

BUSINESS MEETING

WEDNESDAY, NOVEMBER 29, 2017

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:32 p.m., in room 418, Russell Senate Office Building, Hon. Johnny Isakson, Chairman of the Committee, presiding.

Present: Senators Isakson, Moran, Boozman, Heller, Cassidy, Rounds, Tillis, Sullivan, Tester, Murray, Sanders, Brown, Blumenthal, Hirono, and Manchin.

OPENING STATEMENT OF HON. JOHNNY ISAKSON, CHAIRMAN, U.S. SENATOR FROM GEORGIA

Chairman ISAKSON. I want to call this meeting of the Veterans' Affairs Committee to order. We have a quorum present for discussion purposes, and I think we have a quorum present for even final passage purposes. We have six for amendments and eight for final passage.

What I will do is briefly give us an update on where we are, and then we will open the floor for action on the legislation. Hopefully we can complete it pretty quickly because we may have a vote coming up anytime around 3 p.m. or later, and if we can get everything done, that would be ideal. If we cannot, that is fine, too. I am not going to rush it for rush purposes, but we want to get everything done.

Our representative from the VA, Ms. Clancy, is here. Welcome. Glad to have you here today. Thank you for coming. Appreciate the good job that you all are doing.

I want to thank all the Members of the Committee for the tremendous effort they have made over the last 4 or 5 weeks on this legislation to get it to where we are today, which is a substantial improvement in the Veterans Administration and benefits to our veterans.

I want to thank the Ranking Member for his cooperation on any number of issues that we worked on to get us to where we are today, and all the other members who very willingly worked to-

gether with the Committee to try and find common ground on everything we could that was proposed. And I particularly want to thank everybody for coming to the meeting that we had last week or the week before Thanksgiving where we worked out a number of our obstacles and overcame a number of obstacles together because we worked together. This is a great piece of legislation which, among other things, includes 19 amendments, 11 of which were introduced by majority members, 8 of which were introduced by minority members, which is an example of the bipartisan effort that we have made and the Committee has done and as we have throughout the year. Hopefully we will be able to pass our tenth major bill of the year for the Committee, which would be a major accomplishment.

I do not know if the Ranking Member wants to make a statement or a comment, but I will turn it over to him for a second.

**OPENING STATEMENT OF HON. JON TESTER, RANKING
MEMBER, U.S. SENATOR FROM MONTANA**

Senator TESTER. I do, and I want to thank the Members of this Committee, too, for their good work, and I want to thank you for your leadership, Mr. Chairman. I think especially at this moment in time Washington could learn from the work that this Committee has done.

The bill before us is a compromise in which none of us got everything we wanted but, nevertheless, delivered a bill that I think allows the VA and the community to better serve our Nation's veterans. It includes feedback from Members of this Committee, from VA, from VSOs, and from the veterans we represent, and I am proud and pleased that it is supported by the DAV, The American Legion, the PVA, the MOAA, the IAVA, the Wounded Warriors Project, and the VFW.

This bill integrates community and VA care to provide more timely access and quality services to our veterans. It creates a system where the decision about where to seek care is in the hands of the veteran and their doctor. It strengthens oversight of the program and the agency's financial accountability to ensure that veterans and taxpayers have greater transparency. It takes dramatic steps to address the VA's chronic medical staffing issues by bolstering tools for recruitment and retention, particularly in rural areas like my homestate of Montana.

It also extends the Caregiver Program to provide VA's comprehensive caregiver benefits to earlier eras of veterans. This provision, supported by all the major VSOs, corrects a serious inequity by extending benefits to caregivers of veterans injured or made ill during or prior to the Vietnam War, including World War II and

Korean War veterans. Senator Murray, I want to thank you for your leadership on this issue.

This bill is a critical first step as we move forward in the coming weeks. I look forward to working with my colleagues and stakeholders to make this bill even better. But, most notably, we need to work with leadership and our colleagues on the other committees on budgetary cap adjustments. The provisions in this bill warrant special consideration, and it is critical that our budgetary and spending priorities are properly balanced as we move forward.

With that, thank you again, Mr. Chairman, and I look forward to moving this bill forward.

Chairman ISAKSON. Thank you very much, Senator Tester.

Let me say this to Senator Murray. I want to thank her for her cooperation and acknowledge the fact that through her effort and ongoing leadership on Caregivers, we find ourselves in a position today where we are adopting the caregivers language in this proposal, which I promised her we would do. I am happy to have delivered on that promise. A note to everybody: the way in which the gentlelady from Washington handled herself in getting to the point we are, it is a major way that we got to that point today. We appreciate all the effort that you made very much.

I am going to call up 19 amendments en bloc, which we will vote on en bloc. Then, we will go to any individual amendments that are not included in those 19 that anybody wants to call up. After we bring those up, discuss them, and take a vote on them, we will go to final passage. Is there any objection?

HON. PATTY MURRAY, U.S. SENATOR FROM WASHINGTON

Senator MURRAY. Mr. Chairman?

Chairman ISAKSON. Yes, ma'am.

Senator MURRAY. If I could just submit an opening statement for the record. I know this has been a difficult bill to put together, and I really do appreciate the hard work on including the caregivers piece, which is so important to so many families. I appreciate you and the Ranking Member and all of our Committee Members for supporting that. I do want to submit a statement for the record.

[The prepared statement of Senator Murray follows:]

PREPARED STATEMENT FROM HON. PATTY MURRAY,
U.S. SENATOR FROM WASHINGTON

Thank you, Chairman Isakson, and thank you, Ranking Member Tester.

As a voice for 600,000 veterans in my home state of Washington, and in honor of millions more veterans around the country, I'm so glad this Committee was able to come together to make progress for those who have bravely served our Nation.

I know this wasn't an easy piece of legislation, it required a lot of give and take from both sides, but it's so important we keep finding common ground on behalf of our military families.

Most people in the room will recall that just a few years ago, Congress came together very quickly to pass the Choice Act in order to address urgent issues in the

VA system. While the Choice Program had good intentions, it didn't take long to see there were significant problems with its implementation.

I know I certainly heard from veterans in Washington state who continued to run into problems accessing care, which is unacceptable.

Which brings us to this desperately-needed overhaul, and the point I really want to make, it is critical we get the Choice Program right and that we work to strengthen VA for the long-term.

Proper oversight and accountability will be key, which includes making sure VA is requesting a supplemental from Congress for the actual level of funding it needs to meet a number of the Secretary's commitments, such as improving care for veterans with Other Than Honorable discharges and paying the backlog of claims for emergency care, without taking money away from other vital VA programs.

It is incumbent upon Members of this Committee to ensure we continually address problems as they come up, and that we continue to hold VA accountable to make sure that we always put veterans first.

I also want to highlight a provision in today's legislation that is critically important, which is expanding the Caregivers program.

Over the years, I've met with a number of veterans and their caregivers who've impressed upon me how life-changing this program is. They have inspired me to fight for legislation to expand the program and I am thrilled Chairman Isakson and Ranking Member Tester have been so supportive of that effort. Although he's not in the room today, I also want to recognize VA Secretary Shulkin for his commitment to the Caregivers program.

In case you're not familiar with it, the program is all about recognizing the sacrifice of caregivers, often a spouse, family member or friend, who put their own lives on hold to care for a veteran with illness or injury. We know these hidden heroes would do anything for their loved ones, no questions asked, but often they need help from our country when they need to take time off of work or when they start paying out of pocket to care for a veteran.

The Caregivers Program tells these hidden heroes, your country has got your back. It also tells our veterans that your country will help you get the care you need on your terms, whether that's at a VA facility or at home with a loved one.

This program is a proven success, but it's currently only available to post-9/11 veterans. The provision included in this legislation would expand the Caregivers program to veterans of all eras, which is a great step forward.

So, again, I want to thank the Chairman and the Ranking Member for making this a priority, and I appreciate their help making sure this provision is included in the final bill agreed to with the House.

I look forward to working every Member of this Committee to do everything possible to fulfill our promise to veterans and their families.

Thank you.

Chairman ISAKSON. Without objection, and we will leave the record open for everybody to submit a statement should they want to do so.

HON. SHERROD BROWN, U.S. SENATOR FROM OHIO

Senator BROWN. Mr. Chairman, I will be as brief as Senator Murray.

First, thank you and Senator Tester for your help last week, and Adam and Dahlia, for our regional hearing in Columbus, Ohio. Thank you for that, and how well the staff handled it and it went very, very well. Thanks for including amendments particularly on mental health providers because of the high rates of suicide and also our amendment on publishing vacancies by facility so we can move much more quickly in filling these jobs. It really matters to veterans' care. So, thanks for working with all of us and making this a much better bill.

Chairman ISAKSON. Thank you very much.

Anybody else have a comment? Yes, Senator Blumenthal.

**HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thanks, Mr. Chairman. I want to thank you and your staffs for the work that you and the Ranking Member have done, and I am proud to have joined Senator Brown in an amendment that directs the Secretary to establish standards and requirements for the provision of health care by non-department providers in clinical areas. This kind of effort increases the quality of health care services that our veterans receive outside of the VA system, and I think that kind of approach is going to be all the more necessary as the Choice Program continues.

I am also pleased to see the language addressing the issue with opioid prescribing within the Choice Program. Attacking opioid abuse and substance abuse disorder is increasingly important among our veterans, and I am proud that the language creating a permanent veterans peer support program was included in the legislation, which can be very, very important in addressing all of the problems that our veterans face today.

Thank you.

Chairman ISAKSON. Thank you, Senator Blumenthal.

Does anyone else have a comment they would like to make and be recognized for?

[No response.]

Chairman ISAKSON. Let me just, in conclusion, thank everyone who had amendments for the hard work you have done over the last couple weeks, particularly Senator Rounds. I appreciate your patience in working with us as we worked on your issues, and I appreciate the cooperation you have shown there—Senator Heller, Senator Moran, everybody else that has offered amendments. Senator Hirono is here today. Some of her amendments are in there as well. We appreciate all those very much. So, unless there is an objection, I will go first with the 19 amendments that we have agreed to at the staff level and the Chairman's level.

I will call up en bloc the following: Sullivan amendment number 2, Heller amendment number 3, Heller amendment number 4, Cassidy amendment number 6, Cassidy amendment number 7, Rounds amendment number 10, Sanders amendment number 11, Sanders amendment number 13, Sanders amendment number 14, Sanders amendment number 17, Sanders amendment number 19, Blumenthal amendment number 20, Moran amendment number 23, Moran amendment number 24, Moran amendment number 25, Moran amendment number 26, Tillis amendment number 27, Brown amendment number 29, Brown amendment number 30.

Did I leave anything out, staff?

STAFF. Sir, you need to say “as modified” for——

Chairman ISAKSON. I am sorry. Sanders number 14 as modified, and Moran number 24 and 25 as modified. Any other correction?

[No response.]

Chairman ISAKSON. Hearing none, all those in favor of those amendments en bloc, say aye?

[A chorus of ayes.]

Chairman ISAKSON. Any opposed?

[No response.]

Chairman ISAKSON. None opposed. The amendments are adopted.

I now open the floor for discussion of any other amendment or substitute or language that anybody would like to bring forward to the Committee at this time. Does anyone seek recognition? If there is none—go ahead, Senator Cassidy.

HON. BILL CASSIDY, U.S. SENATOR FROM LOUISIANA

Senator CASSIDY. No, sir.

Chairman ISAKSON. OK.

HON. JERRY MORAN, U.S. SENATOR FROM KANSAS

Senator MORAN. Mr. Chairman, I do have an amendment. I appreciate the amendments that you included that I had offered in the en bloc amendment. The crux of what I have been trying to accomplish in this legislation will be offered by me in an amendment that is not included in what we just voted on.

To set the stage, there probably is no issue that has been more concerning to me than Choice, and I come to that position based upon the history. I have been a member of the Veterans’ Committee since I arrived in the House, so for 14 years in the House. I chaired the Health Care Subcommittee for a number of those years. I am not a veteran, but I have tried to use this position as a Member of the Veterans’ Committee to advance a cause I care greatly about.

I came to the Senate and was fortunate enough to become a member of your Committee, and I am honored to be here. Part of the way I look at veterans’ issues is affected by the congressional district I represent. The 1st District of Kansas is larger than the State of Illinois. It has no VA hospital; therefore, many veterans have had tremendous challenges. Part of the solution to that was to pursue outpatient clinics, which the VA over a period of time we were able to achieve and put in a number of community outpatient clinics across that district and across my State.

But, that does not really solve the problem that many veterans face, and if you are a 94-year-old World War II veteran or someone

who has a disability, whether it is a 5-hour drive to a VA hospital or a 3-hour drive to a VA outpatient clinic, the end result is probably about the same. You do not access that care.

While I certainly supported the outpatient clinics, when Choice became an option, it was something that I appreciated Senator Sanders and Senator Burr working on, and I have worked hard to see that it works better all the time.

I think my point is that we are transitioning the VA into providing better services in health care, and it is not undermining the VA. It is as what the VA says, we want veterans to have more opportunities to choose the VA.

I would tell you that when we opened an outpatient clinic in my home town, the VA estimated at that time we would have 1,100 veterans who would access care at that clinic. Within 6 months, that number was 2,200, double what the estimate was. The difference was that the VA estimated the number of veterans who were going to Wichita from western Kansas, from northwest Kansas in particular, and said those 1,100 people will now stop in Hays where they will access at least care that is available through that clinic. That number, as I said, was doubled, and what they did not take into account was the number of veterans who were receiving care nowhere.

The demand for more care in a variety of settings, including at VA facilities, is there. What I have wanted to make certain that we do not do in this bill is simply reauthorize Choice. I want to help the VA transition into a continuum of care within the VA and community care outside the VA with decisions being made about the value of that in a very appropriate way.

In addition to the geography of my State and certainly my congressional district, the other thing that influences the way I look at this program and how to make it better is what we all call “case-work,” the number of instances in which people bring their problems to us to try to solve. In my view, it is perhaps—it is the most—the greatest number of cases we have deal with the VA. And so our staffs all face this. We face this as U.S. Senators in which there are problems with Choice as well more broadly within the VA. And many veterans, rightfully so, will say the VA has treated them well and they have received wonderful care, and the answer to that is we are glad that is the case. We just want to make sure that no one slips through the cracks. So, can we continue along the path of making the VA a better place?

Again, the point I want to make is that this cannot or should not be, in my mind, a reauthorization of Choice. Incidentally, the Choice dollars run out in December, and when that happens, the Choice Program terminates. So, our Committee and the Senate and

the Congress and the President are under a significant timeframe here. If we lose Choice—we went through this several months ago in which the threat was there. We were successful in appropriating the dollars for Choice to keep it going. But, the networks will go away, and if we are successful ever in reauthorizing the Choice Program, we will have to go back and rebuild what is currently in place.

Part of the problem, I admit, with Choice has been, I would say, twofold: initially, particularly the attitude the VA took toward Choice; and the intermediaries that provide the networks—not all of them have performed their jobs very well in that care.

So, where I am headed in my amendment is to make certain that we give specific direction to the VA, particularly on eligibility, and Secretary Shulkin has testified that if we leave it up to rules and regs, veterans will not get the right answer, which I think is an interesting thing. Unfortunately, I think it is accurate.

This amendment, what we have labeled Moran amendment 1, it takes the base bill and amends it in this way: it provides three triggers that mirror the VA plan that those triggers are on eligibility for this program. Again, we are not talking about Choice now; we are talking about community care. The three triggers are these: one, when a VA medical facility does not offer the required care, that is one trigger. Two is when the VA facility cannot furnish the required care within time and distance defined by access standards. Three is when the VA and a veteran agree that the best medical care—it is in the best interest of the veteran that he or she receive community care.

Those triggers create a framework by which the VA must operate within, and it also is left—I recognize that we cannot totally tell the VA all the details, and they have the ability to help us define those access standards, which we would then have input to. So, that is perhaps the most important part of this Moran amendment.

It also requires coordination of care. This would be the second major feature of this. Coordination of care, someone at the VA needs to be responsible for each veteran who is receiving care within the VA and care outside the VA through community care. The VA needs to be responsible for seeing that the T's are crossed, the I's are dotted. This comes from our ARCH Program. ARCH was the model, the test in community care. VA provided that oversight that veterans appreciated, and their care was so much improved. So, that is the second aspect.

The third one I would mention, in addition to eligibility and coordination, is critical access hospitals. It is interesting to me that you can get a group of veterans together, and they will tell you the problems they have in utilizing Choice, community care, and only

to discover that the local health care provider has not been paid in any kind of timely fashion or is receiving a reimbursement less than what they normally would get. The original Choice Act required that the health care provider be paid at Medicare rates. Well, those Medicare rates are different based upon the size of—the designation of your hospital under Medicare. In 1994 we created a designation called critical access hospitals. These are hospitals that are more than 35 miles from another hospital; they have less than 25 beds; the average stay has to be less than 36 hours. Those, because they are so rural, cannot afford to be reimbursed like a large hospital for the procedure. The VA has always reimbursed those critical access hospitals at that lower rate, and this amendment takes care of that issue.

In the case of Kansas, we have 127 hospitals in our State; 88 of them are critical access hospitals, and hospital administrators tell me they no longer can afford to pay—I am sorry, to provide community care to veterans because the reimbursement rate is too low and the timeframe in which they actually receive the reimbursement, the lower reimbursement that they get, less than what they would get for caring for a Medicare patient, is too long.

This legislation—again, that is casework. This legislation, or this amendment, excuse me, is designed to correct a number of things that I am sure all of us have experienced in casework, but the crux of the matter, the crux of this amendment is to make certain that we further define who is eligible for VA. I know Senator Rounds in particular has talked about the 40 miles and the 30 days. That is a criteria that would be continued for the next year under this bill, which is a transition. But, what we have experienced, again, in casework is the number of people who say, “I live within 40 miles of a VA facility, but that facility does not provide the service, and they still will not provide the care in the community.”

To leave this to others at the VA to make at least the broad-based decisions about who is eligible in my mind does not solve the problem, does not transition the VA in the way that it should to provide better and higher quality for those that we care about.

The language about care, incidentally—access, excuse me. The language about eligibility has passed the Senate unanimously. Senator Tester and I introduced legislation that supports this concept, that if the VA does not provide the service, then the veteran has access to that care. We hotlined that bill. It passed. We have done it twice. It rested in the House and never became law. So, I want to take what is a good bill and make it better.

Mr. Chairman, I would offer what I described as Moran amendment number 1.

Chairman ISAKSON. We will dispose of Moran amendment number 1 and then go to Senator Cassidy, if that is OK, so we just take it in order of recognition.

Let me—Senator Tester?

Senator TESTER. Go ahead if you want to go first.

Chairman ISAKSON. As Chairman, let me just—this would, in effect, be not an amendment but a substitute for the base bill. It is a substitute for that language. We have worked closely with Senator Moran and his office for 3 or 4 weeks, I guess, off and on to try and find common ground. We have not found it, and as Chairman, I am going to be opposed to the amendment but also being, as I always have been, open to work with Senator Moran as time goes on to correct those other things that we need to perfect that he might feel need to happen. As far as this legislation at this time, and all the other things that are incorporated in it that we need to move forward, at the appropriate time I will state that opposition to the amendment.

Senator Tester?

Senator TESTER. Yeah, I would just say, Senator Moran, that the majority of what you said I would agree with. I think it is an issue of interpretation, and I would just make this offer to you, as being the Ranking Member on this Committee, to work with you to try to get it to where it needs to be.

There is no doubt that reimbursement has been slow. The Medicaid issue for critical access hospitals needs to be fair. The fact is really this bill puts the VA at the center of veterans health care. I think that is important. Some of the same things you talked about in Kansas have happened to me in Montana, and it has probably happened to everybody around this table. One thing has become abundantly clear since we passed that Choice bill 3, 4, 5, 6 years ago—how many years? That is, the VA ultimately is the one that is going to be responsible for the care, so the VA has to be involved with the veteran when it is outsourced.

Now, like I said, the interpretation of the rule is where we get into trouble, and let me give you an example. If the service is not offered by a VA financial, they are automatically put into the community care. It does not say if that facility is closest to where that veteran lives. It does not say if there is another VA facility a few miles away that has it. Do you see what I am saying? I think that the fact is that I do not disagree with what you are saying. I just think we need to tighten it up. Let us just put it that way. And I think this bill, truthfully, when I went out and talked to my veterans—and I do not know if any of you had this response, but the guy who stood up and said, “Take all the money you are putting into Choice and put it into VA, and you will have the system that

I want,” got a standing ovation. There is that side of the equation, too, and that is why when the Chairman says this is a negotiated agreement that we have come to, we need to keep in mind that. Community care, we pumped many, many billions of dollars into it. We need to make sure that the VA is responsible and that we can hold the VA accountable in that responsibility.

Chairman ISAKSON. Does anyone else seek recognition?

Senator Moran.

Senator MORAN. Mr. Chairman, thank you. First of all, I would indicate that it must be in the eye of the beholder because I do not see this as a substitute. I do see it as a very important amendment, and I would hate for us—we have had, as you said, ten bills. Our ability to deal with Choice is, you know, present today, and for us to miss an opportunity to improve the workings of Choice in my view would be a mistake.

In regard to Senator Tester’s comments, the access standards are to be developed by the VA based upon how other Federal Government agencies define access, and so I do not think it is a fair statement to say that it does not—while the language does not say yet what that hospital is, the VA does. My point is while I am willing to give some discretion, significant discretion to the VA—I think that is a necessity—I think it is important for us to outline the criteria by which we expect the VA to develop their community care program.

This amendment has been endorsed by The American Legion. The VFW is neutral. The VVA is supportive. And every conversation I have had with Secretary Shulkin tells me—he tells me that this is the direction he wants us to go. The argument that I have had—not argument. I would not say it that way. The opposition that has been stated to me in every instance in which we have had a conversation about working on this has been—it has been conveyed to me initially that the minority opposes this, and then although I have never had that conversation with anybody—I mean, Senator Tester indicated what he just said. I do not think there is any reason—this is not a Republican or Democrat, it is not a majority or minority thing. This is solving a problem. There is not a philosophical issue here. I support preserving the VA, and this requires them to do their studies to determine what they do best and to increase their opportunity to bring to us the things they do well and the things that are needed in their community.

This is not undermining the VA at all. This is expanding the opportunities that veterans have based on better criteria than what the underlying bill or what the Choice Program had initially.

In addition to that, when the opposition changed, initially was told that the minority opposes this, it then became that the VA op-

poses this. I do not know that that is a criteria for us not to be supportive of something because the VA opposes it. But, my experience as late as yesterday or the day before in a telephone conversation with Secretary Shulkin was this is exactly the direction we want to go. He provided staff to us to work together on this amendment, and for several days that was the case. We had a Deputy or Under Secretary for Health Care working on this language.

I do not know what the opposition actually is, but I would hate for us to miss the opportunity to do this better than what I think we are doing. Thank you.

Chairman ISAKSON. Does any other member seek recognition?
Senator Tester.

Senator TESTER. I do, but go——

Chairman ISAKSON. I am sorry. Who did I miss?

Senator Sullivan.

HON. DAN SULLIVAN, U.S. SENATOR FROM ALASKA

Senator SULLIVAN. Yeah, Mr. Chairman, I just wanted to mention, you know, kind of trying to dig into this at a fairly detailed level, kind of a—I do not want to say “last minute.” I will just tell you—and this is out of respect for both of you and Senator Moran—this is a tough vote for me. I know how passionate Senator Moran is on this issue. I know how much time and effort he and his staff put into it. There are a number of things on this that I actually agree with, particularly some of the prescription elements with regard to the VA. There are some, though, that I either do not fully understand or have some issues with. So, I just want to make a statement to Senator Moran because I know how hard he has worked on it.

I want to continue, and my staff, we want to continue to work with these on a lot of these issues. To me, a no vote right now, do not look at that as, “Hey, we are done with this,” but a kind of I felt I ran a little bit out of time in terms of full comprehension, and I was also trying to be respectful of what the Chairman has stated, thinking through that this would be viewed as a substitute, which I know you disagree with, but I think there is an argument to be made on that.

My opposition to this should not be viewed as, you know, “No, way, heck no,” but, you know, I want to continue, my team and I want to continue to work with you on it. I think of all the members on this Committee in terms of passion and focus and detailed efforts with regard to our veterans, you are at the top of that, and I just want to say I respect it and hopefully you do not see a no vote as not respecting that.

Senator MORAN. Would the gentleman yield?

Senator SULLIVAN. Yeah.

Senator MORAN. My experience in a town hall meeting—in fact, I described this over the weekend—is that when I get a compliment, that is generally followed by the word “but.”

Senator SULLIVAN. Did I do that?

Senator MORAN. You did not say the word “but,” but I heard it.

Senator TILLIS. Mr. Chairman?

Chairman ISAKSON. Senator Tillis.

HON. THOM TILLIS, U.S. SENATOR FROM NORTH CAROLINA

Senator TILLIS. Mr. Chair, for the past 2 or 3 years, Senator Sullivan and I have been confused by a lot of people. Press come up and call me “Senator Sullivan” and him “Senator Tillis.” I would have stated almost identically what Senator Sullivan just said, so I would associate myself with his comments. I apologize to the member from Kansas. I will be voting against it, but we will continue to work with him.

Chairman ISAKSON. Senator Sanders?

HON. BERNIE SANDERS, U.S. SENATOR FROM VERMONT

Senator SANDERS. I am not going to give you all the laudatory praise. [Laughter.]

Senator MORAN. If the gentleman would yield. Thank you. [Laughter.]

“Worst Senator in history. I am voting with you, Jerry.”

Senator SANDERS. I am not going to vote with you, Jerry. But, here is the issue which we have got to deal with—and, by the way, I like this Committee, Mr. Chairman. It is the best Committee. I think it is a serious Committee. People have differences, but they respect each other and are trying to do the best that we can for veterans.

Here is the issue. I will pick up on Senator Tester’s point, which I have had a similar response in Vermont where people say, “Put money into the VA. We like the VA. It is doing a good job.” Here is the issue. Everybody here agrees, in rural States like ours, some of ours, if somebody has to travel 2 hours to get health care, that makes no sense at all. That is the wrong thing. If people can get good care in their own communities, of course, we are all in favor of that.

If a veteran has a specialized need that the local VA facility is incapable of providing, send that veteran to the best care he or she can get in their community. If the VA cannot provide care in a timely manner, send that veteran to a community health care facility.

Here is the slippery slope, Jerry, which I do not know whether you will agree with me or not. The overwhelming majority of veterans in this country, despite a lot of bad media, as I think you understand, believe that the VA provides quite good quality care for them. Nothing is perfect. VA care is not perfect. Private health care is not perfect. We have a lot of problems in this country. But, veterans respect the VA, and here is what I fear very much. I feel a drip-by-drip effort, not by you but just an overall drip-by-drip effort to end up moving toward the privatization of the VA. I know that is not your view, but the goal is we are going to let veterans go here, let veterans go there, and then you are not going to have the body of people using the VA facility. Then, we will be talking about closing up facilities all over this country. That is what I worry about.

I would love to talk to you at length. Maybe we will sit down and go over the issues. We all want the best for our veterans. But, I am going to vote on the amendment. I want to talk to Jerry about where he is coming from. My belief currently is when we have tens of thousands of vacancies right now at the VA—and I have an amendment on this, Mr. Chairman, that I will be offering—I want to see those vacancies filled so that veterans who walk into the VA get prompt, high-quality care.

Chairman ISAKSON. Does anyone seek recognition?

[No response.]

Chairman ISAKSON. All right. The motion we will be voting on is Moran amendment 1 today, which is the same as Moran amendment 22 that we worked on. Whether you know it as 1 or you know it as 22, either way you are voting one way or another on that Moran concept. Let me just say before we vote, I hope I have demonstrated in the past 3½ to 4 weeks my complete accessibility to discuss at any time, any place, as much as you want to, any amendment for any of this legislation. I think that is why we agreed to 19 in the ones proposed. My door will be as open tomorrow like it was leading up to this meeting today. I look forward to working with Senator Moran and everybody else to perfect the VA's care for our veterans, who are the most important citizens that we owe an obligation to in this country.

If nobody else seeks recognition, the question is on Moran amendment 1 or 22, whichever way you want to—is it OK to say it that way?

Senator MORAN. It is—oh, you were asking staff—from my perspective, it is.

Chairman ISAKSON. Do you want a roll call or do you want a voice vote?

Senator MORAN. Voice.

Chairman ISAKSON. All in favor, say aye?

Senator MORAN. Aye.

Chairman ISAKSON. All opposed, no?

[A chorus of noes.]

Chairman ISAKSON. The noes appear to have it. The noes do have it. The amendment is not adopted.

Senator MORAN. Mr. Chairman, may I be recorded?

Chairman ISAKSON. Will the clerk please report Senator Moran as yes?

Senator Cassidy?

Senator CASSIDY. Thank you, Mr. Chairman. This is my amendment—number 8—to strike Section 132, which relates to if a veteran is referred through the Choice Program to a private physician, that the veteran would continue to—and there is some event that is resulting from malpractice, the veteran would get some recompense from the VA.

It is clearly a well-intentioned amendment, but it has a complexity and an ambiguity that is going to come crashing down on a veteran's head. Now, I can tell you, some will be concerned that this effectively makes the Federal Government an indemnifier of a subcontractor, which is a slippery slope which the Federal Government has always been cautious about. But, let us assume that it is a good idea. The bill as written does not include a reporting mechanism, number 1. I can tell you what is going to happen, that someone is not going to report to the VA that they have gotten a large award; they will continue to receive their VA benefit; and after 5 years, the VA will suddenly find out that, oh, my gosh, we have been paying \$1,100 a month for 5 years, and we were supposed to be collecting—we were not supposed to be paying it. There will be an obligatory coming after the veteran to recoup this money. Now, most of these folks will not have the cash lying around. They are going to have to come up with this cash and pay it back. That is number 1. There is no reporting mechanism which is going to lead to a liability for the veteran, which is going to be incredibly problematic.

Number 2, there is an ambiguity as to what the award is. Let us assume that the award is for \$100,000. The trial attorney is going to take anywhere from 30 to 40 percent. Let us say 35 percent. Is the award net of the attorney fees? Or does the award include the attorney fees?

Let us assume there is a separate award to the spouse for loss of consortium. Does the VA include the award to the spouse for loss of consortium or not? Now, I can tell you, this is going to be worked out, and even if the veteran does report and is very conscious, but they are making a plan on something that as it turns out, no—this

is included, this is not—it is going to come crashing on his head or on her head.

There should be a concern that this is basically an indemnification of a subcontractor, but if we assume that this is a good idea—and it is certainly well intentioned—then I think we need to have greater clarity as to what is an award, again, net of attorney fees or not. Does it include loss of consortium payments? Is there a reporting requirement? Et cetera, et cetera. I would ask that this be struck and at a later point reintroduced with this ambiguity cleared up so that veterans are just not crushed by a VA that figures out 5 years later that they got an award.

Chairman ISAKSON. Does anyone else seek recognition?

[No response.]

Chairman ISAKSON. Let me say this, the proposal's intent is obvious to ensure the veteran who gets care either at the VA or outside the VA, there is going to be accountability to the veteran for any disability that they incur because of the visit to the private sector doctor outside of the VA or within the VA as well. I know of no reason not to include that in the legislation. I also know of no reason not to consider the possible concerns that are being raised by the distinguished Senator, who is a physician—and a good one, I am sure—from Louisiana. But, I do not see, unless my staff tells me something I do not know, where I would go ahead and take it out now. What I would rather do is perfect it with additional legislation, which we will consider in the Committee when it is submitted by the Senator from Louisiana.

Senator CASSIDY. Well, my amendment is to strike it.

Senator TESTER. Yeah, if I might, Mr. Chairman. I appreciate Senator Cassidy and I appreciate the amendment. Yet, I think we should work on it. I can tell you right now, the folks that could be most impacted by this are the disabled vets, and they are opposed to your amendment. I think that you make some solid points. I think that there will be an opportunity to visit with you. We respect your position as a Senator and a doctor on this issue, and I think you make some good points. I think you also—this drives back to the point that I said, that the VA in the end becomes responsible for all this, no matter if we outsource it or not. So, if we can get language to make it more streamlined so the veteran knows what to expect and it is fair and we can run it out and show it to the veterans to get their input, certainly we would be willing to work with you on it, Senator Cassidy.

Chairman ISAKSON. The Senator always makes the right point. If I misspoke, I apologize, but taking it out would be looking the other way from the conversation we have already had with members of the VSOs as well as other Members of the Committee. So,

I would want to keep it in. If you take it out down the line, do so with a stand-alone piece of legislation.

Anybody else?

Senator SULLIVAN. I just had a question for Senator Cassidy.

Chairman ISAKSON. Senator Sullivan.

Senator SULLIVAN. You are saying there are two different standards of care and reward, depending on whether it is something that happened within a VA facility versus a community care facility?

Senator CASSIDY. Well, if it is in the VA, then obviously the VA is responsible for their employed provider. But, the way it currently works is if they refer outside, it is to a civil physician, if you will; it is under the civil system. If there is a malpractice that occurs, then there is an award from the physician's malpractice company. This allows dual recovery effectively in which they would both get compensated from the VA, but they could also sue for malpractice.

Now, you could argue that the veteran may be less likely to sue for malpractice because the award will not be large enough, and so, therefore, a trial attorney will not take it on because they are already getting this guaranteed benefit. That is actually a concern. You could also—some would say, trial attorneys would certainly say, that a fear of lawsuits is a discipline upon physicians, if you will, disciplining them to a higher standard of care, and you could argue that this is eroding that discipline, that some physician may say, well, if I have a mulligan, then the VA will pick it up and I will not get sued.

Whether that is true or not, under this, the person, the vet, could both get something from the VA and get a malpractice award. But, again, as I point out, there is no reporting mechanism, so it could be 5 years later that the VA finds out, and they have been paying for 5 years after the judgment has been made, and they would have to go back and recoup 5 years' worth of payments.

Then, there are the other things I mentioned as to what is included. Is it net of attorney fees? Does it include loss of consortium payments, et cetera?

Chairman ISAKSON. Anyone else have a comment or input?

Senator HIRONO. Mr. Chairman?

Chairman ISAKSON. Yes, Senator Hirono.

HON. MAZIE K. HIRONO, U.S. SENATOR FROM HAWAII

Senator HIRONO. If the proponent would yield to a question, I am not sure I understand the harm that you are trying to prevent with this amendment. Are you saying that a veteran who for one reason or other does not get treated within the VA system but goes outside of the system, where there has been malpractice, and he/she pursues a malpractice lawsuit in the civil side, or tort action, attains

a recovery or settlement, and somehow the VA does not know about it, and so, therefore, they cannot pursue their subrogation claim? I do not understand what harm this is going to solve.

Senator CASSIDY. The way it is going to play out, there is no reporting requirement in the language, so imagine someone gets an award for \$200,000. A year after or 2 years after the alleged incident occurs, they get \$200,000. They have been receiving \$1,500 a month for 2 years. Under the legislation they are to no longer receive the \$1,500 a month until the payments would exceed the amount of the judgment.

Well, the VA is not going to find out about it. There will be circumstances in which the VA does not find out about and does not act upon it—

Senator HIRONO. Well, does the VA—excuse me. Does the VA even have any kind of a claim on the malpractice side?

Senator CASSIDY. Under this legislation, they would hold payments until the equivalent amount of payments—until there is an equal amount of payments to the amount of the judgment. It is not subrogation per se, but it is stopping payments until the accumulated amount would equal the judgment.

Senator HIRONO. Why would you do that? Because if there—

Senator CASSIDY. It is in the legislation.

Senator HIRONO. No, but why—what is the harm? Because if there was a malpractice and there is a settlement or a judgment, they have absolutely nothing to do with whatever the VA was—VA payments were to begin with, why would you—

Senator CASSIDY. No. The VA payments are because of the malpractice incident. That is the—in the legislation, that is the reason for the payments in the first place, that there was some untoward event that occurred in—

Senator HIRONO. To the veteran.

Senator CASSIDY. To the veteran in the private setting from a subcontractor.

Senator HIRONO. And the VA would pay for this kind of harm—

Senator CASSIDY. It sounds like you want to strike the amendment, too, because that is what the legislation proposes.

Senator HIRONO. I am very confused. I am sorry. Perhaps we need to discuss this further.

Chairman ISAKSON. Is there other—Senator Tester.

Senator TESTER. Well, I would just like to say that, you know, this is not unlike Senator Moran's amendment in that I think what you are saying can work, but just striking it does not get it to where it needs to go. So, I think a conversation, whether it is a stand-alone piece of legislation or whether it is in this legislation,

I would be open to and get some good folks at the table—yourself, maybe another doc or two and some attorneys—to figure out how to make it work. I see what you are trying to do. I am not sure this does it by striking it.

Chairman ISAKSON. Senator Rounds.

HON. MIKE ROUNDS, U.S. SENATOR FROM SOUTH DAKOTA

Senator ROUNDS. If I could, Mr. Chairman, I am just curious. In this package that is being proposed and that would go to the floor, I am assuming with the success of this Committee there is a real high probability that this might very well be one of those products that would move rather quickly through the Senate. I am just curious if there is a possibility that between now and the time that it would be acted upon on the Senate floor, would the Chairman entertain an amendment or a proposal from the doctor here to perhaps remedy the situation that I think he has legitimately brought up as being a concern?

I think Senator Hirono has hit it on the head, that if you have got someone who literally has been injured because of a surgery by an independent contractor and who has then, according to the legislation in the law that we are proposing, would be able to receive benefits from the VA for that injury that is caused by the negligence or the injury during that surgery, to have them find out several years later that their lawsuit that they would have brought against the surgeon actually doing the work was not subject to recapture by the VA, seems to me to be something that we probably ought to take a second look at, just so that that veteran does not find out 3, 4, 5 years later that they have got a heck of a bill that the VA is now by law required to recapture. I think Senator Cassidy is suggesting he wanted to get rid of it. It sounds to me like the Chairman would like to keep it in, but you would like to make a repair. Is there a way of doing that between here and the time it is on the floor?

Chairman ISAKSON. The answer to the Senator's question is the same answer I give to every question. I am always open to do business as long as we have business to do. If we do not get this legislation moving now to get it to the House and then get it to a conference committee, it is a moot question anyway. But, I have always been accessible and always will be accessible to have those discussions between now and whatever its disposition is before the U.S. Senate. So, the answer is, yes, I will.

Senator ROUNDS. Thank you, Mr. Chairman.

Chairman ISAKSON. Does any other member have a question or input?

[No response.]

Chairman ISAKSON. Hearing none, do you want a vote?

Senator CASSIDY. That is OK. I think I read the tea leaves.

Chairman ISAKSON. So, you are willing to pass?

Senator CASSIDY. We can do a voice vote.

Chairman ISAKSON. All those in favor of Cassidy amendment number 8, say aye?

[A chorus of ayes.]

Chairman ISAKSON. All opposed, say no?

[A chorus of noes.]

Chairman ISAKSON. The noes appear to have it. The noes do have it. The amendment is not adopted.

Is there another proposal?

Senator SANDERS.

Senator SANDERS. I have got a very simple amendment. This legislation, Mr. Chairman, provides \$3 billion more for Choice, and yet it only provides \$1 billion more for the VA at a time when we have 32,000 vacancies in the VA. So, what this amendment simply calls for is equity. It asks for \$3 billion to go into the VA to match the \$3 billion authorized for Choice. That is it.

Chairman ISAKSON. Senator Tester and I have been through this issue many times, and I believe the bill as drafted reflects our agreement on the split of the money at \$3 billion and \$1 billion. Does it not?

Senator TESTER. Yes.

Chairman ISAKSON. You are still of that persuasion?

Senator TESTER. Yes.

Chairman ISAKSON. I am, too, so we have been negotiating that as we have done the work leading up to now, and that is the proposal of both the minority—the Ranking Member and myself. I would stick to that position on the money. If we deviate from it, we are going to have problems. I appreciate your offer, but I would oppose the amendment if you choose to offer it because of the amount of work we have done to come to the agreement we have.

Senator SANDERS. Well, I will tell you what. If your door is open for me to talk to you—

Chairman ISAKSON. It has never been shut.

Senator SANDERS. All right then. I will withdraw the amendment, and I look forward to chatting with you.

Chairman ISAKSON. I will see you at the laundry. We always pass each other going there, anyway. Thank you. The amendment is withdrawn.

Is there any other—Senator Tillis.

Senator TILLIS. Just one real quick, Mr. Chair, and I am going to withdraw it, because I know you to be honorable—you and the Ranking Member—on working on matters. The one that I really

hope that we can get an agreement on is the Center for Innovation for Care and Payment. I come from the high-tech industry and innovation industry, and I think we have got an outdated method for working on pilots within the VA. It takes so long to get a pilot approved, by the time you do you really need to get the new pilot approved because the technology and the processes have changed. So, what we are really trying to propose here is something that I do believe the VA agrees would be helpful to them. But, rather than ask for a vote today, I would prefer to have a discussion. I think Senator Tester may have some concerns that I believe we can work out, because to Senator Tester's credit, we have been meeting with the Secretary for the better part of 3 years now, and I think that we are bought in to how this can be an enabler for the transformation effort. We will work with your staff and the Ranking Member's staff to try and get this in the final bill.

Chairman ISAKSON. I talked with the Secretary yesterday on this very subject and the very proposed amendment. We are working on it and will continue to. It is not dead, but it is not a part of this.

Senator TILLIS. Yes.

Senator TESTER. I just want to thank Senator Sullivan for—

[Laughter.]

Senator TILLIS. Thank you. I did not call it up, so I do not have to withdraw it.

Senator SULLIVAN. Senator Tillis, when he sees me he always says, "Hello, Handsome." I figure that he is complimenting himself, I think. [Laughter.]

Chairman ISAKSON. Are there any other comments, extra activities, or questions?

Senator Moran.

Senator MORAN. Mr. Chairman, I would ask unanimous consent to offer a portion—actually, two portions of the amendment that was defeated that I offered previously.

Chairman ISAKSON. You are asking unanimous consent to offer an amendment that we have not discussed? It is a second degree. Is that correct? I have got voices in my ear. [Pause.]

All right. I am told—and I am subject to correction if I am wrong—I am told you cannot second degree an amendment that failed, so it would be out of order.

Senator MORAN. Even with unanimous consent?

Senator TESTER. Sorry, sorry.

Chairman ISAKSON. Nobody has seen the text.

Senator TESTER. Mr. Chairman, my apologies. I think we can get to a point where we can work this out, so I would—I think that this is a really important issue you brought up. I think it is really important. I think it is critical to the conversation we have had

today on so many levels. I would object to doing this, but not by saying, no, this is a stupid idea; but by saying we need to work together to try to get it to a point where it is ready for prime time so that the interpretation is crystal clear.

Senator MORAN. If the gentleman would yield?

Senator TESTER. I would.

Senator MORAN. Thank you, Senator Tester. Perhaps I should have explained what my intent would be if unanimous consent is given. The amendment that I offered that was defeated included a number of provisions, I told you the crux of which was eligibility rules. There are other components of that amendment that I think would be unanimously agreed to by this Committee, and the two I would offer separately is the Quadrennial Review, like the Department of Defense does to have the Department—this is, to my knowledge, totally supported by all the VSOs—to put in place a strategic plan for the VA similar to what was talked about in pilot projects. It is a component of the amendment I have already offered.

The second amendment I would offer is the one I more fully described in my offering of the amendment, which was to take care of the critical access hospital issue and require the VA to reimburse at that higher rate.

Chairman ISAKSON. OK. Let me get the whispering over with, and I will respond. [Pause.]

Well, let me say this before we get into disorganized organization. All the work we did in the past 3 weeks to get where we are on all the amendments was because we got together and tried to work our differences out. I do not know what these provisions are or are not without having them in front of me, but if there is something that we should have worked out, we should be doing that leading up to this meeting, not at the last minute in the meeting if an amendment is not adopted.

With that said, Senator Tester?

Senator TESTER. I would echo that comment, Mr. Chairman. I would also say that if we could get feedback and clarity on what it is going to do and what it is going to replace and the impact on the overall bill, I would be more open to it. But, I do think this is important enough stuff that we should probably have pre-thought this stuff ahead of time.

Chairman ISAKSON. The Senator from Kansas is correct. You can ask for unanimous consent, and if it is granted, you can proceed. But, I am not going to grant unanimous consent. I will object because we offered so much time leading up to today to get this stuff done. We should have done it then. I am willing to do it in the future, but I am not willing to hold this legislation up today to go

to the next step, hopefully moving toward a conference with the House. Does anybody take—feel free to take issue with that, but I think that is the right way to move forward. Hearing none, any other issues for discussion or proposed amendments?

[No response.]

Chairman ISAKSON. OK. The question is on the adoption of the legislation as proposed and as amended. We will do it by roll call vote, and the clerk will call the roll.

The CLERK. Mr. Moran?

Senator MORAN. No.

The CLERK. Mr. Boozman?

Senator BOOZMAN. Yes.

The CLERK. Mr. Heller?

Senator HELLER. Aye.

The CLERK. Mr. Cassidy?

Senator CASSIDY. Aye.

The CLERK. Mr. Rounds?

Senator ROUNDS. Aye.

The CLERK. Mr. Tillis?

Senator TILLIS. Aye.

The CLERK. Mr. Sullivan?

Senator SULLIVAN. Aye.

The CLERK. Mr. Tester?

Senator TESTER. Aye.

The CLERK. Mrs. Murray?

Senator MURRAY. Aye.

The CLERK. Mr. Sanders?

Senator SANDERS. Aye.

The CLERK. Mr. Brown?

Senator BROWN. Aye.

The CLERK. Mr. Blumenthal?

Senator BLUMENTHAL. Aye.

The CLERK. Ms. Hirono?

Senator TESTER. Aye, by proxy.

The CLERK. Mr. Manchin?

Senator MANCHIN. Aye.

The CLERK. Chairman Isakson?

Chairman ISAKSON. Aye. The clerk will report.

The CLERK. On this vote the yeas are 13, the nays are 1. On the vote by proxy and for the record only, the ayes are 1 and the nays are 0.

Chairman ISAKSON. The legislation as amended is adopted. I want to thank the Committee for all their effort on this, and I stand ready tomorrow to discuss any issues any Member of the

Committee wants to discuss to build further on what we have done here.

I am sorry. Don't anybody leave yet.
Senator Heller?

HON. DEAN HELLER, U.S. SENATOR FROM NEVADA

Senator HELLER. Mr. Chairman, thank you, and I just want to make a brief statement, if I may, now that the work has concluded here. I want to thank both you and the Ranking Member for putting together a nice piece of bipartisan work that we can all be proud of and look forward to continuing to work with yourself and, of course, the Senator from Kansas, as he looks forward to working to try to get some of his issues resolved, which most of us see the importance of the issue that he brings before us.

I am pleased that my VA Bonus Transparency Act was included in the base bill so that the VA reports on bonuses awarded to critical positions within the VA.

I also appreciate you included two of my amendments: the Veterans Transplant Coverage Act, already, I believe, passed by the House of Representatives; and also my legislation to bring medical scribes into the VA so that doctors can spend less time on data entry and more time with their patients. Ranking Member Tester was my partner on this stand-alone bill.

While these are great additions to this legislation, I believe that we need to continue to bring more accountability to the VA. I am sure that every member on this Committee has read the USA Today story about the VA concealing medical mistakes or failing to report troubled providers to State licensing boards or the National Practitioner Data Bank. One veteran, as you may be aware of, had to amputate half her leg because of the pain she experienced after a botched surgery. This podiatrist was not reported, and that is why I introduced legislation with my colleague Senator Manchin to prevent the VA from concealing these errors or purging bad VA employee records and to make sure they report physicians with adverse actions.

We need to pass the VA Provider Accountability Act through the Senate, get it signed into law as soon as possible to protect veterans and to protect the public from bad physicians.

Mr. Chairman, my hope is to have your commitment and that of the Ranking Member to work with Senator Manchin so that we can advance this particular piece of legislation quickly.

Chairman ISAKSON. So noted.

Senator Moran?

Senator MORAN. Mr. Chairman, I thought maybe Senator Tester was going to raise this topic, though he has not. I just would high-

light the importance of us as a Senate, as a Congress, and an administration coming together. This legislation requires the caps to be altered, as will the Department of Defense appropriation bill. So, as appropriators, we have done our work, but we will not be able to complete our work until there is an agreement.

Senator TESTER. Yeah.

Senator MORAN. I would just encourage my colleagues to continue to pursue that with our leadership, both Republican and Democrat, and with the administration.

Chairman ISAKSON. Duly noted.

Senator Tester?

Senator TESTER. Yes, Senator Moran, I thank you for bringing that up. I touched on it in my opening statement. You are spot on and absolutely correct, and we do need to continue to work together to make sure that this is seen through. Otherwise, we will not get to where we need to be with this bill.

I just want to say one other thing, and that is, from the very beginning, when this Committee started the very first meeting in this Congress and we met with the VSOs in the big room downstairs and we talked about taking our direction from the VSOs, I just want to thank the VSOs that are here. I want to thank them for their work, for their—I mean, this bill came out over Thanksgiving, and you guys were given it, and you did the work you needed to do to get it back to us to tell us what was good and what was bad about this bill. I just want to thank you for the work that you have done.

Many years ago, the VSOs were bouncing all over the room. You guys have come together, and you speak with a pretty damn unified voice for the most part. I am going to tell you I very, very, very much appreciate that. I just want to thank the VSOs for the work they have done on this bill.

Chairman ISAKSON. In conclusion, I ask unanimous consent that, in preparing the agenda item for reporting, the Committee staff be authorized to make any required clerical, technical, and conforming changes, including changes necessary to conform with the Budget Act. Any objection?

[No response.]

Chairman ISAKSON. Hearing none, the unanimous consent is agreed to, and this meeting is adjourned.

[Whereupon, at 3:32 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT FROM HON. JOE MACHIN III,
U.S. SENATOR FROM WEST VIRGINIA

Thank you Mr. Chairman and thank you Ranking Member Tester for your leadership on this piece of community care legislation. Taking care of our veterans is one of the most important tasks we have as United States Senators.

West Virginia is one of the most patriotic states in the country. Nearly one out of every ten West Virginians is a veteran, and we owe it to them to work together in a bipartisan way to give them the care they deserve. I am pleased to say that I think we have done this in this bill.

When I meet West Virginia veterans, the Choice program is the topic I hear about the most. My veterans do not like the arbitrary 40 miles/30 day rules; they do not like third party administrators; and, they like receiving care at the VA when it is possible.

The hope is that this bill before us today will let veterans and their doctors, instead of bureaucrats and government contractors, make decisions that are best for the veteran. Issues with the Choice program make up a significant part of my office's casework. I have heard stories like a West Virginia veteran driving 3½ hours to Pittsburgh for routine shots because the CBOC is less than 40 miles, but it doesn't offer the right immunization. It makes no sense.

This bill also establishes new quality standards, creates new opportunities for veterans to get walk-in care, and expands opioid monitoring provisions to include non-VA care providers so it will be harder to game the system.

Finally, I am thrilled that the caregivers bill was included in this package and I want to particularly thank Senator Murray for her leadership on this issue for many years. I joined her bill in March after hearing from many veterans and their families in West Virginia on how important it was to expand this program.

Forty percent of West Virginia's veterans are Vietnam veterans. They were not shown a lot of appreciation when they came home. It is incumbent upon us to show it to them now.

Any bill of this magnitude will likely have issues that reveal themselves once implemented. I will continue to work with the Chairman, Ranking Member, and every Member of this Committee in a bipartisan way to ensure that our veterans are given the care they deserve.

LETTER FROM GARRY J. AUGUSTINE, WASHINGTON EXECUTIVE DIRECTOR,
DISABLED AMERICAN VETERANS



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November 27, 2017

The Honorable Johnny Isakson, Chairman
Senate Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, DC 20510

The Honorable Jon Tester, Ranking Member
Senate Committee on Veterans' Affairs
825A Hart Senate Office Building
Washington, DC 20510

Dear Chairman Isakson and Ranking Member Tester:

On behalf of DAV and our 1.3 million members, I am pleased to offer our strong support for your draft legislation, the "Caring for our Veterans Act of 2017", which would strengthen and reform the VA health care system and create a new integrated VA community care program. We urge you to approve this legislation as expeditiously as possible in the Committee and the Senate, and then reach an acceptable compromise with the House so it can be enacted into law this year.

We are pleased the draft legislation you skillfully crafted would replace the current Choice program by creating integrated networks with community providers, supplementing VA's comprehensive system of care, to ensure that veterans receive necessary medical care when and where they need it. The bill includes essential provisions to keep VA responsible for coordinating the care of enrolled veterans and provides new tools, authorities and resources so that veterans will have timely access to high-quality, comprehensive and veteran-focused care. The legislation also creates a new walk-in care benefit for veterans, helping to expand access and fill a critical gap in coverage for many veterans. Importantly, the legislation would provide sufficient new appropriations to enable the current Choice program to meet veterans' needs until the new community care program is implemented and operational next year.

Furthermore, the draft legislation contains a critically important provision that has been a priority for DAV members, the extension of VA's comprehensive caregiver benefits to earlier eras of veterans. This provision, supported by all major veterans service organizations (VSOs), corrects a serious inequity by extending benefits to caregivers of veterans injured or made ill during or prior to the Vietnam War, including World War II and Korean War veterans. As you move this legislation through the Senate and into conference discussions with the House, we urge you to ensure this caregiver equity provision remains part of the final legislation.

I want to commend both of you and your staffs for working in a bipartisan manner to develop legislation that would dramatically improve VA and its community care programs. This carefully constructed bill addresses the interests, priorities and concerns that VA, VSO stakeholders and veterans themselves have expressed over the past few years. I urge all Senators to support passage of this legislation in the Committee and on the Senate floor so that Congress can finally come to an agreement on appropriate legislation to send to the President this year.

Again, thank you both, as well as your staffs, for your strong collaborative relationship and for working so hard to reach agreement on a balanced bill that will strengthen and modernize the VA health care system and ensure that all enrolled veterans have timely access to the health care they deserve and have earned through their service, regardless of where they live.

Sincerely,

GARRY J. AUGUSTINE
Washington Executive Director

LETTER FROM PAUL RIECKHOFF, FOUNDER AND CEO,
IRAQ AND AFGHANISTAN VETERANS OF AMERICA



Nov. 30, 2017

The Honorable Johnny Isakson
Chairman
U.S. Senate Committee on Veterans Affairs

The Honorable Jon Tester
Ranking Member
U.S. Senate Committee on Veterans Affairs

Dear Chairman Isakson and Ranking Member Tester:

On behalf of Iraq and Afghanistan Veterans of America's (IAVA) more than 400,000 members, I am pleased to offer our support for the bipartisan *Caring for Our Veterans Act of 2017*.

We greatly appreciate your Committee working with, and soliciting input from, leading Veteran Service Organizations (VSOs) to get us to this point. We are pleased that the bill responsibly invests in upgrading VA's health care system and puts the veteran's needs first by empowering the VA to coordinate patient care wherever it can best be delivered.

We also thank you for the inclusion of provisions to inform veterans of their benefits, increase data tracking and reporting, emphasize creation of standardized guidelines and standards for care, in addition to language to extend the VA Caregivers program to earlier eras of veterans. And, IAVA looks forward to working with the Committee to ensure that 21st Century infrastructure and technology needs for the proposed reforms are rightly built into the system.

We must reaffirm IAVA's expectation that the Committee now continue to stand with every leading VSO and oppose any efforts to alter this draft legislation in ways that would remove the VA from its critical role of coordinating veterans' health care and would deprive the VA of essential resources.

Again, thank you for working collaboratively on this legislation with IAVA and our partner VSOs like Disabled American Veterans (DAV), Paralyzed Veterans of America (PVA), Military Officers Association of America (MOAA), and other leading VSOs to ensure veterans receive timely access to quality health care.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Paul Rieckhoff', is written over a light blue circular stamp.

Paul Rieckhoff
Founder and CEO
Iraq and Afghanistan Veterans of America

LETTER FROM LT. GEN. DANA T. ATKINS, USAF (RET.), PRESIDENT AND CEO,
MILITARY OFFICERS ASSOCIATION OF AMERICA



Lt Gen Dana T. Atkins, USAF (Ret)
President and CEO

November 28, 2017

The Honorable Johnny Isakson
United States Senate
412 Russell Senate Office Building
Washington, DC 20510

The Honorable Jon Tester
United States Senate
825A Russell Senate Office Building
Washington, DC 20510

Dear Chairman Isakson and Ranking Member Tester,

On behalf of the Military Officers Association of America (MOAA), I write to thank you for your strong leadership in introducing the Caring for Our Veterans Act of 2017. As the nation's largest and most influential association of military officers and the leading voice for all members of the military community, MOAA greatly appreciates your steadfast commitment to improving the health and wellbeing of our veterans and their families.

We lend our support for your bill and recognize the enormous bipartisan effort put forth to craft such a significant piece of legislation. This will improve veterans' health care while also providing a solid plan for transforming the Department of Veterans Affairs (VA) into a 21st Century health system.

Your legislation is critical and timely. MOAA is particularly appreciative of the following provisions:

- Establishing a single program to provide care to veterans through community providers.
- Requiring VA to be the primary coordinator of veterans' health care and directing VA to establish an integrated, high-performing network, to include VA and private providers.
- Requiring VA to establish clinical standards and an appeals process for accessing care based on medical need. This empowers the veteran and the VA primary care provider to work together in deciding how to obtain care in the community, when access and quality measures are deficient in the VA direct-care system.

- Establishing a number of improvements to strengthen the VA direct-care system. These improvements include expanding graduate medical education, loan repayment and residency programs for physicians, enhancing delivery of telemedicine, expanding VA's Comprehensive Assistance for Family Caregivers Program to veterans of all eras, and strengthening workforce management and development programs for recruiting, retention and training, as well as specific funding for improving internal VA medical capacity and facilities management.

MOAA values the opportunity to collaborate with you and your staff on this critical legislation. We look forward to working with the Senate and House Committees for swift passage of a bipartisan, bicameral veterans' health care bill.

Sincerely,

Sana T. Atkins

LETTER FROM CARL BLAKE, INTERIM EXECUTIVE DIRECTOR,
PARALYZED VETERANS OF AMERICA



**Paralyzed Veterans
of America**

801 18th Street NW
Washington DC 20006-3517
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(F) 202.785.4452
www.pva.org

Chartered by the Congress of the United States

November 28, 2017

The Honorable Johnny Isakson, Chairman
Senate Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, DC 20510

The Honorable Jon Tester, Ranking Member
Senate Committee on Veterans' Affairs
825A Hart Senate Office Building
Washington, DC 20510

Dear Chairman Isakson and Ranking Member Tester:

On behalf of Paralyzed Veterans of America, I am pleased to offer our support for the draft legislation, the "Caring for our Veterans Act of 2017." This legislation would significantly enhance and reform the Department of Veterans Affairs (VA) and enable a single integrated community care program. We strongly urge the committee to advance this legislation so it may be enacted into law by year's end.

Since the establishment of the Veterans Choice program in 2014, VA has struggled with ever-changing program requirements enacted by Congress and ever-increasing demand for healthcare. The proposed legislation is the logical next step to finally solidify the ways in which VA provides care in the community and provide the necessary tools to keep pace with the needs of our nation's heroes.

We are pleased to see the creation of a system of integrated networks with community providers so that VA may coordinate veterans care in the community when VA is unable or ill-fitted to provide such care. This will supplement, not supplant, VA's comprehensive system of care and provide appropriate resources to address the unique needs of veterans without causing a lapse in care.

While community care is and has always been an integral part of VA, we cannot lose sight of the need to expand the capacity to provide care to those veterans without community choices. This bill improves the ability to recruit and retain providers, increases telehealth, and authorizes facility construction. Critically, this bill extends to veterans being treated in the community, the same protections that would be provided within VA if disability or health problems are incurred while receiving care.

Of great significance to PVA, and the major VSOs, is the proposed expansion of VA's comprehensive family caregiver program to veterans injured on or before September 11, 2001. This will correct a shameful inequity that has gone on for too long, and asked caregivers and veterans to endure far too much. As this legislation moves forward we ardently advocate you to maintain the caregiver provision in the final legislation.

We applaud you for your bipartisan work to ensure veterans have access to the highest quality health care in a timely manner and in the most appropriate setting. We thank the members of the committee and their staffs for listening to our input and working together to produce a commendable piece of legislation.

Respectfully,

A handwritten signature in black ink that reads "Carl Blake". The signature is written in a cursive, slightly slanted style.

Carl Blake
Interim Executive Director
Paralyzed Veterans of America

LETTER FROM DENISE H. ROHAN, NATIONAL COMMANDER,
THE AMERICAN LEGION

The
American
Legion



OFFICE OF THE
NATIONAL COMMANDER

★ WASHINGTON OFFICE ★ 1608 "K" STREET, N.W. ★ WASHINGTON, D.C. 20006 ★
(202) 861-2700 ★

November 28, 2017

The Honorable Johnny Isakson, Chairman
Senate Committee on Veterans' Affairs
SR-412 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Isakson:

On behalf of the 2 million members of The American Legion, I write to express support for the majority of this draft bill, *Caring for our Veterans Act of 2017*. This bill, as currently written, would transform the Veterans Affairs Choice Program into a new community care system that will provide better services and healthcare to our nations veterans. The one area that The American Legion cannot support is any language that seeks to charge a veteran for medical services related to their service-connected disability. Section 1725A does not protect a covered veteran from paying out-of-pocket fees for service-connected illnesses or injuries, and would need to be amended before The American Legion would be able to support this section.

The draft legislation, combined with the legislative requests from Veterans Affairs (VA), will begin to address the evolution of 21st-century medicine at VA in a way that will allow the department to provide greater access and develop stronger relationships with non-VA providers, ultimately moving toward a more integrated system with the veteran at the core.

Through American Legion Resolution number 363, titled *Consolidation of Department of Veterans Affairs Care in the Community Program*, passed at The American Legion's National Convention in 2016, we are able to support such a measure to better the quality of life for servicemembers and veterans.

The American Legion applauds your leadership in addressing issues that are important to America's servicemembers, veterans, and their families. We are thankful for the dedicated work your committee has done in addressing the Choice Program shortfalls and developing a new community care system. We stand with you in your efforts to pass meaningful legislation that supports our nation's heroes.

For God & Country,

Handwritten signature of Denise H. Rohan in cursive.
DENISE H. ROHAN
National Commander

LETTER FROM BOB WALLACE, EXECUTIVE DIRECTOR, VETERANS OF FOREIGN WARS



“The VFW lauds Chairman Isakson and Ranking Member Tester for reaching a bipartisan and comprehensive compromise on the future of VA community care that will ensure veterans receive timely access to high quality, comprehensive and veteran-centric care. We look forward to working with the committee to ensure swift passage of this important bill.”

VFW Executive Director Bob Wallace.

LETTER FROM RENÉ C. BARDORF, SENIOR VICE PRESIDENT OF GOVERNMENT AND
COMMUNITY RELATIONS, WOUNDED WARRIOR PROJECT

Wounded Warrior Project
1120 G St. NW, Suite 700
Washington, DC 20005
☎ 202.558.4302
☎ 202.898.0301



November 29, 2017

The Honorable Johnny Isakson, Chairman
United States Senate Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Isakson,

At Wounded Warrior Project (WWP), we provide advocacy based on a history of having served more than 3.5 million post-9/11 veterans, servicemembers, and families through partnerships and direct programs. From this perspective, WWP is pleased to offer its support for the current draft of the *Caring for Our Veterans Act of 2017*. We sincerely appreciate the spirit of bipartisanship and inclusiveness reflected in this bill and applaud your commitment to expanding options for care in the community and strengthening the resources available at the Department of Veterans Affairs (VA) to help meet growing demand for care.

While we have reservations about a provision in the bill that would allow VA to charge veterans for medical services related to service-connected disabilities, we are pleased to see other provisions in the bill that would provide an avenue to appeal decisions regarding community-based care, address deficiencies in access and quality within VA medical service lines, and improve telemedicine options. Overall, the bill is consistent with WWP's support for a strong, integrated health system that provides timely access to the best possible care.

Additionally, WWP appreciates the measured approach to expanding VA's Family Caregiver Program outlined in Title III. While WWP's advocacy efforts have been dedicated to ensuring proper functioning of the program for current beneficiaries, we believe that program expansion to all generations can and should be achieved with careful management and appropriate funding.

In closing, WWP would like to express our sincere gratitude for your leadership and commitment to serving and working diligently on behalf of our nation's veterans, family members, and caregivers to solve very challenging and complex problems. We look forward to continuing to work with you and your staff on improving the Choice Program and building a strong and sustainable system of care for wounded warriors and those who support them.

Sincerely,

René C. Bardorf
Senior Vice President of Government and Community Relations

DUTY ★ HONOR ★ COURAGE ★ COMMITMENT ★ INTEGRITY ★ COUNTRY ★ SERVICE

woundedwarriorproject.org

