

RAO BULLETIN 15 October 2009

== Pennsylvania Veterans' Homes [01] ----- *Correction*)
== Vet Cemetery California [06] ----- *(NCVC\$500 Waiver)*
== Kidney Disease ----- *(Exercise Impact)*
== Federal Jobs [01] ----- *(Disabled)*
== VA Presumptive Vietnam Vet Diseases ----- *(3 More Added)*
== USFSPA & Divorce [10] ----- *(CA SB.285)*
== Arlington National Cemetery [06] ---- *(Unknown's Headstone)*
== Allergy Relief [02] ----- *(Fall allergies)*
== VA Clinic Openings [12] ----- *(15 More)*
== NARA Data Breach ----- *(76M Vets Exposed)*
== Chapter 61 Legislation [03] ----- *(Obama Promise Broken)*
== Vet Insurance [02] ----- *(S.728 Passes Senate)*
== VA Health Care Funding [22] ----- *(H.R.1016)*
== NROTC ----- *(Service Obligation Change)*
== VA Transparency ----- *(Protected Documents)*
== Servicemembers' Civil Relief Act [01] ----- *(Private Lawsuits)*
== DFAS myPay System [05] ----- *(New ID/Password Rqmt)*
== DFAS myPay System [06] ----- *(Email Security Measure)*
== NDAA 2010 [03] ----- *(Broken Promises)*
== SBP Withdrawal [03] ----- *(Cancellation Consideration)*
== VA Homeless Vets [11] ----- *(\$17M in Grants)*
== Medicaid Fraud [01] ----- *(Atlanta Ga \$1.1M)*
== NCIS Espionage Program ----- *(Rewards)*
== Tricare Uniform Formulary [31] ----- *(Federal Pricing Impact)*
== Tricare Uniform Formulary [32] ----- *(BAP 24 SEP Comments)*
== Enlistment [01] ----- *(Age Limits)*
== Medicare Fraud [24] ----- *(Newark NJ \$8.3M)*
== TSP [23] ----- *(Rally Continues in SEP)*
== Health Care Reform [14] ----- *(Impact of Failure)*
== Mojave Desert Veteran Memorial [02] --- *(7 OCT Court Date)*
== Tricare User Fee [41] ----- *(DoD/Obama Renig)*
== Tricare User Fee [42] ----- *(Freeze Expired Sep 09)*
== VA Contracted Care ----- *(Senators Question Value)*
== VA Automatic Enrollment ----- *(H.R.3441)*
== Flag Desecration ----- *(Offender Pilloried)*
== Military Funeral Disorderly Conduct [10] ----- *(Protests Legal)*
== GI Bill [60] ----- *(Quick Payment Online)*
== Military History Anniversaries ----- *(October 15-31 Summary)*
== Tax Burden for Illinois Retirees ----- *(2009)*
== Veteran Legislation Status 13 Oct 09 ----- *(Where we Stand)*
== Have You Heard ----- *(Dead Duck)*

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Pennsylvania Veterans' Homes Update 01: A Pennsylvania newspaper reported 19 SEP that an inspection at the Philadelphia VAMC Philadelphia Veterans Community Living Center last year found conditions endangering the welfare of residents. Inspectors found dried blood and feeding tubes on the floors, and one patient's leg had to be amputated after maggots were seen falling from his foot, the Pittsburgh Tribune-Review said, citing a

RAO BULLETIN 15 October 2009

report obtained through a federal Freedom of Information Act request. The report by the Wisconsin-based Long Term Care Institute concluded that the facility, the bed count of which has been cut from 240 to 120, "failed to provide a sanitary and safe environment for their residents." It cites substandard treatment of wound care and multiple concerns regarding nursing competencies. There was a significant failure to promote and protect their residents' rights to autonomy and to be treated with respect and dignity," the report concluded. VA spokesman Dale Warman told the paper in an e-mail that many steps had been taken to improve care. A corrective action plan updated on 29 JUN including the hiring of consultants and additional staff and remedial training and retraining programs for staff, officials said.

The report said no action was taken on one unnamed veteran, even though his toes had turned black, until maggots were observed falling out of the resident's foot, at which point an amputation was ordered. One inspector reported seeing a nurse use the wrong medication despite a week-old order from a physician changing the prescription, the report said. Some patients had substantial weight loss, including one veteran who lost 51 pounds for unknown reasons. "The potential for dehydration for these residents presents immediate jeopardy," the report said. An internal investigation was triggered three months before the report was issued when David Allen, 56, a mute and disabled Vietnam veteran, choked to death on solid food although he was supposed to be on a soft-food diet. His death was not mentioned in the report, but the VA said in a statement that the contracts of two agency nurses were terminated and other staff members were given additional training on swallowing difficulties "as well as the effects of behavioral medications."

Note: This is a correction to the previous article published in the 1 OCT 09 Bulletin. The home being reported on should have read the Philadelphia VAMC Philadelphia Veterans Community Living Center vice the Delaware Valley Veterans Home.

[Source: MarineCorpsTimes AP article 19 Sep 09 ++]

Northern California Veterans

Vet Cemetery California Update 06: Legislation allowing eligible family members of veterans to be buried at no cost at the Northern California Veterans Cemetery (NCVC) in Igo has been signed by Gov. Arnold Schwarzenegger. The bill, authored by state Sen. Sam Aanestad, R-Grass Valley, gives the administrator of Northern California Veterans Cemetery the authority to waive the \$500 burial fee for interment of spouses or children of veterans eligible for burial in that cemetery if they do not have the financial means to pay the fee. "Eligible veterans' dependents should never be turned away from the NCVC or any other state-run veterans' cemetery because of burial costs," Aanestad said in a written statement. He said that his legislation does not place any additional burdens on state taxpayers or demands on the state's general fund, noting that private donations will cover the costs of the burials. [Source: The Redding Searchlight News 12 Oct 09 ++]

Exercise Impact

Kidney Disease: Many patients with chronic kidney disease (CKD) die prematurely, but many of those deaths aren't directly related to kidney problems, according to background information in the study. Researchers analyzed data collected from 15,368 adult participants of the U.S. National Health and Nutrition Examination Survey III. Of those people, 5.9% had CKD. Based on the frequency and intensity of physical activity, the participants were divided into inactive, insufficiently active and active groups. They were followed for an average of seven to nine years. The study found that 28% of CKD patients were inactive, compared with 13.5% of those without CKD. Active and insufficiently active CKD patients were 56% and 42% less likely to die during the study than inactive CKD patients. Similar exercise-related benefits were noted in those without CKD. "These data suggest that increased physical activity might have a survival benefit in the CKD population. This is particularly important as most patients with stage III CKD die before they develop end stage renal disease," wrote Dr. Srinivasan Beddhu,

RAO BULLETIN 15 October 2009

of Salt Lake City Veterans Administration Healthcare System and University of Utah, and colleagues. The study appeared online 8 OCT in the Clinical Journal of the American Society of Nephrology. [Source: HealthDay News Robert Preidt article 8 Oct 09 ++]

Federal Jobs Update 01: The White House and the Office of Personnel Management (OPM) announced hiring initiatives aimed at halting a decline in the representation of disabled employees in the federal workforce. They intend to hold a daylong government wide job fair targeted at people with disabilities, and would offer federal hiring managers online seminars on attracting and retaining disabled workers. Obama is not the first president to use the federal government to promote workforce diversity. In 2000, President George W. Bush signed an order calling for the government to hire 100,000 people with disabilities within the next five years. Despite that order, representation of disabled workers decreased steadily. The percentage of federal employees with targeted disabilities such as blindness or deafness fell from 1.12% in fiscal 1999 to 0.88% in fiscal 2008, according to an annual report from the Equal Employment Opportunity Commission (EEOC). In fiscal 2008 the Commerce, Transportation and Treasury departments were the only Cabinet-level agencies that experienced an increase in representation of disabled employees. And only four agencies with more than 500 employees exceeded the government's goal of participation rates higher than 2%. EEOC had the highest participation of employees with targeted disabilities, at nearly 3%.

Christine Griffin, acting vice chair of the commission, attributed EEOC's success to attention from top officials. "I think there's been a commitment from people in leadership positions that this is important to us," she said. Griffin said Obama's announcement was the first step toward a renewed focus on hiring the disabled. "Ultimately, it doesn't matter what package the person comes in," Griffin said. "If you've got the skills and qualifications that they need, that's what they want." As part of the initiative, the White House and OPM will work with the Labor Department's Office of Disability Employment Policy to raise awareness of a hiring authority that allows agencies to recruit disabled workers noncompetitively under Schedule A, subject to a two-year probationary period. According to a March report from the National Council on Disability, agencies don't use the Schedule A hiring authority enough. Only 326 of the 1,298 people with disabilities who joined government in fiscal 2006 were hired using Schedule A, the report said. OPM will hold online training sessions to educate hiring managers on the Schedule A authority beginning in November. "This should be a core objective of the federal government because it works," said John Berry, director of OPM, in a statement. [Source: GOVExec.com Alex M. Parker article 9 Oct 09 ++]

VA Presumptive Vietnam Vet Diseases: Relying on an independent study by the Institute of Medicine (IOM), Secretary of Veterans Affairs Eric K. Shinseki decided to establish a service-connection for Vietnam Veterans with three specific illnesses based on the latest evidence of an association with the herbicides referred to Agent Orange. The illnesses affected by the recent decision are B cell leukemias, such as hairy cell leukemia; Parkinson's disease; and ischemic heart disease. Used in Vietnam to defoliate trees and remove concealment for the enemy, Agent Orange left a legacy of suffering and disability that continues to the present. Between JAN 65 and APR 70, an estimated 2.6 million military personnel who served in Vietnam were potentially exposed to sprayed Agent Orange. In practical terms, Veterans who served in Vietnam during the war and who have a "presumed" illness don't have to prove an association between their illnesses and their military service. This "presumption" simplifies and speeds up the application process for benefits.

The Secretary's decision brings to 15 the number of presumed illnesses recognized by the Department of Veterans Affairs (VA). "We must do better reviews of illnesses that may be connected to service, and we will,"

RAO BULLETIN 15 October 2009

Shinseki added. "Veterans who endure health problems deserve timely decisions based on solid evidence." Following is the new list of 15 illnesses now recognized under VA's presumption rule. For more information on each illness, refer to <http://www1.va.gov/opa/pressrel/pressrelease.cfm?id=1796>:

- Acute and Subacute Transient Peripheral Neuropathy (Note: Must become manifest to a degree of 10% or more within a year after the last date on which the veteran was exposed to an herbicide agent during active military service and the condition is transient (temporary) and resolves within two weeks. Chronic peripheral neuropathy is not presumed by VA to be caused by exposure to Agent Orange.)
- AL Amyloidosis (ALS)
- Chloracne or other acneform disease similar to chloracne (Note: Must become manifest to a degree of 10% or more within a year after the last date on which the veteran was exposed to an herbicide agent during active military service)
- Chronic Lymphocytic Leukemia
- Diabetes Mellitus (Type 2)
- Hairy Cell Leukemia
- Hodgkin's Disease
- Ischemic Heart Disease
- Multiple Myeloma
- Non-Hodgkin's Lymphoma
- Parkinson's Disease
- Porphyria Cutanea Tarda (Note: Must become manifest to a degree of 10% or more within a year after the last date on which the veteran was exposed to an herbicide agent during active military service.)
- Prostate Cancer
- Respiratory Cancers (lung, bronchus, larynx, trachea)
- Soft Tissue Sarcoma (other than Osteosarcoma, Chondrosarcoma, Kaposi's sarcoma, or Mesothelioma)

[Source: VA News Release 13 Oct 09 ++]

USFSPA & Divorce Update 10: A bill to protect California disabled veteran's disability compensation from illegal attachment and garnishments was signed into law by Governor Schwarzenegger on 11 OCT 09. The bill (SB.285), authored by California Senator Rod Wright, was introduced at the request of the California Alliance for Families and Children (CAFC) in cooperation with the American Retirees Association (ARA). It codifies existing federal law, United States Code, Title 38, Section 5301 into the state's statutes to assure it is followed in California state courts. Although federal law is very clear in its wording and intent, civil court judges nationwide have routinely ignored it. The result has been illegal attachments and garnishments of the disability compensation and erroneously calculating veterans' disability compensation into divorce settlements as a divisible asset or income. SB 285 passed California legislature without a single no vote, even though similar efforts in Iowa, West Virginia and Oklahoma have failed so far. Of significance, this new state law provides precedent for all other states to follow and enact similar additional safeguards for their disabled veterans. Also, it can be a precursor for state legislation to modify state divorce laws to protect garnishments for USFSPA as is underway in Oklahoma with H.B.1053. CAFC announced they have already received commitments from legislators in Arizona, New Mexico and Texas to follow the California lead.

Retirees who are impacted by the Uniformed Services Former Spouses' Protection Act (USFSPA) and/or concerned about protecting their disability compensation concerns should be aware of the USFSPA Liberation Support Group (ULSG). Their mission is to support the rights of all service members active-duty/retired/ Guard &

RAO BULLETIN 15 October 2009

Reserve military members, Commissioned Corps of the US Public Health Service and Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) in challenging the USFSPA, Pub. L. No. 97-252, 96 Stat. 730 (1982), currently codified as amended at 10 U.S.C. § 1408. This law, hastily passed by our Congress without forethought and little discussion, invalidated the United States Supreme Court's 1981 majority 6-3 ruling (*McCARTY v. McCARTY*, 453 U.S. 210 1981) that asserted military retirement/retainer pay is not subject to division as common property in state divorce proceedings. ULSG challenges the USFSPA in our courts system, strongly urges the US Congress of the United States to repeal this unjust law, and informs the Media to overcome this injustice to all service men and woman who unselfishly have served their country and have earned the sole right to their retainer/retired pay vice being treated as common property during divorce. Retirees with ideas or concerns regarding the USFSPA can contact the following state ULSG representatives:

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[Source: ULSG Update 12 Oct 09 ++

Arlington National Cemetery Update 06: For the first time in a generation, Arlington National Cemetery (ANC) has marked the burial of an unknown on its storied grounds. Only this time, 25 years since the last interment at the Tomb of the Unknowns, the identity of the body remains a mystery not because the ravages of war made identification impossible, but because in a bureaucratic error the cemetery lost the paperwork showing the identity of the remains. Arlington recently installed a headstone marked "Unknown" above grave 449 in section 68 of the cemetery. This is the first time the cemetery has marked an unknown since 1984, when Arlington entombed the remains of a Vietnam veteran in the Tomb of the Unknowns in a ceremony rife with pomp and circumstance.

RAO BULLETIN 15 October 2009

Former President Reagan presided, posthumously awarding that service member the Medal of Honor. And that unknown soldier was supposed to be the last unknown interred in any U.S. military cemetery, given advances in DNA technology and a multimillion dollar effort to account for every soldier and identify all remains. A body that could not be identified was supposed to be a thing of the past.

Arlington's newest unknown, buried without special ceremony, is the exception to what was intended to be the rule. The cemetery buried someone in grave 449 -- likely relatively recently, since that section is an active part of the cemetery -- and then lost track of the paperwork showing the identity of the remains. In 2003, workers went to bury a newly deceased service member in that plot, only to find unmarked remains in the ground. Paper records had listed the plot as vacant. Rather than publicly admit this error, Arlington quietly left the remains unmarked for six years. For those six years, passersby saw only an empty plot of green grass in spot 449, surrounded by stones etched with names. This remained the case until this past summer, when reporters for the Salon Media Group began working on tips from current and former workers at Arlington who said these kinds of mistakes occur with disturbing frequency at the cemetery, which calls itself "our nation's most sacred shrine."

At first, Arlington denied any problem. Salon asked the cemetery last summer, "Has the cemetery ever dug a grave only to find there is already someone there, though the grave is unmarked?" Cemetery spokeswoman Kaitlin Horst responded, "We are not aware of any situation like that." Salon later produced internal paper records showing that the cemetery did not know the identity of the remains in grave 449. With that Horst then said, "Arlington National Cemetery officials have known about this situation since 2003, when in the process of preparing for a burial, a casket was discovered in grave 449 in Section 68 ... At that time, a review of records took place to locate the corresponding documents. The files could not be matched." Horst insisted that this was the only mistake of its kind. "At this time," she said, "cemetery officials are not aware of any other instances." In this case, the cemetery lost the paperwork among the blizzard of paper records the cemetery still uses to track around 30 burials a day.

While other cemeteries have computerized burial operations and now track grave locations via satellite, Arlington has failed to implement a similar system despite spending millions on favored contractors working on the fruitless effort for nearly a decade. Arlington admits that the cemetery's burial paperwork does not match the location of some headstones in numerous cases, but cemetery officials insist that while the paperwork is wrong, all the headstones stand above the correct remains. This includes discrepancies in section 60, the final resting place of 600 veterans killed in Iraq and Afghanistan. The cemetery's 2008 report to Congress showed an example where cemetery officials tried to locate grave 6 in section 60 using one of over 100 paper maps the cemetery uses to guide operations. "When ANC went to locate the grave by using the burial map, section 60 grave 6 was in a different location than the actual physical location of the headstone marked section 60 grave 6," the report admits. The paperwork is wrong, the cemetery claims, but the headstone is in the right place.

Foster, the Army spokesman, said the Army is investigating how to identify the remains in grave 449, but would not reveal any details to Salon. "We cannot comment on an ongoing investigation," he said. "However, once the investigation is complete and reviewed by officials at Arlington National Cemetery, it is our intent to inform you at the earliest opportunity of what course of action has been deemed appropriate." But the fact that the cemetery installed a marble headstone marked "Unknown," rather than the small temporary markers used at Arlington, suggests a degree of permanence. Also, the fact that the Army, which runs Arlington, has done little to identify these remains over the past 12 weeks suggests a reluctance to take the most rudimentary steps towards a possible identification. For example, current and former service members represent a large percentage of the remains at Arlington. Many are buried in their dress uniforms, which include a name tag. Discovering the identity of the remains in grave 449 might be as simple as using a backhoe and Google. However, this poses the risk of triggering a ripple-effect public relations disaster. The cemetery does not know if the remains in grave 449 are unknown because the intended headstone was mistakenly placed above another grave. If so, the identity of those remains then becomes unknown. And so on, and so on.

RAO BULLETIN 15 October 2009

Foster did not return an e-mail asking why the Army has not disinterred the remains for purposes of identification. The idea that Arlington is creating unknown soldiers by bungling paperwork is particularly ironic given the military's otherwise exhaustive and often valiant efforts to live up to the "leave-no-soldier-behind" ethos. In 2003, the Army consolidated various offices that had already been working for over 30 years to find and identify remains into the Joint POW-MIA Accounting Command. Around 400 service members work full time, conducting roughly 50 missions per year, scouring the battlefields of Vietnam, Korea and even Germany for remains that are returned to the largest forensic anthropology laboratory in the world, located in Hawaii. The Department of Defense regularly issues news bulletins documenting the successful repatriation and identification of remains from long-ago conflicts, despite the obvious difficulty of the task. Remains that cannot be immediately identified are stored in Hawaii -- but never buried anonymously. The idea is that continuing advances in DNA testing will eventually result in the identification of all remains. These efforts even resulted in the identification of the remains from Vietnam that Reagan helped lay to rest in Arlington's Tomb of the Unknowns 25 years ago. In 1998, the remains were disinterred and identified as those of U.S. Air Force 1st Lt. Michael Blassie. Blassie was later laid to rest in his hometown, St. Louis. This unending dedication to preventing another unknown soldier lies in stark contrast to the paper-pushing going on at Arlington, which has resulted in at least one new unknown where most people would least expect it. [Source: Salon Media Group Mark Benjamin article 11 Oct 09 ++]

Allergy Relief Update 02: Allergic reactions are inappropriate, overblown responses mounted by the body's immune system against a harmless substance. For example, ragweed pollen is not poisonous, infectious, or in any way harmful to humans. But in some people, it triggers an attack by the immune system - an allergic reaction. When this happens, the ragweed pollen (or any other offending substance) is called an allergen. Many people associate seasonal allergies with springtime, when plants, flowers, and grasses begin to bloom. But fall is also a difficult time for allergy sufferers, particularly those sensitive to ragweed pollen. This yellow-flowered plant begins producing pollen in late summer, and continues into the fall. And like many types of pollen, ragweed pollen travels on the wind and can be carried hundreds of miles — so you don't need to live near it to be affected by it.

Rhinitis, or inflammation of the mucous membranes of the nose (nasal mucosa), is the most common allergy in the United States, affecting 10% to 30% of adult Americans and about 40% of children. There are several categories of rhinitis, but allergic rhinitis, which is caused by allergens in the air, is what you're experiencing if you suffer from seasonal allergies. Generally, an allergic rhinitis reaction occurs when you breathe in airborne allergens like pollen, molds, or dust mites (for a more complete list of common outdoor and indoor allergens. Within minutes, thanks to mast cells releasing histamine and other chemicals, sneezing, runny nose, and nasal congestion are in full swing. Regular exposure to these allergens leads to persistent symptoms. When the trigger for rhinitis is seasonal pollen (from trees, grasses, or weeds) or mold, the common term is "hay fever." But allergic rhinitis can also be a year-round (perennial) condition that can lead to and exacerbate other allergies, such as allergic asthma and allergic conjunctivitis. Dust mites and animal dander are the chief culprits for perennial allergic rhinitis. Some people are afflicted with both seasonal and perennial allergies. The following dominant allergens differ in various climates and hence in different parts of the country:

- Trees: oak family, elm, western red cedar, ash, birch, poplar, hickory, sycamore, maple family, walnut, cypress
- Weeds: ragweed family, tumbleweed, sagebrush (mugwort), pigweed, cockleweed, Russian thistle
- Grasses: timothy, orchard, sweet vernal, Bermuda, sour dock, redtop, bluegrass, johnsongrass
- Molds: Alternaria, Aspergillus, Cladosporium, Penicillium

RAO BULLETIN 15 October 2009

Repeated exposures to allergens can sensitize the nasal mucosa in a phenomenon called “priming.” This causes progressively lower levels of allergens to spark a reaction. It can also make you sensitive to nonspecific irritants in the air. This hypersensitivity is similar to a primed pump that is ready for action. As allergy season progresses, your innate immune system response becomes primed and ready to set in motion an allergic reaction. Here are some ways to minimize your pollen exposure:

- Stay indoors when the pollen count is high, especially on dry, windy days.
- Stay indoors between 5 a.m. and 10 a.m., when airborne pollen is likely to be at its highest each day.
- Keep home windows closed at night, and turn on the air conditioner.
- Keep car windows closed when driving.
- Vacation at the coast during high pollen season.
- Don't cut your grass; have someone else do it.
- Don't hang clothing and bedding out to dry.

[Source: Harvard Health Publications HealthBeat Oct 09 ++]

VA Clinic Openings Update 12: On 8 OCT S.1717, a bill to authorize major medical facility leases for the Department of Veterans Affairs for fiscal year 2010, passed the House and was cleared for submission to the President. It authorizes appropriations of \$196,227,000 for the Secretary of Veterans Affairs to use in fiscal year 2010 for opening new facilities at the following locations:

- (1) Anderson, South Carolina, Outpatient Clinic, in an amount not to exceed \$4,774,000.
- (2) Atlanta, Georgia, Specialty Care Clinic, in an amount not to exceed \$5,172,000.
- (3) Bakersfield, California, Community Based Outpatient Clinic, in an amount not to exceed \$3,464,000.
- (4) Birmingham, Alabama, Annex Clinic and Parking Garage, in an amount not to exceed \$6,279,000.
- (5) Butler, Pennsylvania, Health Care Center, in an amount not to exceed \$16,482,000.
- (6) Charlotte, North Carolina, Health Care Center, in an amount not to exceed \$30,457,000.
- (7) Fayetteville, North Carolina, Health Care Center, in an amount not to exceed \$23,487,000.
- (8) Huntsville, Alabama, Outpatient Clinic Expansion, in an amount not to exceed \$4,374,000.
- (9) Kansas City, Kansas, Community Based Outpatient Clinic, in an amount not to exceed \$4,418,000.
- (10) Loma Linda, California, Health Care Center, in an amount not to exceed \$31,154,000.
- (11) McAllen, Texas, Outpatient Clinic, in an amount not to exceed \$4,444,000.
- (12) Monterey, California, Health Care Center, in an amount not to exceed \$11,628,000.
- (13) Montgomery, Alabama, Health Care Center, in an amount not to exceed \$9,943,000.
- (14) Tallahassee, Florida, Outpatient Clinic, in an amount not to exceed \$13,165,000.
- (15) Winston-Salem, North Carolina, Health Care Center, in an amount not to exceed \$26,986,000.

[Source: HVAC Bob Filner Press Release 8 Oct 09 ++]

NARA Data Breach: The inspector general of the National Archives and Records Administration is investigating a potential data breach affecting tens of millions of records about U.S. military veterans, Wired.com has learned. The issue involves a defective hard drive the agency sent back to its vendor for repair and recycling without first destroying the data. The hard drive helped power eVetRecs www.archives.gov/veterans/evetrecs/, the system veterans use to request copies of their health records and discharge papers. When the drive failed in NOV 08, the agency returned the drive to GMRI, the contractor that sold it to them, for repair. GMRI determined it couldn't be fixed, and ultimately passed it to another firm to be recycled. The incident was reported to NARA's inspector

RAO BULLETIN 15 October 2009

general by Hank Bellomy, a NARA IT manager, who charges that the move put 70 million veterans at risk of identity theft, and that NARA's practice of returning hard drives unsanitized was symptomatic of an irresponsible security mindset unbecoming to America's record-keeping agency.

"This is the single largest release of personally identifiable information by the government ever," Bellomy told Wired.com. "When the United States Department of Agriculture (USDA) did the same thing, they provided credit monitoring for all their employees. We leaked 70 million records, and no one has heard a word of it." But NARA says the lost drive is not a problem because its contractors signed privacy promises in their contracts, though the agency has since changed its policy to require that sensitive media be destroyed by NARA itself. The drive was part of a RAID array of six drives containing an Oracle database that held detailed records on 76 million veterans, including millions of Social Security numbers dating to 1972, when the military began using individuals' Social Security numbers as their service numbers. When the unencrypted drive failed, Bellomy says he tried to subvert the longstanding recycling policy by hiding the drive in his safe. But it was taken out of his control when he was put on long-term leave. Under the conditions of the maintenance contract, if NARA did not return the drive, GMRI would have billed the agency \$2,000 for a replacement. He adds that more drives failed after the NOV 08 incident, and that he performed a forensic scan on them to prove that they were full of sensitive data. "I said you can't turn them back in. The data is Privacy Act - it's against the law," Bellomy told Wired.com. "We have no clue how many drives have been sent back over the past seven years since this system was in place. I am a government employee and I'm a veteran, and just this year had both my credit cards replaced because they were compromised. "

The Pentagon requires that old drives be degaussed (de-magnified) or physically destroyed. In a 2006 report still in effect, the National Institute of Standards and Technology (NIST) recommended purging and destruction methods while OMB rules dating to the same year require that agencies follow those NIST standards and encrypt sensitive data being sent or stored remotely. But NARA says that while it no longer will send back drives, no rules were broken, and that warning veterans would cause unnecessary fear. "NARA does not believe that a breach of PII (personally identifiable information) occurred, and therefore does not believe that notification is necessary or appropriate at this time," NARA told Wired.com in an e-mailed background paper. "This view could change if the [inspector general] investigation of this incident later determines that GMRI ... or their subcontractors took some illegal or unethical action that may have compromised sensitive data contained on the inoperable NOV 08 disk drive."

As part of a six disk RAID 5 set-up, the drive likely contained about 18% of the database, and the disk also likely contained a quick look-up table that included all veterans' names and service-record numbers, according to Bellomy. US-CERT, the nation's clearinghouse for data breaches and hacks, was notified in FEB 09 by a NARA employee named Thomas Bennett, according to a document Bellomy provided to Wired.com. "The information system contains a significant amount of Personally Identifiable Information (PII) and Sensitive PII about veterans," wrote Thomas Bennett, a NARA employee. "As a result, we believe that is likely that the defective drive contains PII and SPII. At this time, we are trying to determine the location and status of the drive." The status of the NARA investigation is unclear, though the incident was alluded to in a recent report on the inspector general's activity. "We are aware of the incidents and are looking into it," said Ross Weiland, the assistant inspector general for investigations at NARA. He declined further comment. NARA recently lost a hard drive full of data from the Clinton White House, including 100,000 Social Security numbers, political records and event logs. The data has still not been located. Both the House Oversight Committee for Veterans Affairs and an oversight committee for NARA were notified of the lost drive, but neither committee returned calls seeking comment. [Source: Wired.com News Ryan Segal article www.wired.com/threatlevel/author/ryan_singel 5 Oct 09 ++]

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RAO BULLETIN 15 October 2009

Chapter 61 Legislation Update 03: Like a sequel to a bad horror movie, the Disabled Veterans' Tax has once again reared its ugly head and The American Legion is furious. American Legion National Commander Clarence E. Hill said, "The 2010 National Defense Authorization Act should be renamed the Unfinished Business Act of 2009. For more than a century, disabled military retirees had to unfairly forfeit portions of their retirement pay to offset their disability, even though they were the only Americans required to do this. Finally, after way too long, Congress and the White House promised to correct the injustice. Their piecemeal approach now has service-connected military retirees in three distinct groups - those who get all, those who get some, and those who get none. The president's promise, at least for Chapter 61 medical retirees who were forced by ailments or injuries to leave service before completing 20 years of service, is now being broken."

Although there are some portions of the Defense Authorization Act that The American Legion fully supports, Hill promised to use all of The American Legion's resources to reinstate the scheduled phase-out of the Disabled Veterans' Tax, also known as concurrent receipt. The principle behind concurrent receipt is that the Department of Defense should pay retirees an annuity for total years served and VA should fully compensate them for their disabilities. For many thousands of disabled retirees, retired pay is still reduced or offset by their disability compensation. "There are good provisions such as a 3.4% pay raises for active-duty, Guard and Reserve members and a freeze on Tricare inpatient co-payment increases, so the baby does not necessarily need to be tossed with the bathwater," Hill said. "But this bathwater is pretty contaminated and must be cleansed." Moreover, the National Defense Authorization Act dropped a previously approved Senate provision that expressed the sense of Congress that military retirement and health benefits are the primary offset to the extraordinary demands and sacrifices inherent in a military career, that career members deserve a health benefit commensurate with their sacrifices, and that the Department of Defense needs to look at other ways to reduce health care spending than shifting more costs to military beneficiaries.

"When Congress drops language that would protect military beneficiaries from more cost-shifting, it means in plain English, 'watch your wallet,'" Hill said. "These are not second-class citizens, but rather America's heroes. It is time for a new bill to be introduced - Lest We Forget Act - to address the nation's unfinished business concerning the military community. If Congress won't budge, then it's time for the Commander-in-Chief to take care of his troops - past, present and future service members. The American Legion is not about to let this go." Another provision that The American Legion strongly objects to is the elimination of a measure that would have ended compensation penalties for survivors of military personnel who died of service-caused casualties. "So the Unfinished Business Act of 2009 reneges on the phase-out of the Disabled Veterans' Tax, continues the Widows' Death Tax and exposes countless military retirees and their families to massive Tricare fee increases," Hill said. "Is Congress expressing the thanks of a grateful nation? Is this really the Year of the Military Family?" [Source: American Legion News Flash 9 Oct 09 ++]

Vet Insurance Update 02: On 8 OCT, the Senate unanimously approved the Veterans' Benefits Enhancement Act of 2009 (S.728) designed to enhance a number of benefits for veterans and their families, including insurance benefits, compensation, housing, employment, education, and burial. The bill incorporates the provisions of the previously passed House bill H.R.1037.. One key provision of the legislation would provide for retroactive payments to those servicemembers who suffered traumatic injury while on active duty on or between 7 OCT 01, and 30 NOV 05. Previously, this benefit was only available to servicemembers who suffered a traumatic injury in Operation Iraqi Freedom or Operation Enduring Freedom theaters of operation during that time period. U.S. Senator Daniel K. Akaka (D-HI), Chairman of the Veterans' Affairs Committee and author of this bill, said. "I am pleased that the Senate passed this much needed legislation. Without it, some servicemembers who suffered

RAO BULLETIN 15 October 2009

traumatic injuries would be denied the same retroactive payment given to their wounded comrades.” Among other things, S.728, as amended, would:

- Increase from \$20,000 to \$30,000 the maximum amount of supplemental insurance provided through the Department of Veterans Affairs (VA) for totally disabled veterans.
- Direct the Secretary of Veterans Affairs to grant level-premium term life insurance to veterans under age 65 with service-connected disabilities.
- Increase the maximum loan guarantee amount under the veterans' mortgage life insurance program from \$90,000 to \$150,000, then to \$200,000 after January 1, 2012.
- Remove a condition on the qualification of certain individuals for retroactive benefits from traumatic injury coverage under Servicemembers' Group Life Insurance.
- Remove the enrollment cap on the number of veterans allowed in VA's Independent Living program.
- Ease the burden of proof on veterans seeking to establish that their disabilities are related to their service.
- Establish an annual cost-of-living adjustment for the temporary payment of dependency and indemnity compensation (DIC) to a veteran's surviving spouse with one or more children under the age of 18.
- Provide eligibility requirements for the payment of a special monthly pension based on disability for veterans who already qualify for a service pension based upon age.
- Increase amounts of DIC payable to surviving spouses and parents of deceased veterans.
- Increase, and authorize the annual adjustment of, pension amounts payable to hospitalized veterans and certain children of veterans of a period of war.
- Authorize and direct the Secretary to pay a: (1) supplemental benefit for the funeral and burial expenses of veterans, making such amount \$900 with respect to a non-service-connected death and \$2,100 with respect to a service-connected death; and (2) supplemental burial plot allowance for veterans eligible for the current allowance.

[Source: TREA Washington Update 9 Oct 09 ++]

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VA Health Care Funding Update 22: On 8 OCT 09 the House of Representatives approved an amendment to H.R. 1016, a bill to secure timely funding for veterans' health care delivered through the Veterans Health Administration. The bill authorizes Congress to approve Department of Veterans Affairs (VA) medical care appropriations one year in advance of the start of each fiscal year. Over the last 23 years, 20 VA budgets have been passed late. As a result veterans pay the price with fewer doctors, longer waiting times, and more restricted access for the 6 million veterans using VA health care. An advance appropriation would provide VA with up to one year in which to plan how to deliver the most efficient and effective care to an increasing number of veterans with increasingly complex medical conditions. Unlike proposals to convert VA health care to a mandatory funding program, an advance appropriation does not create PAYGO concerns since VA health care funding would remain discretionary. Congress employs a PAYGO rule which demands that new proposals must either be budget neutral or offset with savings derived from existing funds. [Source: NAUS Weekly Update 9 Oct 09 ++]

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NROTC: The secretary of the Navy recently approved a plan to increase the active duty Minimum Service Requirement (MSR) for Naval Reserve Officers Training Corps (NROTC) Navy-option scholarship recipients. All NROTC Navy-option scholarship recipients who sign an NROTC contract for receipt of undergraduate educational assistance on or after 1 JUL 10, must obligate to serve in the Navy for five years active duty instead of the previous four years. The reason for the added year of obligation is to better manage the Navy's surface warfare community

RAO BULLETIN 15 October 2009

stabilization and nuclear power accessions. For more information about the Navy NROTC refer to www.navy.com/careers/nrotc . [Source: NAUS Weekly Update 9 Oct 09 ++]

VA Transparency: American Legion National Commander Clarence E. Hill says he is concerned about a VA directive that refuses public disclosure of inspection reports that might reflect negatively upon VA facilities. “I am bothered by VA’s practice of designating facility reports that measure timeliness and quality of care as ‘protected documents’ for internal use only. VA administrators as well as veterans who turn to VA for their health-care would benefit from knowing the state of affairs at VA facilities.” Hill’s statement was prompted by VA’s refusal to readily disclose information contained in a report issued by the Long Term Care Institute (LTCI), an organization hired by VA to provide quality reviews of its Community Living Centers (CLC). The reports issued by the LTCI assess the quality of care in VA facilities and provide recommendations for addressing any deficiencies. Of the more than 100 CLC reports, one from JUN 08, detailed incidents of wholesale neglect of some veterans residing in the Philadelphia CLC. This report was recently obtained by a Pittsburgh newspaper under the Freedom of Information Act and became the basis of a critical story in the paper. Many veterans objected to the fact that it took an investigative reporter to bring the matter to light.

VA maintains that information provided in the LTCI reports constitutes quality management activities protected by federal statute. This code (38 U.S.C. § 5705) provides that records and documents created by the Veterans Health Administration (VHA) as part of a designated medical quality-assurance program are confidential and privileged and may not be disclosed to any person or entity except when specifically authorized by the statute. There is no authority contained within the statute for disclosure to members of the news media, says VA. The department argues further that congressional oversight committees are able to obtain copies of quality-assurance documents when they are requested for official oversight purposes. VA also points out that the situation in question occurred more than a year ago and that leadership took swift action once it surfaced. A VA spokesperson says: “Many changes have been implemented at the Philadelphia Veterans Community Living Center, including disciplining and terminating personnel contracts, installing a new leadership team, hiring specialists in the areas of wound care and staff training, installing new equipment in the Nutrition and Food area, and beginning nearly \$10 million in construction projects. The Department of Veterans Affairs places the highest priority on the safety, security and dignity of all of our Veteran patients.”

“That is all well and good, but we still believe it is the responsibility of the VA to make the findings in this report, and others like it, accessible to its stakeholders – America’s veterans,” Hill said. “We can work together to improve the VA health-care system by identifying any deficiencies realized in these reports. If, for instance, The American Legion is aware of deficiencies and problems affecting the health and welfare of our veterans in VA care, we can assist with resolving them, as we have for decades. “In particular, The American Legion’s ‘A System Worth Saving’ program is employed to follow up on GAO reports, IG inspections and independent findings to identify where positive steps have been made by the VA to improve identified issues,” Hill added. “Without the ability to use all information available, an incomplete and misleading picture emerges. Conversely, a hand-in-hand cooperative approach is to everyone’s benefit, especially the most deserving parties of all – our nation’s veterans. [Source: American Legion Online Update 8 Oct 09 ++]

Servicemembers' Civil Relief Act Update 01: A House subcommittee is considering legislation that would give individual service members the ability to personally sue for violations of the legal and financial protections afforded by the Servicemembers’ Civil Relief Act (SCRA). The House Veterans’ Affairs

RAO BULLETIN 15 October 2009

economic opportunity panel could vote by the end of October on H.R.2696, or the Servicemembers' Rights Protection Act. While the law "provides for penalties for violations, [it] does not specifically state whether service members have a private course of action for violation of the act," said Rep. Brad Miller (D-NC) one of the bill's sponsors. The bill would allow a service member to join in a civil action filed by the U.S. attorney general for the violation of rights under the SCRA and also allow a private suit, which could be pressed even if the federal government decided not to sue. The bill would allow service members to collect attorney's fees if they win their lawsuit, a move Miller said would "encourage settlements by those who might otherwise refuse to pay damages, calculating that the cost of litigation would keep people from pursuing relief."

Miller said most courts "have recognized the inherent right of individual service members to bring suit for a violation of their rights" but that right is not clear. The bill, he said, would "end any ambiguity." In one case still working its way through the courts, an Army Reserve officer is suing because he was evicted from two commercial spaces for not making franchise payments while he was deployed to Afghanistan. A federal court initially ruled in 2008 that the government could sue for violations of the SCRA, but not service members themselves. The federal district court reinstated the complaint, in which the officer, Army Reserve Lt. Col. Leon Batie Jr., is seeking compensatory and punitive damages. A second recent reversed decision took place in a 2008 Michigan case in which a bank foreclosed on and sold Army National Guard Sgt. James Hurley's home and evicted his family while he was deployed to Iraq. Initially, the court held that Hurley could not sue, but the judge changed his mind in March, according to the American Bar Association, which supports allowing private lawsuits over violations of service members' rights. [Source: ArmyTimes Rick Maze article 5 Oct 09 ++]

DFAS myPay System Update 05: Coming later this fall, DFAS will implement new myPay access requirements to increase the security of user information. One change will require users to establish a new user name (login ID) and password. Customized login IDs and passwords will allow you more flexibility and opportunities to increase the security of your personal information. To take action the following is germane:

- When logging into myPay the first time following implementation of the new security enhancements, you will be allowed to use your existing login ID and PIN and will be prompted to change your login credentials.
- New login IDs will require six to 129 alphanumeric characters that will be unique to one user only. If you attempt to create a login ID that has already been established you will be prompted to create a different login ID.
- Help screens will contain the login ID requirements. You will be required to establish a password to accompany your customized login ID. Passwords must be no less than eight and no more than 15 characters. Help screens will contain the password requirements.
- If you have established a Restricted Access PIN, you will also be prompted to establish a limited access login ID and password using the same requirements.

Use of the myPay interactive voice response system, which allows telephone access to certain pay information, may still be entered using the Social Security number and myPay PIN. While this security enhancement is intended to help keep your information secure and prevent unauthorized access to pay accounts, DFAS encourages you to take appropriate actions to keep your login IDs and passwords private. This can include storing them in a lockable and secure place, memorizing them and destroying any written record, and not sharing them with anyone. Questions regarding this myPay change may be directed to the Centralized Customer Support Unit at 1-888-332-7411, commercial (216) 522-5096, Defense Switching Network (DSN) 580-5096 (07-1830 EST). [Source: DFAS advisory 11 Oct 09 ++]

RAO BULLETIN 15 October 2009

DFAS myPay System Update 06: An advisory was added to the myPay Email Address option in SEP 08 to notify customers that myPay was phasing out the Personal Email Address that was used for general notifications. Coming later this fall, all existing Personal Email Addresses will be deleted from myPay. If you want a Personal Email Address you may enter it as a Secure Personal Email Address. It should be secure enough that sensitive information as well as general notifications may be sent to it and it may not match an existing Email Address on myPay. To add a Personal Email Address as your Secure Personal Email Address select the Email Address option located on your myPay main menu. You must enter the Secure Personal Email Address twice. Questions regarding this myPay change may be directed to the Centralized Customer Support Unit at 1-888-332-7411, commercial (216) 522-5096, Defense Switching Network (DSN) 580-5096 between 0700 and 1800 EST. [Source: DFAS Advisory 8 Oct 09 ++]

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NDAA 2010 Update 03: A House-Senate committee agreement has been reached on FY2010 Defense Authorization Bill. After review of the 2010 NDAA documents found at <http://armedservices.house.gov/> and ballyhooed by the House Armed services Chairman Ike Skelton, the following "promised" provisions have been eliminated:

- **BROKEN PROMISE #1: TRICARE** -- The Senate-passed Sec. 706 of S. 1390 to express the sense of Congress that military health benefits are a primary offset to the adverse conditions of service, that career military people have earned health benefits consistent with their decades of sacrifice, and that Defense leaders need to find other ways to cut health costs than imposing large fee hikes on beneficiaries was eliminated. (Now more than one million military retirees and families will suffer the DOD 21% increase. Both the President and Defense Secretary Gates promised fee increases would not happen!)
- **BROKEN PROMISE #2: CONCURRENT RECEIPT** -- The House-passed Sec. 121 of Division D of H.R. 2647 to phase out compensation penalties for thousands forced from service due to service-caused disabilities was eliminated. (Hey, the President's Budget for 2010 includes full restoration of concurrent receipt! So the "military retiree disability tax" continues for 500,000 military retirees! What happened?)
- **BROKEN PROMISE #3: SBP/DIC** -- The Senate-passed Sec. 652 of S. 1390 that would end compensation penalties for survivors of military personnel who died of service-caused conditions was eliminated. (So 61,000 brave widows continue to suffer the "widow's death tax" and be deprived of benefit purchased from the retirement pay of the military spouse!)

Veterans who want to express their disappointment with the Joint Committee's decision can do so by sending an editable preformatted message to their elected officials via [http://capwiz.com/usdr/issues/alert/?alertid=14147886&queueid=\[capwiz:queue_id\]](http://capwiz.com/usdr/issues/alert/?alertid=14147886&queueid=[capwiz:queue_id])

[Source: USDR Action Alert 8 Oct 09 ++]

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SBP Withdrawal Update 03: You have an irrevocable option to cancel your SBP due to your survivor's eligibility for the VA's Dependency and Indemnity Compensation (DIC) survivor annuity. A service-connected VA disability rating of totally disabling (100%) for 10 continuous years, or at least 5 years at 100% if from the date of Service separation, makes a survivor eligible for DIC. Spousal concurrence is required to cancel

RAO BULLETIN 15 October 2009

SBP. This option was established because a survivor's SBP annuity is reduced dollar-for-dollar if the survivor also receives DIC—the SBP-DIC offset. Cancelling SBP because of DIC allows a survivor to receive a refund of all SBP premiums linked to the denied SBP survivor payments. Here's the catch before you cancel. Military associations and advocates are working diligently to have the SBP-DIC offset eliminated. Headway has been made in the last few years as survivors now receive a small portion of their SBP payments that were previously denied due to DIC. Amendments to cancel the offset has been included in the last five National Defense Authorization Acts (NDAA) but has never made it through the conference committee. The conference committee report for the 2010 NDAA is now in and once again it was not included in the final bill. Efforts to get the offset elimination included in the 2011 NDAA or enacted by separate legislation are anticipated. Should the SBP-DIC offset be totally eliminated, canceling your SBP now due to potential DIC payments denies your beneficiary the opportunity for full SBP and DIC payments in the future. Consider all the possibilities. [Source: MOAA News Exchange 23 Sep 09 ++]

VA Homeless Vets Update 11: Secretary of Veterans Affairs Eric K. Shinseki has announced that 19 states, the District of Columbia and Puerto Rico will share more than \$17 million in grants to community groups to create 1,155 beds for homeless Veterans this year. For a list of recipients refer to <http://www1.va.gov/opa/pressrel/pressrelease.cfm?id=1795>. A key tool in VA's drive to eliminate homelessness among Veterans, the grants helped VA reduce the number of Veterans who are homeless on a typical night last year by 15% to about 131,000 Veterans. In other programs, VA provides health care to 100,000 homeless Veterans, compensation and assistance in obtaining foreclosed homes and excess federal property, including clothes, footwear, blankets and other items. That includes the Health Care for Homeless Veterans Program operating from 132 sites to provide outreach, physical and psychiatric examinations and referrals for more than 40,000 Veterans annually, while 2,100 beds in VA domiciliaries provide treatment to more than 5,000 Veterans each year. In addition, VA partners with volunteers and community organizations to serve tens of thousands of Veterans each year through "stand downs" offering Veterans who often are living lives in the shadows access to basic services and referrals.

VA works with a variety of federal agencies and Veterans organizations not only to mitigate and eliminate homelessness but toward a goal of preventing its occurrence in the first place. VA's goal is to have a "no wrong door" phenomena, meaning Veterans who seek assistance should find it either in VA internal programs, from community partners or through contract services. In terms of dollars and number of Veterans served, VA has the largest integrated network of homeless assistance programs in the nation. In fiscal year 2009, VA expected to spend \$2.8 billion to provide health care and specialized homeless programs, with an anticipated \$400 million increase in the budget for fiscal year 2010. VA social workers and clinicians work with community and faith-based partners to conduct extensive outreach programs, clinical assessments, medical treatments, alcohol and drug abuse counseling and employment assistance. More information about VA's homeless programs is available at <http://www.va.gov/homeless>. [Source: VA News Release 6 Oct 09 ++]

Medicaid Fraud Update 01: Varian V. Scott was ruled guilty on 5 OCT for being part of a health-care fraud scheme that cost Georgia Medicaid \$1.1 million. Scott, 36, of Miami, and his cousin Hezron Collie, 29, of Atlanta, were indicted in March on charges of conspiracy to commit health-care fraud and health-care fraud in connection with a scheme to present more than \$1 million in forged prescriptions to pharmacies throughout metro Atlanta. The prescriptions were billed to Georgia Medicaid. Between SEP 05 and APR 06, Scott, Collie and others got blank doctors' prescription pads from Emory University's Winship Cancer Institute -- Collie's former employer -- and two other doctors. The defendants allegedly used names, dates of birth and Georgia Medicaid numbers of

RAO BULLETIN 15 October 2009

dozens of people, and allegedly forged multiple doctors' prescriptions for Neupogen and related medications used to treat cancer and AIDS patients. The defendants then allegedly presented the forged prescriptions along with the patient information to CVS, Publix, Walgreens, Kroger, and Eckerd pharmacies around metro Atlanta. Scott and Collie also allegedly recruited a pharmacy employee at least one of the pharmacies as part of the scheme. That employee is cooperating with authorities and pleaded guilty to related charges in Gwinnett County Superior Court on 13 JAN 09. The pharmacies billed approximately \$1.1 million to Georgia Medicaid for the cost of the medications Scott and Collie fraudulently acquired. Sentencing is set for 14 DEC. Scott faces up to 10 years in prison and a fine of up to \$250,000 on each of the 21 counts. "The defendant and his cronies harmed not only the taxpayers by defrauding the state Medicaid program, but they caused potential harm to the individuals who were on the receiving end of these re-sold prescriptions," Georgia Attorney General Thurbert Baker said in a statement. "These cancer-fighting medications must be handled and stored with extreme care to preserve their effectiveness, and street sellers aren't known for running hygienic operations or for making sure they properly handle these sensitive medications." [Source: Atlanta Business Chronicle article 5 Oct 09 ++]

NCIS Espionage Program: The Naval Criminal Investigative Service (NCIS) Far East field office in Yokosuka Japan wants to get the word out about rewards for information leading to the arrest and conviction of people who commit or conspire to commit espionage. The rewards can run as high as \$500,000. The program is designed to make the public aware that spies target Naval personnel, and that espionage is a real and dangerous threat. To report suspicious behavior or inappropriate, probing questions directed to a DoN member, contact NCIS at navyspy@ncis.navy.mil or by telephone at 090-6174-5634. For more information about rewards, contact your local NCIS office. [Source: Military.com Military Report 6 Oct 09 ++]

Tricare Uniform Formulary Update 31: The Beneficiary Advisory Panel (BAP) heard recommendations by the Department of Defense (DoD) Pharmacy and Therapeutics Committee's (P&T Committee) on drugs not included on a DoD Retail Refund Pricing Agreement. According to the P&T Committee these drugs were not compliant with the National Defense Authorization Act (NDAA) for FY '08 regulation. The regulation provided if a drug was not covered by a pricing agreement that complied with Federal Ceiling Prices; the drugs would be designated non-formulary (Tier 3) under DoD's Uniform Formulary and they would require a pre-authorization prior to use in a retail pharmacy. Federal pricing agreement allows DoD to purchase drugs at a lower rate and increase overall savings. It is important to note: these drugs will remain available in TRICARE mail order without needing a provider pre-authorization; the implementation date for these drugs will not take affect until after 1 JAN 10 and no later than 180 days after the TRICARE Management Activity (TMA) Director's approval; and if a Price Agreement is received prior to 14 OCT 09 the drug may stay in Tier 2 and not be moved to Tier 3. The P&T Committee recommended a transition period at Military Treatment Facilities (MTFs) allowing them the opportunity to keep the drug on Tier 2 rather than Tier 3 until 1 JAN 11. All of this information will be available on DoD's TRICARE pharmacy website. For a list of the affected drugs go to www.tricare.mil/pharmacy/bap/ and click on Handout - September 24, 2009, go to page 6, table 5 and 6 or refer to the "Medications Affected by Federal Pricing" attachment to this Bulletin. [Source: NMFA Government and You eNews 6 Oct 09 ++]

Tricare Uniform Formulary Update 32: The Beneficiary Advisory Panel (BAP) met 24 SEP to provide comments to the Department of Defense (DoD) Pharmacy and Therapeutics Committee's (P&T Committee) recommendations on formulary status, pre-authorizations, and the effective date for a drug's change from formulary

RAO BULLETIN 15 October 2009

to non-formulary status. Moving a drug to non-formulary status means it will still be available to beneficiaries, but usually at a higher price. It may also require medication authorization. Current and new drugs were reviewed. The BAP's recommendations were:

Phosphodiesterase Type 5 Inhibitors (PDE-5 inhibitors) with an implementation time no later than 60 days following the TRICARE Management Activity (TMA) Director approval:

- Recommended for the Uniform Formulary were: Levitra (vardenafil).
- Recommended for non-formulary were: Viagra (sildenafil) and Cialis (tadalafil).

Newly Approved Agents with an implementation time no later than 60 days following the TRICARE Management Activity (TMA) Director approval:

- Recommended for the Uniform Formulary was Nuvigil (armodafinil), a nasal allergy drug.
- Recommended for non-formulary were: Golimumab injection (Simponi), Certolizumab injection (Cimzia), and Silodosin capsules (Rapaflo).

Prior Authorization Changes for a previously reviewed drug with an implementation time no later than 7 days following TMA Director's approval: Prior authorization now required for modafinil tablets (Povigil), a narcolepsy and Attention Deficit Hyperactivity Disorder (ADHD) medication.

For a complete list of formulary medications and the most updated list of Section 703 drugs, go to: www.tricareformularysearch.org/dod/medicationcenter/default.aspx. For additional information on this or other BAP meetings, refer to www.tricare.mil/pharmacy/bap. [Source: NMFA Government and You eNews 6 Oct 09 ++]

Enlistment Update 01: One would think that age to enlist in the U.S. military would be a simple category. One is old enough, or too old, right? Unfortunately, it doesn't quite work that way. By federal law (10 U.S.C., 505), the minimum age for enlistment in the United States Military is 17 (with parental consent) and 18 (without parental consent). The maximum age is 42. However, DOD policy allows the individual services to specify the maximum age of enlistment based upon their own unique requirements. The individual services have set the following maximum ages for non-prior service enlistment:

- **Active Duty Non-Prior Service:** Army - 42; Air Force - 27; Navy - 34; Marines - 28; Coast Guard - Age 27. Note: up to age 32 for those selected to attend A-school directly upon enlistment (this is mostly for prior service).
- **Reserve Non-Prior Service:** Army Reserves - 42; Army National Guard - 35 (changed from 42 in 2009); Air Force Reserve - 34; Air National Guard - 40 (Changed from 34 in Aug 2009); Naval Reserves - 39; Marine Corps Reserve - 29; Coast Guard Reserves - Age 39.

Age waivers for non-prior service enlistments are very rare and when they are granted are usually for only a few months. The age limit for prior service enlistment for most of the branches is the same as above, except that an individual's total previous military time can be subtracted from their current age. For example, let's say that an individual has four years of credible military service in the Marine Corps and wants to join the Air Force. The Air Force could waive the individual's maximum enlistment age to age 31 (Maximum age of 27 for the Air Force, plus four years credible service in the Marines). For the Marine Corps and the Marine Corps Reserve, the maximum age of enlistment for prior service is 32, after computing the prior-service age adjustment. For the Army and Air National Guard, the maximum age for prior service enlistment is 59, as long as the member has enough years of

RAO BULLETIN 15 October 2009

prior service to be able to complete 20 years of creditable service for retirement by age 60. Source: About.com: U.S. Military Rod Powers article 19 Sep 09 ++]

Medicare Fraud Update 24: The Justice Department announced 30 SEP that the University of Medicine and Dentistry of New Jersey (UMDNJ) has agreed to pay the government \$8.3 million to settle allegations that it illegally paid kickbacks to cardiologists and caused the submission of false claims to Medicare. UMDNJ's University Hospital, which is located in Newark, N.J., is a state-licensed Level 1 Trauma Center. To maintain funding and accreditation from the state, University Hospital was dependent on the annual performance of a certain number of cardiac procedures, including cardiac catheterizations and cardiothoracic surgery. The government alleged that beginning in 1995, University Hospital was experiencing a decline in these procedures, and to remedy the problem, embarked on a program to bring in more cardio surgery patients through part-time employment contracts with a number of community cardiologists. The government alleges that those employment contracts served as vehicles to pay illegal kickbacks to the cardiologists for their referrals. "Today's settlement reflects the Justice Department's ongoing commitment to protect the integrity of the doctor-patient relationship," said Tony West, Assistant Attorney General for the Civil Division. "Patients must have confidence that the medical advice and treatments they are getting from their doctors are for the right reasons." In 2008, the government reached settlements with six of the cardiologists who had allegedly received kickbacks through their employment contracts with UMDNJ. Two other cardiologists pleaded guilty to criminal embezzlement charges in connection with the employment contract scheme. The government has also filed a civil suit against two other cardiologists who had allegedly illegal employment contracts with UMDNJ. "The Department of Justice continues to pursue those who make referrals based on financial, rather than patient health, considerations," said Marc Larkins, 1st Assistant U.S. Attorney for the District of New Jersey. [Source: FBI Press Release 30 Sep 09 ++]

TSP Update 23: All six funds in the Thrift Savings Plan continued to grow in September, and three of them made up losses incurred during the last year.

- The S Fund, which invests in small- and mid-size companies and tracks the Dow Jones Wilshire 4500 Index, saw the most growth last month, increasing 5.94%. The fund's value is up 28.94% since the beginning of January, though overall it's down 5.23% since October 2008. The data from 2008 no longer includes losses the funds sustained during the market crash in September of that year.
- The I Fund, which invests in overseas companies, rose 3.79% in September. The fund has increased 27.34% since the beginning of 2009, and is up 1.55% during the last 12 months.
- The C Fund, which invests in common stocks of large companies on the Standard & Poor's 500 Index, increased 3.74% last month. While the C Fund has experienced the biggest losses of any TSP fund during the last year, it has gained 19.45% since January.
- The F Fund, which invests in fixed-income bonds, continued its steady but modest gains in September, inching up 1.07%. The fund is up 5.75% since the beginning of 2009, and boasts the largest increases during the past year among the offerings, gaining 10.6%.
- The TSP's most stable offering, the G Fund, rose 0.26% in September. The government securities fund is up 2.19% in 2009 so far, and 3.07% during the last year.

The life-cycle funds, designed to shift from a riskier mix of investments to a more stable one as plan participants near retirement, all increased in value in September. The L 2040 Fund rose 3.56%; the L 2030 Fund grew 3.14%; the L 2020 Fund gained 2.63%; the L 2010 Fund climbed 1.32%; and the L Income Fund rose 1.08%. All the L

RAO BULLETIN 15 October 2009

funds have made positive gains since the beginning of 2009, some of them considerable. The L 2040 Fund is up 20.49% for that period; the L 2030 Fund rose 18.28%; the L 2020 Fund has grown 15.57%; the L 2010 Fund gained 8.11%; and the L Income Fund is up 6.86%. The L 2040 Fund, however, still has not recouped its losses during the past 12 months. The fund fell 0.54% during that period. The other funds have made gains, however. Since October 2008, the L 2030 Fund is up 0.5%, the L 2020 Fund rose 1.5%, the L 2010 fund increased 2.3%, and the L Income Fund has grown 3.56%. [Source: GovExec.com Alyssa Rosenberg article 1 Oct 09 ++]

Health Care Reform Update 14: The Robert Wood Johnson Foundation and the Urban Institute in late SEP released a study, "The Cost of Failure to Enact Health Reform: Implications for States," underscoring the urgent need for reform. It concludes that if federal reform efforts fail, over the next decade in every state, the number of uninsured will increase, employer sponsored coverage will continue to erode, spending on public programs will balloon and individual and family out-of-pocket costs could increase by more than 35%." It predicts that without health insurance reform, within ten years, we can expect:

- Individual and family out-of-pocket costs would increase by more than 35% in every state. In the best case, 12 states would see individual and family spending increase by more than 50%.
- As many as 65.7 million Americans to be uninsured—increasing costs to taxpayers. Today, there are more than 46 million uninsured.
- Every state would see at least a ten percent rise in the number of uninsured; the increase would be more than 30% in 29 states.
- Employers paying significantly higher health insurance premiums.
- In 46 states, employers could be paying more than 60% more for health insurance premiums. Employers in 27 states will see premiums more than double.

To read the entire report go to www.rwjf.org/files/research/49148.pdf. For more info on the House committee on Ways and Means refer to <http://waysandmeans.house.gov>. For more info on the Committee's conclusions regarding Health Care reform refer to <http://waysandmeans.house.gov/MoreInfo.asp?section=52>. [Source: Ways and Means Digest 2 Oct 09 ++]

Mojave Desert Veteran Memorial Update 02: It would be easy to miss among the yucca and Joshua trees of this vast place -- a small plywood box, set back from a gentle curve in a lonesome desert road. It looks like nothing so much as a miniature billboard without a message. But inside the box is a 6 1/2 -foot white cross, built to honor the war dead of World War I. And because its perch on a prominent outcropping of rock is on federal land, it has been judged to be an unconstitutional display of government favoritism of one religion over another. Whether the Mojave cross is ever unveiled again -- or taken down for good -- is up to the Supreme Court led by Chief Justice John G. Roberts Jr. On 7 OCT with *Buono v. Salazar* it got its first major chance to divine the meaning of the First Amendment command that "Congress shall make no law respecting an establishment of religion." If the court reaches the constitutional issues at hand, all sides agree it could provide clarity to the court's blurry rules on church-and-state separations. It could also carry important implications for the fate of war memorials around the country that feature religious imagery -- the Argonne Cross in Arlington National Cemetery, for instance, or the Memorial Peace Cross in Bladensburg.

The Mojave cross's protectors, which include veterans groups and the federal government, say the symbol is a historic, secular tribute; its original plaque from the 1930s said it was erected to honor "the dead of all wars." They

RAO BULLETIN 15 October 2009

argue that Congress has taken the steps to distance itself from any appearance of endorsing a religious display. But the American Civil Liberties Union, Jewish and Muslim veterans, and others say government actions have only deepened the problem. In an effort to avoid the lower courts' rulings that it must come down, Congress has designated the site the country's only official national memorial to the dead of World War I, elevating it to an exclusive group of national treasures that includes the Washington Monument and Mount Rushmore. Congress's actions ensure that "the cross necessarily will reflect continued government association with the preeminent symbol of Christianity," the ACLU said. It seems an improbable importance for this piece of desert land, where temperatures regularly hit three digits. An hour can go by without a passing car and somewhere nearby is likely to be a Mojave Green, the desert's own highly lethal variety of rattlesnake. "It's just a little cross in the middle of nowhere," said Wanda Sandoz, who with her husband Henry is the cross's unofficial caretaker. Henry built the cross that currently occupies the spot -- there have been three -- and the Sandozes say they are fulfilling a WWI veteran's dying request to look after things.

Hiram Sasser, a lawyer with the Liberty Legal Institute, which represents the Veterans of Foreign Wars and assists the Sandozes, agreed. "I always say you have to risk life and limb to be offended by this cross," he said. It is unlikely the veterans who erected the cross knew or cared that Sunrise Rock was on federal land. World War I vets had flocked to the desert, either for mining opportunities or because doctors had suggested the climate for those with "shell shock" or respiratory problems from the war. The men started VFW chapters throughout the region, and apparently were drawn to this particular granite outcropping because some looked at the rock's shadings and conjured up the silhouette of a WWI doughboy. The original cross had a plaque, complete with a misspelling: "The Cross, Erected in Memory of the Dead of All Wars, erected in 1934 by Members Veterans of Foregin [sic] Wars, Death of Valley Post 2884." That cross is gone, replaced first by a wooden one, and then by one Henry Sandoz erected in 1998, which he copied from studying old photographs. Despite what supporters say was its secular birth, the cross for years has been the scene of Easter sunrise services, and the challenges began in 1999, when the U.S. Park Service denied an application from a Buddhist to build a shrine nearby. Frank Buono, an assistant superintendent, informed his boss that the presence of the cross violated the Constitution's establishment clause.

Buono is Catholic, but he said he was offended by the religious display on federal land. "The cross is important to me because it is the indispensable symbol of the death and resurrection of Jesus Christ," Buono said in an interview. "But it isn't right that the symbol of my religion, or any religion, be permanently affixed to federal land." Park officials agreed to take down the cross, but before they could act, Congress and the courts got involved. Congress forbade the Park Service from using any funds to remove the display. A district judge agreed with Buono that he had standing to bring his complaint and that the cross violated constitutional standards. The U.S. Court of Appeals for the 9th Circuit affirmed the decision. Then Congress declared the site a national memorial, and proposed to cure any constitutional problems by transferring one acre on which the cross stands to the VFW in exchange for five acres owned elsewhere in the preserve by the Sandozes. But Buono and the ACLU went to court again, and the courts agreed that such a plan would not resolve the constitutionality question. The deal "would leave a little donut hole of land with a cross in the midst of a vast federal preserve," the appeals court said.

While the fighting has gone on, the cross has remained in place. But to comply with the court's ruling, it was covered first by a tarpaulin bag and now by the plywood box. The Supreme Court has had trouble coming up with an easily followed guideline on religious displays on government land. Instead, it has opted to issue opinions based on the specifics of a case. Thus, the court in 2005 ruled 5 to 4 that a large, granite Ten Commandments monument on the grounds of the Texas capitol, in place for decades and surrounded by other historical markers, could remain. The same day, the court ruled by the same margin that recently installed framed copies of the Ten Commandments in two Kentucky courthouses were unconstitutional. But changes on the court could make it more difficult for those challenging religious monuments. Justice Sandra Day O'Connor voted to find both displays of the Ten Commandments unconstitutional, but she has been replaced by Justice Samuel A. Alito Jr., who seems more sympathetic to the other view. "I can't see many votes for removing the cross," said Charles Haynes, an expert on

RAO BULLETIN 15 October 2009

the establishment clause at the First Amendment Center. Justices could short-circuit the constitutional issues by deciding the lower courts were wrong in granting Buono standing to challenge the cross.

President Obama's new solicitor general, Elena Kagan, inherited the case from the Bush administration. She told the court in her brief that Buono no longer lives near the preserve and his objection to the cross -- that it was on federal land -- is remedied by the land swap. Buono's lawyer, Peter Eliasberg of the Southern California chapter of the ACLU, said Congress's efforts to avoid taking down the cross make it even clearer that the cross is endorsed by the government. He rejected arguments that the image of the cross was a historical, rather than religious, symbol of sacrifice. "When the government chooses a cross to recognize the veterans of World War I, which included 250,000 Jews, which included my grandfather, that is an important message and an inappropriate message for the government to send," Eliasberg said. On 7 OCT the U.S. Supreme Court heard oral arguments. ACLU counsel Peter Eliasberg claimed a cross on federal lands violates the Establishment Clause, which prohibits the federal government from creating a national religion or endorsing one religion over another. The main issue to emerge was whether the 2002 congressional mandate to swap the one-acre memorial site for five acres of private land elsewhere within the Mojave Desert Preserve was an attempt by Congress to circumvent a lower court order to remove the cross. Eliasberg maintained that you cannot cure an Establishment Clause violation with a land swap, and said a land swap would result in a donut-hole plot of private land that would be indistinguishable from surrounding federal land. Elena Kagan countered that there was no Establishment Clause violation, and that there are approximately 1,000 private landowners who already own 1,800 plots of varying size within the 1.6 million-acre Desert Preserve. A final ruling is not expected till next year. [Source: Washington Post Robert Barnes article 29 Sep 09 ++]

Tricare User Fee Update 41: The 2009 Tricare Standard inpatient co-payment for military retirees is \$535 a day. DoD has announced an increase of \$110 a day to \$645 per day or 25% of the total charge, whichever is less effective 1 OCT which is more than a 20% jump. Additionally, inpatient behavioral health service cost share at civilian hospitals has increased from \$193 to \$197 per day or 25% of the billed charge, whichever is less. Unlike the previous three years, neither the House nor the Senate bills included any provisions prohibiting Tricare fee increases in the National Defense Authorization Act (NDAA) for FY2010 that they passed and sent to the Joint conference committee. They apparently also believed the Pentagon would follow the President's lead. This increase would not affect beneficiaries of Tricare Prime or Tricare for Life (TFL), but it may very well indicate what is to come. In reaction to the announcement members of the Military Coalition (TMC) expressed their outrage and took the following actions:

- On 1 OCT, the day after the announcement, the Military Officers Association of America (MOAA) sent a letter to Secretary Gates asking him to rescind the increase. On 2 OCT MOAA sent letters to House and Senate Armed Services Committee leaders asking them to prohibit any FY2010 increases and get additional data to evaluate adjustment methodologies for inpatient copays and Tricare Reserve Select premiums.
- The Retired Enlisted Association (TREA) immediately wrote to Secretary Gates urging him to immediately reverse this decision. They noted that this was contrary to his announcement that he would not propose any Tricare fee increases for FY2010! This co-pay is already extremely high and much more than most civilian health care plans. For the last 3 years Congress had barred any increase in this co-pay. It did not include a similar provision in this year's NDAA based on the Secretary's assurances.
- The National Association of Uniformed Services (NAUS) expressed outrage that DoD would independently raise hospital inpatient co-payments. NAUS President MG Matz sent a letter to SecDef Gates expressing disbelief that in spite of President Obama and DoD's assurances they would implement an increase and announce it on the day before it was to take effect. He urged Secretary Gates to restore

RAO BULLETIN 15 October 2009

confidence and honor regarding its word by rescinding the inpatient fee increase noting among many things that it breaks the sacred trust with those who have worn this country's uniform. He wrote, "...Congress did not include prohibitions on Tricare fee increases in the National Defense Authorization Act (NDAA) for FY 2010. They did so believing your department would follow through on assurances given them that fees would not be raised. This shocking "October Surprise" must certainly be viewed as a "slap in the face" to them as it is to us..." He also asked for DoD to reaffirm their previous commitment not to raise Tricare fees. He pledged NAUS will also take this issue up with Congress if necessary.

As of this writing Secretary Gates has not responded to any of the above but Tricare spokesman Austin Camacho said the military associations will receive one. He also said it is only a coincidence that the 30 SEP press release that announced the 1 OCT increases had been pulled from the Tricare web site. A new release with a more clear explanation of the fee increases is being prepared. In the interim Congress has stepped in and taken action to stop the increases. Congress included a provision in the Conference Report for the FY2010 National Defense Authorization Act (HR 2647) prohibiting the increase. The House on 8 OCT approved the Conference report by a vote of 281 to 146. It is anticipated that the Senate will vote on the conference report soon. [Source: Various 2 Oct 09 ++]

Tricare User Fee Update 42: Defense Department health officials didn't do the Obama administration any favors 30 SEP when they announced a "small" increase in the daily fee that military retirees under 65, their families and insured survivors must pay for inpatient care in civilian hospitals under Tricare Standard starting Oct. 1. The jump for working age retirees and their families is \$110 per day, a 20.6% increase. Tricare Standard is the military's fee-for-service insurance option. The inpatient cost share for retirees under age 65 and their family members was increased to \$645 a day from \$535. The actual formula for beneficiaries is \$645 a day, or 25 percent of total hospital charges, whichever is less. Families of active duty members who use Standard for civilian hospital stays will see a more modest increase in their daily charge, from \$15.65 a day to \$16.30, or \$25 per admission, whichever is greater. The increase for retirees stunned and angered at least one service association. "This shocking announcement is extremely disappointing, given your public assurances earlier this year that the Defense Department would not be proposing any Tricare fee increases," retired Navy Vice Adm. Norbert R. Ryan Jr., president of the Military Officers Association of America told Defense Secretary Robert Gates. Ryan's protest letter was sent hours after Tricare officials unveiled their new inpatient fees for Standard.

Austin Camacho, spokesman for Tricare Management Activity in Falls Church, Va. , said the increase results from a regulation. "The regulation also requires that we publish the rates annually," Camacho said. "About three years ago Congress froze the per diem at \$535 and later extended the freeze to 30 SEP 09. Hence, there is a large increase now that the freeze is no longer in effect." MOAA's criticism, likely to be echoed by other service associations, centers on Gates statements earlier this year that the department wouldn't be seeking Tricare fees increases for fiscal 2010. It's unclear now whether he meant that the department wouldn't seek any new legislative authority to raise retiree Tricare fees, as the Bush administration did for the past three years, or whether he meant Defense Department would keep all fees frozen through the year. Service associations presumed, from Gates' statements, that they would not have to lobby Congress again this year to insert language in the defense bill to block fee increases for Standard users through 2010. "They believe, as we do, that the current \$535 per day retiree inpatient co-pay is already far larger than inpatient co-pays under most civilian insurance plans," said Ryan, urging Gates to reverse the decision. "We don't understand how a further 21% increase to \$645 meets any standard of equity or reasonableness for the most seriously ill and injured beneficiaries to whom it would apply."

RAO BULLETIN 15 October 2009

The increase also caught White House political operatives by surprise. It comes amid an emotional debate over national health care reform. The fee increase, and service association criticism, almost certainly will be used by Republicans to deepen doubts about the president's intentions regarding his health care initiatives. In his letter, however, Ryan gave Gates the benefit of the doubt. "Because of your previous assurances, we believe these increases were undertaken without your knowledge or approval," Ryan told the defense chief. But he urged Gates to "repudiate and overturn this inappropriate and unfair increase." Camacho confirmed that the impact of the \$110-a-day increase in hospital charges is leavened by the annual \$3000 catastrophic cap on Tricare fees that remains in effect for military beneficiaries. That means the maximum number of days the higher inpatient fees can be charged to Standard plan users is four, for an annual out-of-pocket increase of \$440. Most Standard users hospitalized in civilian facilities actually will pay the higher fee for even fewer days than four. That's because the catastrophic cap is reached using most out-of-pocket cost under Tricare Standard including the annual deductible payment, pharmacy co-pays, outpatient cost shares and costs exceeding Tricare-allowable charges. Tricare for Life, the golden supplement to Medicare for retirees and dependents age 65 and older, is unaffected by the new inpatient fees.

Before this year, the largest annual increase in Standard inpatient fees for retirees was 16%, from \$441 a day to \$512, in OCT 04. Retirees and their family members who use Standard for hospital care also pay 25% of what Tricare deems to "allowable charges" for separately billed professional services received as inpatients. They also must cover any costs that exceed allowable Tricare rates. Gates said in April that rising costs for military health are "eating the Department alive." He made clear then that he wanted Congress to allow fees increases. But Gates said the department this year would not be proposing any plan to increase fee and then leave a hole in its health budget on the presumption Congress would agree to the changes. [Source: Stars & Stripes Tom Philpott article 30 Sep 09 +]

VA Contracted Care: A Senate committee reviewing the increased use of contracted health care for veterans disability exams and treatment is growing increasingly skeptical that this is a cheaper or higher-quality alternative to using Veterans Affairs Department health care workers. About one-quarter of the medical exams required for compensation and pension claims are handled by contract doctors as part of an effort launched in 1996 to address delays in getting appointments. VA also has turned to contractors under a pilot project to provide specialty care not available — or not available without a long wait — at veterans hospitals and clinics, and general and specialty care in rural areas or other locations far from VA facilities. But the Senate Veterans' Affairs Committee, which endorses the idea of reducing appointment wait times, is not sure the increased reliance on contract health care is a good thing.

- Sen. Jon Tester (D-MT) said he doubts that an exam to determine a veteran's disability rating could be done as accurately by a contract doctor as by a VA physician with years of experience.
- Sen. Richard Burr (R-NC) said he has heard from a North Carolina urologist who has decided to stop providing contract care to veterans because VA does not provide enough information about a veteran's medical condition in advance of an appointment, and does not do a good enough job monitoring patients who had a one-time visit with a contract specialist.
- Sen. Roland Burris (D-IL) pressed VA officials — without getting a direct answer — about why the department does not try to hire more doctors in places like the Washington, D.C., area, rather than rely on a contractor to provide disability exams.

A psychiatric clinical nurse testifying before the committee on behalf of the American Federation of Government Employees, an employee union, called contract care "over-utilized and under-scrutinized by many VA facilities in both rural and urban areas" and questioned whether reliance on contracts as a short-term fix for staff shortages and

RAO BULLETIN 15 October 2009

long patient waiting lists was in the best interests of veterans. "Contract care requires that VA give up a certain degree of control to a for-profit outside entity," said Mary Curtis, a nurse and clinical care coordinator at the VA medical center in Boise, Idaho. "In the short term, the effect is that VA may be less able to control costs, quality of care, provider qualifications and medical privacy or ensure that care is delivered timely and is geographically accessible," Curtis said. "In the long term, excessive use of contract care may deplete the VA health care system of the staff, equipment and other resources it needs to continue to provide veterans with a full range of services. The diversion of large numbers of veterans to contract providers may also weaken VA's research capacity and academic affiliations." VA officials and representatives of the major health care contractors defended the quality and cost of care. Tim McClain, president and chief executive officer of Humana Veterans Health Services, which provides specialty care, said his company does not undermine VA. He called his company's work an "effective backstop." VA officials said they are restructuring their contract oversight from local authority to more centralized control so they can better monitor services and costs. [Source: NavyTimes: Rick Maze article 30 Sep 09 ++]

VA Automatic Enrollment: A bill to automatically enroll returning combat veterans in the veterans health care system is gaining some key support. The nation's largest veteran's service organization, the American Legion, has endorsed the bill, H.R. 3441, as has Iraq and Afghanistan Veterans of America, founded in 2004 specifically to look out for the interests of people who served in Operations Iraqi Freedom and Enduring Freedom. Also on board are Reps. Bob Filner (D-CA) the House Veterans' Affairs Committee chairman, and Patrick Murphy (D-PA) the first Iraq veteran elected to Congress, who is now a member of the House Armed Services Committee. The chief sponsor of the bill, Rep. Michael Arcuri (D-NY) told the House Veterans' Affairs Committee's health panel 1 OCT that he hopes automatic enrollment would smooth the transition between the military and veterans health care systems by putting a VA identification card and a list of all VA medical facilities within a 180-mile radius into the hands of combat veterans as they leave the military. Combat veterans already are promised five years of post-service treatment at VA facilities without having to prove a direct service connection for their ailments, injuries or disease. But Arcuri said automatic enrollment would eliminate some problems and get veterans accepted into the VA "as soon as possible," while also ensuring everyone is aware of the care that's available.

Joseph Wilson of the 2.5-million member American Legion, testifying at the same hearing as Arcuri, said a combat veteran and the veteran's family can easily be overwhelmed with information and miss out on VA health care enrollment. Because of that confusion, veterans "may reject enrollment and perhaps slip through the cracks during and after their transition," Wilson said. Blake Ortner of Paralyzed Veterans of American raised the same point. "During the hectic activities of discharge, many military members leaving active duty may not consider the importance of enrolling in VA," Ortner said. "They may not think it is important if they have already identified employment that will provide health care benefits." The one change Ortner said is needed is a clarification on National Guard and reserve members who serve in combat but are not discharged from service. They also would be enrolled in the VA program, he said. "They are no less deserving of automatic enrollment — and it may be even more important, as they do not have the long period of preparation often afforded to those being discharged from active service," Ortner said. The House Veterans' Affairs Committee has heard complaints that Guard and reserve members may have a harder time than separated active-duty service members in receiving VA health care, especially mental health services, because they lack the discharge papers commonly used by VA to prove eligibility. VA officials have tried to rectify that by clarifying eligibility procedures, but possession of a VA identification card upon demobilization would resolve some of those difficulties, committee aides said. [Source: ArmyTimes Rick Maze article 1 Oct 09 ++]

RAO BULLETIN 15 October 2009

Flag Desecration: In Valley Falls New York a flag burner was pilloried by veterans because of his desecration of their flag. He was publicly humiliated 20 SEP by being duct-taped to the flagpole of Veterans of Foreign War Post 1938. Nick Normile, post commander and Vietnam War veteran, said he's been flooded with calls from media outlets since the event received attention from local TV stations and newspapers. He's been asked to go live on a veterans radio show program from Tennessee, another radio show from Chicago and even received a call from NBC studios in New York City. But Normile said he's not planning to let the story get any more attention and has declined appearances. "I'm not trying to be some martyr or hero," Normile said. "I just did what I thought was right." According to Normlie the 21-year-old appeared intoxicated when he entered the VFW post on 18 SEP. When the man was refused service for not having a proper ID, he ran out in a fit of anger. He cut the rope of the flag, which had once flown over troops in Iraq, and ignited it with a cigarette lighter. Two days later, Normile said the man was forced to sit in the sun pilloried for six hours as townspeople gathered across the street for a youth soccer picnic. A sign was hung around his neck detailing what he had done. It recalled the Middle Ages punishment, subjecting him to public humiliation and scorn. "He'll never disrespect the flag again, I can tell you that," Normile said.

A week later villagers were hush-hush about the event, but patrons of the post bar gave a nod of agreement to the punishment, pointing proudly to a newspaper clipping of the event on a bulletin board. Patriotism is on open display in this village of about 500, the walls of a defunct railroad bridge near it's entrance now brightly colored red, white and blue. Most of the historical homes have American flags of their own hanging from porches, some also adorned with the Don't Tread on Me flag, popular with Tea Party activists. Normile said once he found out what the man had done, he knew he had to be taught a lesson. Normile said he went out hunting for him, but when he couldn't find him at his apartment, he sought the help of the man's uncle to bring him out. "He manned up, he knew he had punishment coming," said Normile, who described the young man he refused to identify as guilty and ashamed. "I told him to think about those kids in the foxhole, and how they had no one to set them free," Normile said. "It got to him, so I was satisfied. He showed a lot of remorse, no attitude." Normile said the flag, whose pieces will be retired in a formal ceremony, had significant meaning. The villages auxiliary had been sending toiletries and other goods to Soldiers in Iraq, who then sent back the flag that had flown over their bunker. It was received with great attention and a ceremony. State troopers and Rensselaer County sheriffs' deputies said no charges had been filed by either the VFW post or the man. [Source: Albany NY Times Union article 28 Sep 09 ++]

Military Funeral Disorderly Conduct Update 10: A federal appeals court ruled 1 OCT that a fundamentalist Kansas church's protest outside the funeral of a Westminster Marine killed in Iraq is protected speech and did not violate the privacy of the service member's family, reversing a lower court's \$5 million award. The ruling from the 4th U.S. Circuit Court of Appeals in Richmond, Va., held that the signs and writings of the Westboro Baptist Church, which included anti-gay and anti-military messages, are protected by the First Amendment. The Topeka-based congregation has protested at military funerals across the country. "Notwithstanding the distasteful and repugnant nature of the words being challenged in these proceedings, we are constrained to conclude that the defendants' signs and [what it has on its Web sites] are constitutionally protected," Circuit Court Judge Robert B. King wrote in the majority opinion. Margie Jean Phelps, an attorney for Westboro and the daughter of the church's leader Rev. Fred W. Phelps Sr., said "it was an absolute shame to have a little church put on trial because of your religious beliefs. Everyone knows that we didn't disrupt a funeral. Our speech, on our signs and our Web sites, is public speech. It's not on private matters. It's on public issues, so it's protected."

Sean E. Summers, an attorney for Albert Snyder, of York, Pa., the dead Marine's father, said he will appeal the decision to the U.S. Supreme Court. "The most troubling fact is that it essentially leaves grieving families helpless," said Summers. "There are a lot people sending their kids over to war, and unfortunately, they're not all coming back."

RAO BULLETIN 15 October 2009

You would think that at least we could offer them dignity and respect." Summers said that Albert Snyder would not comment on the decision. At trial, Snyder testified, "I had one chance to bury my son, and they took the dignity away from it." Fred Phelps, two other adults and four children picketed the 10 MAR 06, funeral of Lance Cpl. Matthew Snyder, holding signs that said, "Thank God for dead soldiers," and wrote on the church's Web site that Snyder's parents "taught Matthew to defy his creator." Matthew Snyder, a 2003 graduate of Westminster High School, was 20 years old and had been in the war zone for less than a month when he was killed in a vehicle accident in Anbar province.

Westboro church members believe soldiers are being killed in Iraq and Afghanistan as punishment for what they say is the nation's tolerance of homosexuality. The church has about 75 members, most of whom are related to Phelps. Albert Snyder sued Fred Phelps and two of his daughters, Rebecca Phelps-Davis and Shirley Phelps-Roper, for invasion of privacy and emotional distress. In OCT 07, a federal jury in Baltimore awarded the father nearly \$11 million, ruling that the family's privacy had been invaded. In FEB 08, a federal judge reduced the damages from \$10.9 million to \$5 million, citing constitutional concerns of appropriateness. "The amount was set with a goal, and the goal was to silence us," said Margie Jean Phelps. "In this country, you don't get to claim damage over words you don't agree with. ... Because we've trained a nation of crybabies doesn't mean we change the law." [Source: Baltimore Sun article 25 Sep 09 ++]

GI Bill Update 60: As of 2 OCT veterans were allowed to registering online or at Veterans Affairs regional offices to receive emergency payments for education benefits. Veterans without a means to reach a regional office can also request courtesy transportation. "Our veterans went the extra mile for their country," said VA Secretary Eric K. Shinseki. "One of the top priorities in transforming VA is to be, first and foremost, the advocate for veterans." The emergency payments of up to \$3,000 became necessary when the department was unable to process in a timely fashion all of the applications for education benefits veterans can receive through the Post-9/11 GI Bill, which went into effect in August. Some veterans were taking out loans or dipping into their savings to pay for college expenses they expected to be paid by the GI Bill benefits. Shinseki responded by saying veterans could receive emergency payments, which will eventually be deducted from future benefits, at any of the VA's 57 regional offices. As of 4 OCT 14,301 GI Bill emergency checks had been issued in the Regional Offices and 10,605 requests had been submitted online totaling more than \$62 million.

Payments to Veteran-students are in the form of US Bank business checks. VA is asking for the support of local and national banks to honor and cash these emergency checks written to our Nation's Veteran-students. In many cases these checks are handwritten and could pose concerns of fraud from banks. Therefore, VA has established a special customer service call-in number (1-800-827-2166) for banks to verify the validity of any US Bank check brought to them by a Veteran. Any bank that calls this number will be connected directly to a VA employee who can access all necessary information and verify the check. Because some veterans live far from the centers, the VA is making it possible to register for the quick payment online at www.va.gov. Those who choose to apply online will receive payments in the form of a check sent through the U.S. mail, which takes approximately six days. VA is also making transportation available at no charge. Veterans are asked to bring proper identification and evidence of enrollment to receive the payments. "VA is adapting to meet the financial needs of our veteran-students who are on campus," Shinseki said. "They should be focusing on their studies, not worrying about financial difficulties." VA officials said they do not know how many veterans will ask for the payments, but about 25,000 claims are pending that may result in payments to students. [VA News Release 1 Oct 09 ++]

Military History Anniversaries: Significant October Events in U.S. Military History are:

RAO BULLETIN 15 October 2009

- Oct 17 1777 - American Revolution: British Maj. Gen. John Burgoyne surrenders 5,000 men at Saratoga, N.Y.
- Oct 17 1941 - WWII: The U.S. destroyer Kearney is damaged by a German U-boat torpedo off Iceland; 11 Americans are killed.
- Oct 18 1939 - WWII: President Franklin D. Roosevelt bans war submarines from U.S. ports and waters.
- Oct 19 1781 - American Revolution: British troops under General Lord Charles Cornwallis surrendered to General Washington at Yorktown, Virginia, effectively ending the American Revolution.
- Oct 19 1917 - WWI: The first doughnut is fried by Salvation Army volunteer women for American troops in France.
- Oct 19 1942 - WWII: The Japanese submarine I-36 launches a floatplane for a reconnaissance flight over Pearl Harbor. The pilot and crew report on the ships in the harbor, after which the aircraft is lost at sea.
- Oct 19 1987 - In retaliation for Iranian attacks on ships in the Persian Gulf, the U.S. navy disables three of Iran's offshore oil platforms.
- Oct 20 1944 - WWII: U.S. troops land on Leyte keeping General MacArthur's pledge "I shall return."
- Oct 20 1944 - WWII: Battle of Leyte Gulf began. Largest naval battle of WWII.
- Oct 21 1837 - Under a flag of truce during peace talks, U.S. troops siege the Indian Seminole Chief Osceola in Florida.
- Oct 21 1861 - Civil War: The Battle of Ball's Bluff, Va. begins, a disastrous Union defeat which sparks Congressional investigations
- Oct 21 1904 - Panamanians clash with U.S. Marines in Panama in a brief uprising.
- Oct 21 1917 - WWI: The first U.S. troops enter the front lines at Sommervillier under French command.
- Oct 21 1967 - Vietnam: The "March on the Pentagon," protesting American involvement draws 50,000 protesters.
- Oct 21 1983 - Grenada: The United States sends a ten-ship task force to Grenada.
- Oct 22 1862 - Civil War: Union troops push 5,000 confederates out of Maysville, Ark., at the Second Battle of Pea Ridge.
- Oct 22 1968 - Vietnam: Operation Linebreaker 1, the Bombing of North Vietnam ended.
- Oct 23 1861 - Civil War: President Abraham Lincoln suspends the writ of habeas corpus in Washington, D.C. for all military-related cases.
- Oct 23 1942 - WWII: The Western Task Force, destined for North Africa, departs from Hampton Roads, Virginia.
- Oct 23 1983 - Lebanon: Terrorist attack on Marine Barracks in Beirut kills 220 Marines and 21 other U.S. service members.
- Oct 24 1863 - Civil War: General Ulysses S. Grant arrives in Chattanooga, Tennessee to find the Union Army there starving.
- Oct 24 1944 - WWII: The aircraft carrier USS Princeton is sunk by a single Japanese plane but the Japanese are defeated in the Battle of Leyte Gulf. From this point on, the depleted Japanese Navy increasingly resorts to the suicidal attacks of Kamikaze fighters.
- Oct 25 1958 - Lebanon: The last U.S. troops leave Beirut.
- Oct 25 1983 - Grenada: Operation Urgent Fury Began. 1,800 U.S. troops and 300 Caribbean troops land and soon turn up evidence of a strong Cuban and Soviet presence—large stores of arms and documents suggesting close links to Cuba.
- Oct 26 1950 - Korea: A reconnaissance platoon for a South Korean division reaches the Yalu River. They are the only elements of the U.N. force to reach the river before the Chinese offensive pushes the whole army down into South Korea.

RAO BULLETIN 15 October 2009

- Oct 27 1941 - WWII: In a broadcast to the nation on Navy Day, President Franklin Roosevelt declares: "America has been attacked, the shooting has started." He does not ask for full-scale war yet, realizing that many Americans are not yet ready for such a step.
- Oct 28 1962 - The U.S. began its blockade of Cuba to compel the Russians to remove long-range missiles aimed at the United States.
- Oct 30 1941 - WWII: The U.S. destroyer Reuben James, on convoy duty off Iceland, is sunk by a German U-boat with the loss of 96 Americans.
- Oct 31 1952 – Cold War: The U.S. explodes the first hydrogen bomb at Eniwetok Atoll in the Pacific.
- Oct 31 1968 - Vietnam: The bombing of North Vietnam is halted by the United States.
- Oct 31 1971 - Vietnam: Saigon begins the release of 1,938 Hanoi POW's.

[Source: Various Oct 09 ++]

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Tax Burden for Illinois Retirees: Many people planning to retire use the presence or absence of a state income tax as a litmus test for a retirement destination. This is a serious miscalculation since higher sales and property taxes can more than offset the lack of a state income tax. The lack of a state income tax doesn't necessarily ensure a low total tax burden. Following are the taxes you can expect to pay if you retire in Illinois:

State Sales Tax: 6.25% (1% on qualifying food, prescription & non-prescription drugs, medical appliances). Local government taxes can raise the total to a high of 11.5%.

Fuel & Cigarette Tax:

- **Gasoline Tax:** 33.8 cents/gallon (Does not include local options - 5 cents in Chicago and 6 cents in Cook county).
- **Diesel Fuel Tax:** 40 cents/gallon
- **Cigarette Tax:** 98 cents/pack of 20 (In Chicago, the state and local rate is \$3.66; Evanston is \$3.30), Cicero is \$3.14, Rosemont is \$3.03, cities with no tax in Cook County - \$2.98)

Personal Income Taxes

Tax Rate Range: Flat rate of 3% of federal adjusted gross income

Personal Exemptions: Single - \$2,000; Married - \$4,000; Dependents - \$2,000

Standard Deduction: None

Medical/Dental Deduction: Health insurance and long-term care insurance premiums are deductible.

Federal Income Tax Deduction: None

Retirement Income Taxes: Illinois does not tax distributions received from qualified employee benefit plans, including 401(K) plans; an Individual Retirement Account, (IRA) or a self-employee retirement plan; a traditional IRA that has been converted to a Roth IRA; the redemption of U.S. retirement bonds; state and local government deferred compensation plans; a government retirement or government disability plan, including military plans; railroad retirement income; retirement payments to retired partners; a lump sum distribution of appreciated employer securities; and the federally taxed portion of Social Security benefits. For more information refer to

www.revenue.state.il.us/individuals/pension.htm.

Retired Military Pay: Not taxed.

Military Disability Retired Pay: Retirees who entered the military before 24 SEP 75, and members receiving disability retirements based on combat injuries or who could receive disability payments from the VA are covered by laws giving disability broad exemption from federal income tax. Most military retired pay based on service-related disabilities also is free from federal income tax, but there is no guarantee of total protection.

VA Disability Dependency and Indemnity Compensation: VA benefits are not taxable because they generally are

RAO BULLETIN 15 October 2009

for disabilities and are not subject to federal or state taxes.

Military SBP/SSBP/RCSBP/RSFPP: Generally subject to state taxes for those states with income tax. Check with state department of revenue office.

Property Taxes

Taxes are imposed by local government taxing districts (counties, townships, municipalities, school districts, and special taxing districts. Most property in the state is assessed at 33.33% of its market value, except farmland which is based on its ability to produce income. Cook County has different criteria. Single family residences are assessed at 16%.

There are seven major homestead exemptions as listed below and some that are limited in the application. For details refer to www.revenue.state.il.us/LocalGovernment/PropertyTax/taxrelief.htm:

- *General Homestead Exemption* is available annually for owner-occupied residential property. The amount of exemption is the increase in the current year's equalized assessed value (EAV), above the 1977 EAV, up to a maximum of \$5,500 for the 2008 tax year and \$6,000 for the 2009 tax year.
- *Senior Citizens Assessment Freeze Homestead Exemption* allows senior citizens who have a total household income of less than \$55,000, and meet certain other qualifications to elect to maintain the equalized assessed value (EAV) of their homes at the base year EAV thereby preventing any increase in that value due to inflation.
- *Homestead Improvement Exemption* is limited to the fair cash value that was added to the homestead property by any new improvement, up to an annual maximum of \$55,000. The exemption continues for four years from the date the improvement is completed and occupied.
- *Senior Citizens Homestead Exemption* allows a \$4,000 reduction in the EAV of the property that a person 65 years of age or older is obligated to pay taxes on, and owns and occupies, or leases and occupies as a residence. Exemption is limited to the fair cash value that was added to the homestead property by any new improvement, up to an annual maximum of \$45,000. The exemption continues for four years from the date the improvement is completed and occupied.
- *Disabled Veterans' Homestead Exemption* may be up to \$70,000 of the assessed value for certain types of housing owned and used by a disabled veteran or his or her unmarried surviving spouse. The Illinois Department of Veterans' Affairs determines the eligibility for this exemption, which must be reestablished annually.
- *Senior Citizens Real Estate Tax Deferral Program* allows persons age 65 or older, who have a total household income of less than \$50,000 and meet certain other qualifications, to defer all or part of their real estate taxes and special assessments. The deferral is similar to a loan against the property's market value and a lien is filed on the property in order to ensure repayment to the deferral. The state pays the property taxes and then recovers the money, plus 6 percent annual interest, when the property is sold or transferred.
- *Disabled Persons' Homestead Exemption* provides a \$2,000 reduction in a property's equalized assessed value to a qualifying property owned by a disable person. An application must be filed annually for this exemption.
- Information on the state's Circuit Breaker and Pharmaceutical Assistance programs can be found in the state's Web site at www.cbrx.il.gov.

Inheritance and Estate Taxes - There is no inheritance tax and only a limited estate tax related to federal estate tax collection. A \$2 million exclusion is allowed up until 2010.

RAO BULLETIN 15 October 2009

For further information, visit the Illinois Department of Revenue site www.revenue.state.il.us or call 800-732-8866.
[Source: www.retirementliving.com Oct 09 ++]

Veteran Legislation Status 13 OCT 09: For or a listing of Congressional bills of interest to the veteran community that have been introduced in the 111th Congress refer to the Bulletin's Veteran Legislation attachment. Support of these bills through cosponsorship by other legislators is critical if they are ever going to move through the legislative process for a floor vote to become law. A good indication on that likelihood is the number of cosponsors who have signed onto the bill. Any number of members may cosponsor a bill in the House or Senate. At <http://thomas.loc.gov> you can review a copy of each bill's content, determine its current status, the committee it has been assigned to, and if your legislator is a sponsor or cosponsor of it. To determine what bills, amendments your representative has sponsored, cosponsored, or dropped sponsorship on refer to <http://thomas.loc.gov/bss/d111/sponlst.html>.

Grassroots lobbying is perhaps the most effective way to let your Representative and Senators know your opinion. Whether you are calling into a local or Washington, D.C. office; sending a letter or e-mail; signing a petition; or making a personal visit, Members of Congress are the most receptive and open to suggestions from their constituents. The key to increasing cosponsorship on veteran related bills and subsequent passage into law is letting legislators know of veteran's feelings on issues. You can reach their Washington office via the Capital Operator direct at (866) 272-6622, (800) 828-0498, or (866) 340-9281 to express your views. Otherwise, you can locate on <http://thomas.loc.gov> your legislator's phone number, mailing address, or email/website to communicate with a message or letter of your own making. Refer to http://www.thecapitol.net/FAQ/cong_schedule.html for dates that you can access your legislators on their home turf. [Source: RAO Bulletin Attachment 13 Oct 09 ++]

Have You Heard:

A woman brought a very limp duck into a veterinary surgeon. As she laid her pet on the table, the vet pulled out his stethoscope and listened to the bird's chest. After a moment or two, the vet shook his head sadly and said, "I'm sorry, your duck, Cuddles, has passed away."

The distressed woman wailed, "Are you sure?"

"Yes, I am sure. Your duck is dead," replied the vet.

"How can you be so sure?" she protested. "I mean you haven't done any testing on him or anything. He might just be in a coma or something."

The vet rolled his eyes, turned around and left the room. He returned a few minutes later with a black Labrador Retriever. As the duck's owner looked on in amazement, the dog stood on his hind legs, put his front paws on the examination table and sniffed the duck from top to bottom. He then looked up at the vet with sad eyes and shook his head. The vet patted the dog on the head and took it out of the room.

A few minutes later he returned with a cat. The cat jumped on the table and also delicately sniffed the bird from head to foot. The cat sat back on its haunches, shook its head, meowed softly and strolled out of the room.

The vet looked at the woman and said, "I'm sorry, but as I said, this is most definitely, 100% certifiably, a dead duck." The vet turned to his computer terminal, hit a few keys and produced a bill, which he handed to the woman.

RAO BULLETIN 15 October 2009

The duck's owner, still in shock, took the bill. "\$150!" she cried, "\$150 just to tell me my duck is dead!"
The vet shrugged, "I'm sorry. If you had just taken my word for it, the bill would have been \$20, but with the Lab Report and the Cat Scan, it's now \$150."

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