

SJR

24

<TARGET><BILL>SJR 24</BILL><SUBJECT>SJR
24</SUBJECT><COMM>HMLV28</COMM></TARGET>

FISCAL NOTE

STATE OF ALASKA
2014 LEGISLATIVE SESSION

Bill Version SJR 24
 Fiscal Note Number _____
 () Publish Date _____

Identifier (file name) _____ Dept. Affected _____
 Title SJR 24 VETERANS HEALTH ADMINISTRATION POLICIES Appropriation _____
 Allocation _____
 Sponsor Senator Huggins
 Requester (S) State Affairs OMB Component Number _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY15 Appropriation Requested	Included in Governor's FY15 Request	Out-Year Cost Estimates				
			FY16	FY17	FY18	FY19	FY20
OPERATING EXPENDITURES	FY15	FY15	FY16	FY17	FY18	FY19	FY20
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1007	I/A Rcpts (Other)						
1156	Rcpt Svcs (DGF)						
		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated **SUPPLEMENTAL (FY14) operating costs** _____ (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY15) costs** _____ (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? _____
 If yes, by what date are the regulations to be adopted, amended, or repealed? _____ Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Prepared by (S) State Affairs
 Division _____
 Approved by Senator Dyson, Chair
 Division _____

Phone 465-2199
 Date/Time 3/10/14 1:45 PM
 Date 3/10/2014

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. SJR 24

Analysis

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HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 24(MLV)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

**Offered:
Referred:**

Sponsor(s): SENATORS HUGGINS, McGuire, Micciche, Kelly, Bishop, Giessel, Meyer, Dunleavy

A RESOLUTION

1 **Relating to certain holiday practices at federal Veterans Health Administration**
2 **facilities.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS**, in December 2013, federal Veterans Health Administration facilities in
5 Texas, Georgia, Iowa, and Alabama violated the religious freedom rights of convalescing
6 veterans in their care; and

7 **WHEREAS** a Veterans Health Administration hospital in Dallas, Texas, did not
8 distribute to the veterans in its care holiday cards that used certain language, including "Merry
9 Christmas" and "God bless you"; and

10 **WHEREAS** a Veterans Health Administration hospital in Augusta, Georgia, denied
11 Christmas carolers from the local high school the opportunity to sing in public areas of the
12 hospital; and

13 **WHEREAS** two other Veterans Health Administration facilities in Iowa and Alabama
14 prohibited the distribution of Christmas gifts and Christmas gift bags; and

15 **WHEREAS** a Veterans Health Administration official cited the policy of the Veterans

1 Health Administration for the nondistribution of the holiday cards; and

2 **WHEREAS** the Veterans Health Administration official stated that, in order to
3 respect veterans' religious beliefs, all donated holiday cards are reviewed by a
4 multidisciplinary team of staff led by the chaplaincy services to determine whether the cards
5 are appropriate and can be freely distributed to patients; and

6 **WHEREAS** the Veterans Health Administration official stated that the process for
7 reviewing holiday cards was not fully explained to the particular group involved and
8 apologized for any misunderstanding; and

9 **WHEREAS** the officials at the Veterans Health Administration facilities described in
10 this resolution ignored the policies established by the United States Secretary of Veterans
11 Affairs regarding holiday practices at the facilities; and

12 **WHEREAS** those holiday cards, gifts, and presentations came from caring citizens,
13 including young children, who took the time to recognize the heroic actions of men and
14 women who have sacrificed so much in the service of their country in times of both peace and
15 war; and

16 **WHEREAS**, although Christmas Day has origins in religious beliefs, it is recognized
17 as a civic holiday for federal employees; and

18 **WHEREAS** the Veterans Health Administration violates the right to religious
19 freedom of the veterans in its care by not allowing them to receive certain holiday cards and
20 gifts and to attend certain presentations;

21 **BE IT RESOLVED** that the Alaska State Legislature condemns the actions of the
22 Veterans Health Administration officials that prohibited religious holiday messages and gifts
23 from being conveyed to veterans at Veterans Health Administration facilities and respectfully
24 requests that the United States Secretary of Veterans Affairs ensure that the violations of
25 veterans' rights described in this resolution do not occur again; and be it

26 **FURTHER RESOLVED** that the Alaska State Legislature finds it unconscionable
27 that the established policies of the United States Secretary of Veterans Affairs on holiday
28 practices at Veterans Health Administration facilities are being ignored and respectfully
29 requests that the United States Secretary of Veterans Affairs follow the established policies on
30 holiday practices at Veterans Health Administration facilities and train personnel on those
31 policies so that the violations of veterans' rights described in this resolution do not occur

1 again; and be it

2 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests that
3 the United States Secretary of Veterans Affairs provide each member of the Alaska State
4 Legislature with a written assurance that the actions of the Veterans Health Administration
5 officials described in this resolution do not reflect the policies on holiday practices at
6 Veterans Health Administration facilities.

7 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
8 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and
9 President of the U.S. Senate; the Honorable John Boehner, Speaker of the U.S. House of
10 Representatives; the Honorable Nancy Pelosi, Minority Leader of the U.S. House of
11 Representatives; the Honorable Harry Reid, Majority Leader of the U.S. Senate; the
12 Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable Bernie
13 Sanders, Chair, U.S. Senate Committee on Veterans' Affairs; the Honorable Richard Burr,
14 Ranking Member, U.S. Senate Committee on Veterans' Affairs; the Honorable Eric K.
15 Shinseki, United States Secretary of Veterans Affairs; Verdie Bowen, Director, Office of
16 Veterans Affairs, Department of Military and Veterans' Affairs; and the Honorable Lisa
17 Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young,
18 U.S. Representative, members of the Alaska delegation in Congress; and all other members of
19 the 113th United States Congress.

December 24, 2013

The Honorable Eric K. Shinseki
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Fax: (202) 495-5463
Eric.Shineski@va.gov

Via certified mail RRR and email

Jeffery L. Milligan
Director, VA North Texas Health System
4500 S. Lancaster Rd.
Dallas, TX 75216
Fax: 214-857-1171
Jeffery.Milligan@va.gov

Via certified mail RRR and email

Re: Unlawful Viewpoint Discrimination in Denying School Children's Christmas Cards to Veterans

Dear Secretary Shinseki and Mr. Milligan:

Susan Chapman retained Liberty Institute in connection with the unlawful viewpoint discrimination in the denial by your representatives of school children's Christmas cards to veterans at VA facilities based upon the policies of and enforced by the Department of Veterans Affairs (the "Department") and the Dallas VA Medical Center, Dallas, Texas (the "Medical Center"). The purpose of this letter is to inform the Department and the Medical Center of the relevant law and provide them the opportunity to immediately take the necessary steps to avoid litigation. Please direct any further communications regarding this matter to me.

Mrs. Chapman is a teacher at Grace Academy of North Texas in Prosper, Texas, and the wife of a military veteran. For the 2013 Christmas season, she and her students created Christmas cards to give to bedridden veterans at the Medical Center. Predictably, most or all of the cards included the phrase "Merry Christmas." On Monday, December 23, 2013, however, the Medical Center refused to accept the cards. Mrs. Chapman was told by the Medical Center that it would not accept holiday cards that contained the phrase "Merry Christmas," "God Bless You," or any other religious references. A spokesman for the Department later reported that under the official policy of the Department such cards are subjected to a government-sanctioned censorship process, while cards with "secular" messages are freely distributed to all VA patients.

The messages on the cards clearly are the private speech of Mrs. Chapman and her students. See *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550 (2005); *Pounds v. Katy Indep. Sch. Dist.*, 730 F. Supp. 2d 636 (S.D. Tex. 2010).. Such viewpoint discrimination is unlawful even in non-public forums for speech. See *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788 (1985).. By refusing to accept the cards offered by Mrs. Chapman and her students the Department and the Medical Center committed unlawful viewpoint discrimination in violation of the First Amendment to the U.S. Constitution. Likewise, the holiday card policies of the Department of Veterans Affairs and the Medical Center constitute unlawful religious viewpoint discrimination in violation of the First Amendment to the U.S. Constitution. The actions and

policies of the Department and the Medical Center were and are also violations of the Religious Freedom Restoration Act.

These events are particularly troubling considering the September 22, 2011 consent decree signed by U.S. District Court Judge Lynn Hughes in *Rainey v. U.S. Dept. of Veterans Affairs*, No. 4:11-cv-01992 (S.D. Tex. Oct. 19, 2011). That consent decree ordered the Department “not to ban religious speech or words, such as ‘God’ and ‘Jesus,’ in condolence cards or similar documents given by non-VAVS volunteer[s].” It also ordered the Department “not to ban, regulate, or otherwise interfere with the giving of gifts, including gifts that contain a religious message or viewpoint.” The consent decree remains in full force and effect until the year 2026.

Mrs. Chapman respectfully requests that the Department and the Medical Center immediately rescind its discriminatory policy and allow her and her students (as well as others) to distribute holiday cards that contain the phrase “Merry Christmas,” “God Bless You,” or that contain other religious references to veterans at the Medical Center and all other VA hospitals and medical centers, and that the Department and the Medical Center bring their holiday card policies in line with applicable law by removing from them all aspects of unlawful religious viewpoint discrimination. Please advise me in writing by noon on Friday, December 27 that Mrs. Chapman and her students may distribute cards that contain the phrase “Merry Christmas,” “God Bless You,” or that contain other religious references to veterans at the Medical Center and at all other VA hospitals, and that the holiday card policies of the Department and the Medical Center have brought in line with applicable law.

While we are confident that these violations can and will be remedied without resorting to litigation, unless I hear from you by the above time Liberty Institute will be forced to seek redress in federal court. This will include the recovery of attorney’s fees, court costs and other reasonable expenses incurred in bringing the action. Liberty Institute will pursue all legal remedies, to include seeking permanent injunctive relief and suing any government officials in their individual capacities.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Mateer', with a long horizontal flourish extending to the right.

Jeff Mateer
General Counsel



DEPARTMENT OF VETERANS AFFAIRS
North Texas Health Care System

December 27, 2013

In Reply Refer:549/00

Jeff Mateer
Liberty Institute
2001 West Plano Parkway, Suite 1600
Plano, TX 75075

Dear Mr. Mateer:

In response to your letter of December 24, 2013, the Department of Veterans Affairs also hopes that this dispute can be remedied without resorting to litigation.

We regret that Ms. Chapman was incorrectly informed by a Department of Veterans Affairs (VA) employee that VA could not accept a donation of holiday cards with a religious theme on behalf of Veterans. That was an incorrect statement of VA policy. VA North Texas Health Care System accepts religious cards and distributes them to Veterans on a regular basis throughout the year. We understand that Ms. Chapman has been contacted by hospital staff and informed that the donation of cards is welcome.

The Chaplaincy Service is charged with the duty of distribution of donated cards. The Chaplaincy distributes the cards consistent with VA policy as promulgated in Veterans Health Administration Handbook 1111.02. One of their primary responsibilities is to ensure that religion is not imposed on any patient either overtly or subtly. As a practical matter, Chaplaincy Service fulfills that duty by reviewing holiday cards and determining if the cards contain religious material within them and in the event they do, our Chaplains distribute them by asking patients on an individual basis if they will accept a holiday card with religious references.

We submit this is a reasonable balance of the interests of the students to express their religious views, and the interests of patients to choose to participate in a particular religious expression. We regret that a misunderstanding of policy was communicated and we will work towards ensuring no one is told that their religious cards for Veterans are not welcome.

Sincerely,


Jennifer L. Milligan
Director

Corporate Office: Dallas Veterans Affairs Medical Center, 4500 South Lancaster Road, Dallas, TX 75216
Sam Rayburn Memorial Veterans Center, 1201 East Ninth Street, Bonham, TX 75418
Fort Worth Outpatient Clinic, 2201 Southeast Loop 820, Fort Worth, TX 76119
Tyler VA Primary Care Clinic, 3414 Golden Road, Tyler, TX 75701

Brooke Daly

From: Cain, Jason <Jason.Cain@va.gov>
Sent: Thursday, April 10, 2014 8:39 AM
To: Rep. Neal Foster
Cc: Gough, James
Subject: VA Christmas Card Policy

Representative Foster,

In response to a recent call to the Dallas VA Medical Center by members of your staff I would like to provide you with some background information on an unfortunate miscommunication that garnered some media attention late last year.

VA greatly appreciates holiday donations and volunteerism by students and organizations on behalf of Veterans of all faiths and backgrounds. We continue to accept religious cards and Christmas carols for our patients who celebrate Christmas, as we do for Veterans who celebrate religious holidays of all faiths.

Veterans entered the military to protect our freedoms, including the freedom to practice a religion of our choice. At VA, it is our duty to uphold and respect the honor and sacrifice of all Veterans, from all faiths and backgrounds.

VA North Texas Health Care System, and all VA medical centers, accepts all donations from students and organizations willing to extend kind gestures to our Veterans, including Christmas cards. VA North Texas Health Care System regrets any miscommunication regarding the acceptance of Christmas cards, and we thank the students who took time during the holiday season to write Christmas cards for the Veterans we serve.

If you have any questions or concerns please do not hesitate to contact me.

All the best,

Jason Cain

Director of Intergovernmental Affairs

U.S. Department of Veterans Affairs

202-461-7388

SPIRITUAL AND PASTORAL CARE PROCEDURES

1. REASON FOR ISSUE. This Veterans Health Administration (VHA) Handbook provides the procedures for ensuring the availability of spiritual care for all persons receiving Department of Veterans Affairs (VA) care.

2. SUMMARY OF MAJOR CHANGES. Major changes include the following:

a. Subparagraph 7a(1). The use of all other spiritual screening instruments currently being used as part of the patient admission process is to be discontinued.

b. Paragraph 20. A limited exception to chapel policy is created for historic facilities.

c. Subparagraph 25a. Information regarding spiritual and pastoral care may be posted on Veterans Integrated Service Network (VISN) and facility Intranet websites only after it has been reviewed and approved by the National Chaplain Center staff. VISN and medical centers are not to post information regarding spiritual and pastoral care on their Internet websites.

3. RELATED DOCUMENTS. VHA Directive 1111 and VHA Directive 4721.

4. RESPONSIBLE OFFICE. The Office of Patient Care Services, Chaplain Service (111C), is responsible for the contents of this Handbook. Questions may be addressed to (757) 728-3180.

5. RESCISSIONS. VHA Handbook 1111.2, dated March 3, 2005, is rescinded.

6. RECERTIFICATION. This VHA Handbook is scheduled for recertification on or before the last working day of July 2013.

Michael J. Kussman, MD, MS, MACP
Under Secretary for Health

DISTRIBUTION: CO: E-mailed 7/21/2008
FLD: VISN, MA, DO, OC, OCRO, and 200 – E-mail 7/21/2008

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SPIRITUAL AND PASTORAL CARE PROCEDURES

1. PURPOSE

This Veterans Health Administration (VHA) Handbook provides the procedures for ensuring the availability of spiritual care of all persons receiving Department of Veterans Affairs (VA) care. Chaplains work with the Veterans Benefits Administration (VBA) and the National Cemetery Administration (NCA) to ensure that veterans who need medical care (including counseling for their religious and spiritual needs) are referred to VHA.

NOTE: Nothing in this Handbook is intended, nor should be construed, to suggest or direct any policy, practice, or action that is contrary to the doctrine or practice of any faith group. Nevertheless, VHA's mission to care for veterans is paramount, and VHA may restrict or prohibit any practice that it deems detrimental to the health or safety of patients. The choice to receive spiritual or pastoral care, the choice to complete a spiritual assessment, and the choice to participate in a religious or spiritually-based treatment program always remains the private choice of the veteran.

2. BACKGROUND

a. The official title for VA clergy is "Chaplain." In official capacities the clergy person is addressed as "Chaplain," and must use this designation in signing official communications.

b. Chaplains provide religious, spiritual and pastoral care to veterans and, in limited situations, their families in accordance with VHA policy.

c. The mission of the National Chaplain Center (NCC) is to empower VA chaplains to achieve excellence in meeting any religious or spiritual care needs of VA patients in all inpatient and outpatient settings.

3. DEFINITIONS

a. **Spiritual and Pastoral Care.** VHA spiritual and pastoral care is the total program of assessment and care, administered and overseen by chaplains, which identifies patients' religious and spiritual needs and desires, addresses spiritual injuries, and enhances patients' spiritual health, utilizing the full spectrum of interventions.

b. **Patient.** A patient is an individual who is receiving VHA care.

c. **Chaplain.** A VA chaplain is an individual meeting the qualification requirements of VA Handbook 5005, Part II, appendix F1, who is employed (including those with fee basis appointments), or appropriately works under contract, to provide spiritual and pastoral care and counseling in VA.

d. **Clinical Chaplain.** A clinical chaplain is an individual who meets all VA qualification requirements for chaplain, whose spiritual and pastoral care and counseling is characterized by in-depth assessment, evaluation, and treatment of patients; a high degree of integration into the

total care and treatment program of a health care facility; and close working relationships with staff members of other professional health care disciplines.

e. **Spiritual.** "Spiritual" has to do with that which is related to the "Spirit of Life." Spirituality may be used in a general sense to refer to that which gives meaning and purpose in life, or the term may be used more specifically to refer to the practice of a philosophy, religion, or way of living. The word "spiritual" is derived from the old Latin word "spiritus." The English words "inspire," meaning to breathe in and "expire" meaning to breathe out, come from the same Latin root. The concept of breathing captures the meaning of the word "spiritual" in relation to that which is or is not "life giving." Therefore, spirituality may positively or negatively affect one's overall health and quality of life.

f. **Pastoral.** "Pastoral" is an adjective derived from the image of the shepherd and is used to describe a relationship characterized by expressions of compassionate care, including spiritual counseling, guidance, consolation, empathetic listening, and encouragement. Describing care as pastoral may refer to the motivation or attitude of the caregiver. In VA, pastoral care refers to care provided by a chaplain, professionally-educated and endorsed by a particular faith tradition to provide such care.

g. **Holistic Care.** "Holistic care" is whole-person care tailored for the individual patient's needs and requests, which emphasizes the balance of the physical, environmental, mental, emotional, social, and spiritual aspects of human experience.

h. **Proselytize.** To proselytize is to attempt to influence or change an individual's beliefs about religion or religious expression.

i. **Religious Expression.** Religious expression refers to all types of worship, sacrament, ceremonies, prayer, meditation, traditional observances, etc., by which individuals carry out their religious beliefs or through which they maintain or enhance their relationship with the focus of their religion. This includes wearing religiously significant clothing or jewelry, dietary customs, and carrying or displaying religious artifacts, symbols, pictures, or scripture.

j. **Spiritual Screening.** Spiritual screening consists of a question designed to be answered voluntarily by the patient for the purpose of determining whether the patient has spiritual concerns that affect their health care, has needs for accommodation of free exercise of religion, or desires immediate spiritual care. At any time the patient may request spiritual or pastoral care, and the facility chaplain must be notified immediately.

k. **Spiritual Assessment Instrument.** A spiritual assessment instrument is a set of questions designed to comply with The Joint Commission (TJC) Accreditation Standards and to be answered voluntarily by the patient for the purpose of determining:

(1) Whether a patient wishes to receive spiritual and pastoral care, and

(2) If spiritual and pastoral care is desired, to obtain the information necessary to determine the patient's needs, hopes, spiritual resources, or spiritual injuries for the purpose of planning care (see par. 7).

l. **Spiritual Assessment.** Spiritual assessment is:

(1) An ongoing evaluation responded to voluntarily by the patient, performed by a clinical chaplain, based on information commonly obtained by use of a spiritual assessment instrument that defines a patient's desires, needs, hopes, spiritual resources or spiritual injuries for the purpose of planning care. This evaluation may be conducted by a pastoral conversation.

(2) The process of administering a Spiritual Assessment Instrument, or of evaluating the patient's answers along with other available information.

m. **Spiritual Injury.** A "Spiritual Injury" may occur as a result of an event caused by self, or an event beyond a person's control that damages one's relationship with self, others, or God (for persons of faith), and alienates one from that which gives meaning to life.

n. **Ecclesiastical Endorsement.** An ecclesiastical endorsement is a written official statement, by the official national endorsing agent of the religious faith group, certifying that an individual is in good standing with that individual's religious faith group, and stating that the individual is, in the opinion of the endorsing agent, qualified to perform the full range of ministry required in the VA pluralistic setting (see VA HK 5005, Pt. II, App. F1).

o. **Official National Endorsing Agent.** The Official National Endorsing Agent is the individual designated by an ecclesiastical endorsing organization to issue official ecclesiastical endorsements to VA of individuals within that particular religious faith group.

p. **Ecclesiastical Endorsing Organization.** An ecclesiastical endorsing organization is a religious faith group, which has properly designated an ecclesiastical endorser for VA in accordance with VHA policy (see VHA Handbook 1111.1).

4. SCOPE

a. VA chaplains have a three-fold responsibility to the patients at every VA facility:

(1) First, to ensure that patients (both inpatients and outpatients) receive appropriate clinical pastoral care, as desired or requested by the patient;

(2) Second, to ensure that hospital, domiciliary, and nursing home patients' constitutional right to free exercise of religion is protected; and

(3) Third, to protect patients from having religion imposed upon them.

b. Because spirituality is an important dimension of health for many patients and their families, it must be addressed in all components of the VHA mission, including patient care, research, emergency preparedness, and health care education. Chaplains provide expertise in health care ethics and meet with, and in limited situations provide care to, the patients' families and loved ones (see subpar. 14d(5) and 14d(6)).

c. Chaplains train VHA health care providers in the importance of spiritual and pastoral care's contributions to the holistic care of veterans.

d. When Chaplain position descriptions are classified the classifier must correctly identify the competitive level to which the position is assigned. Positions which carry responsibility for providing for the complete religious needs of patients of a specific faith group are not to be in the same competitive level with positions that provide for the needs of a different group. (see Title 5 Code of Federal Regulations [CFR] 351.403; VA Handbook 5005, Part IV Chapter 2, Section C; VA Competitive Level Code Handbook, online at: http://vaww1.va.gov/ohrm/Classification/Archives/CLC_Handbook/CLCHandbook.htm)

5. INTEGRATING SPIRITUAL AND PASTORAL CARE IN VA HEALTH CARE

a. VHA recognizes that spiritual and pastoral care must be integrated into the total program of health care provided to veterans and made available to all patients and, in limited circumstances, to their immediate family members (caregivers) who desire such care. The Veterans Integrated Service Network (VISN) Directors and facility Directors are responsible for making available spiritual and pastoral care and counseling to patients. VA chaplains are the professional health care providers on the interdisciplinary teams that are qualified, employed, and endorsed by their faith group endorsers to provide spiritual and pastoral care. VA Chaplains implement the Spiritual and Pastoral Care Program on behalf of the VISN and facility Directors throughout VHA.

b. Voluntariness demonstrated by the patient's desires or requests lies at the heart of each and every aspect of VA's Chaplaincy Program. VA chaplains do not incorporate religious content into either their pastoral care or spiritual counseling unless that is the patient's wish. VA chaplains provide spiritual and pastoral care to both religious and non-religious patients, but only if patients desire such services. The choice to receive such care remains the private choice of the patient.

c. All VHA staff need be sensitive to patients' desires, if any, for spiritual support. VHA interdisciplinary team members provide essential information to clinical chaplains, who provide spiritual care to patients in promotion of health and wellness; however, clinical chaplains are the only health care professionals authorized to conduct official Spiritual Assessments at any VHA facilities.

6. RESPONSIBILITIES OF THE FACILITY DIRECTOR

The facility Director is responsible for ensuring:

a. Facility staff, volunteers, contract personal, fee-basis staff, and without compensation (WOC) employees, do not coerce any patient into religious activity against the patient's desires.

b. The Spiritual Screening Question and Spiritual Assessments are used appropriately (see par. 7).

c. That no chaplain is assigned tasks that may require them to render judgment on the guilt, innocence, or character of an employee or patient. Such duties include, but are not limited to: narcotics inspections, Equal Employment Opportunity (EEO) investigations, and investigations of employee conduct.

d. All new chaplains, including part time, intermittent, fee basis, and contract chaplains complete the Chaplain Orientation Course presented by the NCC Training Center, no later than 90 days from their initial starting date.

(1) The Orientation Course for new chaplains covers the basics all chaplains need to know about VHA regulations, Chaplain Service policies, and appreciation of diversity and pluralism.

(2) Special emphasis is placed on VHA policy prohibiting proselytization and chaplains' responsibility for safeguarding patients' rights.

e. If chaplains are assigned to service or product lines, coordination and continuity of the Spiritual and Pastoral Care Program must be ensured.

f. If the organization does not have a supervisory chaplain, there must be careful, explicit delegation of authority and responsibilities for duties, such as:

(1) Scheduling use of the chapel or worship space;

(2) Contacting community clergy when necessary to meet a specific patient need;

(3) Scheduling on-call coverage;

(4) Coordinating professional Chaplaincy input into facility decisions and policy-making;

(5) Providing expertise on committees such as health care ethics committees; and

(6) Orienting and training staff, students, and volunteers in the Spiritual and Pastoral Care Program.

g. That no information regarding spiritual and pastoral care is to be posted on any Intranet web site without the prior approval of the Director, NCC (see subpar. 25a).

h. Where no chapel exists, but where a room or hall allocated for other purposes is used for religious or spiritual services, every effort is to be made to have this room furnished to provide an atmosphere conducive to the services; and for providing assistance to the chaplains in the rearrangement of this room for services and returning it to its general function afterwards.

7. SPIRITUAL SCREENING AND ASSESSMENT

a. **Spiritual Screening Question.** The facility Director is responsible for ensuring the following spiritual screening question is utilized as a Spiritual Screening Question in the

Computerized Patient Record System (CPRS) Screening Record as part of the patient admission process in compliance with TJC Accreditation Standards:

*"Are there religious practices or spiritual concerns you want the chaplain, your physician, and other health care team members to immediately know about?
Yes or No"*

(1) A "yes" answer will trigger an electronic referral in the CPRS to the chaplain service. The use of all other spiritual screening instruments currently being used as part of the patient admission process is to be discontinued.

(2) A "no" answer allows for routine visitation and follow-up as desired by the patient.

b. **Spiritual Assessments and Spiritual Assessment Instruments.** Only NCC-approved spiritual assessment instruments or procedures are to be used. TJC makes the following statement and gives the following examples of elements that could be, but are not required, in a spiritual assessment directed to the patient or the patient's family:

(1) Spiritual assessment should, at a minimum, determine the patient's denomination, beliefs, and what spiritual practices are important to the patient. This information would assist in determining the impact of spirituality, if any, on the care and services being provided and identifies if any further assessment is needed.

(2) The TJC elements are:

- (a) Who or what provides the patient with strength and hope?
- (b) Does the patient use prayer in the patient's life?
- (c) How does the patient express the patient's spirituality?
- (d) How would the patient describe the patient's philosophy of life?
- (e) What type of spiritual or religious support does the patient desire?
- (f) What is the name of the patient's clergy, minister, chaplain, pastor, priest, rabbi, imam, or traditional practitioner, if any?
- (g) What does suffering mean to the patient?
- (h) What does dying mean to the patient?
- (i) What are the patient's spiritual goals?
- (j) Is there a role of church or synagogue (religious worship) in the patient's life?
- (k) How does faith help the patient cope with illness?
- (l) How does the patient keep going day after day?

(m) What helps the patient get through this health care experience?

(n) How has illness affected the patient and the patient's family?

(3) Although there is no single standardized spiritual assessment instrument required for use throughout VHA, each VHA facility chaplain needs to establish an official spiritual assessment instrument or procedure for patient care. The chaplain may administer the instrument or procedure by documenting the patient's responses to a template of formalized questions or, alternatively, by engaging in and documenting responses to a pastoral conversation that identifies the patient's religious or spiritual concerns.

8. RESPONSIBILITIES OF THE CHIEF CHAPLAIN

The Chief, Chaplain Service, or designee, is responsible for:

a. Planning, developing, and directing a program of spiritual and pastoral care and counseling consistent with the overall mission of health care delivery in VHA.

b. Conducting a periodic (quarterly or annual) evaluation of the spiritual and pastoral care needs of the ever-changing veteran patient population served by the facility. *NOTE: VA Handbook 6310.2, Collection of Information Procedures, should be consulted prior to conducting a survey.*

c. Developing a program of spiritual and pastoral care based on the periodic survey, which must include a plan for offering spiritual assessment, providing care, and evaluating the effectiveness of the care provided. *NOTE: This process of continuous quality improvement of the Spiritual and Pastoral Care Program ensures that veterans' health care incorporates spiritual and pastoral care for those who desire it.*

d. Ensuring chaplains participate in new employee orientation and, as appropriate, in inter-professional education and training.

e. Ensuring the annual report regarding the facility's Spiritual and Pastoral Care Program is prepared and forwarded to the NCC.

f. Ensuring the spiritual assessment instrument or procedure is approved.

(1) Each Chaplain Service is required to submit the spiritual assessment instrument or procedure, desired for use at the facility, for concurrence to their facility Director and then forward it to the NCC for review and approval. Only NCC-approved spiritual assessment instruments or procedures are to be used.

(2) When an approved spiritual assessment instrument or procedure is used, the veteran patient's permission must be obtained prior to the assessment being administered.

(3) The chaplain is responsible for documenting the patient's consent, the spiritual assessment, and the care plan in the patient's electronic health record.

g. Ensuring appropriate documentation is maintained.

(1) Chaplains must follow the guidance of the Decision Support System (DSS) Office and the VISN offices regarding workload documentation. Specific Event Capture Codes have been developed for documenting the Chaplain's spiritual and pastoral care activities.

(2) Chaplains must record spiritual care information, including patient needs and preferences in the computerized patient medical record. *NOTE: This is essential to the interdisciplinary team for patient care.* Communication covered under the religious sacrament of confession must never be recorded in a medical record.

(3) Facility policy regarding the specific format for recording progress notes must be followed.

(4) Documentation of spiritual assessments is required in Extended Care, Long-term Care, Spinal Cord Injury, Hospice and Palliative Care, Medical-Surgical Care, and in Mental Health Care. These are as follows:

(a) Spinal Cord Injury and Extended Care Units within the first 14 days of admission with reassessment every 90 days.

(b) Seriously Ill, Intensive Care, Hospice, and Palliative Care within the first 24 hours with reassessment every 14 days.

(c) In the area of Behavioral Health:

1. Acute and Sub-acute Mental Health within the first 48 hours of admission with reassessment every 14 days

2. Residential care within the first 7 days of admission with reassessment every 28 days.

(d) General Medicine, Surgery, and Outpatient, as needed, based upon the patient's initial response to the spiritual screening question regarding immediate spiritual care needs.

h. Establishing a procedure at the facility to identify and orient visiting clergy. *NOTE: This enables the chaplain staff to provide assistance with directions, personal safety, distribution of literature, and other pertinent concerns.*

i. Ensuring the chaplain position descriptions indicate the major faith group (if any) to which the chaplain provides complete ministry. *NOTE: Chaplain positions must be assigned to competitive levels in accordance with Title 5 Code of Federal Regulations [CFR] 351.403; VA Handbook 5005, Part IV Chapter 2, Section C; VA Competitive Level Code Handbook, online at: http://vaww1.va.gov/ohrm/Classification/Archives/CLC_Handbook/CLCHandbook.htm*

- j. Training and supervising of volunteers assigned by the facility Voluntary Service (see par. 16).
- k. Providing the NCC with current accurate facility data necessary to maintain the NCC database.
- l. Arranging for the comfort of patients in the chapel, or facility's place of worship.

9. RELATIONSHIPS WITH THE NATIONAL CEMETERY ADMINISTRATION (NCA) AND THE VETERANS BENEFITS ADMINISTRATION (VBA)

Health care facility managers are responsible for:

- a. Establishing methods to inform veterans and their families who are served at NCA and VBA locations that VA medical care includes spiritual and pastoral care provided by clinical chaplains who are trained and employed to address patients' spiritual and pastoral needs.
- b. Ensuring that Chaplain Service at each VA health care facility maintains close, continuing relationships with NCA and VBA officials who are responsible for serving veterans in the catchment area conveying awareness of the services provided by chaplains.

***NOTE:** Spiritual and pastoral care provided as part of VHA medical care may be of value to many veterans who seek benefits from VBA and families seeking benefits from NCA. VBA and NCA beneficiaries interested in receiving such care should be referred to VHA for needed care.*

10. FUNERAL AND COMMITTAL SERVICES

- a. VA chaplains may perform funeral or committal services for VA beneficiaries who died while receiving VA care, subject to the availability of chaplains for adequate spiritual care coverage in the facility. When interment is made in a National Cemetery, unless arrangement has been made by the next-of-kin for another clergy person, the chaplain may conduct a committal service. Facility Directors must be notified when a chaplain is performing committal services at a National Cemetery for a deceased veteran who was not receiving VA care at the moment of death. VA chaplains will not displace community clergy at funeral or committal services, but are to coordinate arrangements for the use of facility chapel(s).
- b. Funerals at VHA facilities are permitted only with the approval of the facility Director. VA chaplains may conduct interment services in a National Cemetery. ***NOTE:** United States casket flags are to be folded and presented according to military procedure.*

11. SCOPE OF PRACTICE

Each VA chaplain must work under a written Scope of Practice, which describes pastoral, clinical, and administrative functions the individual can provide by virtue of the individual's professional qualifications. The minimum Scope of Practice reflects the professional education, training, and experience required for employment as a VA chaplain. Each chaplain is responsible for continuing to meet the requirements as established by certification, and other

relevant professional and ethical requirements as specifically applied to chaplains within the VA health care system.

12. STAFFING

a. VA health care facilities must provide adequate staffing to identify and meet the spiritual and pastoral care needs and desires of veterans. Each medical center Director must ensure that:

(1) Clinical chaplains are utilized to plan and oversee the Spiritual and Pastoral Care Program. The Spiritual and Pastoral Care Program includes:

(a) Interconnected responsibilities for planning and overseeing spiritual and pastoral care, typically in a variety of service lines or clinical specialties;

(b) Integrating the program with other disciplines;

(c) Training and orienting interdisciplinary staff; and

(d) Liaison with community organizations.

(2) The total human resources needed to provide high-quality spiritual and pastoral care must be determined based on the following considerations:

(a) The Scope of Practice statements, which clearly define the depth and complexity of a chaplain's involvement with patient care in each clinical setting.

(b) Spiritual assessment and re-assessment, as required by TJC Accreditation Standards for specific clinical settings and patients' requests, are available for all patients.

(c) Spiritual and pastoral care must be available for all patients who desire it including, but not limited to those in nursing homes, domiciliaries, outpatient clinics, vet centers, transitional residences, and hospital-based home care.

(d) Spiritual and pastoral care is available to veterans with specialized health care needs who have unique spiritual needs that require care from clinical chaplains with specialized competencies. For example, patients with post-traumatic stress syndrome may have unique spiritual injuries, as may veterans who have experienced sexual trauma.

(e) Chaplain coverage must be 24 hours-per-day, 7 days-per-week to ensure a chaplain is always available to respond to emergencies.

(f) Utilization of chaplains' expertise to support medical center-wide programs and committees, such as health care ethics, employee assistance, and mediation or alternative dispute resolution.

(g) The amount of travel time between sites of care, the patient turnover rate, and the proximity and activity of a national cemetery.

(h) Orientation of new employees and volunteers.

(3) At least one full-time clinical chaplain is employed to ensure that the preceding responsibilities are assigned and implemented.

(4) Students supplement, but do not perform independently of, or are substituted for, qualified employed chaplains.

b. Educational programs require qualified educational personnel in addition to patient care staff (see par.17). A facility with an accredited Clinical Pastoral Education (CPE) Program must have, in addition to a certified CPE supervisor, a chaplain responsible for the ongoing Spiritual and Pastoral Care Program.

c. Guidelines concerning American Indian and Alaska Native Traditional Practitioners are given in Appendix N to the VHA-Indian Health Service (IHS) Collaboration and Sharing Implementation Guide, which can be found at:

www.ihs.gov/nonmedicalprograms/ihsvha/documents/implementation%20guide.pdf.

13. DIVERSITY

The representation of faith groups in the population of veterans served must be evaluated to determine the appropriate proportion of faith groups in chaplaincy. Although it is impossible for a facility to employ a chaplain of every faith group represented in its patient population, every facility must strive to achieve a workforce representative of the diversity of veterans served. This includes integrating American Indian and Alaska Native spirituality into VHA chaplaincy provision of care (see subpar. 12c).

14. RESPONSIBILITIES OF THE CHAPLAIN

a. Full-time chaplains are not allowed to accept commitments outside of the facility that conflict with their responsibility to provide spiritual and pastoral care duties within the facility.

b. Chaplain responsibilities must not include duties that conflict with their role of pastoral caregiver.

c. Chaplains may conduct inquiries of chaplain-related activities or incidents, may serve as mediators, may serve on EEO and other local and national committees, and may serve as liaisons with VA stakeholders.

d. Chaplains are responsible for:

(1) Upholding the right to free exercise of religion by all medical, domiciliary, and nursing home patients in the health care facility. This includes providing or facilitating appropriate worship opportunities.

(2) Ensuring that religion is not imposed on any patient either overtly or subtly.

(3) Assessing a patient's desire or lack of desire for spiritual and pastoral care as part of the total evaluation of their health care needs.

(4) Visiting seriously ill and pre- and post-operative patients according to the patient's individualized treatment plan.

(5) Being available to meet with immediate relatives and visitors of patients during regular and emergency visits.

(6) Counseling, as appropriate, members of a veteran's immediate family, a veteran's legal guardian, or the individual in whose household the veteran lives or certifies an intention to live, if:

(a) The counseling is essential to the treatment and rehabilitation of a hospitalized veteran or the outpatient treatment of a veteran's service connected disability;

(b) The counseling was initiated during a veteran's hospitalization and its continuation on an outpatient basis is essential to permit the veteran's discharge from the hospital; or

(c) The counseling was being provided at the time of a veteran's unexpected death or a veteran's death while the veteran was participating in VA hospice or similar program and its continuation is provided, as determined by the chaplain, to be reasonable and necessary to assist the individual with the emotional and psychological stress accompanying the veteran's death.

15. VISITING CLERGY

At each facility, the overall responsibility for spiritual and pastoral care rests with the assigned chaplain. However, as a matter of respect and courtesy, arrangements need to be made, with the patient's consent, to allow community clergy to visit members of their church (or parish, congregation, synagogue, temple, mosque, etc.). A facility chaplain must obtain and document the patient's permission before contacting community clergy on the patient's behalf (see VHA Directive 1605 and VHA Handbooks 1605.1 and 1605.2).

a. When no chaplain staff member represents the specific faith group of a patient, with the patient's consent, every effort must be made to canvass the community or draw from organized resources to provide the appropriate clergy, or traditional practitioner, to meet the patient's specific requests or needs. Attention must be given to ensure the community clergy or traditional practitioner has the appropriate credentials of the religious faith community to provide the religious service desired by the patient.

b. Under no circumstances may community clergy be used in lieu of an employed chaplain. All visiting clergy are required to comply with the policies of the facility and by the provisions of this Handbook.

c. Visiting clergy must be informed that patient information must be kept confidential in accordance with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable statutes and policies.

16. VOLUNTEERS

VHA does not authorize “volunteer chaplains” or any volunteer to provide spiritual and pastoral care and counseling activities. Volunteers assist and augment the chaplain staff, but they do not replace them.

a. Volunteers who work on behalf of Chaplain Service must be registered and oriented by the facility’s Voluntary Service. Each volunteer must be screened and trained by the chaplain staff to ensure patients are protected from proselytization. These volunteers must perform their assigned duties in accordance with VHA Handbook 1620.1.

b. Roman Catholic Extraordinary Ministers of Holy Communion, commonly referred to as Eucharistic Ministers, may only perform the duties for which they are commissioned by the Roman Catholic Archdiocese for the Military Services. They may distribute communion to Roman Catholic patients under the supervision of a Roman Catholic VA Chaplain. Roman Catholic Extraordinary Ministers of Holy Communion may not begin work until the NCC verifies that it has received the proper commissioning documents.

17. CONTRACT AND FEE-BASIS PERSONNEL

a. Chaplains may work on a fee-basis appointment or under contract to supplement the full-time and part-time employed chaplain(s) when it is not feasible to obtain the needed services by employment of permanent full-time and part-time staff. When regular on-going participation in patient care is required, fee-basis or contract personnel are not to be used.

b. Before a fee-basis or contract chaplain may perform any work, the fee-basis or contract chaplain's application must be submitted to the facility Director, or designee, who submits it to NCC for verification that such chaplain meets minimum qualification requirements. Extensions of appointments or contracts of previously verified individuals may be approved by the medical center Director, or designee.

c. Fee-basis and contract personnel are appropriate when the work to be performed can be clearly defined as a service that is not compensated on the basis of time and is otherwise not appropriate for full-time or part-time employees. Examples of appropriate (but not required) utilization include:

(1) Providing for on-call coverage;

(2) Covering specific religious needs of patients when a staff chaplain is not available; and

(3) Providing support services, such as: playing music at worship services, leading religious ceremonies or providing sacraments for patients of a specific faith group.

c. A VA-employed chaplain must supervise the work of all fee-basis chaplains, and must monitor the work of all contract chaplains to ensure that professional standards of care are maintained.

d. Native American Traditional Practitioners may work under contract or on a fee-basis to provide spiritual services to patients who request them (see subpar. 12c). Again, application and other credentials must be sent to NCC for verification before making a fee-basis appointment or finalizing a contract.

e. Roman Catholic Deacons may only perform the duties that they are authorized under the faculties given by the Roman Catholic Archdiocese for the Military Services. They are supervised ecclesiastically by the Roman Catholic VA Chaplain. Again, application and other credentials must be sent to NCC for verification before making a fee-basis appointment or finalizing a contract.

f. Roman Catholic Extraordinary Ministers of Holy Communion may serve as chapel volunteers or as contract or fee-basis personnel (see subpar. 17b).

18. USE OF STUDENTS OR TRAINEES

Trainees may supplement the employed staff, but they may not perform independently of, and may not be substituted for, fully-qualified employed chaplains.

a. Trainees (e.g., students or CPE residents) may be assigned to Chaplain Service to further their clinical education and to gain experience in a health care setting, providing they are enrolled in a program accredited by an organization recognized by the United States Department of Education. The trainee must be supervised by an assigned chaplain qualified to assist with the trainee's specialized educational needs, such as health care ethics or another clinical area related to chaplaincy and in accordance with TJC Accreditation Standards.

b. Trainees in CPE programs may provide supervised pastoral care including providing call-back coverage.

c. Trainees may be appointed as either paid or without compensation (WOC) staff. *NOTE: Paid trainees will be based upon the availability of training funds.*

19. CHAPLAIN SERVICE AND ETHICS

a. Chaplains must comply with all standards of ethical conduct for employees of the executive branch; they are not to accept personal gifts or gratuities where such acceptance would violate the Standards of Ethical Conduct for Employees of the Executive Branch (see Title 5 CFR Part 2635). Additional information about the Federal employee standards of conduct may be obtained from the Regional Counsel or the Ethics Staff in the Office of General Counsel, VA Central Office. For example, Federal employees generally may not:

(1) Become personally involved in the business affairs of a patient or ex-patient.

(2) Have custody of the funds of any patient or ex-patient. Chaplains are not to take custody of, or maintain patients' funds.

(3) Become the guardian of any patient or ex-patient or be the conservator of the estate of any patient or ex-patient unless the employee and the patient or ex-patient had a personal relationship that pre-dated their VA contact.

b. Chaplain Service is qualified to offer leadership and guidance to patients and VHA staff regarding health care decisions having ethical implications; therefore, each chaplain needs to stay abreast of health care ethics issues and be familiar with:

(1) Both religious and secular resources, such as those from the facility's local ethics advisory committee and VHA's National Center for Ethics in Health Care.

(2) VHA health care ethics policies, e.g., informed consent, advance directives, end of life care, etc.

(3) The laws, religious beliefs, and practices relative to the types of ethical questions that arise in clinical settings.

c. Each chaplain must be prepared to discuss and give guidance to any staff member, patient, or patient's family requesting information regarding the relationship of ethical issues to their respective religious community's ethical and religious standards.

d. Chaplain Service aids and supports the professional staff in making ethical decisions; when requested, helps formulate and implement standards and criteria; and educates staff in making such decisions in a systematic and consistent manner.

***NOTE:** The Endorsers Conference for Veterans Affairs Chaplaincy (ECVAC) has written the "Covenant and Code of Ethics for Veterans Affairs Chaplains." The "Covenant and Code of Ethics for Veterans Affairs Chaplains" addresses specific ethical issues pertinent to pastoral care in VA, and it promotes pluralistic pastoral care in VA facilities. A copy is provided to each new chaplain.*

20. CHAPELS AND OTHER WORSHIP FACILITIES

The chapel, or a room set aside exclusively for use as a chapel, must be reserved for patients' religious and spiritual activities, such as: worship, prayer, meditation, and quiet contemplation. Such chapels are appointed and maintained as places for meditation and worship, and when VA Chaplains are not providing or facilitating a religious service for a particular faith group, the chapel must be maintained as religiously neutral, reflecting no particular faith tradition. The only exception to the policy on maintaining chapels as religiously neutral are the chapels at VA facilities which were built with permanent religious symbols in the walls or windows before the establishment of the Veterans Administration Chaplain Service in 1945. Only these chapels and those permanent religious symbols that pre-date the Chaplain Service are allowed to remain because of their historical, artistic, and architectural significance. In these cases, the VA Medical Center Director must also designate a room or construct an all faith chapel, which is maintained in accordance with current VHA policy.

a. At the conclusion of a religious worship service, the chaplain, or designee, must prepare the chapel for the succeeding service, if one follows immediately. Otherwise, the chapel is to be arranged for private use by patients, and all sectarian symbols must be removed or covered from view.

b. The construction of a chapel for the exclusive use of a particular religious or spiritual group is prohibited. No permanent (non-moveable) religious symbols are to be incorporated in the construction or renovation of chapels. The design of new chapels and alteration of existing chapel space must be approved in advance by the Director, Chaplain Service, NCC. Existing chapel space is not to be altered without approval of the Director, Chaplain Service at the NCC.

c. When patients' religious needs can not be appropriately met in the chapel, the facility Director may designate, on an as-needed-basis, a small room or space in which to accommodate sacramental or liturgical religious practices; however, this room is not to be identified as a VA Chapel.

d. All spaces to be used for religious or spiritual purposes must be fully accessible to persons with disabilities.

e. The use of candles, lights, draperies, etc., must be in accordance with local safety policies.

21. OFFICES

Office space for chaplains that ensures privacy in counseling patients, families, and staff must be provided (see VA Handbook 7610, Ch. 208).

22. FUNDS

a. **Appropriated Funds.** Each VA facility is responsible for providing appropriated funds for the support of the Spiritual and Pastoral Care Programs.

b. **General Post Funds.** General Post Funds exist, both at the national and local levels, for support of patient care programs. An annual allocation may be distributed to each facility from the national General Post Fund for the benefit of VA patients. Chaplain Service, Voluntary Service, and Recreation Service are authorized to use these funds. Local gifts may also be designated by the contributor for support of a particular spiritual and pastoral care function. General Post Funds may be used to purchase items, such as:

(1) Expendable items for distribution to patients who request it, such as: religious literature, copies of the Scriptures, missals, mass leaflets, prayer books, yarmulkes (skull caps), taleysim (prayer shawls), and other religious articles.

(2) Non-expendable items of equipment that are not normally equipment purchased by other VA funds.

(3) Honoraria for clergy, or musicians who provide services on a non-recurring basis. Payment for such services must be made in accordance with VA contracting policies and procedures.

c. **Donations to the General Post Fund.** VHA Directive 4721 sets forth the policies and procedures for accepting, handling, and using donations to the General Post Fund. It states that:

(1) VA Chief chaplains are authorized to accept gifts and donations on behalf of VA:

(a) For the benefit of the religious and spiritual needs of the patients at their facility and

(b) To support all Chaplain Service activities at their facility.

(2) The authority to accept gifts may not be re-delegated by the Chief, Chaplain Service. At VHA facilities that do not have a Chief, Chaplain Service, the facility Director may delegate this authority to the lead or coordinating chaplain.

(3) Chaplains receiving gifts and donations of funds must turn such funds over to the agent cashier as soon as practical for deposit into the General Post Fund.

(a) Chaplains are to instruct the agent cashier for what purpose, if any, the donor intended the funds to be used. Donors may designate that funds be used for patients of a particular faith group. Unless a donor specifically designates the purpose of the gifts and donations, gifts and donations received by chaplains are to be earmarked for support of the activities of the facility's Chaplain Service.

(b) Individuals or groups may make donations to the General Post Fund for the religious needs of VA patients. Funds donated to the General Post Fund for specific use by a particular faith group are to be earmarked as such within the General Post Fund and made available for that faith group's use when requested.

(4) Although it is not acceptable to solicit an offering by passing an offering plate during a religious service, a receptacle may be placed at an appropriate location in the chapel to permit visitors to contribute if they desire. Such funds must be collected immediately after each service, an account made of the collected funds, the funds secured, and deposited on the next working day into a General Post Fund account identified for pastoral and spiritual care of patients.

(5) The facility's Chief, Chaplain Service, may authorize the withdrawal and expenditure of funds in the facility's General Post Fund earmarked for the religious needs of the patients to support Spiritual and Pastoral Care Program activities. At VHA facilities that do not have a Chief, Chaplain Service, the facility Director may delegate this authority to the lead or coordinating chaplain, who is responsible for maintaining appropriate records of expenditures.

(6) Equipment or articles which a VA chaplain procures with General Post Fund monies, except for such items distributed to patients for their personal use, are designated as VA property.

(7) Gifts and donations received for religious purposes are not to be used for the:

(a) Employment of personnel.

(b) Remuneration of clergy to cover chaplain responsibilities during regular off-duty hours of the employed chaplain.

(c) Personal or private use of any chaplain.

(8) General Post Funds may be used to purchase items to be blessed or consecrated for use in serving the religious needs of veteran patients of a particular faith group or denomination. These items will remain under the custody of the chaplain of the particular faith group or denomination for the purposes of appropriate use, and at the end of their useful life, for appropriate disposition.

23. SUPPLIES

VA is responsible for providing the equipment and supplies necessary to carry out the mission of the Chaplain Service, except for:

a. Religious articles to be used in the Chaplain Service which must be blessed, sanctified, or consecrated according to the regulations of the chaplain's religious faith group, cannot be purchased from appropriated funds except as provided in subparagraph 22c(8).

b. Vestments and ritual garments used by a chaplain. If purchased by the chaplain from personal funds, they remain the chaplain's property.

(1) If vestments and ritual garments used by a chaplain have been donated for the use of the Chaplain Service, and are not to be blessed, sanctified, or consecrated according to the practice of a particular faith group, they are property of VA.

(2) Choir robes may be purchased from appropriated funds and remain the property of VA.

24. ARTICLES ON LOAN FROM AN ECCLESIASTICAL ENDORSING ORGANIZATION

a. All articles used in the Chaplain Service which are on loan from an ecclesiastical endorsing organization are to be listed on a memorandum and forwarded to the Acquisition and Materiel Management Officer.

b. When the chaplain who is the responsible custodian of articles on loan from an ecclesiastical endorsing organization is transferred or separated from service, the Acquisition and Materiel Management Officer is to inventory these articles and provide for their proper security until a new chaplain is assigned responsible custody.

25. INFORMATION RESOURCES MANAGEMENT

a. Information regarding spiritual and pastoral care may be posted on VISN and facility Intranet websites only after it has been reviewed and approved by the NCC staff. VISN and medical centers are not to post information regarding spiritual and pastoral care on their Internet web sites.

b. Chaplains and support staff must be provided with access to the Veterans Health Information System and Technology Architecture (VistA) and the Outlook/Exchange Server in order to:

- (1) Input and retrieve accurate patient care data;
- (2) Facilitate timely responses to local and national reports;
- (3) Participate in continuing education, distance learning, and quality improvement initiatives; and
- (4) Keep abreast of current spiritual and pastoral care standards of accrediting organizations (i.e., TJC, Coalition on Ministry in Specialized Settings (COMISS) Network Commission for the Accreditation of Pastoral Services (CCAPS), Commission on the Accreditation of Rehabilitation Facilities (CARF), Association for Clinical Pastoral Education (ACPE), etc.).

c. Chaplains, their support staff, volunteers, and others will only use veteran or patient information in accordance with VHA Handbook 1605.1, and will only access the minimum amount of information necessary to perform their duties in accordance with VHA Handbook 1605.2.

26. RELIGIOUS LITERATURE

Religious literature may be purchased to benefit the spiritual health of patients.

- a. Various religious denominations offer literature free of charge. The chaplains are responsible for reviewing all donated or purchased religious literature and determining its appropriate distribution.
- b. Upon a patient's request, a chaplain may provide literature that describes a particular religious or denominational viewpoint.
- c. Material must not be distributed that may interfere with patient care, for example: material intended to proselytize, or material that makes offensive or defamatory references to race, gender, or a religious faith group.

27. RESPONSIBILITIES OF THE DIRECTOR, CHAPLAIN SERVICE, NCC

The Director, Chaplain Service is responsible for:

- a. Developing and implementing policy to:
 - (1) Ensure that spiritual and pastoral care is made available to all veterans who desire or request such care.
 - (2) Plan, develop, and direct a Spiritual and Pastoral Care Program consistent with the overall mission of health care delivery in VHA.

(3) Ensure the Spiritual and Pastoral Care Program is integrated into VHA's total care and treatment program of patients who desire or request such care.

(4) Organize, analyze, and improve programs that reflect the distinctive and contributory role of spiritual and pastoral care within VHA.

b. Ensuring the NCC conducts site visits at every VHA medical center and other care facilities at least once every 3 years to ensure compliance with VHA policy regarding the provision of spiritual and pastoral care. Funding is to come from Patient Care Services.

c. Approving, in accordance with Federal regulations and VA policies requests for:

(1) Selective or quality rating factors for examining applicants, and

(2) Passing over or objecting to applicants on certificates.

d. Establishing an affirmative action plan; conducting recruitment efforts to develop diverse applicant pools; and monitoring the representation of underrepresented groups in the VA Chaplaincy Program, increasing their representation where necessary.

e. Ensuring all educational programs for Pastoral Counseling are:

(1) Accredited through the American Association of Pastoral Counselors or the American Association for Marriage and Family Therapy.

(2) Kept current with the accreditation standards for the respective professional training.

f. Issuing Board of Excepted Service Examiners (BESE) certificates (see subpar. 28d).

28. RESPONSIBILITIES OF THE NATIONAL CHAPLAIN CENTER (NCC)

a. **Field Support.** The NCC empowers VHA Chaplains to achieve excellence in meeting the spiritual health needs of veterans receiving health care by:

(1) Facilitating employment of a diverse and quality chaplain workforce.

(2) Providing education and training to chaplains and other providers.

(3) Maintaining liaison with VA Central Office, the Department of Defense (DOD), VISN and VA medical center Directors, Employee Education Service (EES), endorsing organizations, veterans service organizations, and religious communities.

(4) Supporting local chaplain services by:

(a) Developing policies;

(b) Providing guidance regarding standards and criteria;

- (c) Developing management competence;
 - (d) Networking;
 - (e) Promoting, in accordance with VHA policy and the Office of Research and Development, clinical research and communicating relevant research findings to the field; and
 - (f) Providing professional career development opportunities, including mentoring and succession programs.
- (5) Providing the spiritual dimensions of specialized programs, such as:
- (a) Conflict resolution and mediation,
 - (b) Wellness,
 - (c) Suicide prevention,
 - (d) Health care ethics, and
 - (e) Patients rights.
- (6) Providing consultation to the Patient Care Services Officer regarding all spiritual and pastoral needs of patients, families, staff, VISNs, and facilities.
- (7) Supporting field station chaplains, field administrators, and managers. This support is demonstrated by the following functions:
- (a) Facilitation of communication between VA chaplains for the purpose of sharing ideas and opportunities for ministry that enhance the field of spiritual and pastoral care.
 - (b) Provision of a BESE to rate and rank all applicants for chaplain vacancies in VHA facilities in a timely fashion.
 - (c) Dissemination of information to chaplains regarding trends and changes within VHA that may affect their ministry.
 - (d) Guidance on programmatic pastoral care issues and resources related to spiritual care for patients and immediate families.
 - (e) Assignment of an Associate Director of Chaplain Service to work with each of the networks and each facility to coordinate needs and conduct site visits.
 - (f) Consultation with network directors to identify field chaplains from each network to serve on the NCC's Field Leadership Council.

(g) Provision of training opportunities to enhance the knowledge and clinical skills of chaplains. Training opportunities include both on-site and distance learning models.

(h) Guidance regarding documentation of workload and clinical encounters.

(i) Maintenance of the NCC web sites.

(j) Identify, recognize, and promote excellence in chaplains and chaplain programs (contact NCC for further information).

(k) Review and approval of information regarding spiritual and pastoral care prior to a VISN or facility posting such information on their web sites (see subpar. 25a).

b. **Spiritual Health Care Education.** The NCC provides a program of spiritual health care education for chaplains and interdisciplinary health care providers.

(1) These educational programs are designed to:

(a) Promote awareness of the role of religion and spirituality in the personal lives and cultural expression of many veterans; they are resources for coping with illness and suffering, influencing the promotion of health and the prevention of disease.

(b) Promote appreciation of diversity and pluralism among chaplains and the VA workforce.

(c) Educate VHA professionals about TJC, CCAPS, and CARF Standards for Spiritual Care, and the role of the Chaplain on the interdisciplinary health care teams.

(2) The goal of the Spiritual Health Care Education Program is to provide a comprehensive program of spiritual health care education including, but not limited to:

(a) Information regarding health care research in spirituality and religion,

(b) Spiritual care standards,

(c) Ethical decision making in health care,

(d) Mediation and conflict resolution,

(e) Accrediting organization standards,

(f) Pastoral care and counseling for specialized patient populations, and

(g) Alternative Dispute Resolution (ADR).

c. **Orientation and Career Development Classes.** The NCC provides training for newly-employed chaplains and newly-appointed and aspiring Chiefs of Chaplain Service or the health care professionals responsible for supervision of the Spiritual and Pastoral Care Program at VHA facilities.

d. **Recruitment and Examining.** The NCC BESE has sole responsibility for examining and certifying applicants for permanent employment as VA chaplains, in accordance with applicable Human Resources policies (see VA Handbook 5005, Pt. II, Ch. 2).

(1) All selections for permanent appointment as a VA chaplain are made from certificates issued by the BESE.

(2) Based on anticipated staffing needs and administrative efficiency, BESE may elect to issue open, continuous announcements for chaplain positions of various grades or faith groups.

(3) Time-limited and temporary appointments of chaplains may be made by the facility Director without BESE announcement and evaluation of the applicants.

(a) Each individual selected for a time-limited or temporary appointment must be verified as meeting minimum qualification requirements by the BESE prior to appointment. The medical center Director, or designee may approve extensions of previously verified individuals.

(b) Time-limited and temporary appointments are only to be made to accomplish work that is for a project or of a time-limited nature. The principles of veterans preference must be followed to the extent administratively feasible.

(4) Individuals who have completed a 1-year (2080 hours) CPE Program in a VA health care facility and who meet all other VA qualification requirements for chaplain are eligible for appointment without numerical rating and ranking under the authority provided by Title 38 United States Code (U.S.C.) 7403(g) and 5 CFR 213.3102 (a). Veterans preference is applied in accordance with Federal regulations.

NOTE: The BESE is responsible for accepting applications from students, verification of the student's qualifications, and the referral of qualified candidates to VA health care facilities.

e. **Liaison With Religious, Professional, and Veterans Service Organizations (VSOs), and Other Stakeholders.** The NCC maintains contacts with ecclesiastical endorsers, professional certifying organizations, and VSOs. *NOTE: The NCC and VHA chaplains are encouraged to foster positive relationships with all VSOs, coordinating VA chaplain activities with VSOs, as appropriate.*

(1) The non-VA organizations and stakeholders with which NCC maintains liaison include, but are not limited to:

(a) Endorsers Conference for Veterans Affairs Chaplaincy (ECVAC),

(b) Military Chaplains Association (MCA),

(c) Armed Forces Chaplains Board (AFCB),

(d) Association of Professional Chaplains (APC),

- (e) Association for Clinical Pastoral Education (ACPE),
- (f) American Association of Pastoral Counselors (AAPC),
- (g) National Association of Jewish Chaplains (NAJC),
- (h) National Association of Catholic Chaplains (NACC),
- (i) American Indian and Alaska Native Tribes,
- (j) College of Pastoral Supervision and Psychotherapy (CPSP), and
- (k) The Spiritual Care Collaborative.

(2) The NCC maintains liaison with professional groups of chaplains formed solely of VA chaplains, such as, but not limited to the:

- (a) National Association of VA Chaplains (NAVAC).
- (b) Department of Veterans Affairs National Black Chaplains Association (DVANBCA).
- (c) National Conference of VA Catholic Chaplains. (NCVACC).

29. CLINICAL PASTORAL EDUCATION (CPE)

CPE is multi-faith professional education for spiritual and pastoral care providers in health care settings. It is the specialized clinical training required by the Association for Professional Chaplains, the NACC, and the NAJC for clergy and chaplains to become Board Certified Chaplains.

a. CPE programs are established in VHA according to VHA Directive 1400 and VHA Handbook 1400.01 and the annual program announcements for trainee support in associated health professions. **NOTE:** *In VHA, CPE programs may be established at the facility level based upon administration determination of need.*

b. CPE in VHA does not favor any religion, or favor religion over non-religion, but seeks to promote appreciation of diversity and pluralism.

c. CPE residents who have completed a 1-year (2080 hours) CPE Program in a VA health care facility and who meet all other VA qualification requirements for chaplain are eligible for appointment without numerical rating and ranking under the authority provided by 38 U.S.C. 7403(g) and 5 CFR 213.3102(a), for 1 year following completion of their residency.

30. RESEARCH

Field facilities are encouraged to include spiritual and pastoral care as topics for research. Chaplains may serve on facility Research Committees.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**SCOTT RAINEY, VETERANS OF
FOREIGN WARS DISTRICT 4,
AMERICAN LEGION POST 586, THE
NATIONAL MEMORIAL LADIES,
LISA WARD, JAMES HAYCRAFT, and
GERALDINE LAKEY,**

Plaintiffs,

vs.

**UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS, ERIC
SHINSEKI, Secretary of Veterans Affairs,
in his official and individual capacities,
and ARLEEN OCASIO, Director of the
Houston National Cemetery, in her official
and individual capacities,**

Defendants.

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§ **Civil Action No. 4:11-cv-01992**
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§ **Jury Demanded**
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§

CONSENT DECREE

The parties, Scott Rainey, Veterans of Foreign Wars (“VFW”) District 4, the American Legion Post 586, the National Memorial Ladies (“Memorial Ladies”), Lisa Ward, James Haycraft, and Geraldine Lakey (collectively, “Plaintiffs”) and United States Department of Veterans Affairs (“VA”), Eric Shinseki, Secretary of Veterans Affairs, and Arleen Ocasio (collectively, “Defendants”) jointly announce to the Court that they have agreed to resolve all matters of dispute between them in this action and request entry of this agreed Consent Decree. By entering this Consent Decree, Defendants are not admitting any liability or fault on the part of the United States, its agents, servants, or employees. The Defendants specifically deny that they are liable to the Plaintiffs.

Defendants further assert that certain of the provisions of this Consent Decree are already the policy or practice of the Department. The parties stipulate that the Court has jurisdiction over them and the subject matter of this lawsuit and has the necessary authority to enter the Consent Decree requested herein. The Court shall retain jurisdiction over this action only for a period of fifteen (15) years. In the event the law or circumstances materially change, either party may petition the Court for a modification of this Consent Decree.

Plaintiffs hereby RELEASE, WAIVE, ACQUIT, and FOREVER DISCHARGE Defendants from, and are hereby FOREVER BARRED and PRECLUDED from prosecuting, any and all claims, causes of action, or requests for any injunctive and/or monetary relief, including, but not limited to, damages, costs, attorney's fees, expenses, and/or interest, whether presently known or unknown, that have been or could have been asserted in this case by reason of, with respect to, in connection with, or which arise out of, any matters alleged in the case that the Plaintiffs, or any of them, have against the Defendants, or any of them, save and except the obligations created by this Consent Decree.

NOW, THEREFORE, Plaintiffs and Defendants having requested the Court to enter this Consent Decree,

IT IS HEREBY ORDERED AND DECREED that, solely with regard to the Houston National Cemetery (also referred to hereinafter as the "Cemetery") and the Plaintiffs herein, unless stated otherwise, the Defendants shall:

1. At committal services, agree not to ban, regulate, or otherwise interfere with prayers, recitations, or words of religious expression absent family objection;

2. Allow veterans' families to hold committal services with any religious or secular context as they desire, subject to their compliance with VA security, safety, and law enforcement regulations;
3. Apply existing veteran preferences when hiring cemetery employees;
4. Upon final approval of this Consent Decree, immediately grant requests for decertification by all members of the VFW District 4 and the Memorial Ladies, individually, in regard to their work at the Houston National Cemetery, so that they are no longer VA "without compensation" employees who are part of VA Voluntary Services (VAVS) and, instead, are henceforth considered private citizens who may work independently with funeral homes to coordinate provision of volunteer services at committal services scheduled at the cemetery, upon request of the veterans' families; any decertified individual member may reapply for VAVS certification, however any denial of reapplication shall not be considered as a retaliatory act during the time this Consent Decree is in effect;
5. Allow members of the VFW District 4 and the Memorial Ladies, who become decertified pursuant to this Consent Decree, and members of the American Legion Post 586, who are not currently VAVS volunteers at the Cemetery, to remain certified through VAVS in regards to their volunteer work at VA hospitals, to the extent they so choose and are so certified;
6. Agree not to mandate that members of the VFW District 4 and the Memorial Ladies, who become decertified pursuant to this Consent Decree, and members of the American Legion Post 586, who are not currently VAVS

volunteers at the Cemetery, register with VAVS in order to volunteer at committal services at the request of veterans' families and at other activities as private citizens at the Houston National Cemetery;

7. Delete the second sentence of paragraph 3.k. of National Cemetery Administration (NCA) Directive 3170, and modify paragraph 1.b. of NCA Directive 3170 Appendix C by replacing language that requires special ceremonies and events at VA national ceremonies and speech at such ceremonies and events, including invocations and benedictions, to be "inclusive" and "nonderogatory" with language that will enable NCA to preserve the dignity and solemnity of VA national cemeteries as national shrines and to enforce VA regulations governing security, safety, and law enforcement, and delete paragraph 1.b.(6)(c) of NCA Directive 3170, Appendix D;
8. Agree not to edit, control, or exercise prior restraints on the content of private religious speech and expression by speakers at VA-sponsored or non-VA-sponsored special ceremonies or events at the Cemetery or by Plaintiffs at private committal services at the Cemetery, if requested by the veterans' families to participate in such services, and that Defendants will not condition participation in any such event on the content of religious speech, including prayer;
9. Agree not to condition a speaker's participation in a VA-sponsored or non-VA-sponsored special ceremony or event at the Cemetery on abstaining from religious speech or expression, such as prayer;

10. Rescind paragraph 4.a. of the Houston National Cemetery Honor Guard Guidelines;
11. Agree that when a family requests that non-VAVS volunteer honor guards from the VFW District 4 or the American Legion Post 586 perform military honors at a committal service held at the Houston National Cemetery, this is a private decision by a veteran's family arranged through the private funeral home and that the Defendants will not interfere with the process, decision, content, or presentation of the military honors;
12. Not question the decision of the family of the deceased veteran to have a volunteer honor guard perform military honors at the committal service;
13. Recognize that adaptations or modifications of private military honors provided by non-VAVS volunteer honor guards from the VFW District 4 or the American Legion Post 586 can only be made at the discretion of the non-VAVS volunteer honor guards in consultation with a veteran's family and the arranging funeral home, and not by or at the request of the Defendants;
14. Rescind paragraph 7 of the Houston National Cemetery Honor Guard Guidelines;
15. Agree not to prohibit non-VAVS volunteer honor guards from the VFW District 4 or the American Legion Post 586 who are requested by the family to participate in a committal service from including religious speech or expression in their military honors if a member of the clergy provides religious speech or expression, including but not limited to prayer and reciting scripture, at a committal service;

16. Agree not to restrict the religious content of committal services requested by veterans' families, subject to their compliance with VA security, safety, and law enforcement regulations;
17. Rescind paragraphs 8.a., 8.b., and 8.c. of the Houston National Cemetery Honor Guard Guidelines;
18. Amend paragraphs 1, 2, and 3 of the November 1, 2007, NCA memorandum issued by Under Secretary William F. Tuerk regarding NCA's national policy on the Meaning of Folds of an Honor Guard Funeral Flag, to read as follows:
"1. NCA will allow the reading of "Thirteen Fold" Flag Recitations by VA employees, including volunteer honor guards registered with the VA Voluntary Services ("VAVS volunteer honor guards"), at committal services, unless the deceased veteran's family request otherwise. 2. VAVS volunteer honor guards may, when acting as private citizens, provide their own texts of recitations to the funeral homes for the funeral homes to offer those options to the deceased veteran's survivor(s) for consideration. 3. VA employees, including VAVS volunteer honor guards, will not be selective in determining which recitations on the meaning of the thirteen folds will be read. Subject to paragraph 4, VA employees, including VAVS volunteer honor guards, will accept for reading at committal services on an equal basis recitations requested by the deceased veteran's survivor(s), including those that reflect a particular religious tradition, all religious traditions, or no religious tradition."
Once decertified pursuant to this Consent Decree, members of the VFW District 4, like members of the American Legion Post 586, would not be

subject to the provisions of the November 1, 2007, NCA policy memorandum, as amended pursuant to this Consent Decree, but instead may work independently with funeral homes to coordinate provision of volunteer services at the committal services scheduled at the cemetery, upon request of the veterans' families;

19. Agree that non-VAVS volunteer honor guards from the VFW District 4 or the American Legion Post 586 who are requested by veterans' families to participate at committal services, may communicate freely with the funeral homes, including providing texts of recitations for the funeral homes to provide the veterans' families for consideration, and agree not to interfere with the veterans' families' selection of texts to be read at committal services by such non-VAVS volunteer honor guards because it is a private decision between the veterans' families, the funeral homes as the representatives of veterans' families, and the volunteer honor guards;
20. Allow veterans' families and private funeral homes to plan committal services scheduled at the Cemetery, including but not limited to requesting the participation of non-VAVS volunteer honor guards from the VFW District 4 or the American Legion Post 586, without Defendants interfering, such as requiring that certain speech or requests for certain speech be submitted to Defendants. The scheduling of committal services by veterans or veterans' families and funeral homes will remain subject to VA regulations and NCA's administrative and operational policies;

21. Agree not to ban religious speech or words, such as “God” and “Jesus,” in condolence cards or similar documents given by non-VAVS volunteer Memorial Ladies to veterans’ families at committal services;
22. Agree not to ban religious words, such as “God” and “Jesus,” in the oral communication of Plaintiffs to veterans’ families at committal services;
23. Agree not to ban, regulate, or otherwise interfere with the giving of gifts, including gifts that contain a religious message or viewpoint, by non-VAVS members of VFW District 4, the American Legion Post 586, and the Memorial Ladies to veterans’ families at committal services;
24. Agree that the Memorial Ladies may attend all direct burials of deceased veterans without survivors;
25. Not require permission from Defendants before the non-VAVS volunteer members of the Memorial Ladies may attend committal services except as provided below;
26. Not request that the non-VAVS volunteer members of the Memorial Ladies leave a committal service, unless requested by the family of the deceased except as provided below;
27. Agree that the non-VAVS volunteer Memorial Ladies shall use reasonable efforts to coordinate with funeral homes to obtain information about the veterans’ families, promote their services, and confirm attendance;
28. Permit artificial flowers to be placed on graves until such time that NCA employees must remove the display as necessary for purposes of grounds maintenance and as a safety precaution, in accordance with NCA policy;

29. Agree not to limit the number of members of the Memorial Ladies attending a committal service, unless the family indicates a desire for such a limitation;
30. To the extent VAVS and non-VAVS honor guards are providing military honors for deceased veterans who are given direct burials at the Cemetery, provide such honors to which the veteran is lawfully entitled;
31. Agree that the non-VAVS volunteer Memorial Ladies may use a climate controlled "honor guard room" at the Cemetery in connection with preparation for scheduled committal services;
32. Agree that the non-VAVS volunteer honor guards from the VFW District 4 and the American Legion Post 586 may use a climate controlled "honor guard room" at the Cemetery in connection with preparation for scheduled committal services;
33. Allow members of the VFW District 4, the American Legion Post 586, and the Memorial Ladies to park on cemetery grounds close to cemetery buildings and committal service sites, to the extent spaces are available after first accommodating grieving families;
34. Provide scheduling information for deceased veterans, including name of deceased veteran, name of funeral home, time of committal service, and location of committal shelter, to the President of the Memorial Ladies or her designee the day before the committal services at the Cemetery;
35. Make available each morning to the Memorial Ladies scheduling information detailed above for the day's committal services of veterans, so that the

Memorial Ladies may coordinate with funeral homes to obtain information about the veterans' families;

36. Inform the Memorial Ladies of cancellations or changes in time of any committal service for deceased veterans when such changes are received by the Cemetery within a reasonable period of time;
37. Require only volunteer honor guards and other cemetery volunteers who desire to be registered with VAVS to participate in training that is relevant to the Houston National Cemetery and its operations;
38. Agree that NCA employees will not instruct families or individuals that they are prohibited from donating their personal funds to non-VAVS volunteer honor guards, veterans organizations, or any other individual or group provided that any such donation is lawful and not solicited or exchanged on the grounds of the Houston National Cemetery;
39. Agree not to prevent Plaintiffs and any funeral homes who might engage in the arrangement of committal services at the Cemetery, from informing veterans' families that religious speech and expression and other recitations may be included in committal services;
40. Agree that the Houston National Cemetery chapel (the "Chapel") shall remain open and unlocked during normal operating hours for the use of families and other Houston National Cemetery visitors, to the extent it is available;
41. Allow the use of the Chapel for private committal services for those being interred at the Houston National Cemetery, for prayer, or for reflection, to the extent it is available and subject to regulations governing use of VA facilities;

42. In an attempt to restore the prior status quo, place the legacy Bible, the white cross, and the Star of David that were previously displayed in this Chapel on an open shelf within, but to the side of, the Chapel where they would be accessible and available for use by families;
43. Allow the legacy Bible, the white cross, and the Star of David (to which reference was made in paragraph 42 of this Consent Decree) to be temporarily removed or covered during a private committal service if requested by the deceased's family or the group organizing the private service;
44. Toll the carillon on the regular schedule, to the extent practicable and feasible to do so, and as long as it remains part of the Cemetery's operations; the carillon playlist shall remain within the discretion of NCA employees;
45. Agree not to use the public area of the Chapel for long-term or permanent storage;
46. Generally refer to the Chapel as a "chapel" as opposed to a generic "meeting facility";
47. Agree that a NCA official will issue a letter expressing appreciation for the service of the volunteers at the Houston National Cemetery and expressing NCA's continued commitment to coordinating with the community to serve the burial needs of veterans and their families;
48. Agree not to retaliate or take any adverse action against Plaintiffs for engaging in religious speech and expression, such as prayer, at a special ceremony or event or at a committal service to which a veteran's family requested their

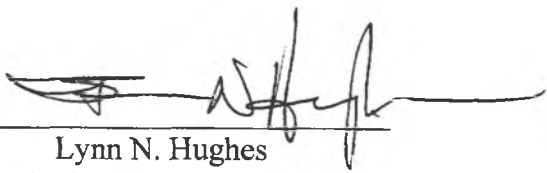
participation, and subject to Plaintiffs' compliance with VA security, safety, and law enforcement regulations;

49. Agree that VA will not retaliate or take any adverse action against Plaintiffs for filing and prosecuting this lawsuit; and

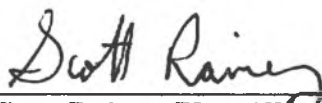
50. Pay Plaintiffs within thirty (30) days of the entry of this Consent Decree their reasonable and necessary attorneys' fees and expenses in the amount of \$215,000.00.

This Consent Decree is final, nonappealable and completely disposes of all issues between the parties.

Entered this 19th day of October, 2011.
~~September~~


Lynn N. Hughes
United States District Judge

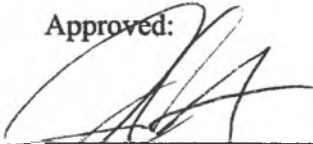
AGREED:



Scott Rainey, Plaintiff

9/21/11

Date

Approved:


Jeffrey C. Mateer
Attorney for Plaintiffs

9/21/11

Date




The Veterans of Foreign Wars ("VFW") District 4

By Incelton A. Conley
Print Name: Incelton A. Conley
Title: Veterans of Foreign Wars
Department of Texas
District 4
Commander

9/21/2011
Date

Approved:



Jeffrey C. Mateer
Attorney for Plaintiffs

9/21/11
Date

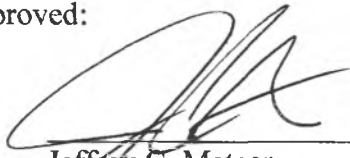


American Legion Post 586

By Willie L Beck
Print Name: WILLIE L. BECK
Title: past command

9-21-11
Date

Approved:

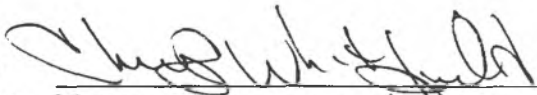


Jeffrey C. Mateer
Attorney for Plaintiffs

9/21/11
Date




The National Memorial Ladies ("Memorial Ladies")

By 
Print Name: Cheryl Whitefield
Title: President

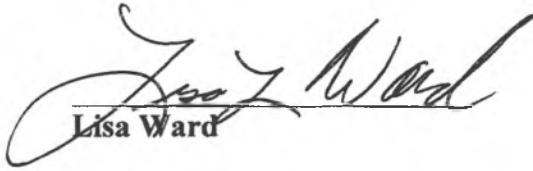
9-21-11
Date

Approved:


Jeffrey C. Mateer
Attorney for Plaintiffs

9/21/11
Date

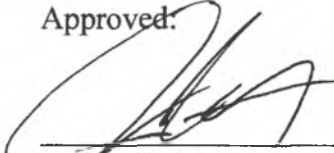




Lisa Ward

9/21/11
Date

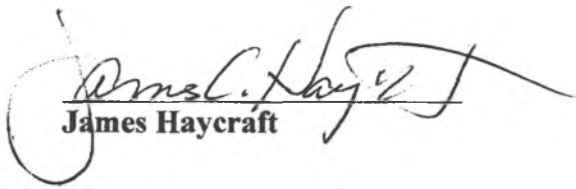
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Jeffrey C. Mateer
Attorney for Plaintiffs

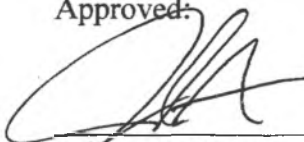
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James Haycraft

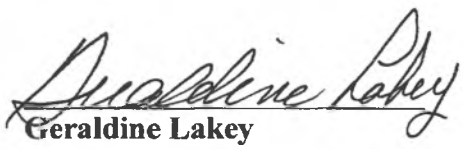
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Approved:


Jeffrey C. Mateer
Attorney for Plaintiffs

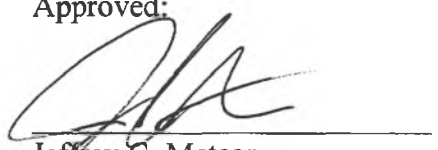
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Geraldine Lakey

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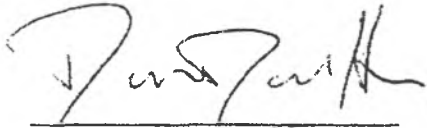
Approved:


Jeffrey C. Mateer
Attorney for Plaintiffs

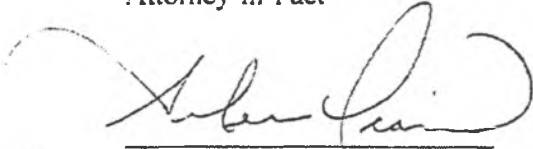
9/21/11
Date



**United States Department of Veterans Affairs ("VA"), and Eric Shinseki,
Secretary of Veterans Affairs**

By 
Fred T. Hinrichs *DAVID D. HU*
Attorney-in-Fact

9-22-2011
Date


Arleen Ocasio

9-22-2011
Date

