

## National Legislative Division Weekly

### VA AIR COMMISSION ASSESSMENT UPDATE

The VA's hospitals are old, and not always located where veterans actually live. Before leaving Congress, Rep. Roe (R-TN) pushed through legislation establishing the AIR Commission to create a process for determining how the Veterans Health Administration's (VHA) footprint should change.

VA hospitals are, on average, 60 years old (compared with the private sector, where hospitals tend to be 20 years or less), and 69% are at least 50 years old. New technology does not easily fit into the confines of these old buildings. For example, operating rooms often cannot accommodate new equipment. These problems have been highlighted in recent months by the extensive rewiring and other renovations required to implement the new electronic health record (EHR) system.

The AIR Commission is based on the Department of Defense's base closure commission (BRAC). VA has spent the past year or so creating market assessments around the country, looking at current and predicted demand for care and the availability of that care in both the VA and private sector.

Once those assessments are complete, the commission would meet during 2022 and 2023 to create recommendations for the VHA's future footprint. However, the White House missed the May 31, 2021, deadline for submitting commissioner nominations. When asked about it in June, VA Secretary McDonough said they were still working with lawmakers to identify commissioners, as required by the underlying statute.

On May 28, 2021, the VA published in the Federal Register final criteria the Department will use in submitting recommendations to the AIR Commission. Those criteria focus on local demand for care by veterans and accessibility of services. They also include positioning the VA health care system "at the leading edge" in terms of education, research, and national emergency preparedness. Overall, the criteria seek to create a system to provide whole health care to veterans in a cost effective, sustainable manner.

The VA has until January 31, 2022, to submit a report to Congress and the currently unformed AIR Commission with recommendations for reforming the VHA footprint. The commission's final report is due to the President a year later. The President then has until February 15, 2023, to approve or disapprove the entire set of recommendations. If the President rejects the first set of recommendations, the commission can submit a second report, with a final deadline of March 30, 2023, for approval or disapproval. If the

President does approve the commission's recommendation, they will be implemented, unless Congress passes a joint resolution of disapproval.

In preparation for the AIR Commission, the VA has been crafting market assessments for the VA's 96 geographic areas. In a report released December 20, 2021, the VA Office of the Inspector General (OIG) found that the VHA overstated the workload in the 12 most common medical specialties by 10.7% in the market assessments, which would amount to about 563 full-time equivalent (FTE) physician positions. According to the report, the commission's reliance upon these over-estimations could affect modernization recommendations and lead to an inefficient use of taxpayer dollars. The calculation was based on how each

## National Legislative Division Weekly

facility coded its patients, leading to inaccurate workload reports. The inaccuracies differed across facilities. The OIG warned that, as a result, there is no clear understanding of the work actually performed at each facility, and distribution of resources could be mismatched to the actual need.

The OIG recommended that the acting undersecretary of health should conduct more in-depth analyses before finalizing any recommendations for the commission. In response, the acting undersecretary pledged to use more accurate specialty care data when implementing the commission's final recommendations. For the initial set of recommendations from the VA to the commission, the Office of Strategic Planning and Analysis intends to rely primarily on enrollment, bed-days of care data, and the number of veterans assigned to each physician.

### NEW JERSEY DEPLOYS NATIONAL GUARD TO NURSING HOMES WITHOUT GI BILL ELIGIBILITY AS COVID SURGES

New Jersey Governor Phil Murphy [said](#) Thursday that the National Guard will deploy to long-term care facilities across the state to assist with COVID-19 outbreaks and staffing shortages due to the virus.

**The Big Picture:** "This deployment will send members of our National Guard to long-term care facilities with staffing needs and will act to protect the health and safety of long-term-care residents while the Omicron variant surges throughout the nation," Murphy said in a statement.

- Approximately 150 members of the New Jersey National Guard will support more than a dozen long-term care facilities, where they will assist with administrative and logistical support, among other things.
- Guard members are expected to begin at their assigned locations on Jan. 10, per the New Jersey Department of Health.

**Why It Matters:** To qualify for any post-9/11 GI Bill benefits, servicemembers must have at least 90 days of aggregate active-duty service. When National Guard servicemembers are activated for state missions, their service will not be recognized as "active-duty" to accrue GI Bill eligibility. These servicemembers will uproot their civilian lives to support staffing requirements of more than a dozen long-term care facilities around New Jersey, and will not have their sacrifices recognized for VA education benefits.

**What Can Be Done:** This latest activation further reinforces the need to pass H.R. 1836, *the Guard and Reserve GI Bill Parity Act of 2021* which would recognize these state activations. Legionnaires can call on their Congressmembers to pass this legislation by participating in our [online advocacy campaign](#).

### KEY LEGISLATION UPDATES

**S.J.Res.10 - A joint resolution to repeal the authorizations for use of military force against Iraq**

## National Legislative Division Weekly

Bill Status: Cut from passage of the 2022 NDAA.

Co-Sponsors: 40

Staff Notes: After repeated delays for a final vote on the National Defense Authorization Act, Sen. Jack Reed, Armed Services Committee chair, announced in late December that Sen. Tim Kaine and Sen. Todd Young's proposed amendment to repeal Iraq War authorizations would not be included in the NDAA, despite "garnering more than 60 votes" and passing the House. The joint resolution must either pass as through a stand-alone floor vote, or be attached in a future omnibus package.

### **H.R. 1836: GI Bill and Reserve Parity Act**

Bill Status: 1/6/2022 Reported (Amended) by the Committee on Veterans' Affairs. H. Rept. 117-222.

Placed on the Union Calendar, Calendar No. 159.

Co-Sponsors: 9

Staff Notes: This week, the Rules Committee noticed their print of HR 1836. The only change to this version compared to the HVAC reported version is the budget offset, Interest Rate Reduction Refinancing Loan (IRRRL) rates are extended an additional 2 years. This is needed due to offsets changing following passage of H.R. 5545 (REMOTE Act) into law. All other provisions are identical.

### **S. 1040 & H.R. 5562: A bill to amend title 38, United States Code, to expand eligibility for hospital care, medical services, and nursing home care from the Department of Veterans Affairs to include veterans of World War II.**

Senate Bill Status: 7/28/2021 Committee on Veterans' Affairs. Ordered to be reported without amendment favorably.

Senate Co-Sponsors: 10

House Bill Status: 11/4/2021 Reported (Amended) by the Committee on Veterans' Affairs

House Co-Sponsors: 1

Staff Notes: Now that the bill has been reported favorably out of the House Committee, the next step is a House floor vote.

### **S. 544: Buddy Check Week Act of 2021**

Bill Status: 10/08/2021 Held at the House Desk.

Co-Sponsors: 21

Staff Notes: Now that S.544 has passed the Senate, it is awaiting action in the House Veterans Affairs Committee. NLD staff is communicating with House side committee staff to have S.544 swiftly passed in early 2022.

### **H.R. 3967: Honoring our PACT Act of 2021**

Bill Status: Reported out 14-11 of House Veterans Affairs Committee 6/24/21.

Co-Sponsors: 49

Staff Notes: The House Veterans Affairs Committee marked up the Honoring Our Promise to Address Comprehensive Toxics Act of 2021 and the bill was reported out to the full House.

## UPCOMING HEARINGS

## National Legislative Division Weekly

- There are no upcoming hearings scheduled currently.

### MEETINGS

- On Tuesday, January 4, NLD staff participated in a four corners conference call with Veterans Affairs Committee economic opportunity staffers. HVAC staff shared their plans to hold a hearing on the Veterans Rapid Retraining Assistance Program on February 2nd.
- On Wednesday, January 5, NLD Staff met HVAC DAMA staff to discuss legislative priorities.
- On Wednesday, January 5, NLD staff met with Veterans Education Success to discuss online targeting of American veterans organizations, servicemembers, veterans, and their families for financial scams

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