

Advisory Committee on Disability Compensation (ACDC) Meeting

November 9, 2021

9AM-12PM

SUMMARY NOTES

Purpose: The purpose of the Advisory Committee on Disability Compensation (the Committee) is to provide advice to the Secretary of Veterans Affairs on establishing and supervising a schedule to conduct periodic reviews of the VA Schedule for Rating Disabilities (VASRD).

The purpose of this meeting is for the Committee to begin planning the biennial report due October 2022. In addition, Committee members will be introduced to skills on how to create report recommendations and how to provide possible solutions for preparing and submitting recommendations.

Rules of Engagement: Sian Roussel, Designated Federal Officer (DFO) for the ACDC, conducted rules of engagement, indicated that the meeting is open to the public and stated that the meeting is being recorded.

Transcription Services: Provided by Jamison Professional Services

Staff Present:

- Sian Roussel, DFO, ACDC; Program Analyst, Veterans Benefits Administration (VBA)
- Claire Starke, Alternate DFO, ACDC; Program Analyst, VBA
- Tonita Cannon, Program Analyst, Budget Office, Compensation Service, VBA.

ACDC Members Present:

- Thomas J. Pamperin, Chair
- Evelyn Lewis, Alternate Chair
- Joyce Johnson
- Michael Maciosek
- Bradley Hazell

- James Lorraine
- Al Bruner
- Patt Maney
- Eloisa Taméz
- Frank LoGalbo
- Kimberly Adams
- John Shaver
- Steven Wolf

The committee met in an open, public session on November 9, 2021, via the Cisco WebEx platform.

Opening Remarks

Ms. Roussel called the Committee to order at 9:00 a.m. Role was called, and 13 members were present. She reviewed the rules of engagement for speaking then turned the meeting over to Chair Pamperin.

Public Comments

Chair Pamperin reminded the Committee that a biennial report to Congress is due in October 2022 and the purpose of this meeting is to begin planning for the report.

Two comments were received from the public. The first was from Dr. Andrew Meisler, VA Healthcare Connecticut, who expressed concerns about private exams or contract examiners with the evaluation of post-traumatic stress disorder (PTSD) and increased evaluation of PTSD. The Committee Chair stated that the Committee appreciates the concerns but believes this is the responsibility of the Veterans Health Administration (VHA) and VBA with regard to contract and VA exams regarding proper credentialing and assessment of mental health disabilities. Chair Pamperin noted, particularly, that the mental health section of the rating schedule is in progress, and it would be inappropriate to state anything further at this time.

The second public comment came from Colonel Douglas P. Strand, who is also a retired physician, regarding inclusion of the condition chronic reflex sympathetic dystrophy syndrome. Colonel Strand addressed the Committee 10 or 11 years prior on same subject and inquired if VA is actively considering a separate diagnostic code. Chair Pamperin stated that it was not included in the current changes to the rating schedule that were published for this body system, and that this inquiry was not received during regulatory comment period. Col. Strand was directed to submit his comments during any future regulatory comment periods.

Chair Pamperin stated that concluded the public's comments. He said he would make comments towards the end of the meeting about topics for future meetings and regarding

any issues the Committee should consider when writing the 2022 biennial report.

Member Introductions

After self-introductions by members, Ms. Roussel introduced the first presenter, Tonita Cannon, Program Analyst, Budget Office, Compensation Service, VBA.

Welcome Letter

Ms. Cannon reviewed the welcome letter sent to Committee members and apologized for the delay in payments of the prior stipend payments, as the VA was transitioning from one financial program to another. She assured the Committee that now that the VA is working from one financial program, everything should work better. Ms. Cannon requested that the welcome letters be signed and sent to herself via e-mail no later than five business days after the meeting. Once all of the signed letters are received, the package will be turned into the VBA financial office and will be approved to process. This will take several steps, but everything will be done within six weeks as stated. If Committee members have questions or want a receipt, they are to e-mail her with that request. Ms. Roussel requested that Committee members CC the letter to herself and Ms. Starke rather than sending to the ACDC e-mailbox.

Report Recommendation Training

Ms. Roussel introduced herself and began obligatory Report Recommendation Training. She reviewed the rules of engagement again and reviewed the agenda: Objectives, Specific, Measurable, Actionable, Realistic, Target/Timeframe (S.M.A.R.T.) Report Recommendations, (Not So) S.M.A.R.T. Report Recommendations, and examples of S.M.A.R.T. Recommendations.

She stated that the training objectives were to: refresh Committee members or introduce new Committee members on skills and knowledge on how to go about creating report recommendations; to introduce Committee members to best practices and tools; to note Committee challenges and provide possible solutions for preparing and submitting recommendations; and to build a community of practice advocacy for training, collaboration, and productive change.

S.M.A.R.T. is an acronym created by the Advisory Committee Management Office, and stands for Specific, Measurable, Actionable, Realistic, Target/Timeframe. This is important because it sets a destination and maps where the Committee is going. It clarifies what is expected and measures if a recommendation is successfully implemented. It improves overall results, standardizes how Committee recommendations are written and formatted, and provides guidance criteria for setting objectives, goals, and measures. It is also used to link the Committee's recommendations to the Department's mission.

When creating a report recommendation, these specific questions should be asked.

- Specific: Is it linked to the Department's mission, position summary, strategic plan, Committee charter?
- Measurable: Can success be measured? How can it be measured?
- Actionable: Is the recommendation obtainable or actionable? Can it be achieved through reasonable actions and investment of resources?
- Relevant: Is the recommendation realistic, results oriented and within the scope? Is it aligned with current mission tasks, projects, and initiatives? Is the recommendation focused on one defined area? Does it include a desirable result or end state?
- Target/Timeframe: Does the recommendation have a clearly defined timeframe, target, and deadline?

Not so S.M.A.R.T. examples:

- "The Department of Veterans Affairs should improve employee communicating skills."
- "The Committee recommends that the VA improve women Veterans' appointments."
- "The Committee recommends that the VA revamp all services provided to Veterans."
- "The Committee recommends that the VA open a new National Cemetery."

Ms. Roussel pointed out that it is important not to be vague with recommendations. The examples shown do not identify specific measurements, timeframes, explanations, or note how the recommendations should be used.

Example of a clearly written recommendation:

"The Department should work to rapidly deploy outreach multipliers/enablers like: 1.) expanding the number of fully-trained, public-affairs officers and deploying them more frequently; 2.) allotting more time for individual, employee public-engagement-skills training hours to maximize one-on-one Veteran-knowledge provider opportunities; 3.) having more VA, senior leaders conduct public outreach/issue interviews, and; 4.) expand the functionality of enterprise-web pages to better reach and inform stakeholder audiences. VA should complete this recommendation by March 2021 and annually publish the results by June of each year between 2021-2024."

This is S.M.A.R.T. because it sets the destination; maps out where Committee is going; clarifies what is expected; gives the measures used to determine if the recommendation is successfully implemented; provides guidance criteria for setting objectives, goals and measures; and links Committee recommendations to the Department mission.

Ms. Roussel shared a second example of a clearly written recommendation, similar to the 2020 biennial and past reports. The example, including VA's response, is as follows:

Enhancements to the Comparison Tool and Student Veteran Feedback System

Background: The initial creation of the GI Bill Comparison Tool to implement Executive Order (EO) 13607, *Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members*, and P.L. 112-249, was 5 years ago.

Recommendation: The Committee recommends VA conduct a comprehensive review of the GI Bill Comparison Tool and the process to obtain complaints and/or feedback and further recommends VA consider (but not be limited to) things such as:

- adding a rule to limit the timeframe in which closed complaints are displayed on the Comparison Tool (currently they are never removed) and
- establishing a mechanism to display feedback and comments (both positive and negative) on the Comparison Tool.

VA Response:

Concur. VA agrees and will implement the recommendation. Upon the implementation of sections 107 and 501 of the Harry W. Colmery Veterans Educational Assistance Act of 2017, P.L. 115-48 (the Colmery Act), VA is taking a fresh look at the Comparison Tool and identifying opportunities for improvement in all areas of concern presented by the Committee. In addition, VA's Education Service will coordinate with the Veterans Experience Office (VEO) to present this at the next advisory Committee session.

Ms. Roussel states that the VA response will always start with concur or non-concur. This is an example of a response that is S.M.A.R.T. because it sets a destination, maps out the recommendation, clarifies what is expected, standardizes how recommendations are written and formatted, provides guidance criteria for setting objectives, goals, and measures, and links recommendations to the Department mission, as well as helps to improve overall results.

Ms. Roussel then asked if the Committee had any questions. There were none.

The Committee recessed from 9:31 a.m. to 9:47 a.m.

After a 15-minute recess, Ms. Roussel introduced Chair Pamperin to review the ACDC 2020 Biennial Report.

ACDC 2020 Biennial Report Review

Chair Pamperin began with an introduction of the ACDC, stating that it is a statutory committee created as a result of legislation. The Committee is chartered to review and give advice on disability evaluation. The VA Secretary, at the time the Committee was formed, asked the Committee to expand their review and to look at, not only, specific disability conditions and how they were evaluated and the process of updating the rating schedule, but also, the overall framework of delivery of disability benefits to Veterans and survivors. This is to include how VA determines quality level, how errors are found and corrected, and

how VA responds to recommendations of environmental committees regarding Agent Orange, Gulf War Illness, and burn pits, to name a few examples. The Committee also deals with how VA, at least to a limited degree, does outreach to people to inform what kind of disability compensation payments may be available to them if they qualify.

Chair Pamperin discussed how the Committee had been meeting remotely since the pandemic began, which is good in the sense that there has been far more public interaction than in the past. He also states how the disadvantages of this include the inability to establish relationships and gain a better understanding of what the issues are that VBA and VA are facing in terms of dealing with disabilities. Chair Pamperin also noted that it is critical that the Committee ensures it has at least two meetings before it begins writing recommendations to ensure understanding of the current status of the rating schedule and VA thinking as to where it sees itself, including backlogs in disability evaluations created as a result of COVID.

Chair Pamperin began his review of the 2020 biennial report. He reviewed the mission of the Committee, as noted in the ACDC charter, which specifically includes review of the rating schedule, examination of individual unemployability, and how VA is addressing specific kinds of disabilities. He then goes on to review the actual report, starting on page four (4).

The first issue noted is The Systematic Review and Update of the VASRD (VA Schedule for Rating Disabilities). The [VA] Secretary indicated this was a core priority. This was identified as such and the Committee looked to the VA's strategic plan to find where this issue stands and how recommendations would support it. Particular studies were referenced to address that. The discussion provided in the report is background information.

Chair Pamperin noted that the briefing about S.M.A.R.T. recommendations didn't discuss how in the last report the Committee was specifically told to include where their recommendations stood with respect to the Secretary's priorities. The Committee will need clarification on if that is still the approach before beginning [the 2022] biennial report. He then continued with his review of the report.

The education example started as a background. The report goes over where we are, clearly, and the core of Committee responsibility. Chair Pamperin states there are some issues remaining to be discussed. Number 1, he suggests that it's going to be bifurcated in that the VA has four body systems that still have not been published, two of which are mental health and respiratory. It is getting to the point where they are close to getting done with the first overall review. The Committee needs to focus on that to make sure it gets done. The goal is to publish respiratory and mental health together.

Chair Pamperin suggested the Committee get more information on how that is progressing. Once 90% through, this issue should include recommendations as to how the next iteration should go, and whether the Committee should start from the beginning again or are there things that have not yet been addressed? Chair Pamperin gave an example of, when renal

was published, VA did not discuss disabilities and evaluation of diabetes. The Committee had been told it was going to be deferred until a full review of the rating schedule is completed.

He noted an issue where the Committee needs to get briefings about strengths and weaknesses in current disability evaluation criteria. He suggested that the Committee will have its own opinions on this subject, as there are clinicians included on the Committee. There needs to be a second part where a program and scope be developed for this issue. Chair Pamperin gives some questions the Committee should ask, including: How will the next iteration occur, and in what kind of sequence? What are the goals? If there has been a comprehensive review, would reviews of body systems actually take as long as they have taken so far?

Chair Pamperin stated another recommendation was given to fully staff activity for completion with clinicians, writers, staff analysis people. He had not heard of the status of those staffs, and recommends the Committee is briefed on where staff is on that. Historically, this has been one of the major problems that caused the completion of the review to take so long. He also recommends the Committee ask for a status update in an early briefing next year (2022) to ensure the process is still functioning well, as a major concern in the past was the extreme length of time for concurrences.

Earnings lost was another recommendation made. VA disagreed, but it continues to be unclear as to how VA is going to incorporate earnings lost into evaluations. VA's response indicates it's a starting point and not total evaluation. Chair Pamperin suggests there needs to be clarity as to where one ends and the other begins.

Chair Pamperin then began to go through the next issue, beginning on page 9 of the 2020 biennial report, individual unemployability. He states a lot of concern has to do with the rating schedule for mental health issues and the requirement for a profound level of disability to make a 100 percent evaluation. Studies have been done in the past and it was generally found there is not enough consideration for earnings loss for mental health disability.

Chair Pamperin stated it is important in the next meeting for the Committee to get a very clear understanding where they are with mental health, because if it's published and updated in an effective way, much of the concern about individual unemployability may go away, but that this is an area where the Committee has to pay close attention so they can give a recommendation that is actionable and reasonable.

The individual unemployability issue stated is primarily driven by two factors: very significant increase in number of Veterans who are getting 100 percent disability benefits based on individual unemployability compared to historical trends, and comments made by Secretary Shulkin who emphasized, in his view, that the rating schedule should clearly compensate for earnings lost and disability but the schedule should also focus on enabling Veterans so that rather than focusing on disability, they should focus on ability. Chair Pamperin states

what he thinks Secretary Shulkin was looking for at the time was recommendations on how the schedule could be adjusted to incentivize people to retrain and return to the work force.

Issue three includes transparency related to removal of public facing Disability Benefit Questionnaires (DBQ). VA did not concur with the Committee's recommendation. However, Congress directed the DBQs be restored. Chair Pamperin stated the issue of DBQs is a big issue for VA, and the Committee, in terms of rating people so they can rate consistently.

Issue four on the biennial report from the Committee is National Guard and Reserve access to be educated and enabled to receive the kind of services that active component people receive when separated. Obstacles for this include how rapidly reserve component people are demobilized; not allowing for the kind of timeframe available to debrief and discharge. The thinking of the Committee in the past has been that the VA needs to be more aggressive and creative in how it treats reserve persons (soldiers, sailors, airmen, and Marines) deployed in support of the country.

Chair Pamperin continued with issue five, the issue of ability in approaching evaluating disabilities, an ongoing concern. He recommends the Committee, in early meetings in 2022, ask to get briefings from VA that may shape additional issues. Chair Pamperin gave the example of not seeing public notification or a decision date with regard to hypertension and exposure to Agent Orange and suggests that is something the Committee may want to review.

Chair Pamperin continued with a review of other things that had happened since the last review for which the Committee had not received a briefing on. On August 5, 2021, the Office of Inspector General gave a report entitled, "Improvements Still Needed in Processing Military Sexual Trauma (MST) Claims". Chair Pamperin suggested the Committee take a look at that report to see what recommendations can be made to VA to ensure that service persons suffering from MST receive the benefits to which they're due.

In May 2021, the Office of Inspector General published a report that indicated quality review findings of errors by compensation staff have not been consistently corrected. Chair Pamperin suggested that new members of the Committee should, at the earliest possible opportunity, receive a briefing on how compensation service assesses quality of claims, including adequacy of justification of decision, proper effective date, proper evaluations, and on a larger perspective, how the system measures consistency across the board in terms of ratings. He questioned to what extent the VA has, on an ongoing basis, conducted a scan on the environment they're working in to anticipate conditions that may be coming up and preparing their staff to properly evaluate those.

Chair Pamperin went back to the issue of individual unemployability, and suggested the Committee look at realistic approaches that can be made to encourage people to obtain training and resume work to the fullest extent that they possibly can, mentally and physically.

Chair Pamperin suggested at the next meeting, or beginning of the second meeting, the Committee decide what topics are of concern to the Committee and to remember that it has to be submitted in September 2022 to be presented to Congress in October. Finalizing the report can take two to three months. He suggested to have a discussion about what's being included and not included, to give writing assignments, have one person or a group of people go over the assignments or writing requirements to ensure the same voice and same methodology of issue, background, and recommendations are used. He suggested it will take a couple of weeks of a couple of people's efforts, and a couple dozen hours in his experience, to get the recommendations to a place the Committee wants it to be.

Questions and Discussion of Biennial Report Review

Kimberly Adams asked if Total Disability Individual Unemployability (TDIU) can be thought of similarly to how Social Security Disability is, in the way that clients still want to work a little bit if possible. Can TDIU allow individuals who want to work a little bit and engage in training, workforce, and education, while still maintaining benefits?

Chair Pamperin agreed and pointed out that Veterans can achieve 100 percent by way of disability or schedule, or by TDIU. He suggested it would be productive for VA to do a study of people on 100 percent disability to find out how many are engaged in employment and to what percent in order to determine how they may change TDIU to allow for some training or to use as a steppingstone to get back to working if previously unable. He pointed out the discrepancy of mental health being the only disability where, to be 100 percent, you must be unable to work.

He suggested the discussion needs to be about consistency and how Veterans on TDIU may want to get back to work but would not be able to do so in a way that would replicate the benefits given, including health care and education benefits, to the families of Veterans receiving TDIU. He suggested the VA build a support system to allow people to function to the level they are able, to encourage them to work and build structures to give them the same opportunities to work.

Al Bruner directed a question towards Ms. Roussel and Ms. Starke as to if a transcript would be provided of this meeting. Ms. Roussel assured the meeting is being recorded and a transcriptionist would create summary notes of the entire meeting that would not only be sent to the Committee members but also posted on the ACDC webpage for the public to view.

The Committee recessed from 10:47 a.m. to 10:57 a.m.

During the break, Chair Pamperin asked if there has been word on when VA is returning to the office. Ms. Roussel gave the tentative schedule for January 2022, perhaps January 3, but it has not been expounded on. Chair Pamperin asked if virtual meetings were to continue or if they would resume in person. Ms. Roussel didn't know if returning to in-person meetings would be happening and that currently all meetings will continue virtually. Chair

Pamperin suggested if they resume in person, to do a meeting at an offsite facility such as a regional office to see how the work there is being done.

Once the meeting resumed, Chair Pamperin opened the floor for any other questions.

Michael Maciosek suggested there is a disconnect between the last discussion and similar discussions with training and VA's response to prior report on TDIU. He stated their response and training points to short term and feasible recommendations. However, some recommendations are big issues and are not feasible in the short term. He asked, where is the line drawn on what is appropriate to report because it's feasible in short term, versus issues that are more important but need more time to attack and more perspective?

Chair Pamperin concurred that bulk of Committee report should be on operational issues to enhance Veteran experience, enhance service delivery, quality, and the issue of transparency and trust. He suggested a recommendation could be constructed to speak more broadly to an issue such as the more fundamental issue of employment and compensation, if that's a current issue, or some other issue the Committee believes is systemic. Some systemic things need to be addressed in the long term.

Chair Pamperin noted that the Committee doesn't believe that individual unemployability should be the standard fallback position for evaluating conditions. The Committee would need to do work, in the sense of saying for each body system, what percent of people receiving disability compensation are receiving individual unemployability? He suggested the Committee review the Annual Benefits Review at www.vba.va.gov which should have a study for each body system. He suggested the Committee get health economists, a contractor, or one of VA's research activities to look into the nature of disabilities compared to the rating criteria and do surveys or focus groups. The Committee should lay out a process they believe the VA should adopt to look at these issues in a more quantitative and analytical way.

The purpose of the contract is to answer questions and the goal of answering those questions is to determine whether changes should be made. Chair Pamperin noted VA compensation has risen exponentially since the war started. He suggested it's fair for the Committee to look at the reports from the last 15 years and identify systemic issues that have not been critically analyzed. He suggested the Veterans do not have time to decompress after returning home from deployment and noted that the British send their troops to Cypress for a month before they are sent home.

Chair Pamperin noted there are some eye-opening statistics as to who America's service people are today. He gave examples of 25% of service persons having foster care in their background, or "an extraordinary amount", over 50%, of female service people having a sexual assault in their backgrounds. He suggested the Committee review such statistics and studies to explore and pinpoint systemic issues that may be shown by these studies. He also suggested the Committee point out systemic issues to VA, recommending that VA assemble a group or contract a group to review these larger issues for the future.

Ms. Adams pointed out a profound comment Chair Pamperin made about the VA being able to do research and treatment but also outreach. She suggested outreach is an area the VA could improve on, to examine why people have lost trust and will not come to the VA for help, and to utilize that process to ensure individuals who may be eligible for compensation know about it and have access to such information.

Chair Pamperin suggested the Committee get a briefing from the VA on what the current efforts are for outreach. He noted the VA is better about communicating with Veterans and providing outreach, and suggested the Committee ask what the systemic issues are that are preventing VA and Veterans from being successful.

Ms. Adams disagreed that VA's outreach is better in terms of homeless, at risk, and low-income Veterans. She pointed out that one thing she is told a lot is there is no engagement from the VA and the Veterans don't know how to reach them. She suggested the VA learn who they are dealing with in terms of these groups of Veterans and listen to their questions rather than just trying to provide solutions. She pointed out that an integral part of the Committee is to understand how to interpret things that are not always put in front of them, and it's important to know the data as well as how that data affects different populations.

Chair Pamperin concurred and noted he does believe the intent from the VA is there, but it is important to have the right people working and doing that kind of outreach with specialized populations. Ms. Adams pointed out that VA collaborates with community partners, but suggested they could do more and reach out to other organizations.

Ms. Roussel asked how meetings were structured previously for biennial report writing and, based on the rules related to having meetings, would they all have to be public? Chair Pamperin affirmed the meetings would be public. Ms. Roussel asked how construction of the biennial report for 2022 should progress and be structured, as previous meetings were in person and spent an entire day with availability to construct the report.

Chair Pamperin stated that in the past, the Committee decided the number of issues, then assigned those issues to people to write. Once the Committee begins reviewing those written issues, an executive session is conducted during a meeting and the Committee notes the recommendations and asks if the public or anybody else has problems with any of the recommendations or how they are worded, if anything should be added, and get basic feedback from Committee members. That would then be taken back, and the Committee would formalize the recommendations in the sense of making them the same voice.

Ms. Roussel concurred and thanked Chair Pamperin for the help.

Final Thoughts and Adjournment

Ms. Roussel asked Ms. Starke to show the last slide in their presentation. It was created to thank Chair Pamperin for his service to the Committee and the VA.

Chair Pamperin thanked the Committee very much and recounted how he was first associated with the VA on June 6, 1970; when he started working at the VA. He noted he loves the military and the VA and is appreciative of the opportunity to do the things he has done. He wished the Committee well in their endeavors, and again, thanked them very much.

Ms. Starke and Ms. Roussel wished a happy Veteran's Day week to everyone and thanked them for their service.

Chair Pamperin adjourned the meeting at 12:00p.m. [eastern time].

Elizabeth Alice Roy
Jamison Professional Services
Preparer of the Summary Notes

Sian Roussel, Committee DFO

Sian M Roussel
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Roussel 289990
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Thomas J. Pamperin
Committee Chair

