

## MAINE VOICES

# Rules eased for PTSD vets, but read the fine print

It is easier now for a diagnosed vet to get aid, but the opinions of personal physicians shouldn't count less.

**BRUNSWICK** — On July 12, the Department of Veterans Affairs issued a news release stating that the VA was simplifying access to health care and benefits for veterans with post-traumatic stress disorder (PTSD).

The changes made to the existing regulations were hailed by Secretary of Veterans Affairs Eric K. Shinseki, who said, "This final regulation goes a long way to ensure that veterans receive the benefits and services they need."

This reform reduces the evidentiary burden that Veterans suffering from PTSD must meet in order to have their claim granted by the VA.

Practically speaking, this will eliminate the need for some veterans to track down witnesses or official records that may be difficult to obtain in order to meet the requirements for disability benefits concerning PTSD. Reducing that burden is a welcome step forward for the men and women who serve our country.

However, what should not be lost in the praise for the new regulations are the potentially troubling aspects of VA law that continue to make it difficult for veterans suffering from PTSD to obtain the benefits they deserve. Only time will tell if the

### ABOUT THE AUTHOR

**Patrick Kelly** (e-mail: pkelly@mcteaguehigbee.com) is an attorney whose practice concentrates on workers' compensation, employment and veterans' disability law.

new regulations help or hinder this situation.

As an attorney representing veterans before the VA, it is apparent to me that the changes in the regulations may not make it any easier for a veteran to obtain an actual diagnosis of PTSD.

The VA has stated as such in the Federal Register comments: "This rule, however, does not concern the evaluation of mental disorders. It liberalizes the evidentiary standard for corroboration of a stressor in certain cases."

Veterans who have difficulty obtaining the diagnosis of PTSD to account for their symptoms do not necessarily benefit from this new rule.

These changes may only help the veteran who has already been diagnosed with PTSD to connect it to his or her military service and obtain benefits.

While PTSD is prevalent among many veterans, it may be a difficult diagnosis to obtain.

A veteran suffering from PTSD may experience depression, panic attacks or sleep impairment but, because of the many overlapping symptoms, a veteran may be diagnosed with another mental disorder



The Associated Press

Recent reforms have simplified the process but limited second opinions from private doctors in cases of military veterans with PTSD.

such as anxiety or panic disorder instead of PTSD — thereby preventing the veteran from benefiting from the change in the law.

The new law allows the VA doctors to have the final say on the veteran's claim, specifically whether the diagnosis of PTSD is supported by the alleged incident or stressor that occurred while in service.

In the past, if the veteran's private physician diagnosed PTSD related to military service, but a VA physician did not, then generally speaking the tie went to the runner and the veteran was granted benefits.

While the VA doctors are dedicated to serving and helping our veterans, it is a bit concerning that they have the final say over other second opinions — including the opinion of a veteran's own physician who may have established a long history

of treatment with the veteran and may be in the best position to comment on his or her condition.

The stated reason for the VA doctors having the final say is to ensure that standards are consistent for the assessments and because VA examiners have the necessary training to properly assess claims.

However, I worry that there may be a stronger chance of a potential conflict of interest since the VA doctors will make the final decision

in determining eligibility for benefits. Limiting the weight of the opinion of an outside doctor reduces the checks and balances available under the previous law. Veterans who suffer from service-related PTSD have obviously sacrificed a great deal for us.

While I applaud the change in the law that helps our veterans by eliminating the documentation required to prove their claims, I am concerned about the unintended consequences that may come from the limitations on the opinions of the private physician.

Our veterans should get the treatment and benefits they need and deserve. They have risked their lives and livelihoods for our country and deserve nothing less.

— Special to The Press Herald