March 31, 2021

Assistant Director Jeffrey M. Martin
Office of Regulation Policy & Management, Office of the Secretary
Department of Veterans Affairs

Submitted via Regulations.gov

RE: Draft Criteria for Section 203 of the VA MISSION Act: Notice of Intent and request for comments.

Dear Assistant Director Jeffrey Martin,

As the Department of Veterans Affairs finalizes criteria to implement Sec. 203 of the VA MISSION Act (P.L. 115-521), Concerned Veterans for America (CVA) would like to offer the following comments on the proposed criteria to ensure it properly reflects the goals of the VA MISSION Act and the Asset and Infrastructure Review Commission.

CVA is a grassroots network of veterans, family members, and patriotic citizens that advocates for and defends policies to preserve freedom and prosperity for all Americans. Our organization is driven to organize and amplify the American veteran's unique perspective to both the American people and our leaders in Washington.

The Asset and Infrastructure Review process is critical to modernizing and realigning the facilities in the VA to meet the current and future needs of veterans. As stated in the VA MISSION Act of 2018, under Section 203, the VA must establish "the final criteria to be used in making recommendations regarding the closure, modernization, or realignment of facilities of the Veterans Health Administration."

To make the best recommendations, both the VA Secretary and Asset and Infrastructure Review Commission will need to rely on a clear, concise, and comprehensive final criteria that meets the intent and spirit of the law. After reviewing the VA MISSION Act of 2018 and the draft criteria, we propose the following additions and changes to the criteria and sub-criteria.

<u>Align Criteria and Sub-criteria to VA MISSION Act Language</u>

Section 203 of the VA MISSION Act lays out the factors the VA should consider when crafting the criteria to be used by the VA when making decisions regarding the modernization or realignment of facilities at the Veterans Health Administration.

While the current list of draft criteria includes several provisions that align with what the Secretary shall consider in law (demand, access, mission, cost effectiveness), the list of draft criteria excludes several key factors. The simplest approach for the VA to take would be to reformat the criteria to match the list in law.

CVA proposes the following factors for consideration be added to the criteria and sub-criteria to improve the final criteria, meet the intent of Congress, and create full transparency on how the Secretary considers the factors. The following factors in Sec. 203 should be added, regardless of whether the VA adds them under an existing criteria and sub-criteria, or creates a new criteria and sub-criteria:

- (2)(A) The degree to which any health care delivery or other site for providing services to veterans reflect the metrics of the Department of Veterans Affairs regarding market area health system planning.
- (2)(B) The provision of effective and efficient access to high-quality health care and services for veterans
- (2)(C) The extent to which the real property that no longer meets the needs of the Federal Government could be reconfigured, repurposed, consolidated, realigned, exchanged, outleased, replaced, sold, or disposed.
- (2)(D) The need of the Veterans Health Administration to acquire infrastructure or facilities that will be used for the provision of health care and services to veterans.
- (2)(E) The extent to which the operating and maintenance costs are reduced through consolidating, colocating, and reconfiguring space, and through realizing other operational efficiencies.
- (2)(F) The extent and timing of potential costs and savings, including the number of years such costs or savings will be incurred, beginning with the date of completion of the proposed recommendation.
- (2)(G) The extent to which the real property aligns with the mission of the Department of Veterans Affairs.
- (2)(H) The extent to which any action would impact other missions of the Department (including education, research, or emergency preparedness).
- (2)(K) The extent to which the Veterans Health Administration has appropriately staffed the medical facility, including determinations whether there has been insufficient resource allocation or deliberate understaffing.[1]

The list of current proposed criteria includes components of (B), (G), and (H). For this reason, it would be easier to reorganize the criteria to fit the factors above.

Clarify Sub-Criteria

The draft criteria include extraneous sub-criteria that reach beyond the scope of the Asset and Infrastructure Review process. The sub-criteria of "health equity" and "social determinants of health" are included under all six draft criteria. CVA strongly urges the VA to reconsider inclusion of these sub-criteria. They not only lack the necessary definitions to be effective, but they are also difficult to properly measure, and are outside the scope of the AIR process.

While "health equity" and "social determinants of health" can be useful tools when evaluating the needs of individual veterans, they are dependent upon the unique circumstances a veteran is facing at a given place and time and are often constantly changing – all factors unwise to use when determining how the VA should modernize its infrastructure and the assets in its vast health care system.

CVA strongly urges the VA to remove these sub criteria and instead work in collaboration with the existing Office of Health Equity and VHA operations staff to operationalize the goals of evaluating health equity and social determinants based on the Secretary's recommendations and send those to the AIR Commission for consideration.

If the VA chooses to keep these provisions in their criteria, it is important they are defined because not all health differences are health disparities. Clarity should be given on how sub-criteria will be applied to avoid using them too broadly or where they are not an effective measurement tool for where and how the VA should realign its health care infrastructure. The goal of health equity should be equal access at the VA, but many of the factors that contribute to health inequalities are far outside the control of the VA.

[1] https://www.congress.gov/115/plaws/publ182/PLAW-115publ182.pdf

If the VA chooses to include these sub-criteria in the final criteria, CVA recommends defining them using current definitions used by the Department of Health and Human Services (HHS).

HHS defines health equity as "the absence of disparities or avoidable differences among socioeconomic and demographic groups or geographical areas in health status and health outcomes such as disease, disability, or mortality."[2]

HHS defines social determinants of health as encompassing "conditions in the environments in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks."

Integrate Supply into Demand Criteria

The first criteria, "Veterans Need for Care & Services (Demand)," should be further expanded to include supply. CVA believes to properly assess the veterans' need for care and services and determine if gaps exist, the health care system must also examine the health care capacity, or supply. When a gap exists between supply and demand in a health care system, it not only contributes to a delay in meeting patient needs, but it can be extremely expensive and generate waste in the system.

The market area assessments (Sec. 106 of the VA MISSION Act) were key to determining the health care capacity (supply) for each market. They examined VA facilities, existing community care providers, other federal direct delivery systems, academic affiliations, other collaborations, and how those could or could not meet the access standards and standards for quality at the VA. Integrating the market assessment information into the final analysis produced by the VA from these criteria requires looking at supply in addition to demand. For this reason, we recommend the health care capacity (or *Supply*) is added to the *Demand* criteria and as a distinct sub-criterion underneath it.

Conclusion

The AIR Commission is a multi-year effort to improve access and deliver the highest quality care to our veterans. Establishing clear and actionable criteria that aligns with the intent of the VA MISSION Act is an important step in this process. It is imperative the VA utilize all the tools it was given under the VA MISSION Act to modernize health care delivery by examining market assessments, veteran population trends, and ultimately where to invest and divest resources.

CVA is committed to monitoring implementation of the AIR process and will be engaged with the veteran community, lawmakers, and the VA throughout the multi-year timeline established in the VA MISSION Act.

Sincerely,

Nate Anderson
Executive Director
Concerned Veterans for America

[2] https://www.hrsa.gov/about/organization/bureaus/ohe/index.html