

STATEMENT

BY THE HONORABLE JOSEPH KELLEY, MD

DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS

FOR CLINICAL AND PROGRAM POLICY

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND

MEMORIAL AFFAIRS

VETERANS AFFAIRS COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

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Mr. Chairman, Ranking Member Lamborn, and members of the Committee, the Administration has worked diligently – commissioning independent review groups, task forces and a Presidential Commission, which have made recommendations concerning the adequacy and application of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). Central to our efforts, a closer partnership between our respective Departments was strengthened by formation of the Senior Oversight Committee (SOC), co-chaired by Deputy Secretaries of Defense and Veterans Affairs, to identify immediate corrective actions and to review and implement recommendations of the external reviews. Some of these recommendations were focused on VA’s efforts to update and improve the VASRD.

The driving principle guiding SOC efforts is the establishment of a world-class seamless continuum that is efficient and effective in meeting the needs of our wounded, ill, and injured service members, veterans and their families. In short, the SOC brings together on a regular basis the most senior decision makers from DoD and VA to ensure wholly informed, timely action. As such, many of the issues between the two Departments on the application and revisions of the VASRD are now being worked in a collaborative and productive manner.

An updated VASRD is critical to the Department of Defense’s Disability Evaluation System as it is the rating schedule utilized in the Physical Evaluation Board (PEB) Adjudication. On the basis of a preponderance of the evidence, the PEB determines whether the individual is fit or unfit to perform adequately the duties of their office, grade, rank or rating. As a product of the PEB process and according to title 10, Service members found unfit for continued military service will be awarded a disability

rating percentage for the military unfitting condition, in accordance with the rating guidance established in the VASRD. This disability rating determines entitlement to separation or retirement benefits. Consistency of application across the Services has sometimes been problematic in the Department. As part of complying with the NDAA for Fiscal Year 2008, the DoD is working with VA to begin joint VASRD training and to develop clarifying guidance for the Services to use in the Department. This training and guidance is important as it provides clarification on how to measure and rate conditions that do not neatly fit the schedules. VA is also providing the Department of Defense with all court decisions related to the VASRD so that the Departments are consistent in the interpretation of the specific schedules. Consistency of decisions and application of ratings across the Departments will synergistically improve as we work on joint development of training programs and reporting mechanisms, especially when it comes to how to apply the ratings in the VASRD.

It cannot be overstated that an updated and clear VASRD is fundamental to consistent application of the Disability Evaluation System. In fact, consistent application is a key criterion in the Disability Evaluation System (DES) Pilot test which was implemented in November 2007 for disability cases originating at the three major military treatment facilities in the National Capitol Region (Walter Reed Army Medical Center, National Naval Medical Center Bethesda, and Malcolm Grow Medical Center). Key features include both a single disability/transition medical examination and single source disability rating by VA experts and fulltime professionals who apply the VASRD to medical conditions. The pilot is testing, along with many other facets, whether the

Department of Defense can accept the single-source rating from VA without modification.

The pilot is part of the larger SOC effort including medical research into the signature injuries of the war and the corresponding updating of the VASRD. Proposed regulations to update the VASRD for Traumatic Brain Injury and burns were published in the Federal Register on January 3, 2008. The VASRD, in regard to Traumatic Brain Injury and Burns, is being updated by VA to reflect advances in medical science. The schedule proposes to clearly define VA's rating policies concerning the evaluation of scars, including multiple scars. VA proposes to incorporate "burn scars" into the title of the diagnostic codes most appropriate for evaluating scars. Previously, burn scars were generally rated only if they impacted motion and mobility. The schedule proposes to also provide detailed and updated medical criteria for evaluating residuals of Traumatic Brain Injury (TBI). VA has proposed to change the title, provide guidance for the evaluation of the cognitive, emotional/behavioral, and physical residuals of TBI, direct raters to consider special monthly compensation for problems associated with TBI, and revise the guidance concerning the evaluation of subjective complaints. The Department of Defense lauds VA for this collaborative and diligent effort to ensure the VASRD rates disabilities associated with the war as accurately as possible.

The Departments are also participating in a reenergized Disability Advisory Council (DAC) – a consortium of advisors from the Military Departments, DoD agencies, and the Department of Veterans Affairs. The DAC is a key instrument in the policy formulation, promulgation, and management of the DES. The Departments have made great progress in revitalizing the DAC so that it plays an active and strengthened role in

providing a venue to initiate collaborative discussions with VA on VASRD issues, and a pathway for the Department of Defense medical community to provide consultation and inputs for revisions. The DAC, in turn, will inform the collaborative structure of councils (the Benefits Executive Council and Joint Executive Council) on DES and VARSD issues for decisions. These councils are co-chaired by senior leadership of both Departments.

One of the most significant recommendations from the task forces and commissions is the shift in the fundamental responsibilities of the Departments of Defense and Veterans Affairs. Among the core recommendations of the Dole/Shalala Commission is the concept of taking the Department of Defense out of the disability rating business so that DoD can focus on the fit or unfit determination, and streamlining the transition from service member to veteran. The Department believes this recommendation is very sound. The application of the VARSD is best left to the trained and professional experts who are from VA where the VARSD is developed and refined.

We are pleased with the quality of effort and progress made on the VASRD and understand that there is much more to do. We also believe that the greatest improvement to the long-term care and support of America's wounded warriors and veterans will come from enactment of provisions recommended by Dole/Shalala. We have, thus, positioned ourselves to implement these provisions through the Disability Evaluation System Pilot and continue our collaboration with VA in providing world-class support to our warriors and veterans.