

Dr. Linda S. Schwartz, RN, MSN, DrPH, FAAN, President, National Association of State Directors of Veterans Affairs

The National Association of State Directors of Veterans Affairs, Inc.

TESTIMONY

Presented by: Dr. Linda S. Schwartz, RN, MSN, DrPH, FAAN
President – NASDVA

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Good Morning Senator Murray, Chairman Miller and members of the Committees, I am Dr. Linda Schwartz, Commissioner of Veteran Affairs for the State of Connecticut and now also have the honor to be President of the National Association of State Directors of Veterans Affairs (NASDVA) and present this testimony on their behalf today. As you may know each State has a designated "Office of Prime Responsibility" for service and programs for veterans. Our members are the Chief Executive Officers of these agencies and represent 50 States, District of Columbia, Guam, American Samoa, Northern Mariana Islands, Puerto Rico and the Virgin Islands.

Unlike "Veteran Service Organizations" (VSO) these departments are government agencies not membership organizations. They are tasked by their respective states with the responsibility to address the needs of all veterans irrespective of time in service, branch of military or period of service. Each of these Departments is uniquely situated to be a vital resource with a capacity to augment Federal Programs, improve the identification of needs for veterans within their area of responsibility, coordinate local resources and ultimately enhance the quality of care and services to America's veterans and their families now and in the future.

On a daily basis, State Directors are confronted with unique situations which could not possibly be addressed in a timely manner by larger systems like DOD and VA. Directors can effect changes and solve problems because they know who, where and how to orchestrate a successful outcome at the local level. Governors and State Agencies have the flexibility to provide care without gate keeping and the time consuming process of validating disabilities or compensation claims. More importantly, there is accountability that the State will meet the expectation of their citizens and assure care for veterans is effective, efficient and responsive. States collectively fund over \$5 Billion dollars annually for veteran centered programs and services. State Departments of Veteran Affairs are in a position to support, facilitate and enhance the continuum of care our veterans so richly deserve. Pure and simple, States are second only to the Federal VA in the amount of resources committed to assuring that the men and women who serve this nation receive the services they earned.

America's military evolution from draft to the "all volunteer force" and today's heavy reliance on

National Guard and Reserve Forces has broadened the context of military life and created a new set of traditions, challenges and emerging needs. Today, the well being of families and significant others are as much a part of the military operations as combat training and mission readiness. Along with readjusting to the absence of the military member and the great unknown of what they would be encountering during their tour of duty, the shift away from large DOD infrastructures requires additional resources from state and local government to address these situations. Issues such as family support, housing, meaningful employment and financial stability have surfaced as vital dynamics in successful reintegration of our returning military from combat and deployments to life in the civilian community.

Although Congress, DOD and VA may identify a problem and derive solutions to these needs, the process of enacting legislation and implementing programs is years in the making. In the age of text messaging, the response time is considered by many to be out of touch and negligent compared to what returning “Wounded Warriors” or “Heroes”, their families and most importantly the public have come to expect in exchange for their service to the country.

National Guard, which comes under the authority of Governor’s and State Legislatures, has asserted a demand for accountability at the state and local level that has not been experienced by DOD in the past. Active Duty and Reservists, who return to their homes as individuals are also of concern because their immediate problems and needs arise where they live far from Federal systems. This group is especially vulnerable because for the most part they may have little or no information or idea of what is available to them or where to go for help. Many of these veterans returning home have undiagnosed injuries or disabling conditions and cognitive difficulties which further complicates their ability to articulate their needs or find help.

This is not happening on a remote site or military base, this time we read about our neighbor next door, the young woman who teaches kindergarten, our friend from school or church. In essence the war has come to every town and city in America only it is invisible until a crisis or tragedy surfaces to remind us that the cost of war is also borne by those who wait and watch for the return of our troops. Just as our military has changed, we must accept the realities that vast system changes in support of the military and their families are in order. Just as all politics are local, the care and welfare of each military member and their family has become a priority for State Governments

There is a need to move away from the idea that all services and programs must be provided by the Federal Government. In order to develop the best seamless transition and maximize the existing resources dedicated to the care and support of veterans and their families, we must challenge the status quo. A true partnership of Federal and State resources can only improve the opportunities for our returning troops and their families.

Additionally government based programs are augmented by thousands of private-sector, community, volunteer, and faith based initiatives that attempt to help injured service members and their families meet housing, transportation, childcare, employment, mental health and short-term financial needs. We are not lacking in people wanting to help, we are lacking in a coordinated effort, accountability and a creative approach to solving problems in the local communities. This is the continuum of service and care that veterans deserve and America can provide.

The most important message that I bring to this Committee today is that VA and DOD need to build better bridges to State governments. While NASDVA is heartened that Secretary Shinseki has acknowledged States as partners in providing for our Nations veterans, we are disappointed that individual Administrators and staff do not share his opinion or vision. In the past NASDVA has suggested that this relationship should be formalized by authorizing an Advisory Committee to establish direct communications between the Secretary and the Directors. This group could identify gaps in services, best practices to resolve needs and, explore opportunities to integrate services, increase the utilization of existing resources and forge a comprehensive continuum of support and services to veterans where they live and work.

STATE VETERAN HOMES

An excellent example of this partnership is the State Home Grant and Per Diem Program. State homes provide a vital service to elderly and severely disabled veterans and their immediate families, with skilled nursing, domiciliary, and adult day health care services offered through 140 homes in 50 states and the Commonwealth of Puerto Rico. State Veterans Homes are the largest provider of long-term care to America's veterans. In fact, state homes now provide 52 percent of all VA-authorized long-term care. Within the State systems there are more than 30,400 operational beds including 24,000 with skilled nursing care. This equates to 7 million days of nursing care; 1.5 million days of domiciliary care and 10,000 Adult Day Health Care visits. World War II and Korean War veterans are aging rapidly, with nearly one million veterans now over the age of 85. Therefore, the states' partnership with VA will become even more crucial in the future.

For several years NASDVA and the National Association of State Veteran Homes (NASVH) have actively advocated for the principle that veterans in our Homes are entitled to the same level of support from VA as veterans placed by VA in "Contract Nursing Homes". The quality of care and the focus on veterans are but a few of the characteristics which make care in State Homes the best choice for partnership with VA. Both Associations have been diligent in working with Congress to demonstrate the need and the logic of this level of support. We have maintained that the benefit is to the veteran regardless of where they choose to receive their care.

As far back as the "Millennium Health Care Act of 1999", Congress, directed the Department of Veteran Affairs (VA) to pay for nursing home care for veterans with a service connected disability rating of 70 percent or more and veterans who have sustained service-connected disabilities that require nursing home care. While VA provides full cost of care in either a VA or community contracted nursing home this has not been the case for State Veterans Homes. Not only is this a costly disparity in applying the reimbursement payments based on the facility in which a veteran receives their care, it penalized veterans in State Homes.

With the enactment of the 2006 "Veterans Benefits, Health Care, and Information Technology Act of 2006" (Pub. L. No. 109-461, § 211(a), codified at 38 U.S.C. § 1745(a)), Congress did approve payments by the VA to State Veterans Homes and authorized VA to place severely disabled service-connected veterans directly in State homes and stipulated that VA was required to reimburse State homes for the "full cost of such care." NASDVA as well as many veterans and

the National Governors Association believed that the situation had been resolved. However that was 2006 and in 2011 we have yet to settle the question.

Through a series of delays and false starts, the reimbursement for the full cost of care and the regulations that guide that process have not been resolved. The notice of "Regulations" required for the implementation of this legislation languished for years. VA did not issue regulations to implement the program until April 29, 2009 (effective May 29, 2009). The 2 ½ year delay in issuing regulations to implement the new per diem program caused enormous difficulties and hardships not only with recordkeeping and administrative problems, veterans and their families did not receive the financial relief they were promised. Additionally language specifically prohibits reimbursement for Medicare authorized services and all Medicaid reimbursement for the care. Under the proposed system, several State Homes report that under these proposed Regulations, reimbursement is less than the actual cost of care.

For the past 2 years, VA has been actively engaged with both NASDVA and NASVH to formulate a workable solution that will maintain the spirit and intent of past Congressional legislation and be cost effective to State Home providers. At our most recent meeting NASDVA members endorsed legislation which would:

- Permits State Homes to elect to receive payments from VA within the provisions of 38 CFR 1720 known as the "Community Nursing Home Provider Agreement".
- Removes "lesser of" language and establishes VA enhanced per diem rates at the prevailing rate under 38 CFR 1745.
- Permits State Homes to "opt out" annually and receive payments from the VA under 38 CFR 1741 (regular per diem program).

NASDVA has and continues to support changes to the present program that would insure that:

- VA develop a strategic plan for Long Term Care for our Nation's Veterans that maximizes the role of State Veterans Homes.
- Authorize sufficient funding to keep the existing backlog of projects in the State Extended Care Facilities Construction Grant Program at a manageable level to assure life safety upgrades and new construction are timely. Sufficient funding of at least \$100M for the SVH Construction Grant and Per Diem Program is essential to keep the existing backlog of projects from growing to further unacceptable levels.
- VA implement measures to assure that States are paid a more equitable per diem rate representing the 50 percent of the States' average costs, as allowed by law, and that the policies governing the program be amended to allow new State veterans homes up to 50 percent of the total cost of care paid retroactively from the date of the first veteran's admission to the new home.

OUTREACH AND TRANSITION

State Directors of Veteran Affairs across the Nation agree that one of their most difficult tasks is identifying veterans within their jurisdiction because there are no formal channels of communication with DOD and/or VA regarding military members being separated from the service. NASDVA supports changes in this system which would allow for timely information sharing with States on returning injured and transitioning service members. We are not asking for privileged information about health or even Social Security numbers. We simply need to know when our veterans are coming home and where they live so we can contact them. This is especially true of our Reservists and Active Duty veterans who are separating from the military. Although most State Departments of Veteran Affairs are also repositories for the DD214 of individuals indicating their intention to live within the jurisdiction of agency, those forms are received weeks after the fact. NASDVA has actively advocated for electronic transmittal of the Discharge Papers to facilitate services and care that might be required in the interim.

NASDVA recommends a greater role for SDVA in the overall effort to manage and administer claims processing, regardless of whether the state uses State Employees, nationally chartered Veterans Service Organizations (VSO) and/or County Veterans Service Officers. Collectively, we have the capacity and capability to assist the Veterans Benefit Administration (VBA) to reduce remands and assure fully developed claims are submitted for decisions. NASDVA strongly suggests that Congress revisit the concepts put forth in the “Veterans Outreach Improvement Act of 2007” which proposed to authorize the Secretary to develop a Grant Program to States for outreach activities and activities in the development and submittal of claims for veterans and veteran-related benefits.

The task of serving veterans is a shared responsibility with States and the Federal VA. In today’s Military that system needs to be responsive to veterans in every town and city of a State. Outreach is essential to ensure all eligible veterans know about the full array of local, state and federal programs and services authorized to assist them and their families so that they can achieve the highest level of independent living and activity. It is incumbent on us all to work for this outcome. The present system does not go far enough and could better serve the “public good” by including a Federal to State Government system of communications regarding individuals, in this case veterans, eligible for specific services provided by the State.

Employment and Training

State Directors have clearly witnessed how employment is essential to a successful transition from uniformed service to civilian status. Future legislation must preserve the Veterans Employment and Training Service (DOL VETS) state grants program, and the Jobs for Veterans Act. NASDVA also believes that States need the flexibility to determine how best to integrate the Local Veterans Employment Representatives/Disabled Veteran Outreach Program Specialists (LVER/DVOPS) into their state veteran service delivery systems. The move of the VETS program in Texas to their Texas Veterans Commission (SDVA) has been highly successful and serves as a good example. We strongly believe that LVERs and DVOPs should not only provide employment and reemployment assistance, but should also be knowledgeable enough to make appropriate referrals for veterans to receive benefits counseling, education and healthcare information. NASDVA suggests that the concepts of “Super Centers” for one-stop shopping for

information, referrals, benefits and services is a practical approach to the challenging and complex needs of today's veterans.

State Cemetery System

The VA State Cemetery Grant Program was established in 1978 and has grown to 79 Cemeteries in 38 States with 6 more presently under construction. These Cemeteries conducted approximately 28,000 interments last Fiscal Year. This program has greatly expanded our ability to provide gravesites for veterans and their eligible family members in those areas where national cemeteries cannot fully satisfy burial needs. However with the aging of a large number of veterans from World WarII, Korea and Vietnam the need to expand is expected to continue. NASDVA recommends that the proposed FY11 funding of \$46M should be increased in order to accommodate the rising number of applications for construction of new Cemeteries to reduce the backlog to meet this need.

For the most part, States do not receive VA funding for operational costs and many rely on the burial plot allowances to meet these costs. NASDVA strongly recommends an increase in burial plot allowance from \$300 to \$1,000 in order to offset operational costs borne by the states for interment of veterans. Once a State establishes a Veterans cemetery there is limited funding to help defray operational costs. The federal Operations and Maintenance (from PL110-157) of only \$5M is woefully inadequate for the upkeep of all of these Cemeteries. The upkeep of these hallowed grounds require constant attention and care to assure the veterans interred there receive the honor they earned by their service to this Nation. There should be a formal certification and form of identification at the cemetery site establishing that they have achieved National Shrine operational standards and measures. NASDVA recommends that State Veteran Cemeteries should be apart of the NCA National Shrine program through the triennial reviews that are currently being conducted.

Homelessness Among Veterans

We appreciate the leadership of Secretary Shinseki and his challenge to end homelessness among veterans within five years. However NASDVA would also like to call attention to the fact that within our States we support over 6,000 domiciliary beds. Many of us are actively involved in this battle to end homelessness in our veteran community. To that end we would encourage the VA to partner and communicate with State Directors. There is no question that the VA/HUD VASH voucher is a God send to veterans and providers. We see this as a vital program to assure that those who have served this Nation faithfully can escape the problems that come with chronic homelessness. Many lives have been saved because of this program, it is important to know that some of the mechanics of this program were counterproductive and may have given the impression that veterans were not interested in using this valuable benefit. The difficulty was not with the interest of veterans of the availability of adequate housing. The fact that approval for VASH vouchers was contingent on the availability of VA Case Management Services which are limited, was in fact the barrier to this program achieving its full potential We believe this is a problem which needs to be addressed and alternative Case Management by the States, Towns and Cities should be explored in order to facilitate permanent housing for veterans and their families. Again NASDVA suggests that a true partnership with VA and our agencies will enhance and benefit veterans.

The rising number of women serving in our military is a well know fact. They are pushing the envelope, serving as never before in the combat areas and rising to new leadership roles. I would be remiss if I did not say that along with these achievements, women have come to expect equal respect for their contributions to the military mission, including care at the VA. In fairness, we must acknowledge that progress has been made and services we only dreamed of in the past are now being provided to women who come to the VA. However when we look at cause and effect, we see that reports of Military Sexual Trauma continue to rise.

In our States we see women reluctant to seek treatment because of the experiences they have had in the military. We recently heard reports that 23% of the Women serving in combat areas report being victims of sexual assault perpetrated by another member of the military. Where is the outcry? Indignation? Demands for corrective action? What would Congress say if 23% or the women working for IBM reported they had been sexually assaulted by a coworker?

NASVA members have found it difficult to assist these veterans with filling any claims for care and compensation for conditions which are associated with the aftermath of an assault. The process alone is often so disheartening that these veterans abandon their efforts. While the words "zero tolerance" trip quickly from the lips of DOD officials, they ring hollow for over the victims of these violent acts incurred while they served this Nation. Until there is an outcry and emphasis prevention, complete and total investigations of reported assaults and proper disciplinary action, women will continue to be victimized. Congress should accept nothing less than the complete and total eradication of this terrible injustice.