VA Care Coordination Program to coordinate the care, which would embrace the scheduling of appointments for eligible veterans. Additionally, it does allow for the development of a tiered network construct, but prohibits the Secretary from prioritizing providers in one tier over providers in any other tier if it limits the veteran's choice of a clinician in a particular specialty.

VVA would note that the eligibility criteria outlined in this draft are complicated, somewhat arbitrary, and will pose a nightmare for both VA employees and veterans to figure out eligibility. The Secretary has expressed many times that he is attempting to shift away from an administrative system to one that is clinical in nature. The goal, as VVA understands it, is for a clinical decision be arrived at between the veteran and the doctor as to where the best care for that veteran resides. Which is as it should be.

Section 102 addresses payment of health care providers and compliance with the Prompt Payment Act. This is very similar to other legislative language included on the agenda today and for which VVA has no objection to this section.

VVA supports Section 103, which amends Section 1151 (a) by adding a new paragraph addressing benefits for persons disabled by treatment under the Veterans Community Program.

Section 201 authorizes Veterans Care Agreements. The language is similar to that in other pieces of legislation on today's agenda. VVA fully supports giving the VA the authority to enter into such agreements, including with state homes.

S. ____ Discussion Draft: The Department of Veterans Affairs Quality Employment Act of 2017 seeks to improve the authority of the Secretary to hire and retain physicians and other employees.

This draft legislation sets forth a number of requirements to improve the quality and competency of VA employees. It also addresses recruiting, retention, and training of personnel through the establishment of recruiting databases for critical position vacancies and mental health vacancies. VVA has no objection to this draft legislation.

In conclusion, we note that there are many provisions in the bills and drafts that seek to accomplish the same goal, albeit not quite in the same way. We would encourage this committee and your counterpart in the House to evaluate the different approaches, continue to work with all of the stakeholders, including the VA, and put a comprehensive package together that strengthens the Department of Veterans Affairs and improves health care delivery and services for veterans.

Thank you for the opportunity to submit VVA's views on these very important pieces of legislation.

VIETNAM VETERANS of AMERICA

Funding Statement

July 11, 2017

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans' membership organization registered as a 501(c) (19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true for the previous two fiscal years.

For further information, contact:

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JOHN ROWAN

John Rowan was elected National President of Vietnam Veterans of America at VVA's Twelfth National Convention in Reno, Nevada, in August 2005.

John enlisted in the U.S. Air Force in 1965, two years after graduating from high school in Queens, New York. He went to language school, where he learned Indonesian and Vietnamese. He served with the Air Force's 6990th Security Squadron in Vietnam and at Kadena Air Base in Okinawa, helping to direct bombing missions.

After his honorable discharge, John began college in 1969. He received a BA in political science from Queens College and a Masters in urban affairs from Hunter College, also from the City University of New York. Following his graduation from Queens College, John worked in the district office of Rep. Ben Rosenthal for two years. He then worked as an investigator for the New York City Council and recently retired from his job as an investigator with the New York City Comptroller's office.

Prior to his election as VVA's National President, John served as a VVA veterans' service representative in New York City. John has been one of the most active and influential members of VVA since the organization was founded in 1978. He was a founding member and the first president of VVA Chapter 32 in Queens. He served as the chairman of VVA's Conference of State Council Presidents for three terms on the national Board of Directors, and as president of VVA's New York State Council.

He lives in Middle Village, New York, with his wife, Mariann.