



## Summary of Advocacy Priorities

### Increase Compliance with the Americans with Disabilities Act

- Although the Americans with Disabilities Act (ADA) became law in 1990, barriers still remain, especially in public accommodations (ADA Title III).
- When barriers are encountered, people with disabilities can file a complaint with the Department of Justice (DOJ) or file a lawsuit using the ADA's private right of action. Unfortunately, complaints filed with DOJ are routinely dismissed without any action due to the number received. Few complaints are sent to mediation. Lawyers are often hard to secure as there are no damages under Title III.
- To make matters worse, some small businesses, and their allies in Congress, feel they should be notified that they are out of compliance before an individual can file a lawsuit in order to allow them to “cure” the violation. Such changes, however, would remove any real incentive for these public accommodations to proactively comply with the law.
- To improve compliance with the ADA, Congress must pass legislation that would:
  - Increase the tax incentives that help businesses with ADA compliance to remove barriers and increase funding for the DOJ ADA mediation program.
  - Expand tax credits and deductions that are available for employers who hire and retain employees with disabilities and to make their places of business more accessible, including their internet or telecommunications services.

### Strengthen the Air Carrier Access Act

- This year marks the 35<sup>th</sup> anniversary of the Air Carrier Access Act (ACAA), which is the law that governs accessibility in air travel for people with disabilities.
- In many instances, airlines fail to provide safe access due to poorly trained assistance providers, badly maintained boarding and deplaning equipment, and physical barriers within the aircraft that result in harm to passengers with mobility impairments.
- Many of the difficulties that travelers with disabilities encounter in air travel are not sufficiently addressed by the ACAA and its implementing regulations.
- Unlike most other civil rights laws, the ACAA lacks a guaranteed private right of action, which means people with disabilities receive limited redress of their grievances.
- To improve access to air travel, Congress must pass legislation that would address these problems by:
  - Strengthening ACAA administrative enforcement and establishing a private right of action.
  - Ensuring new airplanes are designed to accommodate the needs of people with disabilities by requiring airlines to meet defined accessibility standards. These standards will address safe and effective boarding and deplaning, visually accessible announcements, seating accommodations, lavatories, and better stowage options for assistive devices.
  - Requiring removal of access barriers on existing airplanes to the extent that it is readily achievable – easily accomplishable and may be done without much difficulty or expense.

### Preserve and Strengthen Social Security

- More than nine million veterans and their families receive retirement, disability, or survivor benefits from Social Security and, together, they comprise approximately 35 percent of the Social Security beneficiary population.
- Due to the recession caused by COVID-19, the Social Security trust funds will face a shortfall and be unable to pay full benefits a year earlier than previously anticipated, in 2034.

- If action is taken now, the current modest shortfall in long-term system funding can be addressed without damaging cuts to beneficiaries. This should be done through prudent, phased-in changes to the system's financing along with benefit enhancements that will respond to the nation's growing retirement crisis.
- Failure to act will mean that, once the trust funds are depleted, there will only be enough incoming revenue from payroll contributions to pay roughly 80 percent of all retirement, disability, and survivor benefits.
- As a result, PVA supports legislation that would:
  - Set a more realistic cost-of-living-adjustment (COLA) reflecting expenses frequently incurred by retirees and people with disabilities; reduce the tax burden on beneficiaries; ensure no one retires into poverty by improving minimum benefits; and make long overdue adjustments in the financing mechanisms for the system.
  - Gradually eliminate the earnings cliff in Social Security Disability Insurance (SSDI) and make other improvements to the Social Security Ticket to Work Program to remove barriers to work for disability beneficiaries.
  - Eliminate the five-month waiting period for SSDI and the two-year waiting period for Medicare to provide immediate help to those who often have no alternative economic supports and access to health care in the face of catastrophic, disabling conditions.
  - Remove barriers to work for disability beneficiaries, stabilize the Social Security trust funds by restoring the monies lost to the system during COVID-19, and protect workers who could face permanently lowered benefits resulting from catastrophic economic downturns such as that precipitated by the pandemic.

### **Prioritize Employment Opportunities for People with Disabilities**

- Despite employment protections provided under the ADA and other disability employment rights laws, the labor force participation rate among people with significant disabilities remains at roughly 30 percent, while that for people without disabilities is approximately 70 percent.
- COVID-19 has been a double-edged sword with regard to disability employment – calling for steps, such as mandatory mask wearing, that may impose particular burdens on those with disabilities while highlighting accommodations such as telework that have proven especially useful to workers with disabilities.
- Veterans with disabilities rely on many of the same employment programs and systems available to non-veterans with disabilities and will face many of the same employment challenges in the years ahead as the country emerges from the pandemic.
- Congress must pass legislation that would protect and strengthen disability employment rights; increase tax incentives for employers to hire and retain persons with disabilities; enhance entrepreneurship opportunities for people with disabilities; and improve federal hiring and promotions under Schedule A, veterans preference, and other authorities targeting those with significant disabilities.



## Summary of Legislative Priorities

### Preserve Access to VA's Specialized Services

- PVA firmly believes the Department of Veterans Affairs (VA) is the best health care provider for veterans with spinal cord injuries and disorders (SCI/D).
- VA's specialized systems of care follow higher clinical standards than those required in the private sector. Preserving and strengthening VA's specialized systems of care—such as SCI/D care, blinded rehabilitation, amputee care, and polytrauma care—remains the highest priority for PVA. This includes access to high-quality prosthetics through VA's Prosthetics and Sensory Aids Service.
- If VA continues to shift care to the private sector and woefully understaff its facilities, the Department's capacity to treat veterans will be diminished, and could lead to the closure of facilities and reductions in services offered to catastrophically disabled veterans.
- Congress must preserve access to VA's specialized services and provide needed funding for them.
- Congress must ensure proper staffing of VA's specialized services by ensuring the Department has the authority to provide additional pay, compensation, and retention incentives to make VA service more competitive with the private sector.

### Increase Access to Long-Term Care for Veterans with SCI/D

- The lack of adequate long-term care (LTC) options presents an enormous problem for people with catastrophic disabilities who, as a result of medical advancements, are now living longer.
- There are few LTC facilities that are capable of appropriately serving SCI/D veterans. VA operates six such facilities; only one of which lies west of the Mississippi River. Many aging veterans with SCI/D need VA LTC services but VA only has the capacity to provide this kind of care for about 200 patients.
- Since VA SCI/D LTCs are exceptionally limited, veterans with SCI/D are being treated in community institutions, by providers not trained in SCI/D. This often results in compromised quality of care and poor outcomes. In some areas, it is nearly impossible to even find community placements for veterans who are ventilator dependent and those with bowel and bladder care needs.
- VA has identified the need to provide additional SCI/D LTC facilities and has included these additional centers in ongoing facility renovations, but such plans have been languishing for years.
- Congress must ensure that VA designs an SCI/D LTC strategic plan that addresses the need for increased LTC beds in VA SCI/D centers.
- Congress must provide increased funding directed at the completion of the remaining SCI/D-related construction projects.

### Ensure Proper Implementation of VA's Comprehensive Caregiver Program Expansion

- The VA MISSION Act directed that VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC) be expanded to severely injured veterans of all eras through a phased approach beginning October 1, 2019.
- Phase I, which began on October 1, 2020, includes veterans who were severely injured in the line of duty on or before May 7, 1975, and on or after September 11, 2001.
- Phase II is expected to begin on October 1, 2022, and will include veterans from all remaining eras.
- Prolonged delays are further straining caregivers who desperately need relief now, particularly in light of the impacts of the global pandemic.
- The new rules governing the PCAFC, which were implemented on October 1, 2020, will also impact current program recipients and result in veterans being removed from the program.

- Congress must conduct oversight of VA's implementation of the expanded PCAFC to ensure that eligibility determinations are consistent and the appeals process is fair and just.
- Congress must expedite implementation of Phase II of the caregiver program to October 1, 2021.

### **Improve Access to Fertility Services Through VA**

- Thousands of service members have suffered a genitourinary injury, resulting in the loss of, or compromised ability, to have a child.
- In September 2016, Congress granted a temporary authorization for VA to provide in-vitro fertilization (IVF) to veterans with a service-connected condition that prevents the conception of a pregnancy.
- VA began offering IVF services in January 2017, and in September 2018, they were reauthorized for another two years.
- In drafting the rules for the program, VA anticipated recurring authorization by Congress; so, the Department stipulated IVF may continue to be provided if Congress approves its funding through the annual budget process.
- VA's current temporary authority prohibits the use of gametes that are not a veteran's and his or her spouse's. Because they require donated gametes, they are ineligible for IVF through VA.
- Congress must repeal VA's ban on IVF and make these services a regular part of the medical benefits package available to veterans.
- Congress must also pass legislation to authorize VA to provide assisted reproductive technology, including IVF, surrogacy, and gamete donation at VA for any veterans enrolled in VA health care who are living with infertility, including the authorization of service provision to non-veteran partners.

### **Improve Services for Women Veterans with SCI/D**

- More than half a million women veterans are currently using VA health care, and women veterans with SCI/D are a small, but important subset of these users.
- Women veterans, including those living with SCI/D, need access to comprehensive gender-specific mental and physical health care with high standards of care regarding the quality, privacy, safety, and dignity of that care.
- VA has developed a robust system of care to serve the needs of veterans with SCI/D but there needs to be a stronger focus on the needs of women veterans with SCI/D.
- As Congress develops strategies and policies for VA to follow, additional emphasis is needed to ensure women veterans with SCI/D are incorporated into these plans.

### **Improve Access to Transportation for the Most Severely Disabled Veterans**

- VA Automobile Allowance Grants
  - Access to an adapted vehicle is essential to the mobility and health of catastrophically disabled veterans who need a reliable means of transportation to get them to and from work, meet family obligations, and attend medical appointments.
  - The current, one-time VA Automobile Allowance Grant of roughly \$21,500 covers anywhere from one-half to one-third of the cost to procure a vehicle.
  - Because of the high cost to procure replacement vehicles (upwards of \$60,000), veterans often retain vehicles beyond their reliability point.
  - Congress must pass legislation that would allow eligible veterans to receive an Automobile Allowance Grant every ten years for the purchase of an adapted vehicle.
- Automobile Adaptive Equipment
  - VA's Automobile Adaptive Equipment (AAE) program helps physically disabled veterans enter, exit, and/or operate a motor vehicle or other conveyance.

- VA provides necessary equipment for veterans with service-connected disabilities such as platform wheelchair lifts, UVLs (under vehicle lifts), power door openers, lowered floors/raised roofs, raised doors, hand controls, left foot gas pedals, reduced effort and zero effort steering and braking, and digital driving systems. The program also provides reimbursements (to service-connected veterans) for standard equipment including, but not limited to, power steering, power brakes, power windows, power seats, and other special equipment necessary for the safe operation of an approved vehicle.
- Support for veterans with non-service-connected disabilities is limited to assistance with ingress/egress only.
- Congress must direct VA to reimburse the cost of items on the Department's current AAE list as well as modern driver assistance technologies to broaden opportunities for veterans with catastrophic disabilities to drive more comfortably and safely.
- Congress must pass legislation that allows veterans who have non-service-connected catastrophic disabilities to receive the same type of adaptive automobile equipment as veterans whose disabilities are service-connected.

### **Increase Grants for Housing Adaptations**

- VA's Home Improvements and Structural Alterations (HISA) grant helps veterans and service members make medically necessary improvements and structural alterations to their primary residence.
- The grant has a lifetime limit of \$6800 for those with service-connected disabilities and \$2000 for those with non-service-connected disabilities.
- HISA grants can be used to help make entrances and exits accessible, allow access to the kitchen or bathroom, and improve plumbing or electrical systems for necessary medical equipment.
- While the cost of home modifications and labor have greatly increased in recent years, HISA grant rates have not changed in 11 years.
- With veterans sheltering in place during and following the resolution of the pandemic, ensuring veterans can safely remain in their homes is more essential than ever.
- Congress must raise HISA grant rates to at least \$10,000 for service-connected disabled veterans and \$5,000 for non-service-connected disabled veterans.

### **Increase Benefits for Surviving Spouses of ALS Veterans**

- Eligible survivors can receive an additional \$288.27 per month in Dependency and Indemnity Compensation (DIC) if the veteran was rated totally disabled for a continuous period of at least eight years immediately preceding death.
- This extra payment is commonly referred to as the "DIC kicker." VA regulations recognize amyotrophic lateral sclerosis (ALS) as a presumptive service-connected disease and, due to its aggressive nature, it is automatically rated at 100 percent once service connected.
- Because the average life expectancy for a person with ALS is two to five years, many spouses of deceased veterans with ALS rarely qualify for the additional DIC benefit given the eight-year requirement.
- This policy fails to recognize the significant sacrifices these veterans and their families have made for this country.
- Congress must extend DIC kicker eligibility to the surviving spouses of veterans who died of service-connected ALS prior to the 8-year period.