LEGISLATIVE PRESENTATION

PARALYZED VETERANS OF AMERICA

LOUIS IRVIN
EXECUTIVE DIRECTOR

BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS

SEPTEMBER 20, 2006

Mr. Chairman and members of the committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to testify today. We appreciate the Committee giving us the opportunity to comment on accomplishments this fiscal year. However, we believe that there is more to be done both before the end of this legislative session and in the 110th Congress.

I will focus my statement first on the current status of the FY 2007 Department of Veterans Affairs (VA) appropriations legislation. I will then address current legislative issues pending before this Committee and Congress and initiatives that we believe need to be addressed this year or in the 110th Congress. Finally, I will offer some insight into the critical issues that will dictate the direction that *The Independent Budget* will go as we begin to formulate our recommendations for FY 2008.

FY 2007 VA HEALTH CARE BUDGET

As you are aware, PVA is a co-author, along with AMVETS, Disabled American Veterans, and Veterans of Foreign Wars, of *The Independent Budget*. This year, PVA and our fellow veterans' service organizations have been proud to mark the 20th Anniversary of this joint effort presenting budget and policy direction to the Congress and the Administration for all benefits and services provided to the veterans of this nation.

In May, the House of Representatives approved the FY 2007 appropriations bill that will fund the Department of Veterans Affairs (VA). The bill provides $25.4 billion for Medical Services. This is approximately $600 million less than the recommendations of *The Independent Budget* and $100 million less than what the President recommended earlier this year. The House Appropriations Subcommittee on Military Quality of Life and Veterans' Affairs stated that it shifted the $100 million from Medical Services to the Medical Administration account. Although, this does not quite meet the recommended levels of *The Independent Budget*, we are glad to see that Congress and the Administration made a reasonable effort this year to meet the needs of the VA health care system.

We particularly appreciate this Committee and the entire House rejecting the proposed enrollment fee and increase in prescription drug co-payments recommended by the Administration. The President's Budget Request projected that these proposals would generate $795 million and force as many as 200,000 veterans to leave the system.

I would like to take a moment to explain why PVA has continuously objected to this proposal. I would also like to clarify the serious impact these proposals would have on many veterans with catastrophic disabilities whose only main health care resource is the VA health care system.

VA has cared for veterans with non-service connected disabilities for a long time. This is not a new phenomenon authorized by eligibility reform in 1996. Veterans health facilities admitted non-service connected veterans in large numbers following World War I. The Congress and the VA admitted the non-service connected, not just the poor and indigent, in large numbers as the VA health care system grew in size and scope through the middle of the 20th Century and beyond. VA used the rationale that its facilities were there to serve veterans who, because of non-availability of comparable services, access, or cost, found VA a reasonable or unique resource for health care services they could not find elsewhere.

Prior to 1986, all veterans, service-connected and non-service connected, over the age of 65 were eligible for VA health care. In 1986, Congress approved legislation which divided the

veteran population into three eligibility categories. In 1996, Congress again revised that legislation with a system of seven priority ratings for enrollment. Within that context, PVA worked hard to ensure that those veterans with catastrophic disabilities, no matter if those disabilities were service-connected or non-service connected would have a higher enrollment category. If the three implied missions of the VA health care system were to provide for the service disabled, the indigent and those with special needs, the catastrophically disabled certainly fit in the latter priority ranking. The VA had an obligation to provide care for these veterans. The specialized services, such as spinal cord injury care, unique to VA, should be there to serve them.

To protect their enrollment status, veterans with catastrophic disabilities were allowed to enroll in Category Four even though their disabilities were non-service connected and regardless of their incomes. However, unlike other Category Four veterans, if they would otherwise have been in Category Seven or Eight, they would still be required to pay all fees and co-payments, just as others in those categories do now for every service they receive from VA.

PVA believes this is unjust. VA recognizes their unique specialized status on one hand by providing specialized service for them in accordance with its mission to provide for special needs. The system then makes them pay for those services.

These veterans are not casual users of VA health care services. Because of the nature of their disabilities they require a lot of care and a lifetime of services. Private insurers do not offer the kind of sustaining care for spinal cord injury found at VA even if the veteran is employed and has access to those services. Other federal or state health programs fall far short of VA. In most instances, VA is the only and the best resource for a veteran with a spinal cord injury and yet, these veterans, supposedly placed in a priority enrollment category, have to pay fees and co-payments for every service they receive as though they had no priority at all.

PVA was pleased that this Committee recommended a significant increase in funding for Medical and Prosthetic Research in its budget views and estimates earlier this year. Unfortunately, the appropriations bill only provided an increase of $13 million for a total of $412 million over the Administration's request. This amount is approximately $48 million less than *The Independent Budget* recommendation. Research is a vital part of veterans' health care, and an essential mission for our national health care system. VA research has been grossly underfunded in comparison to the growth rate of other federal research initiatives.

One area that we remain concerned about is funding for construction projects. The appropriations bill provides nearly $1.15 billion less than *The Independent Budget* recommendation for major construction. The bill also provides no funding for the new spinal cord injury (SCI) center in Milwaukee, Wisconsin or funding for the replacement medical center, which would have included an SCI center, in Denver, Colorado. The appropriations bill also provides $295 million less than *The Independent Budget* recommendations for minor construction. Many VA facilities require significant upgrades and overhaul. Likewise, VA infrastructure continues to age at a rapid rate. Provision of VA health care and benefits should not be placed at risk simply because the facilities where these services are provided are in need of repair.

PVA must also reemphasize our desire to see the VA health care system reopened to all eligible veterans. We opposed the Secretary's decision in 2003 to close enrollment for new Category 8 veterans, and our position has not changed. Unfortunately, despite our clear desire to have the VA health care system open to these veterans, Congress and the Administration have shown

little desire to overturn this policy decision. The VA estimates that a total of over 1,000,000 Category 8 veterans will have been denied enrollment into the VA health care system by FY 2007. We believe that the system should be reopened to these veterans and the necessary money appropriated to provide the services that these veterans have earned and deserve.

Despite a reasonable request this year, the budget and appropriations process over the last number of years demonstrates conclusively how the VA labors under the uncertainty of how much money it is going to get and when it is going to get it. In order to address this problem, PVA, in accordance with the recommendation of *The Independent Budget*, proposes that funding for veterans' health care be removed from the discretionary budget process and be made mandatory.

CURRENT ISSUES PENDING

MULTIPLE SCLEROSIS (MS) AND PARKINSONS CENTERS OF EXCELLENCE

Beginning in 1997, PVA has worked with VA MS clinicians and administrators, as well as with private MS providers and advocates to address the then 'patchwork' service delivery by VHA to veterans with MS. While we identified the scope and range of VA's patchwork of MS services, it became very apparent that vital elements indeed existed; if only they might be brought together in mutual support of VA's mission to serve MS veterans.

As a result of our advocacy, the VA appropriations subcommittees in the House and Senate inserted language in their VA funding reports for FY 2001 requiring VA to establish centers of excellence to conduct research and study in the field of neurodegenerative diseases. With that instruction, VA identified two fields of inquiry for the centers with particular bearing on medical conditions prevalent in the veteran population, Parkinson's disease and Multiple Sclerosis.

The VA then established Parkinson's disease Research Education and Clinical Centers (PADRECC) and Multiple Sclerosis (MS) Centers of Excellence. These centers represent a successful strategy to focus the Veterans Health Administration's (VHA) system-wide service and research expertise to address two critical care segments of the veteran population. They integrate direct health care services, education, and research to the benefit of veterans in the system.

The designation by VA of two MS Centers of Excellence located in Baltimore and Seattle/Portland represents "centers without walls" engaged in marshaling VA expertise in diagnosis, service delivery, research and education and making the same available across the country through a 'hub and spokes' approach. The mid-term evaluation of these two centers very positively acknowledges the success of VA's strategy.

However, PVA has expressed concern that the centers, established only through VA good faith and resources available in any one budget cycle could eventually be in jeopardy. Earlier this year, the Senate approved S. 2694 that would make permanent the authorization of these centers. We urge the Committee to adopt legislation which would codify these centers in Title 38 U.S.C. because they represent the true value of VHA as a national health care system success story.

PHYSICIAN AND NURSE SHORTAGE

PVA is concerned that the VA continues to experience a serious shortage of qualified, board certified spinal cord injury (SCI) physicians, making it difficult to fill the roles of chiefs of SCI/D centers. Several major SCI/D programs are under "acting" management with resultant delays in policy development and a loss of continuity of care. In some VA hospitals the recruitment for a new chief of service has been inordinately prolonged with acting chiefs assigned for indefinite time periods.

We are even more concerned about the continuing shortage of nurses, particularly in the spinal cord injury units. PVA believes that the basic salary for nurses who provide bedside care to SCI veterans is too low to be competitive with community hospitals. This leads to high attrition rates as these nurses seek better pay in the community.

Recruitment and retention bonuses have been effective at several SCI centers, resulting in an improvement in the quality of care for veterans as well as the overall morale of the nursing staff. Unfortunately, these are localized efforts by individual VA medical facilities. We believe that the Veterans Health Administration (VHA) should authorize substantial recruitment incentives and bonuses.

PVA calls on Congress to conduct more oversight of the VHA in meeting its nurse staffing requirements for SCI units as outlined in VHA Directive 2005-001. Currently nurse staffing numbers do not reflect an accurate picture of bedside nursing care provided because administrative nurses, non-bedside specialty nurses, and light-duty staff are counted as part of the total number of nurses providing bedside care. Furthermore, not all SCI centers are in full compliance with the regulation for the staffing ratio of professional nurses to other nursing personnel. With proper congressional oversight, these situations can be corrected.

LONG-TERM CARE AND ASSISTED LIVING

PVA is concerned with recent trends to reduce the ability of the VA to provide long-term care to a rapidly aging veteran population. We strongly oppose any proposal that would repeal the statute that requires the VA maintain bed and staffing levels at the same level established by P.L. 106-117, the "Veterans Millennium Health Care and Benefits Act." Despite an aging veteran population and passage of P.L. 106-117, the VA has continuously failed to maintain its 1998 VA nursing home required average daily census (ADC) mandate of 13,391. VA's average daily census (ADC) for VA nursing homes has continued to decline since 1998 and is projected to decrease to a new low of 9,795 in FY 2006. The VA is ignoring the law by serving fewer and fewer veterans in its nursing home care program.

PVA is deeply troubled by efforts in Congress last year to eliminate the mandatory ADC requirement contained in the Millennium Health Care bill. This proposed change is not driven by current or future veteran nursing home care demand. In fact, the General Accounting Office (GAO) reported "the numbers of aging veterans is increasing rapidly, and those who are 85 years old and older, who have increased need for nursing home care, are expected to increase from approximately 870,000 to 1.3 million over the next decade."

PVA strongly feels that the repeal of the capacity mandate will adversely affect veterans and is a step toward allowing VA to reduce its current nursing home capacity. This is not the time for reducing VA nursing home capacity with increased veteran demand looming on the near

horizon. We hope that this Committee will reject any such legislation. Furthermore, we urge the Committee to conduct aggressive oversight to ensure that the VA is fulfilling its statutory obligation to provide long-term care.

We believe that assisted living can be a viable alternative to nursing home care for many of America's aging veterans who require assistance with the activities of daily living (ADL) or the instrumental activities of daily living (IADL). Assisted living offers a combination of individualized services, which may include meals, personal assistance, and recreation provided in a home like setting. Congress should consider providing an assisted living benefit to veterans as an alternative to nursing home care. Likewise, Congress should authorize the VA to expand its Assisted Living Pilot Program (ALPP) to include an initiative in each VA Veterans Integrated Service Network (VISN). This expanded effort will allow VA to gather important regional program cost and quality information.

Congress should call upon VA to conduct a cost and quality comparison study that compares the ALPP experience to cost and quality information it has compiled for VA nursing home care, community contract nursing home care, and state veterans nursing home care. When completed, this long-term care program cost comparison study should be made available to Congress and veterans service organizations.

BENEFITS RECOMMENDATIONS

PVA would like to offer a few improvements to benefits provided by the VA. PVA members are the number one beneficiary of the Special Adaptive Housing (SAH) grant and the adaptive automobile grant. Unfortunately, periodic increases in these grants have not kept pace with inflation. For both the SAH grant and the adaptive automobile grant, we believe that an automatic annual adjustment indexed to the rising cost-of-living should be applied. Furthermore, in accordance with the recommendation of *The Independent Budget*, the adaptive automobile grant should be increased to 80 percent of the average cost of a new vehicle to meet the original intent of Congress.

The House Veterans' Affairs Subcommittee on Economic Opportunity considered H.R. 4791, the "Disabled Veterans Adaptive Housing Improvement Act," earlier this year. We hope that this Committee will move this legislation forward as it will allow veterans with severe service-connected disabilities to realize the dream of owning their own home when they otherwise may not have had the opportunity.

CRITICAL ISSUES FOR FY 2008

The Independent Budget veterans' service organizations recently began planning for FY 2008 by developing our critical issues. Many of our concerns mirror the issues that we identified in past years.

First and foremost, we believe that adequate funding for veterans health care is essential. Despite the prospect of a positive step forward this year, a step that has not been set in stone with enactment of the appropriations bill, Congress and the Administration cannot withdraw from the ground we have gained next year. If the VA is going to be able to continue to meet the demand on the health care system, adequate funding must be provided. *The Independent Budget* will likely have preliminary budget projections by January. We will also continue to

stress the need for budget process reform removing VA health care funding from the discretionary process and making it mandatory.

A second critical issue is mental health care and long term care. It has become more apparent that many service members returning from Iraq and Afghanistan are experiencing psychological disorders. Most of this can be attributed to the constant stress of combat or to side effects as a result of traumatic brain injury. It is imperative that we do not allow these men and women to slip through the cracks.

Third, as I previously mentioned, we have serious concerns about construction and infrastructure. VA construction projects have suffered in recent years as a result of the moratorium on new construction as a result of the Capital Asset Realignment for Enhance Services (CARES) process. This also led to a significant backlog in critical maintenance and infrastructure upgrades. We hope that this Committee and Congress will devote serious attention to the infrastructure needs of the VA next year.

Once again this year, the claims backlog is one of our critical issues. *The Independent Budget* recognized this growing crisis this year and made recommendations to significantly increase the number of claims adjudicators and other Veterans Benefits Administration (VBA) staff. We appreciated this Committee recommending an increase of 200 full-time equivalent employees (FTEE) for direct compensation this year. Unfortunately, the Military Quality of Life and Veterans Affairs appropriations bill does not include additional funding to allow the VA to hire these staff.

We also remain concerned about efforts to allow attorney representation into the claims process. Today there are a number of VSO service officers to assist veterans in accessing the full range of benefits and services available to them. Veterans' Service Organizations provide such services free-of-charge, and veterans are free to choose which VSO they would like to assist them. Service officers also help veterans access the many health care services available through the VA. Likewise, they help veterans gain access to assistive technology and other equipment to meet their accessibility needs. The service officer and the veteran develop a unique relationship through this interaction and will, we believe, continue to serve in this important role even if veterans are given the choice to hire a lawyer to represent them before the VA.

PVA believes that the most appropriate time for veterans to hire and pay a lawyer to represent them is after a Notice of Disagreement is filed and their initial application for benefits has been denied. This is the time at which a lawyer's skills would be particularly helpful. This is the position provided by H.R. 4914, the "Veterans' Choice of Representation Act" that has been introduced in the House of Representatives by Representative Evans. PVA believes that this aspect of the Evans bill perpetuates the valuable role played by VSOs and their service officers.

As in previous years, another critical issue for *The Independent Budget* is seamless transition of service members from military to civilian life. This seamless transition includes not only health care services but benefits as well. We have continuously advocated for a single separation physical for all transitioning service members to ensure that the VA can best provide for their health care needs when necessary. The Department of Labor (DOL) must also continue to improve its Transition Assistance Program (TAP) and Disabled Transition Assistance Program (DTAP) managed by the Veterans Employment and Training Service (VETS). PVA believes that the DTAP has not had the same level of success as the TAP. Service members with severe disabilities who may already be receiving health care and rehabilitation from a VA

facility, despite still being on active duty, often are forgotten in the transition assistance process because they are no longer located on or near a military installation.

We also believe that homeland security and emergency preparedness as a part of VA's fourth mission is a critical issue. The terrorist attacks of September 11, 2001 and the disastrous results of Hurricane Katrina and Hurricane Rita last summer in the Gulf Coast region validates the importance of providing VA with the resources it needs to meet its fourth mission responsibilities. The VA was fully prepared to care for veterans affected by the hurricanes, and it received much deserved credit for its outstanding performance. Unfortunately, the VA was not approached for assistance by other federal, state, and local agencies that struggled to react to these events.

Furthermore, the VA has not received dedicated funding to support the fourth mission. It has invested considerable resources to ensure that it can support other government agencies when a disaster occurs. However, this funding is simply drawn from the medical care account. It is imperative that Congress begin to address the fourth mission funding needs and do so in a separate line item in the Medical Care account.

Finally, Congress must continue to invest much needed resources in the National Cemetery Administration (NCA). With new national cemeteries opening this year and next year, we must ensure that NCA can properly maintain these national shrines. In the end, all veterans and their family members should be provided a dignified setting in a national or state veterans' cemetery to honor their service and sacrifice.

PVA appreciates the opportunity to present our views and concerns on issues that have come before this Committee this year and will be dealing with next year. We look forward to working with the Committee to ensure that adequate resources are provided to the VA health care system so that eligible veterans can receive the care that they have earned and deserve. We also hope that this Committee will move quickly to address meaningful improvements to the benefits that veterans rely on.

Mr. Chairman, I would like to thank you again for the opportunity to testify. I would be happy to answer any questions that you might have.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2006

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— $252,000 (estimated).

Fiscal Year 2005

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— $245,350.

Paralyzed Veterans of America Outdoor Recreation Heritage Fund – Department of Defense –$1,000,000.

Fiscal Year 2004

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— $228,000.

Louis Irvin
Executive Director
Paralyzed Veterans of America

Louis Irvin is the Executive Director for Paralyzed Veterans of America (PVA). Irvin was appointed to this position at PVA's 60th Annual Convention in August 2006. Irvin previously served as the Associate Executive Director for Veterans Benefits.

As the AED for Veterans Benefits, Louis was responsible for leading both a headquarters and a field staff that constantly reviews the Department of Veterans Affairs (VA) policies to ascertain that VA's health care facilities are providing required patient care and advocate on all VA entitlement issues such as compensation and pension.

Louis served in the US Navy as a Fire Control Technician and received a combat action ribbon during the 1990 Persian Gulf War. In 1992 he suffered a spinal cord injury that ended his Military career. He became a PVA member in 1994 and began to serve PVA as a National Service Officer the same year. Four years later he was appointed to PVA's National Board of Directors and in 1999 was accepted to the position of Executive Director for PVA's Cal-Diego Chapter in San Diego, CA. He served in this capacity until January 2003 when he joined the national office of the Paralyzed Veterans.