

**Statement**  
**Commissioner Linda Schwartz**

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**Before**  
**Veteran Affairs Committee**  
**February 19, 2013**

**Proposed S.B. No. 70 AN ACT RESTORING BENEFITS TO VETERANS  
DISCHARGED UNDER "DON'T ASK, DON'T TELL".**

As a prelude to a Hearing on this Legislation, I requested the assistance from the Office of the General Council of the US Department of Veteran Affairs to provide an opinion of the pending legislation regarding the restoration of eligibility for all available benefits to former members of the Armed Forces who were discharged from service under less-than-honorable conditions pursuant to 10 U.S.C. § 654(b), which previously provided for discharges under the policy commonly referred to as "Don't Ask, Don't Tell."

I have included excerpts to that inquiry for the sake of clarity and to better inform the Committee of the present situation with Federal Benefits.

***"For VA benefit purposes, a "veteran" is a "person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable." (38 U.S.C. § 101(2)). Accordingly, to be eligible for the payment of benefits and nearly all of the other services administered by VA, a person must have been discharged or released from active duty service under conditions other than dishonorable.***

While the Department of Defense is the authority to determine the character of a Service member's discharge based on the known facts in each case governed by Section 654 (b). General Counsel maintained that

***"It is our understanding that discharges based solely on a violation of the "Don't Ask, Don't Tell" policy, with no aggravating factors, were usually under Honorable conditions."***

In most of these situations, these veterans are eligible for all VA Benefits. Should the Service member receive discharges such as General, Uncharacterized, Other than Honorable or Bad Conduct they could be eligible for most Federal VA Benefits provided that their discharges were not issued "Under Dishonorable Conditions".

In such cases, VA makes case-by-case determinations as to whether a discharge was under conditions other than dishonorable, applying standards set forth in VA regulations. **VA regulations issued in 1980 provide that discharge due to homosexual acts involving aggravating circumstances or other factors affecting the performance of duty, such as assault, coercion, or child molestation, will be considered to have been issued under dishonorable conditions. (38 C.F.R. § 3.12(d) (5)).** In identifying those limited disqualifying circumstances, VA explained that [the effect of this action is to confer basic eligibility for [VA] benefits on most persons discharged for homosexual acts."] (45 CFR. 2318) (Jan. 11, 1980). Accordingly, under current statutes and regulations, discharge based on the "Don't Ask, Don't Tell" policy generally does not bar entitlement to most VA benefits, unless the discharge involved aggravating factors as described above.

Certain benefits are, by Federal Laws, available only to Veterans who received an Honorable Discharge. These include Presidential Memorial Certificates, burial flags, basic educational assistance, and post-9/11 educational assistance. State of Connecticut Statutes which require Honorable Discharges are limited to "Property Tax Exemptions" (CGS. 12-81); "Licensing Fees" (CGS12-93; Waiver of Fees for selling and buying specific goods" (CGS 21-30) and "Operator License Fees" (CGS 27-102a) additionally award of the Connecticut Wartime Service Medal requires and Honorable Discharge.

It is important to remember that the "Character of the Discharge" is not a Veteran or State issue. If the character of a veteran's discharge is a bar to some or all VA benefits, they may request an upgraded discharge from their Service Branch of the Department of Defense Discharge Review Board or correction of their military records by their service Board of Correction of Military Records.

**Proposed S.B. No. 185 AN ACT ESTABLISHING A PREFERENCE IN THE AWARD OF STATE CONTRACTS FOR VETERAN-OWNED BUSINESSES. (VA) and Proposed S.B. No. 384 AN ACT CREATING A SET-ASIDE PROGRAM FOR DISABLED VETERAN CONTRACTORS.**

Similar bills have been proposed by the Legislature. In the past we tried to broker a process with the Department of Administrative Services ( DAS) to have "Set Asides/Veterans Preferences" for State Contracts. The main question from DAS was "Are there enough Disabled Veteran Owned Businesses to warrant a "Set Aside? At that time some veterans were very strident that the "Set Aside" only be for Disabled Veteran Owned Businesses. As a compromise, we tried to promote a rating of 5 points for Veteran Owned Businesses and 10 points for Disabled Veteran Owned Businesses when considering State Contracts. Unfortunately, there was no consensus and the opposition coupled with the lack of support from both sides contributed to the failure of the legislation.

According to the US Business Census of 2007, there are more 41,000 veteran owned businesses in the state, more than 10,000 of these businesses are also employers which indicates that there is a robust field of potential applicants for State of Connecticut Contracts that warrants consideration for a set aside provision. The Connecticut Department of Veteran Affairs suggests that these options need to be explored and are not mutually exclusive. DAS has been very supportive of programs for veterans but at the same time we have to consider the reality of the actual numbers and services provided by veterans in Connecticut. It would be disappointing if we could not capitalize on the interest that brought these issues to the Veteran Affairs Committee and the opportunity it presents for veterans in our State.

If these measures do go forward, I would like to suggest that the criteria for verification of a Veteran-owned business and/or service-disabled veteran owned business be passed on the published criteria adopted by the Small Business Administration and the Department of Veteran Affairs which would also qualify these businesses for additional

contracting opportunities with Federal Agencies. (VA's Veterans "First Buying Authority"; special consideration for contracting opportunities from prime contractors; " VA VETBiz VIP Program" and notices of contracting opportunities. The requirements stipulates that the veteran must have served on Active Military Duty and be discharged under conditions other than dishonorable. The second requirement is that veterans own at least 51 percent of the business with the management and daily operations of the business being controlled by veterans. In order for the business to qualify for a Disabled Veteran owned business, the veteran's disability must be permanent and severe and connected with their military service with the same levels of interest, control and operation by the veteran with a caveat that the daily business operations can be conducted by the veteran's spouse or caregiver.

### **Proposed H.B. No. 5388 AN ACT REQUIRING MUNICIPALITIES TO DESIGNATE A VETERANS SERVICE CONTACT.**

The Connecticut Department of Veteran Affairs supports the intent of this legislation to have each municipality to identify a veteran service contact and commits to providing training which would assist them in this program . Connecticut has over 270,000 veterans in every town and city in the state. With today's heavy reliance on the true citizen soldiers of the National Guard and Reserve components of the Department of Defense, having a designated person at the local level as a point of contact for questions and problems regarding veteran issues would be a great help to our Department as well as improve services to each town and city. Massachusetts has had a model in each of their towns and cities which is actually a paid position by the town. These advocates have improved the quality of services to veterans in their state by having a personal interest in finding answers and helping their neighbors access the benefits and services authorized by the State and Federal Government. We see this proposal as an important step in broadening the services to veterans in Connecticut.

### **Proposed H.B. No. 5754 AN ACT CONCERNING MENTAL HEALTH SERVICES FOR VETERANS AND MEMBERS OF THE ARMED FORCES. (VA)**

For more than 25 years, before the Department of Veteran Affairs was created by the Legislature, the Department of Mental Health and Addiction Services has been documenting the veteran status of their clients. As a Public Health Nurse working with psychiatric patients in the community, I was impressed that the question was included in the application for services. However it was not until the late 1990's that someone thought to quantify this population and found that over 5,000 Connecticut Veterans were receiving their Mental Health Service from the State. As the wars in Iraq and Afghanistan have continued, the needs of veterans of those hostilities as well as veterans from previous periods of service, who need mental health services, have challenged the VA systems of care on several fronts. Connecticut agencies have been partners in assisting our veterans with their mental health needs.

## Connecticut's Military Support Program (MSP)

In 2004, the Connecticut General Assembly enacted legislation authorizing the Department of Mental Health and Addiction Services (DMHAS) to provide ***“behavioral health services, on a transitional basis, for the dependents and any member of any reserve component of the armed forces of the United States who has been called to active service in the armed forces of this state or the United States for Operation Enduring Freedom or Operation Iraqi Freedom. Such transitional services are to be provided when no Department of Defense coverage for such services was available or such member was not eligible for such services through the Department of Defense or until an approved application is received from the federal Department of Veterans' Affairs and coverage is available to such member and such member's dependents.”*** (CGS 17a- 453d) That same year the General Assembly authorized funds from the sale of Fairfield Hills State Hospital for a non-lapsing grant to fund the program of transitional behavioral health benefits for soldiers and their families. (CGS. 17-451f)

This program which became the Military Support Program is a collaborative effort between Connecticut's Departments of Mental Health and Addiction Services (DMHAS), Veteran Affairs (CTVA), National Guard (CTNG) Department of Families and Children (DCF) and the Family Readiness Group. This program of working with mental health professionals in the community was ideally suited for the broad context of the legislation and the geographical distribution of potential clients and is much admired by States across the Nation. Because the scope of the program was created not only to include military members, their spouses and children but immediate family members (parents, siblings) and significant others were also eligible for care it is uniquely suited for the needs of veterans in Connecticut.

Sixteen hours of training in “Military 101” which included the dynamics of deployments, post-traumatic stress and discussions by OIF/OEF veterans and their families was provided to 400 volunteer mental health professionals licensed in Connecticut. Only clinicians, completing the training were eligible to participate in this program. The goal of delivering quality, appropriate, and convenient services was further enhanced by a 24/7 manned toll free center, veteran outreach workers and State reimbursement for clinical services when there was no other funding available. Since the Connecticut Military Support Program (MSP) has been in operation, they have responded to over 3,500 clients

A particularly important aspect of this program is the fact that there is an immediate response to a caller with an offer to help. Many veterans and their families have been helped and treated in the communities where they live. While some may require more intense care or services offered by the US Department of Veteran Affairs the immediate assessment, crisis intervention and if need be referral to VA provides appropriate, timely and professional responses that the situations require.

**Suicides** Although there is no exact method to determine the actual numbers of suicides, even matches with the Death Index would be under reported because of concern for the family, religious beliefs or unanswered questions. Even the press has no idea of the true numbers of suicides in the military or veteran communities because the "secret" is also part of the shock. However the increased awareness and concern for the number of these events and the great hope that these could be prevented with better systems, Connecticut Governor Malloy, in consultation with the Departments of Mental Health and Veteran Affairs, authorized the expansion of the Military Support Program in 2012 for all military, veterans and their families.

Mr. Chairman, this concludes the statement of the Connecticut Department of Veteran Affairs. I am happy to answer any questions you may have.