

Vietnam Veterans of America

Chapter 324 - PO Box 18631 - Milwaukee, WI 53218

In Service to America



Meeting Notice

15 November, 2017

Elks Lodge 5555 W. Good Hope Rd.

Board Meeting 6:30 p.m.

Chapter Meeting 7 - 8 p.m.

Future Meetings 2017

20 December

2018

17 January, 21 February, 21 March, 18 April

Chapter web page: www.vietnamvetschapter324.com

National web page: www.vva.org

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Newsletter: John Zutz john(at)zutz.org

John is listed in the phone book - good luck findinng one

Arlington Cemetery – Marine Memorial may face Encroachment

Jeff Schogol MarineCorpsTimes October 29, 2017

Arlington National Cemetery wants to hear from Marines, other service members and veterans regarding a possible cemetery expansion that could encroach on the Marine Corps War Memorial. The cemetery currently holds more than 7,000 funeral services a year, according to a survey Arlington National Cemetery is conducting on expansion options. At the current rate, the cemetery will reach its capacity in the next 25 years. Two possible expansion projects are being considered, one of which would add 37 acres of now-private land near the Air Force Memorial and the now-closed Navy Annex, said cemetery spokeswoman Kerry Meeker.

If approved, the expansion would allow the cemetery to remain open through the mid-2050s, she said. "Since the cemetery currently borders private neighborhoods, Joint Base Myer/Henderson Hall, several highways and the Marine Corps War Memorial, any expansion effort would involve encroaching one of these bordering areas," according to the survey, which asks people if they think the cemetery should be enlarged. The survey does not

elaborate on how the Marine Corps War Memorial or other bordering areas might be affected by the proposed project. To take the survey click on the following: <https://survey.foreseeresults.com/survey/display?cid=EshUt0ZwxRE9xtVJtgIx9g4C&sid=email-dialogue>

Dedicated on Nov. 10, 1954, the memorial shows Marines raising the American flag on Mount Suribachi, Iwo Jima, on Feb. 19, 1945. The scene was immortalized in a Pulitzer Prize-winning picture by Associated Press photographer Joe Rosenthal. Arlington National Cemetery is conducting the survey as part of a national dialogue on whether to make the cemetery larger or change the eligibility requirements for who can be buried there, Meeker said "Input from our stakeholders — to include active duty service members, veterans, spouses, Congress, veterans and military service organizations and the general public — on expansion is very important to this national dialogue," Meeker said. The Marine Corps deferred comment on the matter to the National Park Service, which deferred comment to Arlington National Cemetery.

VIETNAM VETERANS OF AMERICA
Milwaukee Chapter 324
October 18, 2017

Meeting Called to Order by President Pat Ciofani at 7:00 pm

A Moment of Silence was observed for our brothers and sisters no longer with us, for all POW/MIA's and their families and for all serving our country

Pledge of Allegiance

Attendance – Dennis Szymanski, Pat Ciofani, Pat Moore, Paul Balge, John Zutz, John Morgan, Janice Dahlke, Dennis McCormack

Minutes of the September 20, 2017 meeting reviewed and accepted

Treasurer's Report – Pat Moore - \$3558.15 balance in our checking account

Communications

COMMITTEE REPORTS

Allied Veterans Meeting Update – Pat Ciofani

Volunteering at the VA – Pat Ciofani

Fund Raising – We have received 2018 Miller Park dates – Details to follow

Website – Contact Pat Moore to post items of interest

OLD BUSINESS

Report on September State Council Meeting – Pat Ciofani

Americanism Award Breakfast October 29th – Chuck Theusch and Joe Murray to be honored by our chapter

NEW BUSINESS

Veterans Day Parade

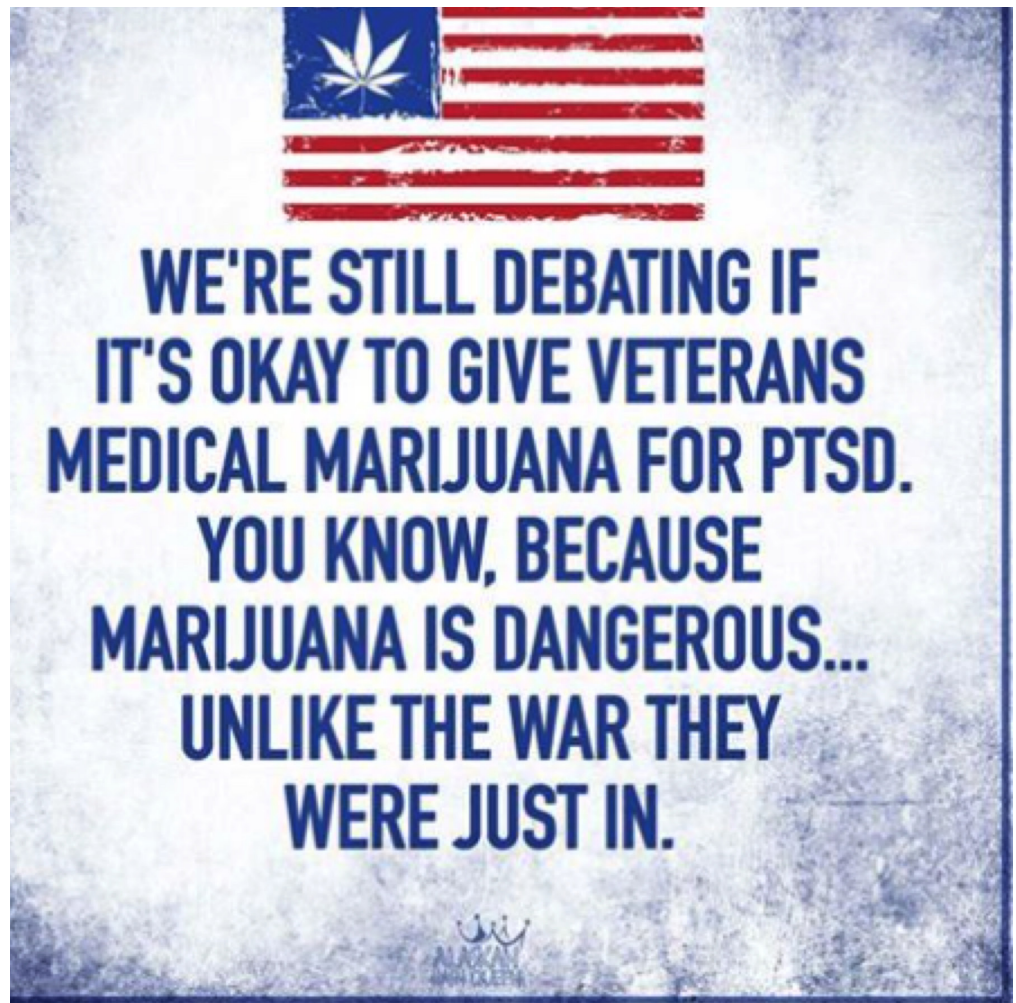
November 4th – Moved and passed to purchase a center piece for the parade luncheon in memory of Kent Draper

Christmas Party – We will have our annual Christmas party December 20th in place of our regular meeting

Ideas for Charitable

Donations – Discussion on where to donate funds from fund raising efforts including suggestions to contact UWM and MATC veterans representatives to see if we could help needy veteran students, the VA wish list, Fisher House, etc.

For the Good of the Chapter Adjournment – 7:40



New VA Precedent Allows Disability Rating Upgrading

Adam Linehan Task & Purpose October 24, 2017

The U.S. Court of Appeals for Veterans Claims issued a decision last month that could make it easier for veterans with injuries to the back, neck, and joints to obtain higher disability ratings, even in cases where veterans are already receiving disability benefits for such injuries. The recent case, called *Sharp v. Shulkin*, reviewed the Department of Veterans Affairs' current system for assessing the origin and extent of a veteran's disability and clarified the responsibilities of Compensation and Pension examiners and the Board of Veterans Appeals when it comes to giving an opinion on pain flare-ups caused by musculoskeletal disabilities. The court ultimately ruled that the system was inadequate, because not all C&P examiners consider flare-ups and pain when determining what disability rating a veteran should receive.

Bobby P. Sharp, an Army Korean War veteran who suffers from numerous musculoskeletal injuries, argued that VA medical examinations he received were inadequate because the examiner failed to "ascertain adequate information — i.e., frequency, duration, characteristics, severity, or functional loss — regarding his flares by alternative means," according to court documents. Sharp contended that the 10% disability rating he received for his injuries was insufficient because his "September 2015 evaluation was inadequate for evaluation purposes and the Board's finding to the contrary was clearly erroneous." In September 2017, the claims court agreed.

The court's decision means that the VA must now enact measures to ensure that C&P examiners do not overlook flare-ups and pain when assessing a disabled veteran. The VA must attempt to schedule a

C&P examination when the veteran is experiencing a flare-up, but if it can't the practitioner is still expected to offer a professional opinion on how the veteran could be "functionally limited during a flare-up," notes Military1. In theory, this will give examiners a more comprehensive understanding of the injury in question. If this isn't feasible, the examiner must prove they've collected as much information and evidence as possible before saying to the board that they can't offer a medical opinion "without resorting to speculation." Further, the appeals board bears the burden of ensuring the examiner has done their due diligence or find an examiner experienced enough to offer a more informed medical opinion.

So, if a C&P examiner doesn't witness the flare-up, how can they form a non-speculative opinion about it? As Military 1 reported, the court decided that veterans themselves can submit evidence for consideration, such as their own description of the flare-ups and pain they experience, or "buddy statements" — written statements from people who know the veteran and can testify to the extent of their suffering. All of which will make it a lot easier for veterans to secure higher disability ratings for injuries they sustained in the military.

Meanwhile, the *Sharp v. Shulkin* case, which ruled that Sharp was entitled to another C&P assessment consistent with the new guidelines set by the court provides a precedent for other veterans who want to challenge their disability ratings. If you think this applies to your case, then it is recommended you reach out to a veteran service officer to help you navigate the appeals process.

Court Rules VA Policy Violated Law

KARE 11 Minneapolis-St. Paul | A.J. Lagoe & Steve Eckert | October 2017

A Minnesota veteran's precedent-setting legal case is forcing the Department of Veterans Affairs to change course after years of denying payment of veterans' emergency medical bills. A court ruled a VA policy violated federal law. As a result, the VA estimates it may be on the hook for billions of dollars in previously denied claims. The court ruling was based on what occurred in 2010, when 77-year-old Richard Staab suffered a heart attack and stroke. He was rushed to a nearby private hospital and had open-heart surgery. Medicare covered a portion of his treatment,

but Staab was ultimately left with about \$48,000 in out-of-pocket expenses.

A U.S. Air Force veteran who served in Korea, Staab typically relied on the VA for care. He submitted a claim for the outstanding balance to the St. Cloud VA, expecting to be reimbursed. But his claim was denied. Jacqueline Schuh, a retired JAG attorney now in private practice with Engelmeier & Umanah, agreed to help Mr. Staab with his appeal. She took the case to the U.S. Court of Appeals for Veterans Claims,

Continued on next page

VA Policy Continued

arguing that the VA regulation used to deny his claim violated the Emergency Care Fairness Act of 2009.

The denial was based upon the internal rule that the VA had been enforcing since 2010, but the internal rule was inconsistent with the law. When Congress passed the Emergency Care Fairness Act, it required the VA Secretary to cover qualified veteran's emergency medical bills for which the veterans were "personally liable." Schuh and NVLSP attorneys argued the law required VA to step in as a "secondary payer" when other health care insurers, such as Medicare, cover only a portion of the cost of a veteran's emergency treatment leaving the veteran "personally liable" for the rest.

In April 2016, the three-judge panel agreed. They ruled in Staab's favor, striking down the regulation the VA had been using to deny veterans emergency medical claims nationwide. The Court's decision rebuked the VA, emphasizing that VA's reimbursement regulation became "wholly inconsistent" with the governing statute when Congress amended it in 2009, but thereafter the VA unlawfully "declined to remedy this inconsistency." The VA appealed that decision and the matter was pending before the U.S. Court of Appeals for the Federal Circuit, when in June 2017, VA Secretary David Shulkin made a surprise announcement. Shulkin said the VA would "voluntarily withdraw" its appeal of the Staab case. It was a huge victory – not just for Staab, but for veterans nationwide. And it has massive financial ramifications.

VA is now liable to pay 370,000 previously denied veteran's claims, which according to the government agency's own estimates totals more than \$2 billion. In June, Secretary Shulkin announced that the VA has drafted a regulation to authorize payment for Staab-related claims, and has sent the regulation to the Office of Management and Budget (OMB). The VA says the draft regulations must clear OMB and be published in the Federal Register before VA can begin reimbursements. VA estimates that this process could take between 9 and 24 months. The NVLSP offers the following advice for veterans who also had their claims inappropriately denied because of the VA's unlawful regulation:

□ "While the regulation is going through its required review process at OMB, we suggest veterans

with claims for reimbursement of emergency medical expenses that were previously and finally denied because they had additional insurance, should prepare a new claim," said NVLSP Executive Director Bart Stichman. "Veterans may find it helpful to talk with a veterans service officer or advocate in preparing their claim."

□ "Veterans have one year to appeal a denial of reimbursement for emergency medical expenses they incurred outside the VA system. If the claim was denied because they had partial secondary insurance, they should keep their claim alive by appealing to the Board of Veterans' Appeals. Veterans in this situation should file VA Form 21-0958. Veterans who have not yet filed a claim for reimbursement should file a formal written claim with the VA's Veterans Health Administration."

Refer To <http://www.kare11.com/news/investigations/investigates-mn-veterans-legal-battle-wins-billions-for-other-vets/484050995> to read the whole story on what the KARE 11 investigation uncovered.

Avoid Wounded Warrior

By FIBLueNeck /08/022017

<https://www.dailykos.com/stories/2017/8/2/1686243/-It-s-Back-Avoid-this-Charity-for-Vets>

Wounded Warriors Project (WWP) is back, as strong as ever. This year they needed Sen Grassley to bail them out.

A little history, WWP started during the Iraq War. Operating as a non-profit 501(c)(3) they initially collected donations for Vets returning from the war zones. As donations rose, the Officers of the Organization turned it into a propaganda/money machine. From 2010 they've had problems with their books, and complaints from veterans.

They utilized "donated" time from CW star Trace Adkins as a spokesperson and it was/is heavily endorsed by the NRA, FOX, Hannity, and O'Reilly. An audit in 2012 found two checks for Adkins for \$200,000. An audit in 2016 found a bank account with \$245m! What non-profit has a static account with that much money in it? Additionally, veterans around the country were complaining about lack of services. High priced TV campaigns (tens of millions), embarrassingly high salaries, conventions, conferences, retreats and parties for employees really don't help the warriors.

We have personally investigated Wounded
Continued next page

A report on Saturday night at the airport

By John Zutz Nov 5, 2017

Sarah Herbert posted numerous photos on Facebook, illustrating her Honor Flight trip to Washington, DC with her father, Vietnam veteran, Joe Herbert. Joe has been an active member of VVA324 for many years, serving as President, Treasurer, and currently Membership chairman.

Joe has also served to help produce our newsletter. I've worked with him on a number of projects and consider him a highly honorable man and a good friend. I decided I would go to the airport and help welcome him home.

A check of the Honor flight web page informed me the flight was expected to arrive after 8p.m. but people should come around 6p.m. and a lawn chair was advised. I arrived in the terminal about 6:30.

It was crowded. Hundreds of well-wishers were already camped out. There was a marching band from Kettle Moraine. There were cheerleaders waving pom poms. There was a color guard that was allowed to take their rifles through security!!!

I managed to find a vacant spot near what I



discovered was the beginning of the roped off “parade route,” and began the long wait.

While waiting I heard a voice behind me, “I know this guy.” It was the wife of another long-time good friend, John Lindquist, who had also made the trip. I was getting a twofer without even expecting it.

Then we waited. And waited. AND WAITED. By 8:30 there were more than a thousand people, and standing room only. The terminal was packed, 8 – 10 deep all along the parade route.

The plane finally arrived and the first arrivals began coming into the terminal just after 9p.m. The wheelchairs came first, and Joe was one of the first to come through. I made sure he and Sarah saw me, but I didn't detain him. I figured more of his family was further down the parade route.

It happened that Lindquist's family was scattered through the crowd, very near where I stood, so when he arrived it was easy to greet him.

I was out of there by 9:45. I still have problems with large crowds, and the flag-waving patriotism was a bit much for my taste. It cost \$8.00 to get out of the parking garage (less than Miller Park or the Zoo) but it was all worth it – the parade that afternoon had to be brutal – cold, rain and wind – a nasty day to be outside.

Wounded Warrior continued

Warriors and what we have learned is very disturbing. They advertise heavily on T.V. and if you pay close attention they do not show one actual thing they have done to help a Wounded Warrior.

They show pictures and stories of Wounded Warriors and use them as a heart tugging way to solicit donations. They have paid a famous country music singer Trace Adkins to further play on peoples' emotions.

I urge everyone to call Wounded Warriors and ask them what they do for veterans.

Unfortunately they are using our veterans to bring millions of dollars into their huge corporation. They are the best paid non-profit ever and each one

of their employees is paid a very good salary for continuing this cash cow.

Below is the link to the Board of Directors for the Wounded Warriors Project, if you drill down into the resumes of these paid employees you will see they have many with ties to the Veterans Administration. <http://www.woundedwarriorproject.org/mission/board-of-directors.aspx>

This May, Sen Grassley held meetings on WWP, the bank account only had \$65m (last year was an election year???) He slapped their hands and told them to behave. Now they're back on TV. Sen Grassley full report (24 May 2017): www.grassley.senate.gov/...



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Anyone can join! Membership Options:

Vietnam Veterans (A copy of your DD214 must be included):

- Individual Member - 1 year \$20 • Individual Member 3 year \$50 • Life Member \$250
- Life Member Installment Plan (\$50 Deposit; \$25 per month for 8 Months)

Anyone Else:

- Associate Member - 1 year \$20 • Associate Member 3 year \$50 • Associate Life Member \$250
- Associate Life Member Installment Plan (\$50 Deposit; \$25 per month for 8 Months)

Please Print

Name _____ Membership # _____

Address _____ City _____ State _____ Zip _____

Phone (_____) _____ E-mail _____

I would like to help Chapter 324 by donating \$ _____

Make checks payable to VVA324 and mail with this completed application to:
VVA Chapter 324 - Membership, PO Box 18631, Milwaukee, WI 53218