



March 12, 2025

Chairman Luttrell, Ranking Member McGarvey, and members of the Disability Assistance and Memorial Affairs Subcommittee:

This comment is submitted in response to this subcommittee’s March 5, 2025, legislative hearing. For years, Congress has debated the complex and multifaceted topic of representation of claimants seeking Department of Veterans Affairs (VA) benefits. Unfortunately, the debate has been complicated by a misleading public relations campaign (“Claim Shark”) driven by select Veterans Service Organizations (VSOs) and law firms that inaccurately proclaim that all service providers that are not VA-accredited are the same and operate illegally. These mischaracterizations have hampered honest dialogue, unfairly disparaged legally compliant service providers, and overshadowed the critical role of appropriately licensed and government-regulated professionals—including over one million licensed physicians, nurse practitioners, and registered nurses—who assist Veterans with their healthcare needs every day and play a critical role in the VA benefits landscape.

Congressman Pappas hit the bullseye during this Subcommittee’s March 29, 2023, legislative hearing on the GUARD VA Benefits Act (and other proposals) when he stated:

“One of the consistent and false rumors regarding the Act is that somehow providers of third-party medical evidence might be swept into the net; and I understand the concern of some medical evidence providers, but I feel it’s unwarranted. Could you clarify for the Subcommittee: has the provision of medical documentation to Veterans ever been considered to be part of the definitions of ‘preparation, presentation, and prosecution’?”

The VA witness, a senior staff attorney Christa Shriber, responded:

“We do not consider the submission of medical evidence to be part of preparation, presentation, and prosecution of a benefit claim. Medical evidence is...almost seen as expert testimony, versus a claims preparer or an attorney, agent, or VSO representative [who] is an advocate on the Veteran’s behalf. They’re two separate roles, and they both play an important part in our VA system. But they are separate and distinct.”

Unfortunately, the bills discussed on March 5, 2025, continue to miss the target because they fail to include simple language that clearly denotes the separate and distinct nature that divides legal advocacy from professional medical evidence services. As currently drafted, these bills remain fatally flawed due to their clear conflict with at least five separate well-established federal laws that countless Veterans, lawmakers, and VSOs have fought hard to get implemented over the past few years to protect Veterans’ rights to have the VA appropriately consider all available private medical evidence in support of their disability claim.

Federal law guarantees a Veteran’s right to submit private medical evidence, and the VA is required to consider private medical documentation:

- 38 U.S.C. § 5107(b) requires the VA to consider all “medical evidence of record,” regardless of its source.
- 38 U.S.C. § 5125 requires the VA to accept medical reports from private healthcare professionals.
- 38 C.F.R. § 3.159(a)(1) defines “competent medical evidence” and emphasizes the training and expertise of healthcare providers in assessing its weight.
- 38 U.S.C. § 5101(d)(1)(A) mandates the VA to provide Disability Benefits Questionnaire forms on its public-facing website for use by private medical professionals.
- 38 U.S.C. § 5103A(b)(4)(A) encourages the submission of relevant private medical evidence.

A focus on essential policy nuances has been largely absent from this debate. The following points underscore the importance of this subcommittee’s work. Your efforts are critical in shaping an informed, balanced, and Veteran-focused legislative proposal.

Introduction

Clearly presented medical evidence is the foundation of any successful legal claim for disabilities or injuries, whether it's a civil claim (e.g., personal injury claim) or government benefits claim (e.g., Social Security, Workers' Compensation, or Veterans Benefits). Not only is appropriate medical evidence needed by VA adjudicators,¹ but it also ensures that decisionmakers fully understand the cause, extent, and functional impact of a medical condition—greatly improving the probability of a timely and accurate outcome, thereby avoiding a costly appeals process and delays for the Veteran.

It is clear to both the VA and well-informed stakeholders that there is a significant difference between what is required to serve as a VA-accredited representative (i.e., individuals engaged in the preparation, presentation, and prosecution of VA benefits claims) in contrast to what is required by State Medical Boards and numerous 38 C.F.R. requirements (i.e., medical professionals engaged in the provision of a medical diagnosis and medical opinions).

Simply stated, when a Veteran combines competent representation or legal advocacy (which VA accreditation was designed to address) with thorough medical evidence services (which VA accreditation does not cover), their odds of receiving a timely, fair, and accurate decision increase. This formula applies in the VA benefits space just as it does in other disability or injury-related claims, such as a civil action related to a car accident. Even the most capable attorney cannot achieve a fair decision for a client injured in a car accident without medical evidence. Similarly, we have seen thousands of VA Rating Decision Letters deny service connection for Veterans due to the lack of medical evidence (such as no formal diagnosis or no nexus to active duty service).

Veterans enrolled in the VA healthcare system face massive additional challenges when trying to support their VA disability claims due to the ubiquitous policy implemented by VA leadership that prevents any assistance with completing Disability Benefits Questionnaires or providing

¹ [Evidence Needed For Your Disability Claim | Veterans Affairs](#)

medical opinions by the Veteran's VA treating medical providers who are generally considered the best source to assess the health conditions of their patients.

If the proposed bills fail to clarify that Veterans may continue to submit private medical evidence, millions of Veterans could be locked out of the ability to proactively build Fully Developed Claim packets and submit appropriate medical evidence for the claims they wish to pursue.

Medical Evidence and Legal Advocacy: Separate and Distinctly Different Essential Roles in VA Benefits

The process of evaluating VA disability claims relies on two interdependent components: medical evidence and legal advocacy (representation). While these elements work together to ensure thorough and accurate decisions, they serve separate and distinct functions and require different training and professional accreditation/licensure.

Medical Evidence: Establishing Clinical Facts

Medical evidence provides the factual foundation for any disability claim. It ensures that decisionmakers have objective, well-documented clinical information upon which to base their determinations.

The VA requires the following medical evidence to accurately administer a Veteran's claim for a disability benefit:

- Diagnosis of a medical disability OR documentation of symptoms consistent with a medical disability.
- A formal medical opinion by an appropriately qualified licensed medical professional opining on whether the root cause of the medical disability was caused or aggravated by military service.
- Establishment of the disability onset date.

- Evaluation of medical symptoms and markers to determine the functional impact and variable medical impairment level for disabilities that have multiple disability percentages available in 38 C.F.R.
- Assessment of the impact the Veteran’s disability conditions have on their ability to maintain gainful employment.

NOTE: Only licensed medical professionals can legally diagnose medical conditions and provide formal medical opinions. VA-accredited representatives are strictly prohibited by law from doing so unless they hold appropriate licensure from their State Medical Board.

While medical professionals play a critical role in documenting medical conditions, they DO NOT:

- Complete VA benefit applications.
- File VA benefit applications.
- Act on behalf of Veterans pursuing VA benefits (i.e., no Power of Attorney).
- Represent Veterans before the VA.
- Present legal arguments of entitlement or engage in legal advocacy on the Veteran’s behalf before the VA.
- Determine VA benefit eligibility.

Without thorough medical evidence, the VA may delay or deny a claim—not due to lack of merit, but due to insufficient documentation.

Advocacy: Applying Medical Evidence to VA’s Adjudication Process

Legal representatives and claims preparers—such as VA-accredited attorneys, agents, and Veterans Service Officers—are responsible for helping Veterans navigate the complex VA claims process. Their roles include:

- Completing and preparing application forms for VA benefits.
- Filing or presenting applications for VA benefits or VA appeals and submitting legal arguments.
- Advocating or prosecuting benefit claims before VA, the Board of Veterans' Appeals, and the courts.
- Ensuring compliance with procedural requirements and deadlines.

However, legal representatives and claims preparers are not medical professionals and therefore DO NOT:

- Diagnose medical conditions.
- Provide independent medical assessments or medical opinions.
- Generate new medical evidence to appropriately document medical conditions that have been previously undiagnosed due to the Veteran's lack of historical engagement with healthcare providers.

Medical Evidence and Legal Advocacy Working Together

For a VA disability claim to be fully evaluated, both medical evidence and advocacy play mutually necessary but distinctly different roles:

- Medical professionals provide independent clinical assessments to ensure medical conditions are fully documented.
- Claims preparers and legal representatives apply that evidence within the VA system, ensuring proper adjudication under applicable regulations.

A strong claim submission or legal case requires both legal advocacy and medical evidence. Medical evidence alone does not constitute legal advocacy or claims preparation. Recognizing the distinction between these roles preserves the integrity of the VA disability benefits process, ensuring Veterans receive fair and accurate evaluations.

In contrast, the select few VSOs and accredited attorneys and agents leading the “Claim Shark” campaign have intentionally misrepresented Trajector Medical as illegal or unethical for charging a fee for its services; medical evidence services that VSOs claim they can provide for free. The architects of this campaign fail to mention that VA-accredited VSOs, attorneys, and agents are NOT legally qualified, appropriately licensed, or accredited to engage in the medical evidence services that Trajector Medical’s healthcare professionals provide to its clients. Rather, VA-accredited VSOs, attorneys, and agents exist for the sole purpose of providing representation services to claimants before VA.² These VA-accredited parties lack the training, education, and licensure necessary to diagnose medical conditions or provide medical opinions on the causes of a disability condition. They are ill-equipped to provide what VA regulations require: a medical diagnosis and a favorable medical opinion to grant service connection for a disability condition.

If VSOs or other VA-accredited representatives diagnosed medical conditions or provided medical opinions, they would be violating every State Medical Board’s licensure requirements and could be charged with practicing medicine without a license.

What Trajector Medical Does

The availability and importance of medical evidence services are not well known. Most Americans only become aware of these services after experiencing a denial of government benefits or a failed civil action due to insufficient medical evidence. Clients, including Veterans, often choose Trajector Medical because they learned through experience that their legal case is only as strong as the medical evidence that supports it.

Trajector Medical’s services do not replace or duplicate the work of VA-accredited representatives because the company does not prepare (fill out VA claim forms), present (file VA claim forms), or prosecute (legally advocate) claims, nor does Trajector Medical ever act as a representative of a Veteran before the VA (stand in place of, act on behalf of, or use Power of

² [Accreditation, Discipline, & Fees Program - Office of General Counsel](#)

Attorney or Agency privileges for the Veteran). Instead, Trajector Medical ensures Veterans have complete, clinically sound, and well-documented medical evidence to support their VA applications.

What Trajector Medical's Medical Evidence Services Include

- Conducting live, one-on-one consultations with licensed medical professionals.
- Collecting medical symptoms from the Veteran's records and consultations.
- Reviewing medical history and records to document relevant health conditions.
- Mapping symptoms to conditions to ensure all relevant disabilities are adequately documented.
- Assessing severity or variable impairment level of potential disabilities.
- Assessing disability onset dates.
- Identifying the causal factors of disabilities using published medical research.
- Providing medical opinions on whether the Veteran's disability was aggravated or caused by military service, supported by the appropriate medical rationale.

Each Veteran client receives personalized medical evidence documentation designed to enable the confident and independent submission of their application for VA benefits.

What Trajector Medical Does NOT Do

Trajector Medical's service contract clearly communicates to clients that the company:

- Does not draft legal demand letters.
- Does not complete government benefits application forms.
- Does not file government benefits claims.
- Does not represent clients in court or before any government agency.
- Does not provide legal advocacy or engage in claims preparation services.

The Veteran's Legal Right to Medical Evidence

Operating within the legal and regulatory framework afforded by 38 U.S.C. §§ 5107(b), 5125, 5101(d)(1)(A), 5103A(b)(4)(A) and 38 C.F.R. § 3.159(a)(1), Trajector Medical supports the Veteran’s right to obtain and submit medical evidence furnished by qualified providers; supplies medical documentation that satisfies VA evidence requirements; and ensures that decisionmakers consider the medical evidence most relevant to the disability the Veteran is claiming (a function that VA acknowledges “will help process [a] claim more quickly and accurately”³).

VA Accreditation Requirements Do Not Apply to Medical Evidence Services

As previously articulated, Trajector Medical is a medical evidence services provider, and neither the company nor its employees prepare, present, and prosecute Veterans’ claims before the VA nor do they represent claimants before the VA.

During this subcommittee’s March 29, 2023, hearing on this topic, it was confirmed that “the gathering and/or development of third-party medical evidence has long been excluded from the definitions of ‘preparation, presentation, and prosecution.’” In other words, Trajector Medical does not engage in activities that are subject to VA accreditation and is not in violation of the VA’s accreditation program requirements.

Finally, VA’s Office of General Counsel has confirmed that if “services being provided to the Veteran or beneficiary...have significance beyond entitlement to VA benefits,” they are not likely included within the “practice before VA” or the “preparation, presentation, and prosecution” of a claim requiring VA accreditation.⁴ Trajector Medical’s medical evidence services serve a purpose in non-VA forums and are valuable in other legal and medical contexts (e.g., Social Security disability, civil litigation, workers’ compensation, insurance disputes, etc.), further supporting the fact that the company is outside the scope of VA accreditation.

³ [What VA means by evidence when processing claims - VA News](#)

⁴ [Accreditation Frequently Asked Questions - Office of General Counsel](#)

These Proposals Must Preserve the Veteran’s Right to Medical Evidence

Another noteworthy exchange occurred during this subcommittee’s March 29, 2023, legislative hearing when Congressman Pappas asked VA’s counsel if anything in The GUARD Act would change [the “separate and distinct”] dynamic [of medical evidence providers and claims preparers]. The VA confirmed that nothing in the bill would change that dynamic. As such, Trajector Medical’s understanding is that the GUARD VA Benefits Act does not apply to providers of medical evidence services.

However, as written, the bills discussed on March 5, 2025, do not clearly recognize the “separate and distinct” nature of medical evidence providers, nor do they clearly delineate between medical evidence services and representation or advocacy services.

For at least two reasons, it is crucial that this occurs:

(1) The VA’s inadequate definitions of “prepare,” “present,” and “prosecute” allow for the interpretation that healthcare professionals engaging with Veteran patients are *assisting* in the preparation or presentation of a claim for VA benefits and are therefore operating outside of federal law. Absent clarification, this ambiguity could result in reluctance among healthcare professionals to assist Veteran patients in documenting their medical disability conditions due to a prohibition on compensation with respect to preparation and presentation. The criminal penalties that The GUARD Act seeks to reinstate would further contribute to this chilling effect.

(2) Congress would be advancing a proposal that contradicts multiple existing laws that codify the Veteran’s right to medical evidence and guarantee that their evidence is heard, valued, and considered as part of a fair evaluation. Such action would also clearly conflict with the intent and scope of the VA’s Fully Developed Claim program.

The discussion draft proposal’s definition of “private medical professional” should also be clarified. Absent clarification, the current language risks adversely affecting the Veteran’s statutory right to obtain and use—and VA’s statutory requirement to accept—private medical evidence in support of VA disability claims.

We encourage you to review the Social Security Administration’s (SSA) “All Evidence Rule” and evidence evaluation policy (which describes a shared duty of both the claimant and the SSA to develop and evaluate all evidence including medical consultations from the applicant’s “own medical sources”).⁵ This existing framework helps the SSA identify the source of medical evidence and could provide guidance in ensuring Veterans’ rights to submit private medical evidence are protected.

Conclusion

Trajector Medical is proud to provide licensed, independent medical evidence services to Veterans and non-Veterans alike. Within the VA context, Trajector Medical operates in full compliance with federal law. Our services are legally protected, are “separate and distinct” from the offerings of VA-accredited representatives, and fall outside the scope of VA accreditation requirements.

We welcome the opportunity to engage in constructive discussions with Members of this Subcommittee to ensure an informed and Veteran-centric approach to these legislative proposals.



Jim Hill
CEO, Trajector Medical
Comment contact: Amy.Schoppman@trajector.com

⁵ 20 C.F.R. § 404.1512