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Communicator

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The COMMUNICATOR is the official publication of the California Association of County Veterans Service Officers (CACVSO). Opinions expressed are those of contributing writers and do not necessarily reflect opinions or policies of CACVSO officers, members, or the editorial staff. The newsletter reserves the right to edit, amend, or reject any contribution submitted for publication.

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La Crosse Health Service lands Veterans Affairs Contracts

LA CROSSE, Wis. (AP) — Officials from a La Crosse-based company say they've landed four U.S. Department of Veterans Affairs contracts worth up to \$3 billion to provide medical disability examinations.

The La Crosse Tribune reports that Logistics Health Inc. will provide medical disability examinations to roughly 600,000 veterans and people leaving the armed forces in nearly 40 states, Puerto Rico, and Washington, D.C.

The company's founder and chairman, Don Weber, says the contracts will result in nearly doubling the number of its employees to 2,500 within a year.

Weber says the full-time jobs will consist of a variety of positions in the health care field, such as registered nurses, clinicians, data processors and IT workers.



TIME & PLACE COMMITTEE

(San Luis Obispo County CVSO—Dana Cummings, Chair)

Dates & Locations of Upcoming Conferences



February 27—March 3, 2017
Holiday Inn, Sacramento CA



June 11—16, 2017
Town & Country Resort & Convention Ctr.
San Diego, CA



October 8—13, 2017
Marriott Convention Center



***Last Thursday of the Month
Unless Notified Otherwise!***

OUT OF THE NORM—ISSUE #215

(A feature of the Education Committee by Mr. Norm Gillett, CACVSO Training Consultant)

Because of the turnover in CVSO and Veterans' Representative ranks, I sometimes go back and revisit issues I have written about previously, with special attention to those topics that everyone "knows" about but don't really understand. I previously wrote about reasonable doubt in May 2006, and again in February 2010. Folks continue to ask about whether, and how, reasonable doubt applies (or should be applied) in particular cases, so here we go again...

The doctrine of "reasonable doubt" or "benefit of the doubt" as it is supposed to be applied by VA is sort of peculiar to VA. VA is not the only agency to have such a doctrine, but so far as I know it may be the only agency that so rigorously defines the concept and makes it such a central feature of its claims adjudication. The basic law is at 38 USC 5107(b), **BENEFIT OF THE DOUBT**, which says: "The Secretary shall consider all...evidence of record... When there is an approximate balance of positive and negative evidence regarding any issue material to the determination, the Secretary shall give the benefit of the doubt to the claimant." This recognizes that many VA issues may have no clearly definitive answers.

The implementing regulation is 38 CFR 3.102, **Reasonable doubt**, which expands and enlarges the definition of reasonable doubt as it is meant to be used in VA context. A "reasonable doubt" is one that arises because all of the available evidence for and against a claim is approximately evenly balanced (i.e., is "in equipoise"), and neither proves nor disproves the claim. The doubt must be within the realm of probability, as opposed to pure speculation or a remote possibility. "Reasonable doubt" is not a means of reconciling conflicts or contradictions in the evidence. Finally, the regulation notes that reasonable doubt may apply even if there are no official records, especially if the incident at issue is alleged to have occurred in combat or other similarly strenuous conditions, and is consistent with such known hardships (see also 38 USC 1154(b) and 38 CFR 3.304(d) regarding combat-related claims). Whenever such a doubt arises on any point, it *must* be resolved in the claimant's favor. Failure to consider and apply reasonable doubt when appropriate constitutes a clear and unmistakable error (CUE).

Now, how should reasonable doubt work in the real world? I always advise folks that when obtaining a medical or other professional opinion in support of a claim, the statement should be couched in terms of *likelihood*—that is, not likely; more likely than not; or equally as likely as not. If the point at issue is "not likely," then the weight of evidence is against the claimant, and the claim must be denied. If the point at issue is "more likely than not," then the weight of evidence is in the claimant's favor, and the claim must be granted. If the point at issue is "equally likely as not," then the evidence is (more or less) equally balanced for and against, and neither proves nor disproves the point; by definition, this creates a reasonable doubt which then *must* be resolved in the claimant's favor, and again the claim must be granted.

A practical example: A veteran has both SC high blood pressure (hypertension) and NSC diabetes. He suffers a myocardial infarction (heart attack)—is it SC? Both hypertension and diabetes are well-known major risk factors for coronary heart disease. It is probably not possible to say definitively which one actually caused this particular event, but it could be said that as likely as not it was his (SC) high blood pressure which caused the heart attack. The evidence and the balance of probabilities neither proves nor disproves the issue either way, so a reasonable doubt is thereby created which must be resolved in the veteran's favor, and SC must be assigned for the heart attack. To put it another way, if there are two equally likely explanations, the doctrine of reasonable doubt requires that whichever explanation is more favorable to the claimant must be accepted.

When and where would benefit of the doubt *not* apply? In addition to the examples given in the regulation, many preliminary claim findings such as determining the status of a claimant or whether a time limit has been met are simple "either/or" findings: Either a person *is* a veteran, or he *is not*—there is no doubt to resolve. Similarly, a submission either *was received* by a specified date, or it *was not received* by that date—again, there is no doubt to resolve.

LEGISLATIVE ADVOCATE REPORT



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SENATOR NIELSEN AND ASSEMBLYWOMAN IRWIN TO RECEIVE AWARDS FOR SERVICE TO VETERANS

The California Association of County Veterans Service Officers (CACVSO) has selected State Senator Jim Nielsen (R-Gerber) and Assemblywoman Jacqui Irwin (D-Thousand Oaks) as the recipients of the Motomu Nakasako Legislator of the Year awards for 2016. The awards will be presented at the California Association of County Veterans Service Officer's Annual Sacramento Training Conference in early 2017 (date to be determined).

The Motomu Nakasako Award is named after "Mote" Nakasako, a Los Angeles County Veterans Service Officer (CVSO) who was constantly involved in legislation to improve the lives of veterans at the local, state, and federal levels. He was a decorated member of the Army's 442nd Regimental Combat Team, one of World War II's most decorated units. Mr. Nakasako joined the Army and volunteered for combat duty from the Heart Mountain Internment Camp in Wyoming.

Senator Jim Nielsen (R-Gerber)

Senator Jim Nielsen is currently the Chair of the Senate Committee on Veterans Affairs. He also serves as the Vice Chair of the Senate Committee on the Budget. **Nielsen first fought for CVSO funding in the 2011 budget when he served in the Assembly and was presented his first CVSO Legislator of the Year for those efforts.** Nielsen's knowledge and support of the CVSO funding issue have allowed him to articulate and champion the merits of CVSO funding during the sessions of the full budget committee and also during Joint Conference Committee deliberations. Every year since then, in both the Assembly and the Senate, he has continued to push for the proper resources for CVSO's.

He has also taken a keen interest in the Redding Veterans Home, which was in his district, and has made sure the Senate Veterans Affairs Committee has provided the proper oversight of all of the state's veterans homes.

Senator Nielsen has authored many bills which help veterans and their families during his tenure on both the Assembly and Senate Veterans Committees. Most recently, he authored SB 980, a bill to reform, update, and standardize the state codes regulating veterans homes.

Kings County CVSO and CACVSO Legislative Committee Chair Scott Holwell noted, "Senator Nielsen understands the services CVSO's provide to veterans and he has worked diligently and consistently to ensure that we have the appropriate state support so we can continue to serve those who have served us".

LEGISLATION continued on Page 4

This Month's Featured County

Humboldt County is a county in the U.S. state of California. As of the 2010 census, the population was 134,623. The county seat is Eureka. Humboldt County comprises the Eureka-Arcata-Fortuna, CA Micropolitan Statistical Area. It is located on the far North Coast 200 miles north of San Francisco. Its primary population centers of Eureka, the site of College of the Redwoods main campus, and the smaller college town of Arcata, site of Humboldt State University, are located adjacent to Humboldt Bay, California's second largest natural bay.^[6] Area cities and towns are known for hundreds of ornate examples of Victorian architecture.



Assemblywoman Jacqui Irwin (D-Thousand Oaks)

Since Assemblywoman Irwin was elected in November 2014 she has been a committed supporter of veterans issues. Selected by the Assembly leadership to Chair the Assembly Committee on Veterans Affairs she hit the ground running and immediately took up the fight for increased and permanent funding for CVSO's by introducing AB-171, which sought to make a suitable, permanent funding level for CVSO's. She has also introduced legislation to address military suicide, military and veterans legal aid, work for warriors, the Governor's Military Council, and CalVet oversight.

She is also an appointee to the Interstate Compact on Educational Opportunity for Military Children. In her district, she has established a Veteran Advisory Board to routinely meet with the local CVSO, Veterans Service Organizations, and other veteran advocates to gain insight, recommendations, and information on issues facing the county's veterans.

Under her direction, the Assembly Committee on Veterans Affairs has undertaken key legislation to address educational benefits for National Guard members, veterans advocates in correctional facilities, veterans cemeteries, and financial relief for deployed military.

According to Mike McManus, Ventura County CVSO, "Assemblywoman Irwin, in her first term, has tackled many of the tough issues facing veterans and their families and we look forward to working with her in developing solutions to those issues in the coming years".

The **California Association of County Veterans Service Officers (CACVSO)** was established in 1945 and aggressively seeks out veterans and their families to provide assistance and service. To meet this objective, the County Veterans Service Officer seeks to increase awareness of eligibility, entitlements, benefits programs, and services provided to veterans by Federal, State, and Local government agencies and service organizations. Services include comprehensive benefit counseling, claim development, and case management. Information is provided through referral services, public speaking, and media relations. CACVSO is a professional training and legislative organization comprising all County Veterans Service Offices throughout the state, dedicated to serving California's 1.84 million veterans and their families.

The CACVSO, during fiscal year 2014-15, assisted California's veterans in filing claims with the federal government, which resulted in payments of \$380,544,494 according to data released by the California Department of Veterans Affairs

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VETERANS FACTS

There is estimated to be 21.8 million veterans.

A total of 3,460 male veterans and one female veteran have received the Medal of Honor, the highest award given for valor in action against enemy forces

Cities where living veterans make up high percentages of the population include Killeen, Texas (28.9 percent of the population), Clarksville, Tenn. (24 percent of the population), Jacksonville, N.C. (22.6 percent of the population), Fayetteville, N.C. (22.1 percent of the population) and Hampton, Va. (20.9 percent of the population).

Veterans own 9 percent of U.S. businesses.

Gulf War veterans are the most likely to have a service-related disability. Of veterans who served in the Gulf War era, 27.2 percent have a disability incurred during active service, compared with 26.7 percent of post-Sept. 11 veterans, 20.2 percent of Vietnam veterans, 12.2 percent of Korea veterans and 13.6 percent of World War II veterans.

Arlington National Cemetery has ceremony on Veterans Day every year to honor those who died during times of war. The ceremonies are held around the Tomb of the Unknowns and at 11:00 AM, on November 11, a combined color guard representing all military services executes "Present Arms" at the tomb.

Many people confuse Memorial Day with Veterans Day. Memorial Day is primarily remembered for those died during their service to our country, particularly ones who died as a result of battle. Veterans Day is to acknowledge primarily all those served in the military, either during wartime or peacetime.

The average annual income for a veteran is about \$10,000 more than that of the average American.

There are 9.3 million U.S. veterans over the age of 65.



UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

Blinded Veteran and Paralympian Searches for a Cause



Brad Snyder couldn't fully appreciate his gold medal ceremony in London in 2012. At the time the swimmer didn't have any sponsors, his family wasn't able to attend, the sheer size of the stadium produced a cacophony that overwhelmed his senses, and 12 months prior he had been permanently blinded by an insurgent's bomb in Afghanistan that ended his career as a Navy special operations officer.

So the American Paralympian and former Naval Academy swimmer found particular satisfaction at his performance in Rio this September. He had only trained for six months leading up to the London games, but this time a newfound focus and an intense training regimen earned him a silver medal and three gold, setting a new world record in the 100-meter freestyle. He developed a greater familiarity with his blindness during the previous four years, and his family's attendance combined with growing international recognition allowed him to perceive his surroundings in Rio in "high-definition," he says.

For Snyder, 32, the sheer number of tragedies facing his community is overwhelming. A former master chief he worked with as an explosive ordnance disposal officer killed himself, as did another wartime colleague who commanded a unit of the Navy special operations forces, or SEALs. An active-duty ex-girlfriend committed suicide, and another former commander of his upon returning home became addicted to petty theft.

Aggravating the problem are repeated scandals at the Department of Veterans Affairs, which earlier this month endured reports of gross mismanagement at its suicide hotline.

"It is literally a deadly problem," Snyder says of those whose lives have been risked by VA mismanagement. "People are literally losing their minds."

Snyder doesn't yet know specifically what issues he would like to focus on – whether to help veterans themselves or to try to bridge the divide between the general public and the less than 1 percent of the country that has served in the wars in Iraq and Afghanistan – but he already recognizes when an opportunity is being squandered. He has previously criticized Colin Kaepernick, for example, for kneeling during the national anthem. The 49ers quarterback, whose form of protest has spread throughout the league, is drawing national attention, Snyder says, but he's not doing all he could to effect change.

"I called out Colin Kaepernick for not doing the work to advocate," Snyder says, adding that he, too, should be doing more to not only draw attention but focus that on specific reforms that need a prominent voice for support.

"I don't have one issue. I have a dozen. What I'm trying to do first is serve as a good example of all of those things."

VA Happenings



Veterans Affairs' Secretary Robert A. McDonald Issues Statement on Signing of the West Los Angeles Leasing Act of 2016

WASHINGTON – Secretary of Veterans Affairs Robert A. McDonald released the following statement after President Obama signed the West Los Angeles Leasing Act of 2016. “Today, President Obama signed into law legislation critical to our goal of ending Veteran homelessness in Los Angeles.

The West Los Angeles Leasing Act of 2016, introduced by Representatives Lieu and Miller and Senators Boxer and Feinstein, will allow VA to move forward transforming VA’s campus into a welcoming place where Veterans and their families in the most need of our services can call home. “Thanks to the legislation signed today, the West Los Angeles campus of the VA Greater Los Angeles Healthcare System will be able to build permanent supportive housing for our most disadvantaged and vulnerable homeless Veterans giving them easier access to state-of-the-art VA services.

This effort, along with increased community partnerships and intense outreach, will allow us to build on our progress in the city where Veterans homelessness remains a significant challenge. “I personally want to thank Representative Lieu and Senator Feinstein for their valiant effort to ensure that this legislation got passed, as well as the Los Angeles community and our partners for coming together to encourage this needed legislative solution. I especially want to thank the Veterans that provided valuable input to the Framework for the Draft Master Plan, now our agreed upon guiding document for the future of the West Los Angeles VA campus. You came to town hall meetings, submitted written statements and consistently engaged with VA to create the vision for this campus.

“Working together, many communities have effectively ended Veteran homelessness; to date 30 communities and two states. Nationwide, we have cut Veteran homelessness roughly in half since 2010. Using those same lessons of collaboration and community, we can transform the West LA campus into a modern-day version of what the land was initially deeded to be – a place for Veterans to call home.” - said the Secretary.

DATES OF INTEREST

OCTOBER 2016

- 3 Child Health Day
- 10 Columbus Day Observed
- 12 White Cane Safety Day
- 13 US Navy Birthday
- 17 National Boss Day
- 24 United Nations Day



**Freedom
isn't Free**



**Support
Our Troops**

