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August 25, 2008

The Honorable James B. Peake, M.D.
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Re: Committee on Military Affairs and Justice, New York City Bar
Comments in Reference to the VA's Bar to Voter Registration

Dear Dr. Peake:

This letter is submitted on behalf of the Standing Committee on Military Affairs and Justice (the "Committee") of the New York City Bar Association (the "Association").¹ The Committee has a longstanding interest in matters of law and policy affecting the United States Armed Forces and in the past has specifically addressed issues of law and policy affecting the right to vote of our nation's servicemembers; *see, e.g.*, Report, Voting Rights of Military Citizens Abroad, Feb. 1991.

We write to express our profound disagreement with the VA's reported exclusion of outside non-partisan voter-registration assistance at federally financed nursing homes, rehabilitation centers and shelters for homeless veterans. According to Susan Bysiewicz, Connecticut's Secretary of State (New York Times, August 11, 2008), the VA, through its

¹ The Association is an independent non-governmental organization with a membership of more than 22,000 lawyers, judges, law professors and government officials, principally from New York City, but also from around the United States and from 50 other countries. Founded in 1870, the Association has a long history of engagement in issues of legal policy of concern to the profession and has been a continuous advocate of the rule of law at home and around the world.

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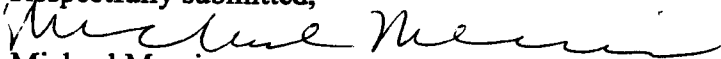
implementation of the May 5, 2008 Veterans Health Administration directive concerning voter registration assistance, has prevented her office (and other state elections officials) from entering the subject VA facilities in order to conduct non-partisan voter registration drives.

In the directive, the VA in the first instance limits voter registration assistance to certain members of the VA Voluntary Service who must first review and sign a "Political Activities Fact Sheet and Certification." Although outside organizations are in theory permitted to apply to conduct non-partisan voter registration drives (which applications will be referred to Regional Counsel), we understand that the applications of at least 19 secretaries of states to conduct non-partisan voter registration drives have been denied.

From the facts as we know them the VA's denial of non-partisan assistance to voter registration efforts is both anti-democratic and arbitrary. We know of no basis for concluding that external non-partisan voter registration activity would be disruptive. Nor do we know of any basis for concluding that such nonpartisan activity would violate the Hatch Act. . We are astonished that such claims are creating barriers to voter participation for our veterans -- the very individuals whose selfless sacrifices have safeguarded and sustained basic and treasured freedoms, including the right to vote. We believe our veterans would welcome nonpartisan assistance to help them exercise the cherished right they served to protect.


Our veterans have served this country and our democracy. It is unjust, unfair, and unwarranted to put bureaucratic roadblocks in the way of their access to the ballot. We know legislation is pending to remove this barrier. We ask you to act sooner. Please do right by America's veterans, and modify the May 5 directive forthwith, to permit nonpartisan voter registration assistance for America's veterans in VA facilities.

Respectfully submitted,



Michael Mernin

Chair



Myles K. Bartley

Chair-Designate (as of September 1, 2008)