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STATEMENT OF PATRICK W. DUNNE
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Mr. Chairman and members of the Committee, thank you for inviting me to speak today on the timely and important issues related to providing disability compensation to our nation's disabled Veterans, with particular attention to issues related to loss of quality of life (QOL).

I. Quality of Life Loss

Background

Compensation for service-connected disabilities provided by the Department of Veterans Affairs (VA) is based on replacing the average loss in Veterans' wage-earning capacity. The Congressional directive at 38 U.S.C. §1155 mandates that "ratings shall be based, as far as practicable, upon the average impairments of earning capacity." As a result, the VA rating schedule was developed as a means to compensate Veterans for the income from employment that they would have received if not for the service-connected disability. In recent years, this approach to disability compensation has been challenged as inadequate because it focuses only on employment loss and not on the larger issue of QOL loss. VA has received input on QOL loss from numerous sources. As a result, an effort has been made to clarify the implications for adopting a policy of QOL loss compensation in conjunction with the current average earnings loss compensation system. Those sources providing information and recommendations to VA include: the President's Commission on Care for America's Returning Wounded Warriors (Dole-Shalala Commission); the Veterans' Disability Benefits Commission (Benefits Commission); the Center for Naval Analyses (CNA); the National Academy of Sciences' Institute of Medicine (IOM); and Economic Systems, Incorporated (EconSys).

Definitions of QOL loss vary and may focus on the domains of physical and mental health or may address the individual's overall satisfaction associated with life in general. The IOM traces the concept back to the Greek philosopher Aristotle's description of "happiness." The IOM uses a definition encompassing the cultural, psychological, physical, interpersonal, spiritual, financial, political, temporal, and philosophical dimensions of life. A more succinct definition utilized by EconSys refers to an overall sense of well-being based on physical and psychological health, social relationships, and economic factors.

Dole-Shalala Commission

QOL loss was addressed in the 2007 Report of the President's Commission on Care for America's Returning Wounded Warriors, also referred to as the Dole-Shalala Commission.

Although the report was primarily focused on ways to assist severely wounded service members returning from Iraq and Afghanistan, it recommended that Congress should restructure VA disability payments to include compensation for non-work-related effects of permanent physical and mental combat-related injuries. According to the report, this would compensate a disabled Veteran for the inability to participate in favorite activities, social problems related to disfigurement or cognitive difficulties, and the need to spend a great deal of time performing activities of daily living. As a result of the report, VA contracted for a study on QOL loss with EconSys, which was completed in 2008.

In terms of existing compensation, the EconSys study agrees with prior studies that earnings loss is on average at least fully compensated under the current system and in some cases overcompensated. However, studies agree that certain conditions such as mental health are undercompensated. Prior studies found that QoL loss does exist for service-disabled Veterans and recommended that VA examine possibilities for QoL compensation, acknowledging that implementation would be lengthy and have significant cost implications.

Veterans' Disability Benefits Commission

The Benefits Commission was created by the National Defense Authorization Act of 2004 and produced a final report in 2007 that provided recommendations to VA on a wide range of issues related to the claims process and the benefits award system. Among the issues addressed was QOL loss. The report included recommendations that VA disability compensation should account for QOL loss. In addition, it recognized special monthly compensation benefits and ancillary benefits as existing vehicles to assist with QOL loss among disabled Veterans. The Benefits Commission incorporated information from the CNA and IOM studies into its final report, agreeing with these organizations that QOL loss existed among disabled Veterans and that VA disability compensation should address it. The Benefits Commission also supported the idea that VA should undertake studies designed to research and develop QOL measurement tools or scales and ways to determine the degree of loss of QOL on average resulting from disabling conditions in the rating schedule. However, it acknowledged that QOL loss assessment is a relatively new field and still at a formative stage. Therefore, implementation would be a long-term, experimental, and costly activity.

Center for Naval Analyses

A major study on QOL loss among Veterans was conducted by CNA at the request of the Benefits Commission. It focused on whether the current VA benefits program takes into account QOL loss. A survey was conducted to determine whether QOL loss existed among disabled Veterans and whether parity existed between the amounts of VA compensation received by disabled Veterans and the average earned income of non-disabled Veterans. CNA determined that QOL loss does exist among disabled Veterans. It was also determined that VA generally compensated adequately for lost earnings and in some cases overcompensated, as with Veterans who enter the system at retirement age, which CNA stated implies a built-in QOL loss payment for these Veterans. However, CNA found that undercompensation occurred for younger Veterans with more severe disabilities and for all categories of mental disabilities compared to physical disabilities. It was also pointed out that, while QOL loss was greater among disabled Veterans

than non-disabled Veterans and the general population, those Veterans with mental disabilities showed the greatest QOL loss.

Institute of Medicine
A second QOL loss analysis incorporated by the Benefits Commission into its final report came from the 2007 report, A 21st Century System for Evaluating Veterans for Disability Benefits, produced by IOM at the commission's request. This lengthy review of the VA disability benefits process addressed QOL loss. A distinction was made by IOM between current VA compensation for a Veteran's work impairment and a compensation system based on "functional limitations" on usual life activities, which would include non-work disability. IOM concluded that the Veterans' disability compensation program should compensate for: work disability, loss of ability to engage in usual life activities other than work, and QOL loss. IOM also recommended that VA develop a tool for measuring QOL loss validly and reliably and develop a procedure for evaluating and rating the QOL loss among disabled Veterans.

II. Economic Systems Report
The most recent study of QOL loss was conducted by EconSys and reported in its Study of Compensation Payments for Service-Connected Disabilities, Volume III, Earnings and Quality of Life Loss Analysis, released in September 2008. VA tasked EconSys with analyzing potential methods for incorporating a QOL loss component into the current rating schedule and with estimating the costs for implementing these methods. The EconSys study proposed three methods that might be utilized by VA.

The first and simplest method would be to establish statutory QOL loss payment rates based only on the combined percentage rate of disability. This method would "piggy-back" the QOL loss payment on top of the assigned disability evaluation under the current rating schedule. The amount of the payment would be determined by assigning a QOL score, ranging from -2 to 4, with 4 representing death and negative values representing an increase in the QOL of the Veteran. Although this method would be the easiest to administer because significant changes to the VA medical examination and rating process would be unnecessary, it raises issues of fairness. EconSys found that the severity of QoL loss does not mirror the severity of earnings loss captured in the ratings schedule. Moreover, EconSys found that QoL loss varies greatly both by condition and by individual, meaning that different Veterans with the same disability rating or the same condition could vary widely in their QoL. Under this method, a Veteran with minimal actual QOL loss could receive the same extra QOL loss payment as a Veteran with severe actual QOL loss. EconSys has estimated that additional program costs for implementing this method range from $10 billion to $30.7 billion annually.

A second optional method proposed by EconSys would key QOL loss payment amounts to the medical diagnostic code of the primary disability, as well as the combined percentage rate of disability. This option anticipates that Congress would create a separate pay scale based on the Veteran's combined degree of disability and primary disability. This method would arguably produce more accurate QOL loss payments because two variables rather than one would be involved and previous studies have shown that some disabilities, such as mental disorders, are associated with greater actual QOL loss than others. However, implementing this would involve

conducting large sample-size surveys to assess the average QOL loss for each of over 800 diagnostic codes and then factoring in the additional loss for each of the ten percent increments of the rating schedule up to 100 percent. No surveys like this have been conducted in the past as a means to assign a dollar value to QOL loss. Inherent in such surveys is the potential for inconsistency and inaccuracy because the data would involve Veterans' self-reported answers to subjective questions. Given the number of "diagnostic code-evaluation percentage" combinations involved, a QOL loss scale developed under this method would be extremely complex and require extensive computer system modifications. In the event that this optional method was implemented, it would likely be subject to the same issues of fairness as the first method. A Veteran with a low combined degree of disability may receive more total compensation than a Veteran with a high combined degree of disability because of a difference in the QOL loss value assigned to different diagnostic codes. Moreover, the disability identified as primary for existing compensation may not be the primary cause of a Veteran's QoL loss. EconSys has estimated that this method would result in program costs of $9 to $22 billion annually.

A third optional method proposed by EconSys would involve an individual assessment of each Veteran for QOL loss by both a VA medical examiner and a VA claims adjudicator. EconSys describes the process as involving a QOL loss assessment component to the medical examination. The claims adjudicator would review the medical examiner's report on QOL and assign a QOL rating based on the diagnosis and rating for the primary diagnosis. This method would involve establishing separate rating tables for earnings loss and QOL loss and using these in combination with subjective information received from the Veteran on perceived QOL loss. This method would arguably allow for the most accurate assessment of QOL loss because of its individualized nature. However, it would require extensive training of VA personnel to administer and interpret QOL loss assessment tools and then apply them to the rating process. Once again, issues of subjectivity and fairness would likely be involved. Timeliness of decisions would be negatively affected based on the complexity of the adjudicator's required QOL loss assessment. EconSys has estimated that this method would result in annual administrative costs of approximately $71.5 million, plus program costs of $10 to $25.7 billion dollars annually.

III. Implementing Quality of Life Loss Compensation

VA Challenges

Implementing a disability rating system that included compensation for QOL loss would involve at least two major challenges. The first would be to accurately and reliably determine whether, and to what extent, a disabled Veteran suffers from QOL loss. The second would be to establish equitable compensation payments for varying degrees of QOL loss. The first challenge has been addressed by other organizations and has led to the development of QOL loss assessment tools. The most well known of these is the RAND Corporation's Short Form 36 Health Survey (SF-36) and Short Form 12 Health Survey (SF-12). These are survey questionnaires that measure physical functioning, role limitations due to physical health, bodily pain, general health perceptions, vitality, social functioning, role limitations due to emotional problems, and mental health. The questionnaires yield numerical scores that are interpreted to measure QOL loss in relation to the non-disabled population.

The CNA study conducted for the Benefits Commission utilized a survey instrument derived from the SF-36 and SF-12. The results showed that service- connected disabled Veterans were more likely to report QOL loss than non- disabled Veterans. However, CNA made it clear that the results were based on subjective self-reporting by Veterans and that, although survey instrument scoring showed a difference between disabled and non-disabled Veterans, the instruments were not able to show how much difference in QOL loss existed between the two groups. This is problematic because the second challenge of assigning a dollar value for compensation purposes depends on distinguishing different degrees of QOL loss among disabled Veterans. VA is unaware of whether this problem has been addressed by other organizations.

As EconSys stated in its study, users of existing QOL loss assessment instruments seek to make comparisons of QOL loss between different groups or to measure improvements in QOL loss as a result of treatment interventions.

However, they are not trying to attach a dollar value to these differences. For example, the CNA study indicated a greater QOL loss among disabled Veterans compared to non-disabled Veterans, but it does not provide a model to measure the extent of differences and provide fair compensation accordingly.
The EconSys study, described above, provides options for implementing a compensation procedure for QOL loss among Veterans, but is not specific about how new assessment instruments would be developed. For example, in the second option offered by EconSys, part of the QOL loss payment would be tied to the medical diagnostic code for which the Veteran is service-connected. This is based on the assumption that certain medical disabilities generally produce greater QOL loss than others. To implement this option, VA would be required to develop new survey instruments that target specific diagnostic codes and minimize variations in reporting due to subjectivity. Surveys now in use, such as the SF-36 and SF-12, are generic and would be of little help. The burden of establishing appropriate QOL loss compensation would remain with VA and Congress.

VA would face many additional problems in the attempt to implement QOL loss compensation. Among them would be the potential for a change in the Veteran's QOL loss. Since a major goal of VA is successful treatment and rehabilitation for disabilities, it is likely that the mental and physical health of some Veterans would improve over time and QOL loss would be reduced. On the other hand, a Veteran's circumstances may lead to an increase in QOL loss. Therefore, the issue of how to adjust compensation payments for changes in a Veteran's QOL loss over time would need to be addressed.

An additional concern presented by two of the EconSys options is the potential for appeals of Veterans' ratings. In options two and three, it is highly likely that Veterans with similar conditions of similar severity would receive different ratings and awards. This inconsistency introduces an equity issue that could lead to additional appeals and therefore a more frustrating process for Veterans.

Current VA Compensation

Most of the organizations that have provided input to VA on QOL have stated that VA already has a number of special benefits that implicitly, if not expressly, compensate for QOL loss. Among these are ancillary benefits, special monthly compensation, and total disability based on individual unemployability. Special monthly compensation and ancillary benefits are provided to Veterans in addition to compensation for service-connected disabilities under the current rating schedule.

Ancillary benefits include the extensive programs of Home Loan Guaranty and Vocational Rehabilitation and Employment Services. Certain ancillary benefits are intended to provide assistance to Veterans with special needs due to exceptional handicaps that result from service-connected disabilities. One major ancillary benefit, authorized by 38 U.S.C. § 3902, is assistance with the purchase of an automobile or other conveyance with adaptive equipment necessary to ensure that the Veteran can safely operate the vehicle. Another ancillary benefit provides assistance with housing needs for certain severely disabled Veterans. Authorization for providing assistance to Veterans in acquiring housing with special features and residential adaptations is provided by 38 U.S.C. § 2101(a) and (b). Additionally, a yearly clothing allowance is authorized by 38 U.S.C. § 1162 when a service-connected disability requires a Veteran to use a prosthetic or orthopedic appliance, including a wheelchair, which tends to wear out or tear the Veteran's clothing. A clothing allowance is also authorized when a physician prescribes medication for a service-connected skin condition that causes irreparable damage to a Veteran's outer garments.

In addition to these benefits, special monthly compensation, authorized by 38 U.S.C. § 1114, provides a range of special monthly payments over and above the current rating schedule disability compensation for Veterans with service- connected disability who are housebound, in need of aid and attendance from others to accomplish daily living activities, have severe hearing loss or visual impairment, or have loss, or loss of use, of extremities or reproductive organs. In addition, VA is authorized to pay special monthly compensation to female Veterans for breast tissue loss.

VA regulations authorize a rating of total disability based on individual unemployment if a Veteran is unable to obtain, or maintain, substantially gainful employment because of service-connected disabilities. This is an extra¬schedular benefit resulting in compensation paid at the 100-percent schedular rate for Veterans who have been awarded a single 60-percent or a combined 70- percent disability rating and are unable to work as a result of their service-connected disability. The benefit is also available based on a VA administrative review, if the schedular requirements are not met.

IV. Conclusion

This testimony attempts to outline some of the issues and challenges that VA would face if authorized to provide QOL loss compensation. If VA is to provide QOL loss compensation consistent with the proposed options in the EconSys study, statutory changes would be required.

Additional administrative costs for training VA personnel and reconfiguring VA computer systems, as well as the costs for providing additional benefits to Veterans, would be considerable. The implications for adopting such a policy are significant for VA. This testimony also illustrates how, in addition to compensation provided under the rating schedule, VA provides special monthly compensation, ancillary benefits, and extra-schedular ratings to Veterans with certain service-connected disabilities, which multiple studies have recognized as existing tools to promote the QOL of Veterans.

As always, VA maintains its dedication to fairly and adequately serving the disabled Veterans who have sacrificed for our country.