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February 17, 2020

Veteran Warriors has met with VA leadership, White House officials and members of Congress on numerous occasions since 2016, when we discovered what appeared to be a concerted and systematic effort to shrink the participation in the program. By VA's own numbers and commentary by leaders, the participation shrunk to its current of 19,295 veterans in 2018 and has not increased or decreased since. Veteran Warriors has obtained hundreds of VA documents sent to caregivers and veterans; wherein VA personnel blatantly fabricated or falsified eligibility criteria in order to support revoking the family. We have been privy to "internal" communications whereby VA leadership issued mandates to conduct mass revocations and tier reductions – particularly in the highest tier, Tier 3. Each time, we have communicated with VA directly, in order to obtain verification of legal justification for these actions. Each time, the actions are cancelled and publicly denied.

This latest attempt by VA to create regulations goes to the very heart of this odyssey. Since 2014, VA has purposely created internal policies and procedures that directly violate the letter of the law and the existing regulations; and despite our concerted efforts to have these violations overturned, VA has been allowed to continue these actions unabated. In this latest effort, VA once again seeks to defy Congress and congressional authority, by creating regulations that conflict with the existing laws and regulations.

With the passage of the "MISSION Act" in 2018, VA was mandated to do ONLY two things regarding this Program: 1) put a new software program in place for the program, which would allow all actions on a case to be copied to the veteran's medical records; and 2) to expand the eligibility (for era of service) to Vietnam, Korea and other eras, on a staggered schedule to begin one year AFTER the new software is "certified" by the Secretary of the VA. To date, that certification has not taken place, therefore, the "clock" for the first Vietnam era veterans to apply has not begun yet.

This meeting will be to discuss the legal authority that VA contends they have; in order to make sweeping changes to the program to comply with "MISSION Act" edicts.

> *"VA also considered not changing and creating basic terms in the current 71.15 and keeping the current regulation.* ***Defining new terms and changing current terms to reflect current practice and adhere to the laws outline in the MISSION Act of 2018*** *will provide additional detail that allows VA to increase consistency in implementation across medical centers".* The key statement here is "…***reflect current practice***…". Veteran Warriors reiterates that for nearly 4 years, VA has systematically sidestepped the existing law and regulations in its operation of this program. In doing so, VA has disenfranchised 67,000 veterans (between Jan. 2014 and Jan. 2019) from accessing this program. VA has allowed its facilities to create their own policies and ignore the existing law and codified regulations that are in place.

These changes include, but are not limited to:

> Redefining every significant term used in the law; such as "…***new definitions of domestic violence (DV), intimate partner violence (IPV), long-term institutionalization, family***

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caregiver, personal care services, serious injury, financial planning, legal services, joint application, legacy applicant, long term institutionalization, unable to self-sustain in the community, and need for regular or extensive instruction or supervision without which the ability of the individual to function in daily life would be seriously impaired. VA also proposes to revise the definitions of family caregiver, in the best interest of, primary care team, need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury, and serious injury, which will be addressed later in this analysis….”

We have attached a White Paper which specifically outlines each of the changes VA proposes and our specific responses as to why they LEGALLY cannot or should not be allowed to.

Very respectfully,

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