The National Veterans Affairs and Rehabilitation Commission met on October 3-4, 2005, at the Radisson Hotel City Centre for the purpose of considering those matters that had previously been referred for study and to discuss other current matters.

Presiding: Dave Rehbein (IA), Chairman

Present at the meeting were:

Michael Cassidy (MA)  Pat Phillips (GA)
K. Robert Lewis (CT)  Walter P. Pytka (RI)
Wendall Sandell (PA)  Randall Fisher (KY)
Philip G. Youngblood (GA)  Lee R. Stolfus (KS)
Robert Westphal (WA)  Don E. Mathis (TN)
Gard Enman (ME)

Also in attendance were Robert A. Owen, NECman (ME), Chairman of the VA&R Commission Liaison Committee; Richard Coccimiglio, Alternate NECman (PA); Joe Gladden (MD), National VA&R Chairman of the Sons of The American Legion; Keith R. Hassey (WY); Helen Jacobs (NY); Arnold “Art” Ambos (IL); and Bob Beauchamp (GA).
Veterans Affairs and Rehabilitation Division staff members present were: Peter S. Gaytan (DE), Director, and Mark D. Regan (MD), Assistant Director for Program Management.

MATTERS RECEIVED, CONSIDERED AND ACTED UPON BY THE COMMISSION:

Resolutions

Your Subcommittee considered 18 resolutions. Two (2) originated in the VA&R Commission. Another (1) was referred by the National Adjutant. Twelve (12) resolutions were referred for consideration by the 2005 National Convention. Two (2) were referred by the 2003 National Convention, and one (1) was referred by the 2002 National Convention.

One of the resolutions that originated in the VA&R Commission was sent to the Finance Commission for their submission to the National Executive Committee:

(Origin: Veterans Affairs and Rehabilitation Commission)
Agreement with the National Veterans Legal Services Program –2006

The other resolution originating in the VA&R Commission was forwarded to the National Executive Committee with a recommendation for adoption:

(Origin: Veterans Affairs and Rehabilitation Commission)
Support of the Coalition to Salute America’s Heroes

The Commission then discussed the following issues:

VA BUDGET FOR FY 2006 and 2007

The House Appropriations Committee approved H.R. 2528, the new Military Quality of Life and Veterans Affairs and Related Agencies appropriations bill for FY 2006 (by voice vote) that totaled $121.8 billion. The bill would provide Veterans Medical Services at $21 billion ($1.6 billion more than FY 05). About $2.2 billion is earmarked for Mental Health Services. On May 26, the full House passed H.R. 2528 by a recorded vote of 425-1.

On September 22, the Senate passed its version of H.R. 2528 (98-0) to increase VA medical care spending by 21 percent, or about $4 billion, to $23.3 billion, for the budget year that begins Oct. 1. This is about $2 billion more than the President’s initial budget request. The increased funding was added to the budget as “emergency funds” not subject to the $843 billion budget set for the annual appropriations bills. The Veterans
Affairs Department acknowledged in April that it had underestimated medical care costs. Congress reacted by approving an additional $1.5 billion in emergency funds for the current budget year.

National Commander Bock presented The American Legion’s FY 2007 budget recommendations for $33 billion for VA health care to a Joint Meeting of the Veterans Affairs Committee on September 20, 2005.

REPORT ON CARES - Capital Asset Realignment for Enhanced Services –

In May 2004, then Secretary Principi released the long awaited CARES decision. The decision called for 18 feasibility studies to determine the best way to provide health care to veterans at those 18 locations. The implementation of the CARES decision began in May 2005. A series of Local Advisory Panel meetings are being conducted to ensure stakeholder input and the best viable options are forwarded to the Secretary for his final decision. October 4, 2005, will finish up the second round of meetings with another two at each location to be scheduled.

The American Legion has stayed intimately involved with the CARES process from the beginning and will continue that course for as long as necessary. It is very important to pay attention and ensure that our voice is heard during the implementation phase.

The American Legion has requested $1 billion dollars in FY 2007 for the implementation of CARES. VA has frequently stated that in order to do it right, they will need $1 billion for the next five years. The American Legion believes that CARES should not be funded from medical care dollars, rather, CARES should be its own line item in the budget.

REPORT ON THE VETERANS DISABILITY BENEFITS COMMISSION

The recently established Veterans’ Disability Benefits Commission (Commission or VDBC) held its first meeting in Washington, D.C., in May 2005, and has been meeting monthly since then. The purpose of the Commission, mandated by Public Law (PL) 108-136, is to “carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.” In other words, the VDBC is charged with reviewing VA’s entire disability benefits program and submitting recommendations to the President and Congress once it has completed its review.

The establishment of the VDBC was the result of a legislative compromise that initially intended to allow full concurrent receipt of VA disability compensation and military longevity retirement by restricting disability compensation only for injuries or diseases that were caused or aggravated during the actual performance of one’s military duties. The strict performance of duty standard was eventually dropped and the legislation was adopted with a 10-year phase in of concurrent receipt for those service-connected military
Concerned about the questionable history surrounding the creation of the VDBC and the impact its report will undoubtedly have on VA’s disability compensation program, National VA&R staff have met with the other major veteran service organizations (VSOs) to discuss our mutual concerns and strategies for monitoring and responding to the VDBC. The testimony of the VSO community, presented to Commission members at its first meeting in May, contained a consistent theme: the veteran community strongly opposes any changes to the current VA compensation program that would limit or otherwise restrict a veteran’s entitlement to benefits. VA&R staff will continue to closely monitor the Commission’s activities and provide written testimony and other information as needed to ensure that the veterans’ community has a strong voice during this very important process.

REVIEW OF POST-TRAUMATIC STRESS DISORDER (PTSD) CASES

In response to a May 2005 VA Office of the Inspector General (IG) report that found errors in approximately 1/3 of the 2,100 post-traumatic stress disorder (PTSD) cases it reviewed, VA announced that it will review all PTSD claims, rated 100% schedular and 100% based on individual unemployability where PTSD is the predominant disability, granted from FY 1999 to 2004. This amounts to more than 70,000 cases.

Although The American Legion has not issued an official statement regarding this review because VA has yet to finalize its plans and announce specific details, we have several concerns based on the scant information VA has provided to date. VA’s review will only cover claims that were granted, not those that were denied. If VA is going to conduct a major review like this, it should also look for cases that were erroneously denied, a number that is probably much higher than those that were improperly granted. Additionally, VA currently has a rating claims backlog of almost 350,000 cases and an appeals backlog of more than 150,000. It cannot afford to tap its already limited resources to conduct a review of more than 70,000 cases that would otherwise not have to be touched.

A provision in the FY 2006 Military Construction and Veterans Appropriations Bill passed in the Senate late last month would block VA’s review until it justifies the program to Congress. However, this measure is dependent on House consideration and passage of similar legislation.

VA&R will continue to closely monitor the situation.
NATIONAL CEMETERY ADMINISTRATION UPDATE

National VA&R staff is advised the twice–delayed opening of the fast–track section of the new Great Lakes National Cemetery is now scheduled for October 17, 2005.

In July of this year, VA&R Staff was alerted that a second delay was probable in the opening of the fast–track section of the new Great Lakes National Cemetery in Holly, Michigan. Fast–track projects are ones where a small portion of the cemetery is made available for immediate interments while major construction proceeds. The original opening date was set for May 15, 2005, but was delayed when the General Contractor requested an extension, which was granted. The GC’s new completion date was to have been July 18, 2005, but officials at the National Cemetery Administration in Washington stated that the contractor would likely default on the second completion date. When the contractor missed the deadline, VA’s Office of General Council sent a letter to him, demanding to know when he planned to complete the work. The contractor's answer was unacceptable to NCA and NCA has replaced the firm.

Mike Zehnder, Director of Public Services in Oakland Co., MI was concerned over the condition of a septic field on the property and told National VA&R Staff that the GC, Edge Construction, was the low bidder at $8.2 million, but could not secure a surety bond for the project. The second low bidder at $10 million, Ferguson Enterprises, a demolition contractor, lent Edge its bonding capacity on the condition that Edge give him the actual work as a subcontractor. Ferguson has more lucrative time–and–material demolition work with the City of Detroit and putatively did not get onto the site until March or April instead of last October when Edge was supposed to have started. Zehnder also said Ferguson does not have the technical capacity to do the work. A faulty septic field is only one problem. Zehnder said from Oakland County's perspective, this project has been a disappointment from day one because of the relationship between Edge and Ferguson, including their alleged incompetence.

Because of the delayed May 15th opening, the remains of over ten deceased veterans are being stored at a local mortuary at a cost to the families of $595.00 each. Zehnder said it might be possible for the families to file civil claims against Edge for costs incurred after May 15, the original advertised opening date for the fast-track section of the cemetery to recover these expenses. The American Legion expressed its concern to NCA about the hardship and additional grief this is causing the families of the deceased veterans and strongly suggested that VA get control of the situation and complete the fast-track section with all possible haste.

THE AMERICAN LEGION INVOLVEMENT IN VA VOLUNTARY SERVICE

The American Legion, along with six other organizations, is planning to participate in a VA National Advisory Committee (NAC) Volunteer Recruitment and Retention initiative in VISN 11. The objective is to make a concerted effort to increase the number of
regularly scheduled volunteers, especially those in the 20 to 40 year old age range, contributing to the VA Voluntary Service (VAVS) Program in the VISN facilities.

The VA&R Commission has also worked with the American Legion Auxiliary to promote a volunteer training program being presented during the fall at the Auxiliary National Information Conferences. A Bulletin was sent to Legion Family VAVS Representatives and Deputy Representatives encouraging attendance at the all day training session.

A survey is being developed to send to all VAVS Representatives and Deputy Representatives to gain their perspective on current Legion efforts as well as what can be done to enhance this effort.

NEW BUSINESS

SITE SPECIFIC ISSUES

The American Legion has supported efforts to improve the delivery of VA health care services, especially by bringing those services closer to where veterans live. VA has been working to meet this challenge as evidenced by the growth in the number of community-based outpatient clinics (CBOCs) over the past several years. There are now 869 CBOCS and additional plans to create more. The CARES process also involves a strategy about how to best bring medical services to geographical areas in the coming years.

The VA&R Commission continues to receive various resolutions about site-specific issues in providing VA health care. Previously, the Commission has expressed its concerns about establishing national policy about local initiatives. In further discussion, the VA&R Commission has reached a consensus that this remains a prudent course of action, unless the issue is exceptional, precedent-setting or has national implications.

Endorsing specific local projects could put The American Legion in conflict with itself. Multiple projects often compete for priority within VISN and national planning scenarios, and numerous worthwhile projects often compete for limited resources. To support one specific local initiative as a matter of national policy, in essence, would give that local initiative a higher priority or visibility by virtue of being a resolution. While on the other hand, to endorse one course of action, such as seeking an enhanced lease as a way of creating services, would limit the options available to meet that goal. For example, in establishing a community-based outpatient clinic, there could be other and possibly better options to meet the objective, such as establishing a VA-owned and operated facility, or developing a sharing agreement or negotiating contract services.

The Commission recognizes the importance of continuing to improve veterans’ access to VA health care and proposes to support local initiatives administratively, to the extent possible, through the expertise and resources of the VA&R Division staff.
RECOGNITION OF VA EMPLOYEE EFFORTS DURING HURRICANES KATRINA AND RITA

The VA&R Commission directed the VA&R Division staff to develop an action plan by The American Legion Mid Winter Conference to recognize VA employees in the areas affected by hurricanes Katrina and Rita for their exceptional performance and services to veterans during these catastrophes.

THE COALITION TO SALUTE AMERICA’S HEROES

The VA&R Commission was briefed by Roger Chapin and Mike Myer about the objectives of the Coalition to Salute America’s Heroes. This Coalition is dedicated to assisting severely disabled veterans from the Global War on Terror during their rehabilitation and transition to civilian life. Mr. Chapin discussed the financial hardships and totally unacceptable circumstances encountered by some veterans whose personal and/or family incomes are dramatically reduced due to their injury.

The Coalition seeks to provide financial stability and assistance to help these veterans and would like to partner with The American Legion to reach veterans in need. The Commission developed a resolution supporting a pilot program with the Coalition and recommends approval by the National Executive Committee.

______________________________
DAVE REHBEIN, Chairman
National Veterans Affairs and Rehabilitation Commission