

Injured and Amputee Veterans Bill of Rights

Justification of Rights Provided to Veterans by H.R. 3408

The lack of patient-centered healthcare throughout the Department of Veterans' Affairs (VA) is continuously hindering veterans from receiving the quality care they need and deserve. This problem has been reported by veterans' service organizations, VA employees, and most importantly, veterans. The problems are systemic in VA culture and bogged down by a bureaucratic system that is unsure of the services it provides, leaving veterans to fend for themselves when it comes to their own healthcare choices.

Veterans are too often unaware of the services offered by the VA, disconnecting them with their own rehabilitation and treatment, which ultimately results in substandard care. This is especially true in orthotic and prosthetic care. This particular type of treatment is incredibly intimate and personal and the veteran should be fully aware of the resources and healthcare options available. As the military withdraws its forces from conflict, the VA will face larger workloads straining an agency that is already crippled by a backlog of claims. If the VA is to handle the influx of injured and amputee veterans that will enter its system, it must be fully prepared to educate incoming veterans about the services it provides.

To address the problem of inconsistency in orthotic and prosthetic care, I introduced H.R. 3408 to educate our injured veterans about the prosthetic and orthotic care available to them through the VA. Having been a registered nurse for over two decades, I understand the importance of patient-centered healthcare and the role it plays in allowing a person to fully recover. *The Injured and Amputee Veterans Bill of Rights* will empower injured and amputee veterans to advocate for themselves.

Our nation faces a horrific epidemic of veteran suicide - roughly twenty two a day. This is often a result of feeling powerless, which leaves veterans with a sense of hopelessness. Allowing a veteran to advocate for themselves provides control over his/her rehabilitation process, creating an environment in which they are far more likely to succeed.

This no cost measure was passed in the 111th Congress by voice vote and is currently supported by the National Association for the Advancement of Orthotics and Prosthetics, Vietnam Veterans of America, Wounded Warrior Project, National Amputation Foundation, National Guard Association of the U.S., Disabled American Veterans, National Veterans Foundation, and the American Foundation for Suicide Prevention/SPAN USA.

As of February 26, 2014 this bipartisan measure is currently supported by 33 Members of Congress including several physicians and nurses.

I respectfully request that this legislation receive a hearing in committee, subsequently marked-up, and reported favorably out of committee providing the full House with the opportunity to support this beneficial measure.

Key Sources

- VHA Handbook 1173.1, *Eligibility*, Nov. 2, 2000, available at http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=337.
- VHA Handbook 1173.2, *Furnishing Prosthetic Appliances and Services*, Nov. 3, 2000, available at http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=338.
- VHA Handbook 1173.3, *Amputee Clinic Teams and Artificial Limbs*, June 4, 2004, available at http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=1283.
- Petzel, Dr. Robert. Under Secretary for Health, Veterans Health Administration, Statement to the House Committee on Veterans' Affairs. *Optimizing Care for Veterans with Prosthetics: An Update*, Hearing, July 31, 2012 (Serial No. 112-72). Available at: <http://www.gpo.gov/fdsys/pkg/CHRG-112hrg75615/pdf/CHRG-112hrg75615.pdf>
- Downs Jr., Frederick. Chief Prosthetics and Clinical Logistics Officer, Department of Veterans Affairs. Statement to the House Committee on Small Business. *Subcommittee Hearing on Ensuring Continuity of Care for Veteran Amputees: The Role of Small Prosthetic Practices*, Hearing, July 16, 2008 (Serial No. 110-105). Available at: <http://www.gpo.gov/fdsys/pkg/CHRG-110hrg42522/pdf/CHRG-110hrg42522.pdf>

1) The right to access the highest quality prosthetic and orthotic care, including the right to the most appropriate technology and best qualified practitioners.

“Eligible veterans will be permitted to obtain authorized artificial limbs and/or terminal devices from any commercial artificial limb dealer who is under a current local contract to the VA or the veteran’s preferred prosthetist who agrees to accept the preferred provider rate.” – VHA Handbook 1173.3, ¶ 7(a).

“Just to give an example [of access to cutting edge prosthetics], there are two relatively new knees that were jointly developed by the VA and the Department of Defense, the X2 and the Genium. Those are absolutely cutting-edge technology for an artificial knee. They are available to any veteran who needs and wants that kind of a prosthesis.” – Dr. Robert Petzel (p. 9).

“We are always looking forward to the new technologies as they are coming on the marketplace. We want to be first in line to make sure that our vets have that available to them.” – Mr. Frederick Downs Jr. (p. 6).

2) The right to continuity of care in the transition from the Department of Defense health program to the Department of Veterans Affairs healthcare system, including comparable benefits relating to prosthetic and orthotic services.

“Eligible veterans ... who have previously received artificial limbs from commercial sources, will continue to have their choice of vendors on contract with VA or their non-contract prosthetist, providing the prosthetist accepts the VA preferred provider rate for the geographic area.”- VHA Handbook 1173.1, ¶ 4(c).

“[O]ur policy is this is the veteran's choice. That we have, as I mentioned earlier, 600 contracts. Most of the prosthetics actually are fabricated and fitted by private vendors. Our policy very clearly states that there must be available in every one of the medical centers a list of contractors, and this must be explained to the veteran, that they have the choice in doing that. ... But if there is a connection between patient and a prosthetist, that individual is invited in and is welcome to come to the clinic and welcome to be a part of whatever activities are involved in our prosthetic clinic.” – Dr. Robert Petzel, (p. 7).

“[W]e work in concert with DOD to provide specialized items such as hand cycles, personal digital assistance and vehicle modifications which DOD is not able to provide. So even though these soldiers are still active duty, we work with Walter Reed and with Brooke Army to make sure that these active duty soldiers as they are recuperating are able to get the wheelchairs, hand bikes and whatever they need in order to facilitate their recuperation. And if they go home and convalesce and leave, even though they are still active duty, the local VA will provide all the prosthetic care they need.” – Mr. Frederick Downs Jr. (p. 6).

“We have implemented several initiatives to assist the [Operation Enduring Freedom/Operation Iraqi Freedom] service members as a transition into VA care. Our VA prosthetic staff, case managers and social workers have regular contact with the program officials responsible for the various benefits a veteran may be eligible to receive.” – Mr. Frederick Downs Jr. (p.6).

3) The right to select the practitioner that best meets their orthotic and prosthetic needs, whether or not that practitioner is an employee of the Department of Veterans Affairs, a private practitioner who has entered into a contract with the Secretary of Veterans Affairs to provide prosthetic and orthotic services, or a private practitioner with specialized expertise.

“Eligible veterans ... who have previously received artificial limbs from commercial sources, will continue to have their choice of vendors on contract with VA or their non-contract prosthetist, providing the prosthetist accepts VA preferred provider rate for the geographic area.” – VHA Handbook 1173.3, ¶ 4(c).

“Each list must contain the following statement in bold face type: You have the right to select the artificial limb contractor of your choice from any of the following listed VA-approved contractors. Any attempt to influence your decision, or to direct you to any particular contractor, should be reported to the director of this facility.” – VHA Handbook 1173.3, ¶ 7(b)(2).

“A veteran who has a long standing relation with a qualified vendor not currently under contract, may request that vendor to fabricate the limb, provided charges do not exceed the average discount price of preferred vendors.” – VHA Handbook 1173.3, ¶ 7(c)(2).

“Prosthetic and orthopedic appliances, when required to be custom-fabricated for specific veterans, may be procured from commercial vendors where adequate facilities are conveniently available.” – VHA Handbook 1173.2, ¶ 6(a)(3).

“Eligible veterans will be permitted to obtain authorized artificial limbs and/or terminal devices from any commercial artificial limb dealer who is under a current local contract to the VA or the veteran’s preferred prosthetist who agrees to accept the preferred provider rate.” – VHA Handbook 1173.3, ¶ 7(a).

“One of the nice things about the VA and the procurement regulations is ... that we can buy specifically what the doctor has ordered.” – Dr. Robert Petzel (p. 8-9).

“And so we ask the veteran – we give the list of the contract prosthetists – and these are the small companies around the facility. And here is a list of these contractors. So you can go to any one of these that you choose. Now, those prosthetists who do not have a contract, the veteran is allowed to go there if they wish because it has a lot to do with the chemistry between you as the amputee and the prosthetist.” – Mr. Frederick Downs, Jr. (p. 7).

4) The right to consistent and portable healthcare, including the right to obtain comparable services and technology at any medical facility of the Department of Veterans Affairs across the country.

No need for source, this is a known VA policy

5) The right to timely and efficient prosthetic and orthotic care, including a speedy authorization process with expedited authorization available for veterans visiting from another area of the country.

No need for source, this is a known VA policy.

6) The right to play a meaningful role in rehabilitation decisions, including the right to receive a second opinion regarding prosthetic and orthotic treatment options.

“The patient must be treated with courtesy, respect, and empathy. The patient’s personal preferences are to be solicited and considered before a final decision is made.” – VHA Handbook 1173.3, ¶ 2(f)(1).

“If a new or replacement prosthesis is indicated, the advantages of new technology are to be fully explained to the patient. However, if a patient has worn or used a particular type of appliance for several years without difficulty, and wishes to have an identical replacement, the patient’s wishes are to be honored, unless there are definite medical contraindications.” – VHA Handbook 1173.3, ¶ 2(f)(3).

“Clinicians, in consultation with veterans, will decide what devices we procure.” – Dr. Robert Petzel, (p. 4).

“The physician orders the prosthetic. And that order can be very specific. The prosthetist works with the patient to determine where the best place to purchase that.” – Dr. Robert Petzel (p. 5).

7) The right to receive appropriate treatment, including the right to receive both a primary prosthesis or orthosis and a functional spare.

“Spare artificial limbs and terminal devices may be furnished to eligible veterans after clinical determination of need in each case. ... The spare prosthesis needs to be suitable for constant use over long periods of problematic repairs where specialized componentry has to be ordered for the primary prosthesis.” – VHA Handbook 1173.3, ¶ 9.

“If a referral results in a prescription for a custom appliance, the PTC will provide the required equipment and/or appliance. If the referral results in a standardized prosthetic appliance, the equipment and/or appliance will be provided by the facility which initiated the referral.” – VHA Handbook 1173.2, ¶ 10(c)(2)(c).

“[Prosthetics and Sensory Aids Services] responsibilities will include ... [a]uthorizing the issuance of a second appliance when indicated.” – VHA Handbook 1173.1, ¶ 5(a)(3).

“[Veterans] want a running leg, they want a walking leg, they want a swimming leg. All of these are available to them. And that is a misperception that the VA doesn't do this. We actually provide all of this. In fact, we have always been in the vanguard of it.” – Mr. Frederick Downs Jr. (p. 10).

8) The right to be treated with respect and dignity and have an optimal quality of life both during and after rehabilitation.

“The patient must be treated with courtesy, respect, and empathy. The patient's personal preferences are to be solicited and considered before a final decision is made.” – VHA Handbook 1173.3, ¶ 2(f)(1).

“This is the most personal of work that the VA does. Crafting and fitting a prosthetic limb to an individual that has lost an arm or a leg is a very personal process.” – Dr. Robert Petzel, (p. 5).

“These individuals coming in here are dealing with lots of issues, losing an arm, spinal cord injury, you are blind, your life is ended you think, you have got to get yourself back together. So what they need is a friend. So when they come to prosthetics, certainly we preach to them you don't just say no if you have to say no, we don't want you to say no, figure out how to say yes. And for a combat injured, there is no doubt it is a yes. And then you make sure that you take care of this person.” – Mr. Frederick Downs Jr. (p. 8).

“I would like to add that once we accept one of our wounded veterans or soldiers into our system, we have them for the rest of their lives. In my case, that has been 40 years and we will take care of those veterans until they die, with the prospects and as they grow older they need more prosthetics as their body function begin to deteriorate.” – Mr. Frederick Downs Jr. (p. 6).

9) The right to transition and readjust to civilian life in an honorable manner, including by having ample access to vocational rehabilitation, employment programs, and housing assistance.

"I would like to add one important thing. We have just recently signed a contract with the Amputee Coalition of America to furnish amputee peer visitation programs at all of our 21 VISN integrated service networks. This program is designed to assist individuals and their families coping with a variety of injuries. It will allow enhanced networking among our patients with amputations to include sharing of information regarding access to prosthetic care in the VA." – Mr. Frederick Downs Jr. (p. 6).

Conclusion

Quotes from decades of testimony and the official VHA Handbook shows that the Department of Veterans Affairs has offered and carried out these policies for a consistent amount of time. However, despite the VA offering these policies, many veterans and even VA employees are unaware of VA policy. This leads to wide discrepancies in care throughout the country, which in turn creates inconsistent healthcare for our nation's veterans. The education of veterans and VA staff is imperative in overcoming the misconceptions about what VA offers to injured and amputee veterans.

"And we are saying we have an actual policy to cover all of this, why isn't the word getting out there. It is a constant frustration communicating and getting the word to everyone." – Mr. Frederick Downs Jr. (p. 7).

"[Q: Would an Injured and Amputee Veterans Bill of Rights] be useful to veteran amputees who are confused about their rights in the system? [A:] That would help. It certainly would. Anything. VA has a Patient Bill of Rights that is posted in all of our VA facilities. That covers all aspects of their medical care. But if it is felt that an extra posting in our labs would help, then fine. Because we have a passion to make sure that these men and women coming back get the best care and that the VA is open to them, and so we keep putting the word out constantly." – Chairman Bruce Braley (D-Iowa) questioning Mr. Frederick Downs (p. 8).