

**VA DISABILITY EXAMS: ARE VETERANS
RECEIVING QUALITY SERVICES?**

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY
ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

THURSDAY JULY 27, 2023

Serial No. 118-28

Printed for the use of the Committee on Veterans' Affairs



Available via <http://govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2024

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U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DISABILITY ASSISTANCE & MEMORIAL
AFFAIRS,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 360, Cannon House Office Building, Hon. Morgan Luttrell (chairman of the subcommittee) presiding.

Present: Representatives Luttrell, Ciscomani, Self, Pappas, Deluzio, and McGarvey.

OPENING STATEMENT OF MORGAN LUTTRELL, CHAIRMAN

Mr. LUTTRELL. The subcommittee will come to order. Good morning, everyone. Thank you for coming. Thank you, thank you, thank you. We are here today to discuss VA's management of disability exams. We will also have the opportunity to hear from our Office of Inspector General and Government Accountability Office (GAO) about their work and recommendations on this matter. VA disability exams are crucial to ensuring that veterans receive accurate decisions on their disability claims. They are an important piece of the veterans' disability claim file and a step toward ensuring that veterans can receive their earned benefits.

Congress first granted the VA the authority to contract disability exams out in 1996 and the program has grown exponentially since. This freed up many of our Veterans Health Administration (VHA) providers who were previously conducting disability exams to focus on patient care.

The contractors are now responsible for roughly 90 percent of the disability exams veterans receive. Because of this, it is important that the Veterans Benefits Administration (VBA) is conducting proper oversight of the contract medical exam program. Veterans deserve timely and high-quality decisions. From the first step of writing the contracts to ensuring—issuing, excuse me—guidance to the contractors, to providing training, to holding the companies accountable for errors, this responsibility starts at the top.

In a 2018 report, GAO found that only one contractor was meeting the VA target accuracy rating. As of today, VA reported that overall quality has been trending up for the past six quarters and the overall quality score is 90 percent. Job well done and thank you. As a veteran, thank you.

Additionally, almost all of the vendors across all four regions have showed sustained and improved in some instances quality percentages from the first to second quarter of this fiscal year. VA has made strides in the past 5 years with this program to ensure that vendors are meeting their accuracy requirements and are holding them accountable if they do not. Veteran satisfaction and vendor quality both remain satisfactory. However, the production percentages for all vendors are seemingly not meeting contractual requirements.

I am interested to see how VA is going to address this issue and what steps are being taken to rectify the issue. VA has made strides to implement the recommendations from the GAO and the Office of Inspector General (OIG), but there is always room for improvement especially with programs of this magnitude. That being said, more veterans have been applying for benefits since the passage of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act. Exam scheduling requests are up 30 percent so far and of these, 39 percent are connected to the PACT Act itself.

VA must exercise effective oversight as the number of exams rise. I am looking forward to hearing from the GAO and the OIG on their relevant work as well as updates from VA on how they are implementing their recommendations. I want to thank everyone again for being here today and I am looking forward to a fruitful conversation. With that, I yield to the Ranking Member Pappas for opening statement.

OPENING STATEMENT OF CHRIS PAPPAS, RANKING MEMBER

Mr. PAPPAS. Thank you very much, Chairman Luttrell. Good morning, everyone. It is great to have you joining us for today's hearing on Compensation and Pension (C&P) exams at the Department of Veterans Affairs.

Since this subcommittee's last hearing on C&P exams, VA appears to have made some progress, but I am concerned that there may be lingering effects of the COVID-19 pandemic. The passage of the PACT Act last year is certainly already showing up in the backlog of exams.

The C&P exam is a critical step in the disability claims process. C&P exam findings are frequently used to decide whether VA will grant a veteran disability benefits. Ensuring these exams are conducted accurately and in a timely manner is critical to ensuring that veterans have a streamlined and reliable process so they can receive their deserved benefits as soon as possible.

At our last hearing on C&P exams, VA indicated that its goal was to get the inventory of pending exam requests down from the 350,000 they were seeing at the time to a working level of about 140,000. Now, the latest data we have received indicates that the number of pending exams is still over 300,000. At the same time, we are aware that contract exam providers are still conducting over 90 percent of the exams. This underscores the need for congressional oversight to ensure that veterans are satisfied and that taxpayer dollars are not being wasted.

Now, I hear from veterans all the time. I hear countless stories actually of veterans who have had abysmal experiences trying to

schedule an examination with VA contractors. One veteran in my district said that a contractor simply told him that he needs to show up for an appointment on August 30, provided no additional information or location for the appointment, and it took a conference call between myself—between our office and the contractor, to get to the bottom of this and get the veteran the information that they needed. This kind of experience is just unsatisfactory.

We also need to hear today from VA's witnesses about a solid plan for how they intend to get the number of pending exams down, utilizing all resources at VA's disposal, including contract providers and VHA providers. The timeliness of these exams is also a major contributor to VA's claims backlog, claims that have been pending for more than 125 days. Data the committee has received from VA shows that the claims backlog has risen from 77,000 at the beginning of the pandemic to over 250,000 as of last week, which is almost a third of the 871,000 claims currently being processed by VA.

The committee has heard from VA that VHA and the contract exam providers have capitalized on the lessons learned from the pandemic and are maximizing the use of telehealth technology where appropriate. This is mostly used in mental health exams, but I imagine that it is far more convenient for the veterans than having to drive dozens or even hundreds of miles for an appointment. I hope that VA continues to research ways to maximize the use of telehealth technology to facilitate exams for veterans where possible.

While the growing number of pending exams is a major concern, we must also talk about the quality of these exams. Recent reports from the Government Accountability Office and the VA Office of Inspector General have raised some concerns about how VA assesses the quality of exams and what is done once exams are deemed inaccurate. I am also incredibly concerned that decisions are being made about veterans' benefits before those exams quality are checked by VA. What happens if the exam leads a rating official to grant benefits inappropriately? Many veterans cannot afford to have benefits clawed back after the fact.

We need to have confidence that when a rating decision is made it is made using complete and accurate medical information. I hope to hear how VA is guaranteeing that the exams used to decide benefits are complete and accurate. This subcommittee has a long history of oversight of the C&P exam process. This is not the first conversation that we have had about the quality of exams. We have heard that VA has taken appropriate steps to improve oversight but I hope to hear from GAO and OIG whether they agree with VA's assessment of its oversight.

A part of this conversation that I really do not want to get lost in this is that the process is meant to help veterans. As I have already made clear, I have heard stories from veterans about how the C&P exam process can be inconvenient, cumbersome, and inaccessible for some veterans. One veteran in my district in New Hampshire talked about getting an appointment scheduled for him more than five states away in Illinois. There are cascading effects from contractors not communicating well with veterans in a transparent and timely manner. Another constituent of mine submitted

a claim but did not receive a response for 2–1/2 months. Upon submitting an inquiry on his behalf, VA responded that while they received his claim, the contractor stated they could not schedule the examination and therefore the request was canceled.

All this can be incredibly frustrating to our veterans. What the contractor failed to add in that particular case is that there was a scheduling conflict with the date proposed. The contractor's customer service representative did not even offer him the option to reschedule that appointment.

Expecting a veteran to navigate this confusing process or even travel halfway across the country is just ridiculous. I expect better of VA and contractors in providing these exams. I look forward to hearing from our witnesses today and I yield, Mr. Chairman.

Mr. LUTTRELL. Thank you, sir. I would like to welcome all of our witnesses before the committee. Our first witness is Mr. Jeff London, who is the Executive Director of the Medical Disability Exams Office at the Veterans Benefits Administration. He is accompanied by Ms. Jacqueline Imboden, the Assistant Director of Procedures and Interagency for Compensation Service at the Veterans Benefits Administration. We have Mr. Christopher Parker, the Associate Executive Director for the Office of Acquisitions of Logistics and Construction, and Dr. Henry Bridges, the Senior Medical Officer for the Office of Disability and Medical Assessment. We also have Ms. Elizabeth Curda, Director of Education, Workforce, and Income Security at the Government Accountability Office, and finally, Mr. Stephen Bracci, Director of the Claims and Medical Exams Inspection Division for the Office of Audits and Evaluations at the Office of Inspector General. Man, that is a mouthful.

Would you all please rise to be sworn in? Please raise your right hand.

[Witnesses sworn.]

Thank you, be seated. Thank you for being here today. Mr. London, you are now recognized for 5 minutes to deliver your opening statement.

STATEMENT OF JEFF LONDON

Mr. LONDON. Good morning, Mr. Chairman Luttrell, Ranking Member Pappas, and distinguished members of the subcommittee. We appreciate the opportunity to appear before you today to discuss the disability examinations administered by the Department of Veterans Affairs. I am joined by Jacqueline Imboden from Compensation Service, Dr. Henry E. Bridges, Jr. from the VHA Office of Disability and Medical Assessment, and Christopher Parker from the VA Office of Acquisitions Logistics and Construction.

Mr. Chairman, I want to highlight the collaboration with VHA, OIG, and GAO in the overall improvements of the exam oversight process. We have made great strides this Fiscal Year with exam vendors completing over 1.9 million appointments consisting of over 200,000 acceptable clinical evidence, or ACE exams, and over 160,000 tele-C&P appointments, a 5 percent increase over Fiscal Year 2022. VHA also continues to support virtual care modalities, or nearly 26 percent of exams completed by VHA this year using ACE and the tele-C&P or telehealth processes, a 3 percent increase from Fiscal Year 2022.

VA welcomes the oversight of VA OIG, GAO, to improve services for veterans and has worked closely with both entities to resolve outstanding issues related to VA medical exams. For example, as a result of a GAO report on license portability, VA updated guidance and contractual language, removing ambiguity and established procedures and additional audits to address those concerns.

GAO also issued a report identifying potential risks regarding exam quality and compacity. VBA is working collaboratively with VHA to execute a comprehensive workload allocation plan for C&P exams, including an assessment of the PACT Act on exam capacity. VA OIG found that VA needed to implement a process to monitor and assess vendors' compliance with contractual mileage and reimbursement requirements. In March 2023, we expanded oversight activities by modifying our third-party financial audit contract. OIG further examined VA's governance and accountability for exams, as well as VBA's disability exam inventory during the COVID-19 pandemic. Based on the collaboration between OIG and VBA, all actions have been completed and both reports were closed as fully implemented.

Along with OIG and GAO, VBA consistently monitors quality, customer satisfaction, timeliness, and production. VA conducts regular site visits and desk reviews with contractors to ensure provider locations are in compliance with VA standards and the contract. So far in Fiscal Year 2023, VBA has conducted over 200 in-person site visits at exam locations. All contract and VHA examiners must be certified and undergo the same existing training prior to conducting any disability exam. We also have third-party contracts that include invoice validation and verification of examiners' credentials, licensing, and training.

Internally, VBA performs monthly quality reviews of Disability Benefits Questionnaires (DBQs) completed by exam vendors reviewing for accuracy and completeness. We also conduct special reviews and share feedback on specific exam types, providers, or based on error trends. The overall quality score for the contract program in Fiscal Year to date is 96.8 percent. I am happy to report that the last quarter that we assessed is 97 percent.

VA vendors continue to expand their provider networks and their internal workforce to increase exam production. Vendors are eligible for both positive and negative monetary incentives for scores in customer satisfaction, quality, timeliness, and production. These incentives and increased vendor provider networks have resulted in a nearly 25 percent completion increase this fiscal year. We are also working to meet all veterans including rural veterans where they are, rather than where we are located. A few examples include alternative modalities such as ACE and tele-C&P, which limit travel for in-person exams. We are using traveling examiners, mobile units, claims clinics, and per diem or rented locations to assist all veteran populations.

VA remains committed to the continuous improvement of medical disability exams and appreciates the oversight and authority provided by Congress in support of veterans, their families, caregivers, and survivors. This concludes my testimony. I would be happy to answer any questions you or the subcommittee members have. Thank you.

[THE PREPARED STATEMENT OF JEFF LONDON APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Mr. London. The written statement from Mr. London will be entered into the hearing record. Ms. Curda, you are now recognized for 5 minutes to deliver your opening statement.

STATEMENT OF ELIZABETH CURDA

Ms. CURDA. Good morning, Chairman Luttrell, Ranking Member Pappas, and members of the subcommittee. Thank you for inviting me to discuss our work on VA's disability medical exam program, including VA's capacity to meet the growing need for disability exams.

VA performs over 1 million disability exams per year and its workload is projected to grow significantly. At the same time, VA's exam request backlog has almost doubled from about 158,000 at the start of the COVID-19 pandemic to just over 300,000 last month. Today, I will discuss VA's efforts to implement our prior recommendation on planning for exam workloads across VBA and VHA examiners. I will also discuss findings from our June 2023 report on VHA's recruitment and retention efforts, as well as VA's use of license portability and telehealth flexibilities.

In 2021, we found that while VA was shifting most of its workload from VHA to VBA contract examiners, it had not developed a documented strategy and goals for the optimal allocation of exams between the two. We recommended that VA use sound planning practices such as developing goals, a timeline, and assessing risks related to planned workload allocations. VA drafted a plan but it lacked key information such as the desired distribution of exams between VBA and VHA and an assessment of any associated risks. According to VA, they are working on an updated plan that will include this information.

Our recent work highlights why sound planning and communication are important. Indeed, in our most recent review, we found that VHA medical facilities did not have a clear understanding of what was expected of them to meet exam demand in two areas. First, medical facilities were uncertain whether VHA would continue to provide exams in the future. We found that while VHA did have plans to continue providing exams, officials at the facilities responsible for recruiting and retaining examiners were unsure of those plans. They were uncertain whether they would need to maintain examiner capacity or if all exams would shift to VBA contractors. VHA has since communicated to facilities that they will continue to conduct exams and should develop plans to meet workload demands.

Second, VHA has yet to provide clear guidance to its medical facilities on a legislative requirement to halt the elimination of examiner positions until the exam backlog is back to pre-pandemic levels. While VHA issued guidance to its facilities to halt changes to exam services and pause the elimination of examiner positions, the guidance lacked key details and definitions.

As a result, facilities had different interpretations of the changes they could make. For example, one facility said they were not supposed to eliminate examiner positions in their organization chart, but they could leave these positions vacant as examiners retired or

left. Another facility said that the guidance left them leeway to continue moving away from conducting disability exams and prioritizing clinical care. We recommended that VHA clarify the guidance it provided to medical facilities to help position them to meet veterans' exam needs.

Now, I would like to turn to VA's use of two flexibilities that have helped the Agency to meet exam demand, license portability and telehealth. First, VBA has been using license portability to allow more types of providers to perform exams in states other than where they are licensed.

While this flexibility has helped VBA to meet exam needs, we found the Agency provided incorrect information to its vendors on who was eligible. For example, VBA mistakenly told contractors that dentists were eligible for license portability. VBA has since rectified these issues. VBA also did not adequately monitor the contractors' use of license portability and were unaware that non-eligible providers were being used.

We recommended that VBA develop a way to regularly monitor vendors' use of portability. Since our report, the Agency developed guidance for monitoring portability use. We also recommended that VA assess any potential risks caused by ineligible providers conducting exams. The Agency has not yet fully implemented this recommendation.

Finally, both VBA contractors and VHA increased their use of telehealth during the pandemic, especially for mental health exams. Both continue to use this flexibility citing several benefits such as more convenience for veterans who can not travel long distances and the ability to provide exams in difficult to reach areas.

In summary, with the influx of exam requests and growing backlog, implementing our recommendations to plan for workload allocations, clearly communicate VHA exam capacity expectations to medical facilities, and conduct adequate oversight can help the Agency to improve their capacity to serve our Nation's veterans. This concludes my prepared statement and I will be happy to address your questions.

[THE PREPARED STATEMENT OF ELIZABETH CURDA APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, ma'am. The written statement of Ms. Curda will be entered into the hearing record. Mr. Bracci, you are not recognized for 5 minutes to deliver your opening statement.

STATEMENT OF STEPHEN BRACCI

Mr. BRACCI. Thank you and good morning. Chairman Luttrell, Ranking Member Pappas, and members of the subcommittee, thank you for the opportunity to discuss the OIG's oversight of VBA's contract medical exam program, which is administered by its Medical Disability Examination Office, or MDEO.

The OIG has maintained oversight of this program due to its effect on veterans' disability compensation benefits, as well as the billions of dollars VBA pays contractors to conduct these exams. I will highlight three OIG reviews showing gaps in MDEO's oversight of the program and describe how these weaknesses can affect veterans' experiences with the disability claims process.

First, our 2022 comprehensive review of the contract medical exam program found significant deficiencies that stemmed in part from limitations with VBA's oversight at the time of the review. We found specific issues with governance, accountability, communication, and contract language. During our review, vendor exams did not consistently meet accuracy criteria and contract wording restricted MDEO's ability to apply monetary disincentives to hold vendors accountable.

Further, MDEO did not communicate errors they identified to VBA's Office of Field Operations or to its regional offices, which resulted in claims decisions based on erroneous or incomplete information. MDEO also did not analyze all readily available quality assurance (QA) data to help identify and correct systemic issues. We made four recommendations including assessing and modifying contract language, communicating exam errors to all appropriate VBA offices, and analyzing available error data to help improve the program. All four recommendations are closed as implemented.

Our most recent review responded to veterans' concerns that they had to travel excessive distances for exams. We examined MDEO's monitoring of contractual mileage requirements because this travel can place a physical burden on veterans and increase VA's costs since veterans receive mileage reimbursements for driving to their exams. Although the contractors are required to get veterans' express consent to travel beyond 50 miles for non-specialist exams and 100 miles for specialist exams, our team found that MDEO was not fulfilling its responsibility to monitor this requirement.

MDEO's leaders did not consider it a priority given what they described as the small percentage of veterans affected. They did not realize the impact until our team informed them that over 65,000 veterans, or 11 percent, were required to travel beyond the mileage restrictions at the time of our review.

The OIG made three recommendations that focused on VBA overseeing vendors' compliance with mileage and travel reimbursement requirements, as well as collaborating with vendors to ensure their portals include proper documentation of expressed consent and mileage reimbursement information. All recommendations will remain open until we see evidence of sustained progress.

The third review examined VBA's efforts to schedule and conduct disability exams during the pandemic. We found that VBA took significant actions to limit veterans' exposure to COVID-19 by canceling in-person exams and provided guidance to the field regarding when it was appropriate to reschedule exams to ensure cancellations did not result in claim denials. However, we found first that early in the pandemic, guidance was unclear and led to inappropriately denied claims due to canceled in-person exams. Second, that VBA's strategies for addressing the exam inventory required more attention and testing to ensure personnel are fully prepared for future emergencies.

We made two recommendations to VBA. Improve its strategy to reduce the exam inventory through in-person, telehealth, and acceptable clinical evidence exams, and implement a plan to increase the use of telehealth exams. We closed the first recommendation as implemented. The second recommendation was closed as not imple-

mented because VBA did not carry out its original action plan due to changes in circumstances.

In conclusion, one of the critical foundations of accountability of any program is effective quality assurance and monitoring to detect and resolve issues. MDEO needs to improve its oversight of contract exam vendors and better communicate with other VBA offices to ensure veterans receive the benefits they are entitled to through VA's disability programs. The OIG remains focused on conducting oversight work in this area to help improve veterans' experiences during the claims process. Mr. Chairman, this concludes my statement, and I would be happy to answer any questions you or members of the subcommittee may have.

[THE PREPARED STATEMENT OF STEPHEN BRACCI APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Mr. Bracci. The written statement of Mr. Bracci will be entered into the hearing record. We will now move to questioning. I recognize myself for 5 minutes. Mr. Bracci, how long have you been working at the Office of OIG?

Mr. BRACCI. Nearly 22 years.

Mr. LUTTRELL. Mr. London, how long have you been in your position?

Mr. LONDON. Since December 2021.

Mr. LUTTRELL. Have recommendations from your office, Mr. Bracci, are they similar to previous recommendations that you have offered up to the Department of Veterans Affairs? Do you see any consistency in the recommendations?

Mr. BRACCI. Yes, sir. Based on work we have done within VBA, we commonly see issues of governance, accountability, and communication.

Mr. LUTTRELL. That seems systemic. Mr. London, I am curious as a veteran myself, why this proverbial can continues to get kicked down the road. Can you give me some insight on why if the Office of Accountability is providing this information to the VA, why this continues to happen?

Mr. LONDON. Thank you very much for the question. First, let me tell you that oversight and compliance is near and dear to my heart. Most of my time with the Department of Veterans Affairs I spent my career making sure that we were in compliance with statute, regulations, and policies and procedures. Immediately after my appointment up to this position, I made a focus of making sure that one, we have internal processes to review any deficiencies, and we take seriously the feedback that we get from GAO, from OIG, and veterans, Veterans Services Organizations (VSOs), and their advocates.

As a result of my leadership and my team's actions, we have improved the oversight capabilities that we have. The systemic issues that have been identified will not continue under my leadership. You have my commitment.

Mr. LUTTRELL. I will take that as the next time that this panel is sitting in front of us with the OIG, the OIG report will not say governance, accountability, communications in the continuance of language.

Mr. LONDON. That is my commitment.

Mr. LUTTRELL. Is that a fair assessment?

Mr. LONDON. Yes, sir.

Mr. LUTTRELL. Thank you. Mr. London, on a staff call with the VA, the performance data of the vendors for the second quarter of the Fiscal Year 2023 was provided. The accuracy of veteran satisfactions of vendors seems to be above the requirements. However, the production standards do not seem to be meeting the requirements. Can you elaborate, please?

Mr. LONDON. Yes, thank you for the question. I believe you are referring to Quarter 2 of this Fiscal Year where their production rate was not meeting the standard. It is very important to note that Quarter 2 actually represents exactly when VA started processing PACT Act claims. In January, starting January 1, we started to receive an influx of additional exam requests, which we expected and anticipated. We have been working through that inventory.

What we have subsequently done to make sure that we are meeting the demand of our veterans, we have changed the production requirement to match the receipts that we are getting and the projections that we have for exams. The exam vendors are completing more exams than ever. As I noted in my testimony, we have completed over 25 percent more than we completed last year, which was a record year. On a weekly basis, we complete over 50,000 exams. Generally, we get about 50,000 exams requested each week. We are keeping pace with the demand and it is a reflection of the new standards that we have, which have started in Quarter 3, which we will be happy to report to you and your staff in the coming weeks.

Mr. LUTTRELL. I think one of the major concerns of this committee is the implementation of the PACT Act and I give absolute credit to you, to the Department of Veterans Affairs, okay? I do. You guys are working hard. However, when—I should not say however. My concern is because we are already behind the eight-ball and the cases are going to continue to come in, do you honestly think in the next Fiscal Year the VA will be able to sustain an upward momentum of completing these cases?

Mr. LONDON. Thank you for the question. Our exam vendors continue to modernize their processes, to provide additional training, and to expand their network to make sure that they have the examiners available to meet the demand. If you look at how we are performing today, on average we complete exam requests within 30 days. As I mentioned, we are completing over 50,000 exams each week. If you look at our current inventory that we have, which is roughly 285,000 pending exams, that represents the fact that we are processing these at 30 days at a time and they are in various stages of the exam process. That can be scheduling the appointments with the veteran, actually completing appointments, or actually filling out the DBQ or going through a QA process. I feel confident that where we are today and with our planned expansion that we will be able to maintain a healthy inventory and to continue to provide exams so that veterans can get access to their benefits and healthcare.

Mr. LUTTRELL. Thank you, Mr. London. My time has expired. I now recognize the Ranking Member Pappas for his line of questioning.

Mr. PAPPAS. Thank you very much, Mr. Chairman. Thanks to our panel for your comments. Obviously, the chairman mentioned the increase in claims due to PACT Act and how VA is working to meet that moment, especially as the workload continues to escalate. I am just wondering if, you talked a little bit, Mr. London, about the vendors, the other piece of the equation here, the VHA examiners. Can you talk about whether VHA facilities will hire additional examiners to increase staff capacity to help meet this moment and ensure that we do not fall further behind?

Mr. LONDON. Thank you very much for the question. As I mentioned in my testimony, the partnership with the VHA is absolutely critical to make sure that we can complete the exams for our veterans. We meet with VHA on a weekly basis to discuss the State of the workload and we are working as stated in the testimony to actually have a formal work allocation plan so that we have not only the confidence, but we have a common understanding of what the workload distribution is going to be. I am going to defer to my colleague, Dr. Bridges, to talk specifically about what VHA is doing.

Mr. PAPPAS. Okay. While you answer that, if you could get to the point that I believe Ms. Curda made earlier, which was just about a lack of clarity within VA about what direction we are going in and whether or not we do want to fill positions and make sure VA is beefing up its staff of examiners.

Mr. BRIDGES. Thank you for the question, Congressman. VHA is continuing work associated with communications from GAO needed to complete the recommendation and expect to meet the target date of November 2023. As Mr. London just stated, we are also working on a work allocation Memorandum of Understanding (MOU) and we anticipate that to be completed by September 2023 and to be implemented by Fiscal Year 2024. The decision for increasing capacity of VHA providers is left up to the local facilities and the Veterans Integrated Services Network (VISNs) to make that decision based upon the workload for treatment exams as well as for C&P examiners. Thank you.

Mr. PAPPAS. Okay. In terms of seeing that formal workload plan, so we are all clear on where we are going, when do we expect to see that? Mr. London, maybe if you want to take it.

Mr. LONDON. Sure, I can take that. Thank you for the question. As Dr. Bridges mentioned, we are actually working on the plan as we speak and we plan to have it drafted by the end of the fiscal year. It will then go through VBA and VHA leadership concurrence and obviously, there will be a discussion there, and we plan to implement that in Fiscal Year 2024. I do not have a definitive timeline for the exact date that we will implement, but we will certainly have a draft ready for leadership by the end of the fiscal year.

Mr. PAPPAS. Okay. Can you comment on what is happening in the interim? You know, to address this issue of lack of clarity and, you know, how VA is responding to this increase that we are seeing in folks that need these exams.

Mr. LONDON. Thank you for the question. First let me explain that every exam that is requested we first look to see if that local VHA facility closest to the veteran's home actually has the capacity

to complete that examination. Every examination request goes through that process. If the capacity is not at their local facility, that is when the exam request is then forwarded to one of the exam vendors.

As Dr. Bridges said, the first primary focus is to make sure that at the local level, they are providing the healthcare and treatment that our veterans have earned and that they deserve. If the capacity is not there, it then goes.

Today, there are C&P examinations being completed by VHA and as the chairman mentioned, VHA is completing about 10 percent of all exam requests.

Mr. PAPPAS. Can I ask you just about maybe a philosophical question about timeliness and about quality whether those things are in conflict and you need to work to balance them. Or whether veterans can expect to see both through this process.

Mr. LONDON. My view—thank you for the question. My view is that they are equally as important. We expect to complete exams as quickly as we can with the highest quality possible. That is why we set a target of 96 percent for all quality and we will incentivize the vendors if they exceed that amount and equally if they go below 92 percent, we will actually charge a negative incentive to ensure that we are not only meeting the timeliness but the quality that our veterans deserve.

Mr. PAPPAS. Well, since such a growing share of this work is being contracted out, I think the accountability for the vendors is such an important piece of this. Measuring that progress is important. Even if you hit a score of, you know, 90, 95 percent in terms of timeliness or satisfaction, you are still talking about thousands of veterans that might not have a satisfactory experience. These are people that are owed nothing but the best. Perfection is critically important in both of those areas. I thank you for your work and I yield back.

Mr. LUTTRELL. Thank you, ranking member. Mr. Ciscomani, you are recognized for 5 minutes, sir.

Mr. CISCOMANI. Thank you, chairman. Thank you for your time and thank you to the witnesses also for being here today and as the subcommittee conducts this hearing oversight over the medical exam process for disability claims.

I am proud to represent over 70,000 veterans in my district in Southeastern Arizona. It is CD-6 in the southeastern corner of the state. We have a substantial veteran population and one, my community specifically in Sierra Vista, which is in Cochise County, has that substantial veteran population and it is also right on the U.S.-Mexico border. Cochise County also borders the State of New Mexico to the east with the nearest VA facility in Tucson, which is an hour and a half away or so from the Sierra Vista area.

Veterans in Sierra Vista face limited options if they can not schedule a medical exam. Additionally, most of the surrounding areas are rural communities with limited providers. In the Isakson-Roe Veterans Healthcare and Benefits Act of 2020, it granted temporary license portability for VBA contracted nurse practitioners, physician assistants, and other healthcare providers that conduct disability exams to provide exams across state lines. This is crucial for communities like mine in Sierra Vista with New Mexico being

so close, as I mentioned. Mr. London, question for you, how have the flexibilities provided by license portability and telehealth exams helped the increased demand for disability exams?

Mr. LONDON. Thank you for the question. Without that flexibility, I believe that we would not be able to keep pace and report the numbers that I stated earlier about the increased production and how I feel confident that we are managing the exam requests appropriately. The vendors have utilized that authority to actually have traveling providers to go to places like your state to ensure that veterans can get the exams that they need.

We also have a fleet, the vendors do, have a fleet of mobile exam units. There are approximately 28 and they are, as we speak, they are adding more to the fleet, where we are actually not only sending traveling providers, but we are actually going into the communities where veterans are. We have actually started doing in-person events across the country where instead of having veterans to travel, we are going to them especially in rural communities like the one that you serve. I feel as though that that particular authority has enabled us to be able to meet that demand and meet veterans where they are.

Mr. CISCOMANI. Well, you kind of answered my next question, if there was anything you want to expand on that. My follow up was going to be how do these flexibilities address the needs of rural veterans in ensuring they are able to receive quality and timely exams as well? As I mentioned, with quite frankly the state borderlines with New Mexico being almost the same distance as the closest nearest facility. The mobile, you know, facility of you going to them that is an example. Anything else you can think of that is making this, you know, access better and wider for the veterans there?

Mr. LONDON. Yes, thank you. It is a multi-pronged approach. First it is the traveling providers. Also, as I mentioned in my testimony, what the vendors are going is especially when they are large numbers of veterans that they need to see, they are actually leasing space in that area so they can have a routine presence there. They are also going in and as demand comes up, they are actually working with local entities to actually utilize their space to again, make sure that we can meet the demand.

Again, that authority allows us the flexibility even if we do not have providers in a particular area to actually take advantage of utilizing our mobile units using that rented—

Mr. CISCOMANI. Yes.

Mr. LONDON [continuing]. space or that per diem space. We also want to make sure that we are using telehealth capabilities and also the acceptable clinical evidence so that veterans do not have to travel at all.

Mr. CISCOMANI. I am not sure how good your glasses are, but it seems like you are reading my notes because that was exactly my next question. Actually, that is going to go to Ms. Curda, if I can. Regarding telehealth, can you elaborate a little bit on how the flexibilities of license portability and telehealth reportedly help the VA to meet demand on disabilities exams?

Ms. CURDA. Sure. I mean, I have very similar things to say as VA. You know, we have heard from the contractors we spoke to and certainly veteran service organizations, as well as VA officials,

are pretty much in agreement that these flexibilities have helped meet exam demand in a number of ways. They have helped provide exams in rural areas as we discussed.

In addition, they have also broadened the pool of available providers, which we heard helped increase access to specialists, for example, audiologists and psychologists. Contract vendors were also able to send in experienced examiners from out of state to provide exams rather than needing to take the time to hire and train new providers.

Finally, in addition to helping provide exams for rural veterans, we also heard that telehealth helped provide safer exams during the pandemic, saved some veterans time from traveling long distances, and eased physical space constraints experienced by VHA and vendor facilities so they could complete more exams.

Mr. CISCOMANI. Thank you. I am out of time. I just want to say that we, you know, realize that we need to clarify some technical issues here and guidelines regarding license portability. I also believe that many communities like mine can benefit from this. While I realize the temporary license portability is scheduled to expire here in January 2024, I hope we can work together to ensure that veterans can continue to benefit from easier access to these exams, especially when it is so crucial to their disability claims and disability ratings as well. Thank you and Mr. Chair, I yield back.

Mr. LUTTRELL. Thank you, sir. Mr. Deluzio, you are recognized for 5 minutes, sir.

Mr. DELUZIO. Mr. Chairman, thank you and thank to you and the ranking member for your leadership here. We have got to get this right. We have got to make sure that we are protecting public money and of course making sure our fellow veterans are not missed when they are eligible to be receiving compensation and care in the VA. It is critical.

Mr. Bracci, I will start with you. I want to interrogate a bit the assumptions around outsourcing and privatizing the C&P exams and make sure that those make sense. As I understand it, principally or first, the hope here, the goal is to save money without sacrificing quality and to free up VHA staff and personnel for care. Let us start with the first one. Are we saving money without sacrificing quality in outsourcing these exams?

Mr. BRACCI. As far as who conducts the exams, the OIG does not really take a position on who conducts them. We have just conducted our oversight of contract exams because that is where the bulk of the exams are done and that is where the bulk of the money is spent. We have not done any specific review to the topic that you are talking about.

Mr. DELUZIO. Sure. In other words, reviewing or comparing outcomes in VHA relative to the contractors who are doing these exams outside VHA.

Mr. BRACCI. Yes, sir, we have not done any reviews that focus on that aspect.

Mr. DELUZIO. Okay. Is there anything stopping you from doing that kind of analysis in terms of legislative authority or otherwise?

Mr. BRACCI. No, nothing legislatively that is preventing us from doing it.

Mr. DELUZIO. Okay. Then I guess I would, I will ask you as well, Mr. Bracci, does OIG have a view of whether using contract examiners has freed up VHA to use people and their time for care more effectively?

Mr. BRACCI. I do not think we have done the work to make that type of assessment. We have focused on MDEO's oversight of the contract exam program.

Mr. DELUZIO. Okay.

Mr. BRACCI. That is where we get into the issues of governance, accountability, and communication.

Mr. DELUZIO. Okay. Mr. London, I will ask you a version of those same questions. Do you have a view of whether this has been more effective financially without sacrificing quality to have so many of the exams be done by contractors?

Mr. LONDON. I do not have a view of it because I am not aware of any analysis that has been conducted to actually have a conclusion to answer your question. I thank you for the question.

Mr. DELUZIO. Does anyone on the panel have a thought about that? Okay. Something we need to be digging in on. That is the basis assumption I think of why we are doing these and why we are having contractors do these rather than folks within VHA.

Dr. Bridges, do you have a view of whether the reliance on contractors has freed up VHA staff to do more and provide more care relative to what they were doing previously?

Mr. BRIDGES. Thank you for the question, Congressman. Unfortunately, I do not have an answer for that question that you are posing but I can take it back to leadership.

Mr. DELUZIO. Please do. Does anyone else have a thought on that or have any view on that at all? Okay. I will take that as a no.

Mr. Bracci, back to you. Your testimony highlighted issues with the distance veterans are being asked to travel for their exams. You have mentioned in your testimony here today your team found on average veterans were asked to travel 93 miles more than the contract limitations, which are, and you will have to correct me if I am wrong, 50 miles for non-specialists, 100 miles for specialists, each way. What percent, and I think you mentioned it earlier, what percent do you estimate of all veterans are being forced to travel beyond the contractual limitations on these exams?

Mr. BRACCI. Yes. At the time of our review, it was about 11 percent who were having to travel beyond the mileage restrictions, and that amounted to about 65,000 veterans.

Mr. DELUZIO. Your findings were that MDEO was not exercising really any oversight of the contract examiners in terms of how far they were asking veterans to travel?

Mr. BRACCI. Yes, the oversight was lacking as far as that particular topic. Once, to their credit, once we came in and we did our review, and we identified issues and made recommendations, they were responsive and started to take action.

Mr. DELUZIO. Okay. Does OIG have a sense of whether we are now seeing veterans traveling within the limitations in the contracts in those geographic ranges or we are still seeing folks have to travel too far?

Mr. BRACCI. We are just now getting into our follow-up process, which starts about 90 days after report publication. We will be tracking that as we go through that follow-up process.

Mr. DELUZIO. Okay. Mr. London, last question as I almost run out of time. If a veteran has a sensitive issue like military sexual trauma where they would want to see an examiner within the VA, are they able to request and receive that type of exam?

Mr. LONDON. Yes. Thank you for the question. Veterans are afforded their preference of the gender of the examiner for military sexual trauma related claims.

Mr. DELUZIO. I was not asking about gender. I am asking about whether they can ask for someone within the VA to do that exam who might have more specialized experience with veterans in military sexual trauma rather than a contract examiner?

Mr. LONDON. Thank you for the clarification. As I mentioned earlier, every exam, regardless of exam type, we first look to see if the local VHA facility has the capacity to complete that. As it relates to a military sexual trauma related claim, if the availability is not there and the veteran reaches out to VA, we will do everything in our power to accommodate the veteran's request.

Mr. DELUZIO. Okay. Mr. Chairman, I am out of time. Thank you. I yield back.

Mr. LUTTRELL. Thank you, sir. Mr. McGarvey, you are recognized for 5 minutes, sir.

Mr. MCGARVEY. Thank you, Mr. Chairman. Thank you, Mr. Chairman for having this hearing as we focus on making sure that our vets are getting the care they need. A little concerned with what we just heard right now from Mr. Deluzio's questions. That there is no position taken on who is giving these exams and how they are doing. That there is no sort of monitoring of what is going on. When in the conclusion of the statement, Mr. Bracci, that you offered to the committee, it says the OIG has found that MDEO needs to improve its quality assurance processes and better monitor its contract exam vendors to help ensure veterans receive the benefits they are entitled to through the VA's disability programs.

When we talk to our vets in our districts, what do we tell them? You guys know there is a problem and right now there are seemingly no answers on what we are going to do about it. What should we tell our vets back home that you guys are planning to do to make it so that they can get the benefits they have earned and they are entitled to?

Mr. LONDON. Thank you for the question. May I respond?

Mr. MCGARVEY. Please.

Mr. LONDON. I would not characterize it that we are not monitoring the quality of examinations that are being completed under the contract. We review approximately 1,500 quality exams every single month and almost 17,000 annually. As I reported earlier, quality is currently at 97 percent. OIG identified that we had an opportunity to improve our communication, which we have done.

On a monthly basis, we send our quality errors to the Office of Field Operations that work with the claims processors at each regional office to ensure that any errors that we identify does not negatively impact the veterans' access to benefits. I would characterize that we have a strong program and we have adequate over-

sight and we are communicating information and we see improvement each and every month.

Mr. MCGARVEY. I am glad of that. I mean, again, we want our vets to get the care they need. I think everybody on this panel wants our vets to get the care they need. We are appreciative of the work that is being done to help take care of our veterans but obviously we want that work to be the best.

You know, so one of the things we are talking about we are talking about 97 percent, we are talking about these numbers. There is still an incredible backlog. I mean, I understand why we are needing contractors. We want to make sure those contractors are doing a good job and addressing the backlog that exists because, you know, right now the current number of C&P exams outstanding is 300,000. I know that there are some COVID concerns. It is still over a quarter of a million backlogged exams. COVID alone does not explain the backlog because prior to the pandemic, the backlog was about 160,000.

These issues have been a longstanding area of concern. We have got to get the backlog. We want to make sure that in getting the backlog the veterans are having quality exams done by these contractors. What can we do to help? What can Congress do to help this backlog? What resources do you need? What legislative changes do you guys recommend, if any, that we can help with?

Mr. LONDON. Thank you very much for the question. I will go back to one example is license portability authority. First, renewing that authority or making it permanent as VA requested, and also, giving VA the authority to expand the types of providers that can utilize that authority. I believe that that will allow us to make extreme inroads on the already excellent progress that we are making in completing exams on average in 30 days.

Mr. MCGARVEY. I appreciate that. Just one last question because we are getting short on time. Would putting certain VA clinicians who are VHA employees on the VBA payroll change the VHA's hesitancy of assigning clinicians to perform the C&P exams?

Mr. LONDON. Thank you for the question. I will defer that question to my VHA colleague, Dr. Bridges.

Mr. BRIDGES. Can you repeat the question for me?

Mr. MCGARVEY. Sure. Would putting certain VA clinicians who are VHA employees on the VBA payroll change the VHA's hesitancy of assigning clinicians to perform the C&P exams, helping with the backlog?

Mr. BRIDGES. I do not think I have a good answer for you on that question. I will have to take that one back to leadership for the answer.

Mr. MCGARVEY. Thank you, please do. Thank you, Mr. Chairman. I yield back.

Mr. LUTTRELL. Thank you, sir. Mr. Self, you are now recognized for 5 minutes, sir.

Mr. SELF. Thank you, Mr. Chairman. Mr. London, how many GAO recommendations have not been implemented across let us just stick with VBA?

Mr. LONDON. Across VBA?

Mr. SELF. Mm-hmm.

Mr. LONDON. Not just my office?

Mr. SELF. Yes.

Mr. LONDON. Thank you for the question. I just wanted to clarify. We will have to take that back and get back to you. I do not have that number offhand.

Mr. SELF. Yes, from the macro perspective, across VA as a whole, it is in the hundreds. That is from the macro. Mr. Bracci, is that, am I getting that right?

Mr. BRACCI. Yes, sir.

Mr. SELF. I have heard the incentives that the providers, that the contractors have, do you have any monetary penalties should they not meet the standards?

Mr. BRACCI. I know within the new contracts that were written there they have the option of providing monetary incentives and monetary disincentives in order to hold vendors accountable. I think that question can be better answered by Mr. London and his team.

Mr. SELF. Mr. London.

Mr. LONDON. Yes, thank you for the question. For each of the five performance elements that we have, quality, customer service, timeliness, average days that an exam request is pending, and average days to complete an exam request, all of those particular performance measures are eligible for both incentives and negative incentives.

Mr. SELF. How often do you exercise the penalties?

Mr. LONDON. Thank you for the——

Mr. SELF. Disincentives as you call them.

Mr. LONDON. Yes, thank you for the follow-up question. As Mr. Bracci mentioned, we just recently changed the contract to be able to specifically address quality and customer service. Before, we did not have elements to do those. However, before, we focused on production and timeliness. We have assessed negative incentives exceeding \$26 million.

Mr. SELF. Okay. That is good to hear because my experience as short as it is in Congress, the administration responds primarily to money.

I wanted to talk about the density of your contract examiners. As we talk about time it takes, Mr. Bracci, I think I am back to you. The time it takes for veterans to get to an exam, do we have the density of contract examiners that we need? Or are they located primarily in urban areas? Talk to me about the rural areas.

Mr. BRACCI. Yes, sir. As far as questions of resources and process, I think Mr. London would better answer that.

Mr. LONDON. Thank you for the question. If you look at where VA facilities are located and you look at where the contractors either have their branded locations or they have partnerships with third-party examiners, we are exactly where VHA facilities are. We also have density into some rural areas as well. As I mentioned before, we utilize the license portability authority to have traveling providers to go to those communities. We also have mobile units that go there. From a density standpoint, we are located where large populations of veterans reside. For those areas where veterans are in rural communities, we are doing everything that we can to go to where they are so they do not have to travel long distances.

Mr. SELF. I know that broadband is an issue in some rural areas, including part of my district. Does the lack of broadband hinder your telemedicine attempt?

Mr. LONDON. Thank you for the question. In some limited situations, I have heard of circumstances where the veteran either does not have the equipment or the access to broadband. As far as the equipment, the vendors do have the capability to actually send equipment to the veteran so they could participate in a telehealth exam. As far as the broadband availability, there are unfortunately situations where I know veterans do not have access to that capability.

Mr. SELF. How often to you send equipment to them to use? That is interesting.

Mr. LONDON. Thank you for the question. That is at the veteran's request. I will have to take that back to give you definitive numbers. I do know that that capability is being used across our vendor network.

Mr. SELF. I would like to get that answer. That is very good. Okay. My time is up, Mr. Chairman. I yield back, thank you.

Mr. LUTTRELL. Thank you, Mr. Self. To the panel, we have, the ranking member and I have a few more questions for you. I recognize the ranking member, sir.

Mr. PAPPAS. I am all set.

Mr. LUTTRELL. You are good?

Mr. PAPPAS. Sure.

Mr. LUTTRELL. Okay. Well, I have a question. Mr. London, a pre-hearing brief with the staff mentioned that the total cost for the contract programs including exams, salaries, and reimbursement for Office of Information and Technology (OIT), among other things was roughly 2.3 billion last Fiscal Year but not all was used. How much was left over?

Mr. LONDON. Thank you very much for the question. I do not have the direct number that is leftover. I will be sure to come back to you because we actually have that number still available because we have not de-obligated those funds because there are still invoices that are being processed from last fiscal year.

Mr. LUTTRELL. The remaining funds will be utilized where they—where we sent them initially?

Mr. LONDON. That is correct. Any unused funds will be de-obligated and sent back to Treasury.

Mr. LUTTRELL. Okay. Mr. Bracci, when you finish your report, who is the first person you send that to inside the Department, a name? I want a name.

Mr. BRACCI. There is a group within VBA who we route—

Mr. LUTTRELL. No, somebody is in charge, one person. Who is it?

Mr. BRACCI. Our report and recommendations go directly to the Under Secretary for Benefits. It goes through an office but—

Mr. LUTTRELL. Remind me who that is, please.

Mr. BRACCI. Mr. Jacobs.

Mr. LUTTRELL. Mr. Jacobs. Well, I know who that is.

Mr. BRACCI. Yes.

Mr. LUTTRELL. All right, thank you. Ms. Curda, on your report when it is completed and you send it out, who does that go to directly?

Ms. CURDA. Our recommendations are directed to whoever is most directly responsible for implementing them. In the case of our most recent report, it was the Secretary of the VA McDonough.

Mr. LUTTRELL. It was Mr. McDonough?

Ms. CURDA. Yes.

Mr. LUTTRELL. Okay, thank you. Ms. Imboden, how are you today?

Ms. IMBODEN. Good, thank you.

Mr. LUTTRELL. I just wanted you on the record so everybody knew that you were here.

Ms. IMBODEN. Thank you.

Mr. LUTTRELL. All right. Okay. I want to thank you all for appearing today to discuss this important issue. Disability exams are an important part of our disability claims process and ensuring veterans receive their earned benefits.

Oh, I am sorry. I did not see you come in.

Mr. CISCOMANI. I just got back.

Mr. LUTTRELL. You are recognized for 5 minutes.

Mr. CISCOMANI. Good.

Mr. LUTTRELL. Go ahead.

Mr. CISCOMANI. Thank you, Mr. Chairman. It will be quick. I do not want to be that guy that holds everybody else up. Let me just, I did have one more—a couple more questions here and I will start with you, Mr. London, again. On the issue of license portability, what other providers can we expand the license portability to?

Mr. LONDON. Thank you very much for the question. First I will give you two examples, two examples cited in GAO's report. Dentists, for example, and ophthalmologists. Those are two examples of providers that currently do not have the authority that further expansion will allow us to serve more veterans.

Mr. CISCOMANI. Good. That is really what I had for you, sir. Then again, Ms. Curda, real quick the GAO reported that the VBA contracted examiners who were ineligible for license portability, conducted exams in the states other than they were licensed to do that. Has the VA reviewed how many exams were incorrectly conducted under license portability? If so, what did the VA find on that just in terms of the accountability, also that Mr. McGarvey was talking about?

Ms. CURDA. I am not aware that they have completed that assessment. That was one of our outstanding recommendations, that they do a thorough assessment of the ineligible examiners and also from a risk perspective to determine if anything needs to be done regarding the claims that were decided. I would just defer back to Mr. London to address their progress on that.

Mr. LONDON. Thank you for the question. We have conducted a more formal risk assessment. We did do an initial assessment and provided that information to GAO when they issued their report. We have since done a deeper dive and we have consulted with the Office of General Counsel.

Specific to your question in the spirit of transparency, we did identify that approximately 300 veterans were impacted by the use of dentists and optometrists. Again, that analysis has been completed. We have made recommendations to leadership and so that

recommendation is being finalized and we will share that information in the next coming weeks with GAO.

Mr. CISCOMANI. I am interested in getting a copy of that as well, please. What is being rectified and what are the next steps to prevent that from happening again.

Mr. LONDON. Absolutely. Thank you, sir.

Mr. CISCOMANI. Thank you. Mr. Chair, I yield back.

Mr. LUTTRELL. Thank you, sir. I yield to the ranking member for his closing remarks.

Mr. PAPPAS. Well, thank you, Mr. Chairman. Thank you to our panel for your comments here today and I want to thank you for joining this conversation on VA's C&P exam processes. It is clear that there is more work to do to ensure that veterans receive the exams in a timely fashion and in a convenient manner. That the reports of those exams are complete and accurate.

It is critical to these veterans that they receive the benefits that they deserve for medical issues related to their military service and we certainly own them nothing less. The exam process is a key cog in the machinery that results in them receiving that benefit. I look forward to partnering with you all and you, Mr. Chairman, and the contractors and VSOs to ensure that our veterans receive the care and benefits that they deserve and that this process is working for them.

I certainly continue to challenge our witnesses and the contractors that are tasked by VA to do these exams to keep rededicating yourself to improving this experience for veterans because again, we hear feedback from time to time that is not positive. We work to help veterans who have frustrations with these experiences and, you know, we can celebrate statistics. We have to recognize that there are individual veterans behind these statistics and it is not always working in an optimal fashion for them.

Timeliness and quality matter. We can get both of those right and continue to improve. Does the treatment of veterans in the scheduling process as well, which can be a pain point for them in terms of getting that time and location right and just the customer service that they receive from these contractors and from VA. Mr. Chairman, I yield back. I thank you for holding this hearing.

Mr. LUTTRELL. Thank you, sir. Thank you, ranking member. To mimic what the ranking member just said, in all your successes, it is our job if one of our veteran constituents has an issue, we are going to bring it to you until it is perfect.

With that I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks and include extraneous material. Without objection, so ordered. This hearing is adjourned.

[Whereupon, at 11:02 a.m., the subcommittee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF WITNESSES

Prepared Statement of Jeff London

Chairman Luttrell, Ranking Member Pappas and distinguished members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the disability examinations administered by the Department of Veterans Affairs (VA).

Accompanying me today are Jacqueline Imboden, Assistant Director, from Compensation Service, Veterans Benefits Administration (VBA), Henry E. Bridges Jr., M.D., Senior Medical Officer from the Office of Disability and Medical Assessment, Veterans Health Administration (VHA) and Christopher Parker, Associate Executive Director from the Office of Acquisition Logistics and Construction (OALC).

Today, I will provide an update on the oversight of Compensation and Pension (C&P) examinations, discuss VA's progression on implementing the recommendations from the U.S. Government Accountability Office (GAO) and the VA Office of the Inspector General (OIG) and highlight the strong partnership and collaboration VBA has with the Medical Disability Examination (MDE) vendors and VHA. Together, we have expanded capacity and alternative modalities to provide quality and timely disability examinations to Veterans and Service members worldwide to ensure access to vital benefits and services.

Congress first authorized VA to contract for C&P examinations in 1996 in 10 heavily Veteran populated locations through P.L. 104-275. Congress further expanded the authority in 2003 under P.L. 108-183 and again in 2016 under P.L. 113-235. The 2015 law provided VA the ability to contract for C&P exams in all 50 states and worldwide. To ensure all Veterans receive a quality disability examination, all contract examiners must hold an active and unrestricted state license to practice medicine, with no previous or pending disciplinary proceedings involving professional conduct. Exam results conducted by contract examiners are given the same weight and consideration in the VBA disability compensation claim process as those conducted by VHA examiners, to include VBA decision reviews and appeals to the Board of Veterans' Appeals (BVA) and the Federal courts.

Disability Examinations

VBA requires disability examinations and/or medical opinions if there is medical and/or lay evidence of a current disability and evidence indicates that the disability or symptoms may be associated with the claimant's active military, naval, air or space service, but the file does not contain sufficient medical evidence for a decision on the claim.

Beginning in 2010 and finishing in 2011, VA began mandating all contract and VHA disability examination results be recorded using Disability Benefits Questionnaires (DBQ). These forms are developed and maintained through a partnership between elements of VBA, VHA and BVA.

Since the expansion of the C&P examination program in 2016 through the end of fiscal year (FY) 2022, VA has seen the number of Examination Scheduling Requests (ESRs) completed increase 69 percent from 1.2 million in FY 2016 to over 2 million in FY 2022. Through the end of June 2023, VA has completed over 1.9 million ESRs, a 21.8 percent increase from the same period in FY 2022. At the current rate of production, VA should complete over 2.4 million exams this fiscal year.

As of June 30, 2023, the C&P pending inventory for MDE vendors was approximately 287,000 with nearly 113,000 (39.2 percent) of those being PACT Act-related ESRs. When excluding PACT Act ESRs, MDE pending inventory was approximately 174,000, an increase of 7.3 percent from the same period in FY 2022.

Examination Experience

It is imperative that the Veteran experience be at the center of the C&P examination process. We recently conducted a human-centered design study with our Veterans Experience Office (VEO) partners, and learned that scheduling, traveling and attending examinations can be extremely difficult for Veterans both physically and

emotionally. VBA and VHA continue to leverage telehealth to provide C&P exams reducing the need for Veterans to travel for appointments. We continue working to improve the Veteran's experience to ensure our customers feel informed, safe and heard throughout the entire C&P examination process.

In June 2020, VHA partnered with VEO to implement the national VHA C&P satisfaction surveys. The surveys are comprised of two survey instruments that gain feedback from the Veterans' interaction with VHA C&P on two touch points—Scheduling an Appointment for their C&P examination and the Veteran's interaction with the Examining C&P Clinician. Both surveys noted increases in satisfaction scores in FY 2023 compared to FY 2022 and the majority of scores are in the 80th percentile.

VA continues working to improve the Veteran experience in numerous other ways such as collaborating with vendor partners to improve their direct interactions with Veterans and changing internal processes to deliver better service to Veterans. VA continues to use alternate examination modalities such as Telehealth in cases where that is appropriate and has provided guidance to MDE vendors on notifying Veterans of their right to designate the gender of the examiner for certain examination types.

All examination vendors send a customer satisfaction survey card and the choice of completing an online survey within the appointment notification packets, to Veterans scheduled for examinations. The completed surveys are analyzed, results are scored and reported monthly to VA and MDE vendors. MDE vendors must submit service recovery plans addressing any actions they are taking to address negative customer service trends. In FY 2023, through March 2023, the aggregate customer satisfaction for all vendors is 95.94 percent.

VA is also examining how trust can be measured within the customer satisfaction survey instrument and in cooperation with all instruments being utilized, regardless of modality. These changes will help to determine how adjustments to the program are received by Veterans and allow the program to make adjustments to improve the opinion of our Veterans based on their direct feedback. Trust is seen as a primary motivator in the process and the more VA can understand this element, the better we can steer the program toward innovative concepts and improvements.

To help ensure that exam facilitates meet the needs of Veterans, VA conducts in-person site visits and separately, virtual desk reviews to ensure that provider locations where Veterans are seen for exams are in compliance with the contract terms. Post-site visit reports consist of best practices and items requiring vendor actions. All action items are tracked until completion.

Additionally, VBA is actively working with VEO to adapt a current MDE customer experience survey to the enterprise-wide Veterans Signals survey platform already being used for customer input on VHA-administered C&P exams. This would allow for detailed analysis of customer input regarding their MDE exam experience by asking Veterans for their perspectives on elements such as receiving appointments at preferred dates and times, being treated with courtesy and respect during the exam process, being treated with care and compassion by the examiner and fostering an exam experience that allows for Veterans to ask questions or raise concerns during the exam. This input will be directly leveraged to identify and act upon identified pain points requiring corrective action or quality improvement in the C&P vendor exam process.

Contractual Oversight

VBA oversees 18 exam contracts and 9 ancillary contracts. These contracts provide additional oversight by applying metrics for timeliness, production, quality and customer satisfaction. Ancillary contracts verify examiners' credentials and provide financial and data audits to include invoice validation and beneficiary travel. VBA contracts with a third-party vendor to audit and ensure providers have current and appropriate licenses to practice within their healthcare specialty. Additionally, ancillary contracts are in place to deliver, and track required contract vendor training.

Training

All contract examiners are required to complete extensive training prior to conducting any disability medical examination. In addition to general certification courses, courses on Veteran culture and experience, suicide awareness and prevention, lethal means safety and various specialty courses are included in the required training.

All examiners, both contract and VHA, undergo the same specific C&P exam training and certification, regardless of whether they complete exams part-time or full-time. The required training consists of online courses initially developed by VHA's Office of Disability and Medical Assessment (DMA). In addition to general

certification training, all examiners who provide specialized exams (e.g., traumatic brain injury, mental health, etc.) are required to take supplementary courses specific to those specialty exam types. VBA contracts also require MDE vendors to provide examiners with a basic overview of VA programs. Contract examiners are required to complete recertification training every five years. Further, any contract examiners who have not completed an exam in the previous 12 months must recertify before conducting an exam.

VBA exam contracts include a requirement for all vendors to provide detailed training plans for all examiners, support staff and subcontractors who have routine contact with Veterans to reinforce VA requirements, regulations, and quality assurance. VBA reviews each plan to ensure training plans address all contract training requirements; training assessments and evaluation feedback; how the vendor disseminates training material and documents to completion; and how new training courses are incorporated into training plans. VBA provides feedback to vendors as appropriate and ensures updates are made prior to approval of any training plan.

Training validation is a critical VBA oversight function. VBA uses monthly rosters of invoiced DBQs completed to perform compliance reviews of randomly selected active examiners. These samples allow VA to validate that examiners who are actively conducting examinations are properly certified. VBA validates training through the quality assurance program by ensuring examiners signing DBQs are trained and certified to complete C&P exams.

Quality

VA is committed to the quality of all disability examinations completed. To assess the quality of vendor exams, VBA reviews a sample for each contract using standardized audit criteria, resulting in approximately 1,400 quality reviews conducted each month. Each quality review is completed using a quality criteria checklist and confirms the examiner complied with all government instructions, addressed all questions completely and that the exam report aligns with information of record and includes explanations when it does not. The resulting accuracy findings are used to assess vendor performance and presented in a quarterly report.

VBA provides quality feedback to its vendors in various ways, to include monthly error citation reports for each contract, vendor-specific monthly quality calls, vendor-specific monthly clinician calls and ad-hoc answers to questions. Additionally, VBA conducts special reviews on specific exam types, providers, or based on error trends to provide additional oversight and feedback. The quality requirement outlined in the contract is 96 percent. In FY 2023, through March 2023, the aggregate quality score for all vendors is 96.8 percent. Overall quality has been trending upward for the past six quarters, culminating with an FY 2023 Q2 quality of 97 percent.

To assess the quality of VHA disability exams, the VHA C&P Quality Assurance Program employs an audit review process and a performance measurement component. VHA uses a web-based Quality Audit Review tool that utilizes quality indicators developed by VBA and VHA subject matter experts. Of note, these indicators are not indicative of clinical quality but rather evaluate the completeness of DBQs. The quality requirement is 90 percent which VHA national C&P exam quality scores have exceeded for the past six years at 97 percent or greater. This fiscal year through May 2023 the aggregate quality score for VHA C&P examiners is 98 percent. Results from the audits are shared nationally with C&P staff during national calls. In addition, monthly reports are nationally accessible through the VHA Support Service Center (VSSC).

VHA conducts approximately 5,000 oversight audits of completed C&P examinations annually. VHA's sampling methodology was developed using a statistical analysis and is based on the total number of completed examinations. VHA's DMA develops and monitors Veterans Integrated Service Networks and overall VHA quarterly quality and timeliness performance measures for the VHA C&P examination process.

Contract Improvements

VBA MDE vendors continue to expand provider networks and their internal workforce to increase examination production. Vendors are adding both privately owned facilities as well as per-diem locations as needed. VA also added a fourth vendor to the Pacific Region, which began processing exam requests on December 16, 2022. VA added two new vendors to the Predischarge contracts and one new vendor to the international contract in April 2022.

Monetary incentives, both positive and negative, are part of every MDE vendor contract. Vendors are eligible for an up to 3 percent positive or negative incentive for five performance areas: production, average days pending, average days to com-

plete, quality of DBQs and customer satisfaction. The intent of the incentive is to encourage continuous operational and quality improvement over the life of the contract, and to drive desired outcomes to meet performance requirement targets set by VBA. Eligibility to receive the monetary incentive is based on the contractor's performance in accordance with the contractual performance requirements. These incentives and increased vendor provider networks allowed VA to increase ESR completions by 10.9 percent in FY 2022 as compared to FY 2021. VA is on track to further increase disability exam completions by 24.7 percent during FY 2023.

Examination Access

VA and its MDE vendors are working to ensure all Veterans, including rural Veterans, have access to the benefits and care they have earned more easily by using modalities that limit travel for in-person examinations. Furthermore, through the contract exam process, VA has the ability to conduct examinations for Veterans worldwide through several different exam modalities. In FY 2023, the number of international examinations is expected to increase from 26,063 in FY 2020 to over 45,000.

Virtual Exam Modalities

In 2012, VA began using Acceptable Clinical Evidence (ACE) and in 2020, Tele-C&P examinations were utilized to increase flexibility in examination scheduling. Under ACE, VA examiners complete a DBQ by reviewing existing medical evidence and can supplement it with information obtained during a telephone interview with the Veteran, alleviating the need for the Veteran to report to an in-person examination. Similarly, Tele-C&P examinations provide the equivalent of in-person C&P evaluations through the use of telehealth video technologies – they are safe, effective, and often more convenient for the veteran. So far, this fiscal year, through June 2023, MDE vendors have completed over 1.9 million total appointments consisting of over 200,000 (11.9 percent) ACE and over 160,000 (8.2 percent) Tele-C&P appointments. This is a 5.3 percent and 5.1 percent increase respectively from the same period in FY 2022.

VHA also continues to support the use of virtual care modalities to complete medical disability exams for Veterans as appropriate. To date this fiscal year, nearly 26 percent of DBQs completed by VHA have been completed virtually via ACE and Tele-C&P, a 3 percent increase from the previous fiscal year.

Rural Veterans

In addition to increased examination modalities, MDE vendors are using traveling providers, claims clinics and per-diem or rented locations to assist rural Veteran populations. Vendors have mobile units which are deployed throughout the country to augment existing provider networks and provide a full range of exam services to meet Veterans where they are, rather than where we are. Mobile units are equipped to complete general medical and most specialty examinations, as well as diagnostic testing. The units are handicap accessible, with wheelchair lifts and ramps, and are fully self-contained with power supply and internet connectivity, allowing for secure evidence transmission to VA systems. Vendors continue to expand their mobile unit fleets and collectively have 28 operational individual units.

Another innovation used by MDE vendors is boothless technology for audio exams. Boothless technology is an equivalent alternative to traditional hearing evaluations which occur in sound booths. By virtue of technology that measures and reduces background noise, a complete hearing evaluation may occur in non-traditional settings such as an individual's home, prison facility, nursing home, military theatre, schools, and clinic waiting areas. By extension, for the home-bound or for those experiencing transportation barriers, this technology allows greater access and reduces wait times without degrading the quality of the hearing exam.

PACT Act

The passage of the Sergeant First Class (SFC) Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 on August 10, 2022, empowered VA to deliver additional care and benefits to millions of Veterans and their survivors. In addition to expanding presumptive criteria for disability compensation claims, the PACT Act created a new examination requirement for claims related to Toxic Exposure Risk Activities (TERA).

To prepare for the expected increase in exam and opinion requests related to toxic exposures, additional training for C&P medical examiners was developed. VBA worked with the War-Related Illness and Injury Study Center (WRIISC) and Health Outcomes Military Exposures (HOME) VHA staff to ensure all VHA and VBA contract examiners received training to assess deployment-related environmental expo-

tures. VBA also developed comprehensive PACT Act training products for VHA and contract medical examiners. These included courses on Key Terms and Medical Opinions, Airborne Hazards and Burn Pits Exposures, and job aids for review of TERA and Individual Longitudinal Exposure Records (ILER). Additionally, VBA developed a reference guide for conducting these types of exams. Since the implementation of the PACT Act, VA has completed over 459,000 PACT Act-related ESRs and as noted earlier, approximately 39 percent of the total currently pending MDE vendor ESR inventory is related to PACT Act claims.

Separation Health Assessment (SHA)

As reported in the FY 2022 VA/Department of Defense (DOD) Joint Executive Committee Annual Report,¹ VA and DOD completed a multi-year effort to establish content of a single common Separation Health Assessment (SHA) for discharging Service members. SHAs are comprised of both subjective patient histories and objective clinical evaluations. This combined effort streamlines the disability claim process, reduces redundant examinations and ensures medical assessments for those separating from the service are accurate and complete. These changes are intended to substantially improve both the physical and mental health assessments of separating Service members, including real-time assistance and necessary referral services.

To streamline SHAs, clinical subject matter experts and specialty groups covering audiology, mental health, women's health, environmental and occupational exposure, traumatic brain injury, vision and dental health identified baseline elements for inclusion in the common form. Further collaborative efforts produced high-value improvements that address suicide and violence risk screenings, reporting of exposures to occupational and environmental hazards and the communication of resources for survivors of sexual trauma in the military.

VA and DOD have been working tirelessly to implement this new assessment through a joint agency asynchronous launch plan. VA is pleased to report that we began completing SHAs in the new format on May 1, 2023, for all Service members filing claims with VA through the Benefits Delivery at Discharge claim program or the Integrated Disability Evaluation System. DOD is expected to begin completing all discharge examinations in the new SHA format, for those not filing claims with the VA, in FY 2024 across the Service Departments. By the close of FY 2024, all separating Service members will receive their discharge examination in the new format.

Claims Automation Support

VBA is undergoing business modernization efforts designed to leverage technology by automating administrative tasks and workflows, known as Automated Decision Support (ADS) technology. The VBA Medical Disability Examination Office (MDEO) is currently collaborating on Modern Claims Processing (MCP) and efforts with its Office of Business Automation (OBA). This collaboration is yielding positive results in the fields of data ingestion and automation.

ADS is currently being leveraged to order ESRs, when certain business rules are met. Approximately 12,557 ESRs (0.7 percent) have been requested by ADS from December 2, 2022 through July 19, 2023. Additionally, the DBQ content validation initiative enables the validation of all DBQs in real-time, promoting interoperability within VA and other agencies through the National Information Exchange Model (NIEM) and ensuring DBQs are ready for review when making claims decisions.

DBQ results are also being modernized to transmit as computable data. Currently, 69 of 82 DBQs are received as computable data from the MDE vendors. This allows VA to leverage automated data ingestion which develops logical mapping between DBQ fields and corresponding Veterans Benefits Management System (VBMS) rating calculators. Software automatically populates rating calculators to produce consistent and standardized disability ratings while simultaneously reducing manual data transcription activities for employees.

Internal VBA Collaborations

In FY 2022, VBA established the Over-Development Reduction Task Force for the purpose of reducing over-development within the C&P claims process. Over-development is an unneeded action taken by an employee when processing a claim, resulting in unnecessary delays in providing decisions. The task force, which consisted of members across VBA, analyzed the C&P claims development process to determine

¹Department of Veterans Affairs-Department of Defense Joint Executive Committee annual Joint Report Fiscal Year 2022

ways to streamline and provide more timely claims decisions for Veterans and their beneficiaries.

In order to reduce the overall development timeline and get Veterans their examinations more quickly, the task force focused on improving procedural guidance, updating training, completing special focused reviews and providing targeted feedback to claims processors and implementing system enhancements. The task force's next phase will focus on eliminating inefficiencies and redundancies in the examination process while providing recommendations for updates to policies, procedures, legislation and/or system enhancements.

GAO/OIG Reports

In June 2023, GAO issued a report² on the increased use of telehealth examinations and the expansion of license portability. The report identified an opportunity for VA to improve its guidance to contract examiners in these areas. As a result, VBA provided clarification in April 2023 regarding the type of examiners eligible for the License Portability Act via Vendor Guidance Memo (VGM) 23-36. Specifically, this VGM clarified that "the only providers currently eligible for license portability are those providers listed in P. L. 116-315, § 2002, which are Physicians, Nurse Practitioners, Physician Assistants, Audiologists and Psychologists." VBA has also established procedures to ensure that only providers authorized in statute to use license portability authority are completing examinations across State lines.

Additionally, GAO examined VA's planning and oversight of contracted disability exams.³ GAO identified potential risks regarding capacity and exam quality. In order to mitigate these, VBA continues to work with VHA to execute a memorandum of understanding (MOU) on a comprehensive workload allocation plan for C&P examinations. VBA and VHA continue to assess the impact of the PACT Act on the capacity of VBA's vendors and on VHA's capacity to perform primary care and C&P exams. VBA and VHA will also address potential risks in the exam distribution process in the MOU. VA expects the MOU to be drafted by the end of FY 2023. Through VBA's efforts, the number of ESRs performed by VBA contract examiners increased from roughly 180,000 in FY 2012 to 1.1 million in FY 2020. This total represented more than three-quarters of the 1.4 million ESRs performed in FY 2020.

In addition to the oversight provided by the GAO, VA's OIG conducted several reviews of the contract examination process. The OIG found that VA needed to implement a process to monitor and assess vendors' compliance with contractual mileage and travel reimbursement requirements, collaborate with vendors to ensure portals include documentation of express consent of Veterans to travel longer distances and finally to ensure mileage reimbursement information is available in the vendor portals.⁴ VA expanded its oversight activities in these areas by modifying its third-party financial audit contract in March 2023. These audits assist in ensuring proper reimbursements are made to Veterans traveling to appointments, supporting documentation is available in vendor portals and added visibility to the VA's oversight. VBA continues to work with OIG on improving this area of oversight.

OIG further examined VA's governance of and accountability for contract medical disability exams.⁵ Through these findings, VBA has modified its contracts in order to hold contractors accountable for unsatisfactory performance through monetary disincentives. VBA also revised the contracts to require vendors to take all corrective actions when a deficit is identified by VBA. In addition, MDEO worked with Compensation Service and the Office of Field Operations to implement procedures for error correction and analysis of all error data in order to provide issues and trends to vendors. Each month, MDEO reviews random samples of vendors' exams for compliance with contract quality standards. These quality reviews identify instances when the vendor has not complied with contract quality requirements. The results are then compiled into monthly and quarterly performance reports to assess the vendors' performance and determine whether they are meeting the contractual 92 percent accuracy requirement. As a result of VBA's efforts, in May 2023, OIG agreed to close this report as fully implemented.

² GAO Report 105787, Actions Needed to Clarify Program Requirements Regarding Examiners.

³ GAO Report 21-543, VA: Disability Exams: Better Planning Needed as Use of Contracted Examiners Continues to Grow.

⁴ OIG Report 22-02067-82, The Medical Disability Examination Office Needs to Better Monitor Mileage Requirements for Contract Exams.

⁵ OIG Report 21-01237-127, VBA Contract Medical Exam Program Limitations Put Veterans At Risk for Inaccurate Claims Decisions.

In addition to the areas discussed above, OIG examined VBA's disability exam inventory.⁶ VBA has worked with VHA to expand the use of alternative exam modalities in a safe and logically feasible manner. VA used these efforts to reduce the exam inventory caused by the temporary suspension of in-person examinations due to the COVID-19 pandemic. VA reached a peak inventory of 361,854 on March 11, 2021, which was reduced by 24 percent by the end of FY 2021. In October 2021, OIG agreed to close the report as fully implemented.

Conclusion

I want to express my appreciation for your continued support of Veterans, their families, caregivers, and survivors. VA appreciates the authority provided by Congress to obtain contract examinations for Veterans and transitioning Service members.

Continuous oversight and enhancement of the MDE Program remain priorities as well as looking for opportunities to further streamline the examination process.

This concludes my testimony. I would be happy to address any questions you or other members of the subcommittee may have.

⁶OIG report 20-02926-07, Reduce Disability Exam Inventory Due to Pandemic and Errors Related to Canceled Exams.

Prepared Statement of Elizabeth Curda

United States Government Accountability Office



Testimony

Before the Subcommittee on Disability Assistance and Memorial Affairs,
Committee on Veterans' Affairs, House of Representatives

For Release on Delivery
Expected at 10 a.m. ET
Thursday, July 27, 2023

VA DISABILITY EXAMS

**Opportunities Remain to
Improve Program Planning
and Oversight**

Statement of Elizabeth Curda, Director, Education,
Workforce, and Income Security

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee:

I am pleased to be here today to discuss the findings from our recent work on Department of Veterans Affairs (VA) disability medical examinations. As you know, VA often relies on disability medical exams to determine whether veterans are eligible for disability compensation. Two groups of disability medical examiners conduct these exams: examiners employed by the Veterans Health Administration (VHA) and examiners working for vendors contracted by the Veterans Benefits Administration (VBA). Together, these examiners perform more than 1 million disability exams per year.

In April 2020, VA suspended in-person exams for several months due to safety concerns related to the COVID-19 pandemic.¹ This suspension contributed to a growth in backlogged exam requests, from approximately 158,000 in March 2020 to about 357,000 by December 2020.² In January 2021, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 was enacted. This Act includes several provisions related to disability medical exams.³ For example, the Act granted certain types of VBA-contracted examiners temporary authority to conduct exams in states other than those in which they hold a license (known as license portability).⁴ The Act also required VA to suspend efforts to eliminate VA examiner positions until the number of backlogged exam requests is no greater than it was on March 1, 2020.⁵

¹VHA suspended in-person disability exams at VHA facilities in March 2020. Individual facilities had discretion over when to return to offering in-person exams, with a requirement to follow applicable federal, state, and local re-opening guidance, according to VHA officials. In April 2020, VBA suspended use of in-person disability exams for its contracted examiners. Contractors resumed in-person exams in a limited number of areas in June 2020, followed by a nationwide resumption of in-person contracted exams in September 2020.

²As of June 30, 2023, approximately 303,000 exam requests were pending, according to VBA provided data.

³Pub. L. No. 116-315, § 2002, 134 Stat. 4932, 4967-69 (2021).

⁴This temporary authority is scheduled to expire on January 5, 2024.

⁵Pub. L. No. 116-315, § 2002(b), 134 Stat. 4932, 4968. We previously reported that VA has shifted much of its disability exam workload from VHA employees to VBA contractors. GAO, *VA Disability Exams: Better Planning Needed as Use of Contracted Examiners Continues to Grow*, [GAO-21-444T](#) (Washington, D.C.: Mar. 23, 2021).

My remarks today are based primarily on our June 2023 report and related updates from VA.⁶ This testimony summarizes our findings related to (1) VA's management of exam workloads between VBA contracted examiners and VHA examiners, and (2) VA's use of available flexibilities to help meet exam demand.

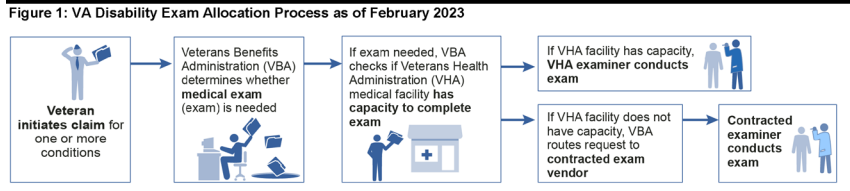
For our June 2023 report, we reviewed VHA guidance to its medical facilities related to examiner staffing and exam workloads, and VHA's communication to facilities regarding its expected future role in conducting exams. We also reviewed information VBA provided to its contracted exam vendors on the use of license portability for conducting disability exams, as well as vendor-reported data on exams conducted under license portability and via telehealth. Additionally, we interviewed officials from VHA, VBA, five selected medical facilities, and three contracted exam vendors. In that report, we also assessed the status of a related prior GAO recommendation on exam workload allocation. More information on our scope and methodology is available in our June 2023 report.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

VA's process for allocating disability exams between VHA facilities and VBA's contracted exam vendors is dependent on VHA facilities' current capacity to conduct exams (see fig. 1). When assigning a disability exam, VBA claims processors will first seek to route an exam request to a VHA facility. If the facility does not have capacity, a claims processor will send the request to a contracted exam vendor, who will assign it to a contracted examiner.

⁶GAO, *VA Disability Exams: Actions Needed to Clarify Program Requirements Regarding Examiners*, GAO-23-105787 (Washington, D.C.: June 15, 2023).



VA increasingly has transferred its disability exam workload from VHA-employed examiners to VBA's contracted examiners. In fiscal year 2017, VHA examiners completed over 700,000 exams, compared to roughly 600,000 completed by VBA's contracted examiners. In fiscal year 2020, VHA completed fewer than 335,000 exams, while VBA's contracted examiners completed nearly 1.1 million.⁷ We reported in 2021 that prior to the COVID-19 pandemic, VA planned to transfer additional exam workload from VHA facilities to VBA's contracted examiners.

Under license portability, a VBA-contracted examiner licensed in one state may legally conduct an exam in another state in which they are not licensed. Specifically, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 granted temporary license portability for VBA-contracted nurse practitioners, physician assistants, audiologists, and psychologists conducting disability exams.⁸ This temporary license portability is scheduled to expire on

⁷As part of VA's shift to increased use of contracted examiners, VA reported that VHA facilities had reduced their examiner staffing levels by about 36 percent from fiscal years 2017 through 2020. Department of Veterans Affairs, *Report on the Provision of Medical Disability Examinations* (July 2021).

⁸Pub. L. No. 116-315, § 2002(a)(1), 134 Stat. 4932, 4967. In order to be eligible to conduct VA disability exams under temporary license portability, such examiners must have a current unrestricted license and not be barred from practicing their profession in any state or territory.

January 5, 2024. VBA contracted examiners who are physicians have had permanent license portability since 2016.⁹

Additional Actions Needed to Plan for Disability Exam Workloads and Clarify VHA Facilities' Examiner Staffing Requirements

Planning for exam workloads. We reported in June 2023 that VBA had not fully implemented our recommendations from March 2021 to apply sound planning practices to its increased use of contracted disability examiners.¹⁰ In 2021, we found that VBA had not developed a documented strategy and goals for allocating exams between contracted examiners and VHA medical facilities, timelines for any further transfer of exam workload to contracted examiners, and an assessment of potential risks associated with increased reliance on contracted examiners.¹¹ We recommended that VBA, in consultation with VHA, use sound planning practices to develop and document such plans.

VBA developed a plan that incorporates some of the sound planning practices we identified, but other information is missing. For example, the plan does not include information on potential volumes or timeframes for future transfers of disability exam workloads from VHA medical centers to contracted examiners, or detailed assessments of potential risks associated with VA's increased reliance on contracted examiners. To fully address the recommendation, VBA needs to develop more detailed plans incorporating the sound planning practices we identified. In July 2023, VBA officials said the agency is updating its exam workload plan to incorporate these sound planning practices. Officials estimated this process would be completed by September 2023.

Clarifying VHA facilities' examiner needs. During the course of our review for the June 2023 report, we also found that VHA did not clearly communicate with medical facilities in a timely manner regarding its expected future role in conducting disability exams. In June 2022, VA

⁹Pub. L. No. 114-315, § 109(a)(2), 130 Stat. 1536, 1544-45 (2016). In order to be eligible to conduct VA disability exams under permanent license portability, physicians must have a current unrestricted license and not be barred from practicing their profession in any state or territory.

¹⁰Since 2019, we have reported on challenges VA has had overseeing disability medical exam contractors and made several recommendations to address related issues. VA has implemented many them. For example, VA has addressed recommendations we made to better oversee training and exam quality. See GAO, *VA Disability Exams: Improved Performance Analysis and Training Oversight Needed for Contracted Exams*, GAO-19-13 (Washington, D.C.: Oct. 12, 2018) and [GAO-21-444T](#).

¹¹[GAO-21-444T](#).

reported to Congress that over the 5 years beginning in fiscal year 2023, VHA facilities would develop internal plans to return their disability exam workload to the levels they maintained prior to the COVID-19 pandemic.¹² VHA notified its Veterans Integrated Services Networks in July 2022 that the enactment of the Honoring our PACT Act of 2022 likely would double the VHA exam workload to approximately 500,000 exams by fiscal year 2025.¹³ However, VHA did not provide information to its medical facilities on how they were expected to help meet the demand.

During our interviews with selected facilities in August 2022, officials differed in their interpretations of VHA's future role in completing exams. Officials at three facilities said they were unsure whether VHA would maintain their exam workloads in the future, or whether more or all of the exams would shift to VBA contractors. It was not until February 2023, after we made officials aware that some facilities remained uncertain about their future role in conducting exams, that VHA communicated to facilities that they will continue to conduct exams and should develop plans to meet workload demands.

Further, VHA did not provide clear guidance to its medical facilities that would address the requirement to temporarily halt efforts to eliminate examiner positions. As noted above, in January 2021, legislation was enacted that required VA to temporarily suspend efforts to eliminate disability examiner positions.¹⁴ In response to this provision, between January 2021 and April 2022, VHA issued several guidance memos to its facilities instructing them to increase exam capacity, halt any programmatic changes to their disability exam services, and pause any elimination of disability examiner positions. VHA's guidance also stated that facilities should prioritize critical and essential healthcare services.

¹²Department of Veterans Affairs, *Report to Congress on Compensation and Pension Exams* (June 2022). In July 2021, VA reported to Congress that VHA facilities had reduced disability exam capacity as facilities shifted examiners to focus on work associated with the COVID-19 pandemic.

¹³See Pub. L. No. 117-168, 136 Stat. 1759. This Act made the process of qualifying for disability benefits easier for certain veterans. VHA has 18 Veterans Integrated Services Networks that manage and oversee its medical facilities.

¹⁴This Act required the Secretary of Veterans Affairs to temporarily suspend efforts to eliminate disability examiner positions until the number of veterans awaiting a disability exam is equal to or less than the number on March 1, 2020. Pub. L. No. 116-315, § 2002(b), 134 Stat. 4932, 4968.

VHA's guidance, however, did not define a "programmatic change to exam services" or "disability examiner position." Consequently, officials' interpretations of VHA's guidance memos varied at the selected facilities. For example, officials at one facility said that to avoid making a programmatic change to their exam services, they were not supposed to eliminate examiner positions from their organizational chart, but could leave these positions vacant as examiners retired or left. Officials at another facility said the guidance left them leeway to continue moving away from conducting disability exams and prioritize clinical care. VHA officials said the statutory requirement precludes facilities from making significant reductions in disability exam staff or eliminating their disability exam programs. However, the guidance VHA issued to facilities was not this specific.

Without clearer guidance, VHA cannot be confident that facilities' recruitment and retention plans align with its intent and facilities may not be well positioned to address veterans' exam needs. As a result, we recommended that VHA clarify the guidance it provided to medical facilities. VHA officials said the agency plans to complete this clarification by November 2023.

VA Used Available Flexibilities to Help Meet Exam Demand, but Inaccuracies in VBA's Guidelines and Inadequate Monitoring Led to Ineligible Examiners Using License Portability

VA used available flexibilities to help meet demand for disability exams by leveraging the use of telehealth and license portability.

Telehealth Exams. VBA's vendors and VHA increased their use of telehealth to meet exam demand during the pandemic. Vendors rarely used telehealth before the COVID-19 pandemic, according to VBA and vendor officials. In April 2020, when in-person contracted exams were temporarily suspended, vendors began increasing their use of telehealth, according to VBA officials.¹⁵ VHA officials also reported increasing the agency's use of telehealth for disability exams during the pandemic. Telehealth was most commonly used for mental health exams, according to our data analysis and interviews.

VA officials and officials from VBA's vendors said using telehealth to conduct exams, when appropriate, provided a range of benefits. For

¹⁵In March 2020, VA expanded the list of disability questionnaires deemed most suitable for telehealth exams from 16 to 29, in addition to four questionnaires for mental health-related exams. Additionally, vendor officials said that VA eased certain requirements for telehealth exams early in the pandemic, such as allowing veterans to use their own technological devices to participate in exams, which helped vendors expand their use of telehealth.

example, officials told us that telehealth allowed for safer exams during the pandemic, helped provide exams to veterans who otherwise would be difficult to reach, and allowed some veterans to avoid traveling long distances for in-person exams. VA officials also reported some challenges with providing telehealth exams, especially with the use of telehealth technology, but told us they were generally able to manage them.

License Portability. Additionally, officials from VBA's contracted exam vendors said they leveraged the temporary expansion of license portability to increase their capacity to provide exams across state lines through telehealth and in-person exams. Vendors used mobile clinics through which examiners traveled between states to conduct exams and also temporarily stationed individual examiners in states other than where they were licensed. VBA and vendor officials reported that the temporary expansion of license portability helped expand their exam reach to rural and high-need areas and increase veterans' access to specialists and experienced examiners.

We found that the guidelines on license portability issued by VBA contained some inaccuracies and information that could cause confusion for the contracted exam vendors. In particular, VBA's performance work statement for its three vendors, which provides instructions for conducting contracted disability exams, inaccurately listed dentists as eligible for license portability and included the term "etc." following the list of examiner types eligible for license portability.¹⁶ However, the law granting temporary license portability for VBA contracted examiners specifies the eligible types of health care professionals and does not include dentists (see fig. 2).

¹⁶According to VBA officials, VBA's contracts specify that vendors must adhere to the performance work statement, which outlines instructions and requirements for completing contracted disability exams. VBA updated its performance work statement in September 2021 to incorporate provisions related to the temporary expansion of license portability, according to VBA officials.

Figure 2: Comparison between Law Authorizing Temporary License Portability and VBA Guidelines

Federal law extends temporary license portability to an eligible individual who is a "physician, physician assistant, nurse practitioner, audiologist, or psychologist."

VBA's performance work statement, in turn, states that eligible "Physicians, Nurse Practitioners, Physician Assistants, Audiologists, **Dentists** and Psychologists (PsyD, PhD) **etc.**" can use license portability.

Source: Pub. L. No. 116-315 and Veterans Benefits Administration (VBA) contract performance work statement. | GAO-23-106939

VBA officials told us that dentists and non-listed providers are not eligible under this law. However, we found that two of VBA's three vendors used dentists to conduct exams under license portability, which the vendors confirmed. Our review of vendor-reported data submitted to VBA also showed that one vendor was using optometrists to conduct exams in states other than where they were licensed, which VBA officials confirmed should not occur.

VBA officials said that in November 2022, they requested that VA's contracting office update the performance work statement to remove dentists from the list of eligible examiners.¹⁷ In January 2023, VBA issued a guidance memo to its vendors informing them that dentists are not eligible for license portability. Additionally, in March 2023, VBA officials said they requested that "etc." be removed from the performance work statement, and in April 2023 VBA issued a guidance memo informing vendors that the "etc." does not extend eligibility to other types of examiners.¹⁸

We also found that VBA did not adequately monitor vendors' use of license portability. VBA was unaware that some vendors were using dentists and optometrists to conduct exams in states other than where

¹⁷This was one of several requested updates to the performance work statement, according to VBA officials. VA executed the updates to the performance work statement in May 2023, according to VBA officials.

¹⁸In our draft report, we recommended that VBA issue such a guidance memo. VBA took this action while our draft report was with VA for review and comment.

they were licensed.¹⁹ In December 2022, VBA began monitoring vendor-reported data on the types of examiners using license portability, according to VBA officials. However, VBA had not yet developed formal procedures or documentation for its monitoring process. We recommended that VBA develop and document such formal procedures. In June 2023, VBA finalized formal, written procedures to guide this new monitoring process.

In addition, although VBA confirmed that ineligible examiners conducted disability exams under license portability, VBA has not fully assessed the extent to which this occurred and any potential effect on veterans' claims. VBA officials said they believe there is little-to-no risk to veterans' claims. However, VBA has not conducted a formal assessment to support this position. We recommended that VBA work with its vendors to identify which exams were completed by ineligible examiners, assess any potential risks to veterans' claims, and develop and implement a corrective action plan to address any identified issues. In July 2023, VBA officials said they started a formal risk assessment and expected to complete it by August 2023.

In conclusion, as VA continues to address a backlog of disability medical exams and expected influx of new requests, it is important that the agency consider its ability to meet this demand through both VBA's contracted examiners and VHA examiners. Fully incorporating sound planning practices into VBA's plan for the allocation of future exam workloads would better position VA to ensure that veterans receive quality exams in a timely manner. Additionally, VHA facilities continue to play an important role in providing exams, but unclear guidance on halting the elimination of disability examiner positions and what constitutes changes to exam services could result in suboptimal capacity to perform exams.

Additionally, VA's expanded use of telehealth and license portability provide opportunities to meet veterans' exam needs. While VBA has taken steps to improve its guidance and oversight on the use of license portability for contracted disability exams, it has not yet completed a formal assessment of exams that were erroneously completed under license portability and any potential risks to veteran claim decisions. Completing such an assessment will help VBA to identify and take any

¹⁹In January 2023, VBA issued a guidance memo to its vendors informing them that optometrists are not eligible for license portability.

necessary corrective actions to ensure veterans' claims have been properly decided.

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

**GAO Contact and
Staff
Acknowledgments**

For questions about this statement, please contact Elizabeth Curda, Director, Education, Workforce, and Income Security at (202) 512-7215 or curdae@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition to the contact above, Nyree Ryder Tee (Assistant Director), Liam O'Laughlin (Analyst-in-Charge), Alex Galuten, Ronni Schwartz, and Joy Solmonson made key contributions to this testimony. Other staff who made key contributions to the report cited in the testimony are identified in the source product.

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Prepared Statement of Stephen Bracci

Chairman Luttrell, Ranking Member Pappas, and members of the Subcommittee, thank you for the opportunity to testify on the Office of the Inspector General's (OIG) oversight of the Veterans Benefits Administration (VBA) contract medical exam program. The OIG is committed to conducting independent audits, reviews, and inspections that result in clear findings and practical recommendations to help VA promptly provide veterans with the quality care, services, and benefits they are due. To that end, the OIG works diligently to ensure every report it releases—even if focused on a single medical facility or benefits office—serves as a road map for VA leaders nationwide and contributes to overall program improvements.

When veterans file claims for disability benefits, VBA claims processors may request medical exams for the veterans before making decisions on their claims. The exams provide critical evidence used to help establish a connection between the claimed disability and the veteran's military service (referred to as "service connection").¹ Exams also help determine the degree of the disability's severity, which translates into a disability rating, and this in turn defines the monthly monetary benefit the veteran receives. While Veterans Health Administration (VHA) personnel can perform these exams, they are most often performed by providers working for vendors under contract with VBA. The OIG has maintained oversight of VBA's contract medical exam program due to persistent allegations of deficiencies related to the exams that raise concerns regarding not only veterans' service-connected disability compensation but also the billions of dollars VBA has spent on these contracts.

This statement highlights three OIG reviews of VBA's contract medical exam program. The reports illustrate gaps in VBA's oversight of the program and describe how identified weaknesses can affect veterans' experience with the disability benefits claims process and the impacts of premature or improper decisions. The first report (released in June 2022) is a comprehensive review of VBA's oversight of contract medical exam quality standards and program improvement.² The two other reports describe more specific concerns: the distance veterans need to travel for exams and the changes made to the program during the pandemic.³ While the findings and recommendations discussed in this statement relate to the oversight of contractor-provided exams specifically, they can also apply to exams provided by VHA clinicians, which are equally critical to the accuracy of benefit claims decisions.

CONTRACT MEDICAL EXAM PROGRAM ADMINISTRATION AND OVERSIGHT

To better understand who is responsible for implementing the OIG recommendations related to the contract medical exam program, some context is first provided on responsible offices and individuals.

Medical Disability Examination Office (MDEO)

VBA's Medical Disability Examination Office (MDEO) administers VBA's contract medical exam program.⁴ VBA currently has 18 contracts with four vendors: OptumServe Health Services, Quality Timeliness and Customer Service Medical Services, Veterans Evaluations Services Inc., and Loyal Source Government Services, LLC.⁵ Two MDEO suboffices—Acquisition and Budget, and Medical Disability Examination Quality—are responsible for overseeing vendor performance and contract medical disability exam quality, respectively. Acquisitions and Budget enforces the technical terms of the contract, such as coordinating contract modifications and monitoring spending.

¹ Service-connected disabilities are those proven to be caused by diseases or injuries incurred or aggravated during active military service.

² VA OIG, *Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions*, June 8, 2022.

³ VA OIG, *The Medical Disability Examination Office Needs to Better Monitor Mileage Requirements for Contract Exams, April 20, 2023*; VA OIG, *Enhanced Strategy Needed to Reduce Disability Exam Inventory Due to the Pandemic and Errors Related to Canceled Exams*, November 19, 2020.

⁴ On October 1, 2020, MDEO, which was formerly part of VBA's Compensation Service, became its own business line due in part to the increased volume contract medical exam workload.

⁵ Under the Office of Procurement, Acquisitions and Logistics, VA's Strategic Acquisition Center developed and awarded VBA's medical disability exam contracts. The contracts are divided among four US geographic regions and two districts outside the continental United States. The contracts anticipate executing approximately 7.7 million exam scheduling requests over the 10-year life of the contracts. From fiscal years 2019 through 2022, VBA reported completing over 5.6 million contract exam scheduling requests.

MDEO's quality component conducts reviews to determine each vendor's level of accuracy. Quality analysts assess a random sample of the vendor's disability exam reports for compliance with contractual requirements, including all the necessary medical history for the condition(s) at issue.⁶ If the quality analyst finds that a specific requirement was not met, the exam report is considered "completed in error," and the vendor is responsible for taking applicable corrective action. MDEO quality staff interact with vendors monthly to share quality review findings, discuss trends, and address concerns and training issues.⁷

Office of Field Operations and Compensation Service

Two other VBA entities, the Office of Field Operations (OFO) and the Compensation Service, also support the exam process. OFO monitors and tracks the delivery of benefits and services to veterans by VBA's 56 regional benefits offices. This includes overseeing the regional office claims processors who request the exams, determine exam sufficiency once completed, and prepare the decision on benefits claims. The Compensation Service is responsible for developing and implementing policies and procedures related to the administration of VBA's disability compensation program.

CONTRACT MEDICAL EXAM PROGRAM LIMITATIONS PUT VETERANS AT RISK FOR INACCURATE DECISIONS

VA spent nearly \$6.8 billion on contract medical exams from the contracts' award in October 2016 through December 2021.⁸ Given the importance of medical exams to claims accuracy and the significant investment of taxpayer dollars in VA's contracts for exam providers, the OIG conducted a review to determine whether VBA

- oversaw contract medical exams to ensure they met quality standards and contractual requirements in support of claims decisions,
- established procedures for correcting errors found during quality reviews, and
- gave feedback to vendors to improve exam quality.

The OIG found in its June 2022 report that VBA governance of and accountability for the contract medical exam program needed to improve. The deficiencies the OIG team identified stemmed in part from limitations with VBA's management and oversight of the program at the time of the review.

Vendor Exams Did Not Consistently Meet Accuracy Criteria

Although MDEO's quality component proficiently reviewed the contract medical exams, MDEO did not use the results of the quality reviews and hold vendors accountable when exams did not consistently meet all accuracy criteria. The contracts state that the government "will measure the quality of vendor's performance in completing examination requests." Every quarter, MDEO reviews a sample of vendors' exam reports for accuracy, with accuracy less than 92 percent considered "unsatisfactory performance."⁹ MDEO reported that the three vendors, who were under contract with VBA at the time of the OIG review, were consistently below the 92 percent requirement and have been since at least 2017.¹⁰ Additionally, the OIG team determined that even though MDEO identified errors in its quality reviews, these errors were not corrected before or after claims processors made their decisions.

Even though vendors did not meet the 92 percent contract requirement, MDEO did not use the monetary incentive/disincentive tools in the contracts. The assistant director of Medical Disability Examination Quality stated that vendors were providing the quality of service they were being paid for. She further stated that there were some errors with contract compliance that were only discrepancies that would

⁶The healthcare provider completes the exam using VA-provided disability benefits questionnaires, which are referred to as "exam reports" and added to the veteran's claim file.

⁷Vendors are responsible for locating and subcontracting with qualified examiners to conduct exams in response to exam requests received from VA. Vendors "shall also train all examiners, staff support, and subcontractors who have routine contact with veterans." MDEO Contract Region 4, November 20, 2019.

⁸VA OIG, *Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions*, June 8, 2022.

⁹MDEO worked with a third-party contractor that did an analysis of the quality program and recommended a different method to measure vendor performance. The recommended method would put the MDEO vendor quality process more in line with industry standards and with the methodology used by the Compensation Service for claims quality.

¹⁰At the time of the OIG review there were three vendors: OptumServe Health Services (then known as Logistics Health, Inc.), Quality Timeliness and Customer Service Medical Services, and Veterans Evaluations Services Inc.

not affect a claims processor's decision, but the vendors still "have room for improvement."

Contractual Wording Restricted VA's Ability to Apply Disincentives

According to the contract wording in effect during the OIG's review in 2020, vendors could receive monetary incentives or disincentives based on their quarterly performance in three categories: quality, timeliness, and veteran satisfaction.¹¹ If a vendor exceeded the expected performance standard for all three criteria, the VA contracting officer could apply a monetary incentive for that quarter. If the vendor failed to meet the criteria, the VA contract officer could apply a monetary disincentive. While the wording was specific on how to apply the monetary incentives to encourage continuous improvement by vendors, the contract wording was not specific regarding the application of monetary disincentives. According to the VA contracting officer, vendors had to fail in all three categories to be penalized, but the contract language was too subjective to validate that interpretation. Notably, in February 2020, the VA contracting officer suspended the incentives and disincentives and stated vendors never were awarded an incentive or disincentive or penalized for poor performance.

The OIG found that due to the subjective contract wording and the suspension of incentives and disincentives, MDEO and the VA contracting officer did not have a clear method to enforce monetary incentives and disincentives. The OIG recommended that VBA assess and modify contracts to ensure that vendors can be held accountable for unsatisfactory performance by applying monetary disincentives. On October 1, 2021, VBA executed new contracts with such provisions, referred to as negative incentives.¹² As a result, the OIG closed this recommendation as implemented.

Vendors Were Not Contractually Required to Correct MDEO-Identified Errors

Additionally, the contracts did not require the vendor to correct the errors that MDEO identified during quality reviews. MDEO managers stated that vendors do not need to make corrections because MDEO usually reviews exams after VBA has decided the claims. However, the OIG found vendors can correct errors at any time, even if a decision had been made, and claims processors can change a decision in light of revisions or new evidence. For example, during the OIG review, the team identified an error that was detected as part of an MDEO quality review was not corrected until the OIG presented the information to the office that can take corrective action. In this instance, an MDEO quality reviewer had correctly determined that a contract exam provider submitted an insufficient exam report solely based on available medical records—without physically examining the veteran. A VBA claims processor made an incorrect decision on the veteran's claim given the insufficient exam. The OIG team confirmed the error and notified OFO, which led to a new exam and ultimately an increased disability rating for the veteran.

Because vendors were not required to fix errors that MDEO identified, claims processors were basing decisions on potentially inaccurate exam information. Accordingly, veterans may have received inaccurate decisions and not received the benefits and services to which they were entitled. The OIG recommended that VBA assess and modify contracts and any renewals to ensure procedures are established for vendors to correct errors identified by MDEO. VBA executed contracts that included procedures for vendors to correct these errors, enabling the OIG to close this recommendation.

MDEO Did Not Communicate Exam Errors to OFO and VBA Regional Offices for Resolution

Although the contracts in place during the review did not require vendors to correct MDEO-identified errors, they did require vendors to correct exams that regional offices returned for clarification. The OIG determined it is crucial that MDEO in-

¹¹ Exam accuracy is based on a pass-fail model using MDEO's contract medical disability exam checklist. A contractor's quarterly compliance score is the percent of compliant exams. For example, if 250 exams are reviewed for Contractor A and 200 exams are found to have no errors (i.e., to be fully compliant), Contractor A's compliance score is 80 percent (200 Compliant/250 Total Reviewed = 0.80). MDEO calculates timeliness by measuring the number of days from when the exam is requested from the vendor to the date VA receives the completed exam. Veteran satisfaction is measured by feedback provided by veterans in response to their exam experience.

¹² A negative incentive is assessed on a quarterly basis if the contracts' combined required levels for timeliness and production performance have not been met.

form OFO and VBA's regional offices when exams are returned to provide a needed layer of accountability.

The OIG team found 26 errors in its sample of 99 quality reviews were not communicated to OFO and regional offices. While MDEO correctly identified errors, the veteran's electronic claims folders showed the errors were not communicated to the regional office and claims processors decided these claims without seeking clarification. Regional offices determined that for four of the 26 exam errors, no additional action was required. Of the remaining 22 exam errors, 11 decisions led to veterans not receiving the benefit sought. After receiving the new exams, the regional office rendered new decisions.

At the time of the OIG's review, current and former MDEO employees told the team that MDEO managers discouraged them from directly relaying exam issues to claims processors. The deputy under secretary for OFO stated that MDEO should share errors it identifies with regional offices, since claims processors need to know what exam errors they are missing. Further, this information could be used to provide additional training. The OIG recommended VBA implement procedures requiring MDEO to communicate exam errors to OFO and the regional offices and demonstrate progress in correcting the identified errors. The OIG also closed this recommendation after reviewing VBA's new error referral standard operating procedure and obtaining documentation showing improved communication of errors between MDEO and OFO.

MDEO Did Not Analyze All Readily Available Data to Identify Systemic Exam Issues

The OIG team found that MDEO did not analyze the findings from its quality reviews or other available data sources—such as deficiencies identified by VBA's internal quality programs and claims processors—to identify systemic issues, error trends, and areas for improvement. Leaders from OFO, the Compensation Service, and MDEO all agreed that MDEO's designated data and analysis team could track these data; however, MDEO leaders also stated they lacked adequate staff to do so. Despite the staffing and other challenges identified, VBA took corrective action in response to the OIG's recommendation that VBA implement procedures requiring MDEO to analyze all available error data and provide systemic exam issues and error trends to vendors. The OIG closed this recommendation after reviewing VBA's new standard operating procedure for resolving exam issues as well as obtaining documentation showing process improvements.

MDEO NEEDS TO BETTER MONITOR MILEAGE REQUIREMENTS FOR CONTRACTS

The most recent OIG review involving the contract exam process examined MDEO's monitoring of mileage requirements because veterans reported on satisfaction surveys that they had to travel excessive distances to attend exams.¹³ The April 2023 report explained that the vendors' contracts require that exams be scheduled

as close to the veteran's home of record as feasible, but no farther than 50 miles for non-specialist exams and 100 miles for specialist exams. Traveling long distances, while necessary for some medical exams, can be an unnecessary burden on veterans, especially the elderly and those with disabilities. Authorization may be granted for additional mileage when [veterans] expressly indicate their willingness to exceed the above limits.¹⁴

That express consent must be documented and included in the record available to VBA employees.¹⁵

The OIG found that MDEO was not monitoring whether vendors obtained and documented veterans' express consent to travel beyond contractual mileage limits for exams. MDEO was also not sufficiently monitoring vendor portals to ensure all required details of mileage reimbursement were available to veterans. MDEO was not monitoring compliance because its leaders did not consider it a priority given what they describe as the small percentage of veterans affected. However, MDEO

¹³VA OIG, *The Medical Disability Examination Office Needs to Better Monitor Mileage Requirements for Contract Exams*, April 20, 2023.

¹⁴VA Manual 21-1, "Examinations Requests Overview," sec. IV.i.2.A in *Adjudication Procedures Manual*, topic 1g, updated May 31, 2022. A specialist exam is any exam conducted by a clinician who specializes in a particular field. Examples may include those for vision, hearing, dental, and psychiatric exams.

¹⁵In September 2021, a modification was made to each contract to further clarify the definition of "record" to include the veteran portal, the vendor portal, and the Veterans Benefits Management System electronic claims folder.

is responsible for ensuring vendors comply with all contract requirements, including mileage requirements and reimbursements. Without monitoring, VBA cannot identify or implement improvements for veterans traveling to these exams.

The OIG team assessed an initial statistical sample of 183 contract exams (of approximately 65,100) completed by all three vendors from July 1 through December 31, 2021, that MDEO reported as having exceeded contract mileage requirements. The team found 138 exams without documentation of express consent. Based on the statistical sample results, the team estimated that fewer than 12,000 of the 65,100 exams (18 percent) completed during the review period included viewable documentation of express consent.¹⁶ On average, the team found veterans were scheduled for exams about 93 miles (round trip) beyond the contractual limitations.¹⁷

Interviews revealed that all three vendors documented the express consent of some veterans within internal records systems. However, their internal records systems were not viewable by VBA employees charged with overseeing those requirements. All three vendors notified the OIG that updates were made to vendor portals during the review period. Therefore, the team reviewed an additional judgmental sample of 90 cases from January 1 through June 30, 2022, to determine if the updates resulted in improvements. The team's review suggests that although progress had been made, about 21 percent of the exams still lacked documentation of the veteran's express consent in the record. If vendors do not obtain and document express consent from veterans to exceed contractual mileage limitations, veterans may not be made aware of their right to undergo exams within reasonable distances of their homes. It also may cost VA more money because veterans are reimbursed for certain travel costs.

The OIG also found vendors were not always providing mileage reimbursement details on their portals, which can impede veterans from viewing the status of their payment details as required by contract. During the course of this review, vendor portals were updated to help fix identified problems.

The OIG made three recommendations to the under secretary for benefits:

1. Implement a process to monitor and demonstrate progress to assess vendors' compliance with contractual mileage and travel reimbursement requirements.
2. Collaborate with vendors to ensure portals include proper documentation of express consent.
3. Collaborate with vendors to ensure mileage reimbursement information is available in vendor portals.

Although VBA requested closure of the recommendations at publication, all recommendations remain open until adequate documentation has been received sufficient to demonstrate implementation.¹⁸

ENHANCED STRATEGY NEEDED TO REDUCE DISABILITY EXAM INVENTORY DUE TO THE PANDEMIC AND ERRORS RELATED TO CANCELED EXAMS

A November 2020 report details an OIG review of VBA's efforts to schedule and conduct disability exams during the COVID-19 pandemic.¹⁹ The review team found that VBA took significant actions to limit veterans' exposure to COVID-19. On April 2, 2020, VHA notified VBA to transfer exams conducted by VHA examiners to VBA disability exam contractors to the greatest extent possible. This shift was necessary to allow VHA facilities to prioritize essential and critically needed healthcare services during the pandemic. VBA then modified procedures and redirected exam requests to the contractors used before the pandemic as part of its routine operations.²⁰ It notified veterans of changes to the exam process through various means, including websites, social media, and veterans service organizations. These actions were necessary and appropriate but inevitably resulted in increases to the backlog

¹⁶Estimate percentages were weighted to represent the population from which they were drawn.

¹⁷The mileage restrictions were 50 miles one way (100 miles round trip) for non-specialty exams and 100 miles one way (200 miles round trip) for specialty exams.

¹⁸The OIG considers all recommendations currently open pending the submission of sufficient documentation that would support that adequate progress has been made on implementation to close them. The OIG requests updates on the status of all open recommendations every 90 days. This is reflected on the recommendations dashboard found on the OIG *website*. For this report, the OIG will request the first update in late July 2023.

¹⁹VA OIG, *Enhanced Strategy Needed to Reduce Disability Exam Inventory Due to the Pandemic and Errors Related to Canceled Exams*, November 19, 2020.

²⁰MDE vendors were sent an email on April 3, 2020, directing all in-person exams be discontinued immediately.

of disability exams. VBA provided guidance to the field on multiple occasions regarding when it was appropriate to reschedule canceled exams and to ensure cancellations did not result in claim denials. These efforts, however, sometimes resulted in confusion and a lack of consistent practices. Once clear guidance was issued, VBA took action to review prematurely or improperly denied claims on the basis of a canceled exam. The OIG review found that early in the pandemic unclear guidance led to inappropriately denied disability claims due to canceled in-person exams, and that VBA's strategies for reducing inventory and backlog required more attention and testing to ensure personnel are fully prepared for future emergencies that may affect the disability claims process.

On May 7, 2020, VA issued *Charting the Course: Maintaining Continuous Services to Veterans and Resuming Normal, Pre-COVID-19 Operations*. This document outlined VA's plan to resume normal, pre-COVID-19 operations in three phases, in accordance with the White House National Guidelines, *Opening Up America Again*, but provided limited information on exams. It stated VBA would work with its contractors to formulate a plan to resume in-person exams. Also in May 2020, VA established the Program Integration Office to oversee disability exams. It was formed to provide new leadership and oversight as VBA has taken on more responsibilities for conducting exams so that VHA can focus on its healthcare mission and additional demands related to COVID-19.

The OIG first recommended that VBA further develop, implement, and test its strategy to reduce the exam inventory through in-person, telehealth, and acceptable clinical evidence (commonly known as "ACE") exams, as safety circumstances permitted. To address this recommendation, the under secretary for benefits said VBA would use "in-person, tele-[compensation and pension exams] (using telehealth technology) and acceptable clinical evidence modalities in a safe and logistically feasible manner" to reduce the exam inventory by the end of the fiscal year. The OIG has closed this recommendation.

The OIG also recommended VBA develop and implement a plan to increase the use of telehealth exams. VBA was called on to ensure contractors followed VHA's Office of Disability and Medical Assessment's telehealth guidance on exams to determine whether telepresenter-specific medical equipment was required. While VBA initially concurred in principle with this recommendation, during the follow-up process, the OIG closed it in June 2021 as not implemented because the recommendation was unable to be satisfactorily addressed due to a lack of resources.

CONCLUSION

One of the critical foundations of accountability of any program is effective quality assurance and monitoring to detect and resolve issues. The OIG has found that MDEO needs to improve its quality assurance processes and better monitor its contract exam vendors to help ensure veterans receive the benefits they are entitled to through VA's disability programs. While VBA has made progress in updating its contracts and procedures to provide oversight of its contracts, there is clearly more work to be done. The OIG remains focused on conducting oversight work and providing recommendations to help improve veterans' experiences during the disability claims process.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or members of the subcommittee may have.

STATEMENTS FOR THE RECORD

Prepared Statement of Disabled American Veterans (DAV)

Chairman Luttrell, Ranking Member Pappas and Members of the Subcommittee: Thank you for inviting DAV (Disabled American Veterans) to submit testimony for the record of your oversight hearing titled, “VA Disability Exams: Are Veterans Receiving Quality Services?”

DAV is a congressionally chartered and VA-accredited national veterans’ service organization of more than one million wartime veterans, all of whom were injured or made ill while serving on behalf of this Nation. To fulfill our service mission to America’s injured and ill veterans and the families who care for them, DAV directly employs a corps of benefits advocates called national service officers (NSOs), all of whom are themselves wartime service-connected disabled veterans, at every VA regional office (VARO) as well as other VA facilities throughout the Nation.

Based on our experience with the VA claims process, we will address the question posed by this hearing as we discuss VA Disability examinations, the Veterans Benefits Administration’s (VBA) Medical Disability Examination Office (MDEO), oversight and quality of exams, and the importance of license portability for examiners. We will wrap up this testimony with our recommendations and our concerns moving forward.

VA DISABILITY EXAMINATIONS

In order for veterans to receive their earned benefits, a claim must be established with the VA seeking service connection for specific conditions. Those claims are developed and adjudicated by the VBA. Per VA’s fiscal year (FY) 2022 annual report updated in February 2023, over 360,000 new veterans and survivors started receiving VA disability compensation.

As a part of the development process, a VA veterans’ service representative (VSR) determines if a VA exam is required for the specific claimed condition. The VA Compensation & Pension (C&P) examination process is a vital part of the claims process as it can be determinative of the existence of a current condition, or if the veteran’s illness or injury is related to their active military service or specifically, the severity of that condition.

In many cases, the VA exam is the linchpin to establish or deny a claimed benefit. However, if a veteran fails to appear for an exam or it is canceled and not rescheduled, this can result in denial of benefits. For example, if a scheduled examination is not completed, it will be returned to VBA for review by a VSR to determine if the case is ready to rate. It is then assigned to a rating veterans’ service representative (RVSR) for review and a decision. In this instance, the case would be decided based on the evidence of record without the benefit of medical evidence from a completed exam, which will usually result in a denial of the claimed benefit.

In other instances, a missed or canceled exam can lead to a reduction of benefits. A re-examination or routine future examination (RFE) will be requested whenever VA determines there is a need to verify either the continued existence or the current severity of a disability. Veterans for whom reexaminations have been authorized and scheduled are required to report for such reexaminations. If a veteran does not report for the exam or it is canceled and not rescheduled, VBA will issue a decision proposing to reduce the disability in question.

VA C&P exams are of a unique importance and missed or canceled exams can negatively impact a veteran’s claim and disability rating. If a negative decision is rendered based on a missed or canceled exam, the veteran cannot simply request to reschedule the exam. At this point, the veteran is required to submit a supplemental claim requesting a new exam for the claimed conditions, thus requiring additional time, development, and a new scheduled exam for a new VA rating decision.

VBA’S Medical Disability Examination Office

Starting in 1996, as part of a pilot program, VA was authorized to complete disability exams from non-VA medical sources to increase its capacity and improve timeliness, but stipulated no more than 10 VAROs could participate. These contract exams, originally managed by the Veterans Health Administration (VHA), were expanded from 10 to 15 VAROs between 2014 and 2016.

In 2016, VHA officially transferred to VBA the national compensation and pension disability exam contract and program management. VA established VBA's MDEO to manage and oversee contractors, monitor their performance, and ensure that they meet contract requirements, while enhancing the prompt delivery of disability benefits claims and improve the disability exam experience for veterans. The disability contract exam program was also expanded to allow all VAROs access to use the mandatory contract exam program starting in fiscal year 2017.

The contracts for the vendor-provided VA examinations require a specialized focus on three areas: quality, timeliness and customer satisfaction. The examiners for the vendors are required to complete the same training as provided to VHA examiners. In reference to the timeliness, the contract exams are required to be completed within 20 days generally, or within 30 days for specialized exam requests outside of the vendor's network.

The Pandemic's Effect

The enormity of the impact of the COVID-19 pandemic will be felt for years to come with continued lessons learned. In November 2020, the VA Office of the Inspector General (OIG) report "Enhanced Strategy Needed to Reduce Disability Exam Inventory Due to the Pandemic and Errors Related to Canceled Exams," made the following findings:

- VBA discontinued in-person exams to protect veterans
- Protective measures contributed to VBA's exam inventory growth
- VBA prepared for increased use of telemental health and ACE exams
- VBA's use of telehealth was limited by the need for a telepresenter for some exams
- VBA prematurely or improperly denied claims based on canceled exams
- VBA needs to further develop and test its strategy to address the inventory of exams

At the beginning of the pandemic, there were roughly 140,000 pending VA exam requests with an average of 21 days to completion. Despite challenges posed by the pandemic, in 2022, the MDEO reduced the contract medical examination pending inventory from 258,000 to 189,195. Overall in 2022, contract vendors completed 1,844,399 exam requests.

The contract vendors continue to increase their volume of completed exam requests each month, resulting in a decrease in the excess inventory of examinations. The MDEO forecasts contract medical examination vendors will complete medical disability exam requests for over 3 million veterans in 2023 and over 3.3 million in 2024.

Given this surge of exams, DAV is greatly concerned with quality of the VA exam process, whether exams are conducted by contract examiners or the VHA.

OVERSIGHT AND QUALITY OF VA EXAMS

VA examinations, with the exception of certain specialty exams, are conducted by vendors through the MDEO. As noted, this increased utilization began in 2017. VBA must be providing adequate oversight to ensure the vendors are providing quality exams. This has been problematic in the past.

In the 2018 Government Accountability Office (GAO) report, "Improved Performance Analysis and Training Oversight Needed for Contracted Exams," GAO found the following:

- VBA reported contractors missed exam quality targets and VBA could not accurately measure performance on timeliness targets;
- Delayed quality reviews and performance reports and data limitations hinder VBA's monitoring of contractors;
- VBA's data limitations hinder its ability to oversee certain contract provisions;
- VBA did not conduct comprehensive performance analysis; and
- Although the auditor verified contracted examiner licenses, VBA did not verify training completion or collect information on training effectiveness.

In November 2018, at the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs hearing, "Exploring VA's Oversight of Contract Disability Examinations," VBA acknowledged the problems outlined by the GAO report and concurred with it.

In June 2019, the VA OIG released its report, "Inadequate Oversight of Contract Disability Exam Cancellations." This report was based on essentially the same time period as the 2018 GAO report and identified similar issues with the oversight of the VA contract examination process.

At the September 2019 House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs hearing, VBA noted that VA contract examination quality is evaluated quarterly and the results are used to identify training needs and provide feedback to contractors. It also addressed the need to improve delivery and tracking of training requirements for examiners. Further, it was noted that all vendors were achieving an overall customer satisfaction rating of 90 percent.

The VA OIG report of June 2022, "Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions," found that VBA governance of and accountability for the contract medical disability exam program needed to improve. The deficiencies noted stemmed from limitations with VBA's management and oversight of the program at the time of the review.

The OIG further concluded that VBA's MDEO was deficient because it did not hold vendors accountable for correcting errors and improving exam accuracy. However, the OIG did determine that MDEO performed quality reviews correctly. The MDEO's results were substantiated by the report, estimating that MDEO reached the correct conclusion on at least 95.1 percent of reviews completed in 2020. The June 2022 OIG report made the following recommendations:

1. Assess and modify contracts and any renewals to ensure that vendors can be held accountable for unsatisfactory performance by applying monetary disincentives.
2. Assess and modify contracts and any renewals to ensure procedures are established for vendors to correct errors identified by the MDEO.
3. Implement procedures requiring the MDEO to communicate exam errors to the Office of Field Operations and the regional offices and demonstrate progress in correcting the identified errors.
4. Implement procedures requiring the MDEO to analyze all available error data and provide systemic exam issues and error trends to vendors.

At the time of the report, the VA's Acting Under Secretary for Benefits concurred in principle with recommendations 1 and 2, provided information on actions taken—in particular, executing new contracts—and requested closure of the recommendations. Additionally, VBA concurred with recommendations 3 and 4 and provided an action plan to address each recommendation. VBA's responses to the recommendations follow:

- Recommendation 1. On October 1, 2021, VBA executed new contracts that hold vendors accountable for unsatisfactory performance through application of monetary disincentives, referred to as negative incentives. A negative incentive is assessed on a quarterly basis if the contracts' combined timeliness and production performance requirement levels are not met. VBA considers this recommendation fully implemented and requests closure.
- Recommendation 2. VBA executed contracts that include established procedures for vendors to correct errors identified by MDEO. The contractor must take corrective action when examination deficiencies are identified and provide the corrective action to VBA upon receipt of the request. VBA considers this recommendation fully implemented and requests closure.
- Recommendation 3. VBA initiated development of procedures that refer disability benefits questionnaire errors from MDEO to the Office of Field Operations for review.
- Recommendation 4. MDEO will work with Compensation Service to identify a process to receive error trend data that is a result of incorrect exams. MDEO will also develop a procedure for obtaining and assessing rework data. MDEO will analyze both data sets to identify systemic exam issues and communicate those error trends to vendors.

Recently, MDEO noted they are meeting twice a week with vendors for executive and operations concerns and monthly to specifically address quality of exams directly with vendors. Additionally, the office noted that veteran satisfaction with

exams is nearly 96 percent. Comparing the reports from 2018 to recent information, the quality and veteran satisfaction with exams has vastly improved.

DAV has met directly with the vendors on the issue of quality within the past 45 days. All of the vendors have provided us with their own internal quality review processes, which we believe has added to the improved quality of VA contract exams. We also believe that in the expansion of the license portability has improved the VA contract exam process and provided exams to rural and underserved veteran populations.

IMPACT OF LICENSE PORTABILITY

Enacted in 2016, Public Law 114–315, section 109, “Improvements To Authority For Performance Of Medical Disabilities Examinations By Contract Physicians,” notes that a physician may conduct an examination pursuant to a contract, at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract. A physician is defined as one who has a current unrestricted license to practice the health care profession of physician.

This allows contract exam vendors to provide examining physicians to rural areas that may not have examining physicians available in their state or territory. The provision speaks only to physicians and psychiatrists; however, it did not include other licensed health care professionals such as nurse practitioners, clinical psychologists, and other clinical health care professionals that are qualified to conduct VA examinations.

In our testimony before this Subcommittee in September 2019, we recommended to amend Public Law 114–315, section 109, to include licensed health care professionals such as nurse practitioners, clinical psychologists, and other clinical health care professionals, to conduct VA contract examinations at any location in any state, in the same manner as physicians.

In January 2021, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 granted certain types of VBA-contracted examiners temporary authority, until January 2024, to conduct exams in states other than those in which they hold a license.

The GAO report of June 2023, “Actions Needed to Clarify Program Requirements Regarding Examiners,” looked specifically at this temporary portability used by contracted examiners. VBA officials and vendors said that the temporary expansion of license portability expanded access in underserved areas.

The report noted that the guidelines VBA provided to its contracted exam vendors included inaccuracies and VBA conducted inadequate monitoring of the vendors. This contributed to vendors allowing ineligible examiners to conduct exams using license portability. For example, VBA incorrectly listed dentists as eligible for license portability in the guidelines it provided to vendors. This contributed to two of VBA’s three vendors using dentists to conduct exams in states other than where they were licensed.

Additionally, GAO’s review found that one vendor used optometrists to conduct exams in states other than where they were licensed, which VBA officials said was not permitted. VBA acknowledged these errors and agreed with the GAO recommendations for correction.

The report also showcases the impact of the expanded license portability. Vendors were able to send examiners to rural and high-need areas that did not have enough examiners to meet local demand. One vendor said license portability allowed them to continue serving veterans when natural disasters disrupted the availability of examiners in the affected states. For example, this vendor reported using license portability to send mobile clinics to Florida following Hurricane Ian in September 2022.

Another vendor said license portability helped them serve more veterans living on tribal lands. All three vendors said expanded license portability helped them serve incarcerated veterans. Officials from one vendor said reaching these veterans historically has posed a challenge because not all examiners are willing to physically enter a prison, and license portability allowed them to use examiners willing to do so.

Recent information from MDEO indicates that this license portability expansion in January 2021 has resulted in 1,462 providers completing over 150,000 medical appointments and nearly 425,000 disability benefits questionnaires (DBQs). As part of this VA exam discussion, it is clear that license portability has increased service to rural and underserved veterans.

DAV RECOMMENDATIONS AND CONCERNS

The totality of our testimony shows how vital the VA exam process is to ensure that veterans are obtaining the benefits and health care they have earned. Additionally, it displays the issues with the MDEO and vendor examinations in the past through the reports of the VA OIG and GAO. It also shows the improvements and progress that VBA has made. To this end, we have the following recommendations about the VA exam process moving forward, to include:

- **Continue Oversight on Quality**—As early as 2018, the VA OIG and GAO reports clearly outline deficiencies within MDEO and VA contract exams. Since that time, notable improvements have been made. However, we recommend that Congress and VA OIG continue to vigilantly provide oversight to ensure quality is being maintained and improved upon. Exams can be the determinative factor on whether a veteran receives benefits; therefore, quality exams, regardless of who provides them, will always be of concern.
- **Extension of license portability**—The provision of license portability has had a positive impact for veterans living in rural areas and tribal lands, and for incarcerated veterans, all while assisting in reducing the backlog of exams which has a direct impact on the backlog of claims. We are greatly concerned that this temporary portability ends in January 2024.

DAV recommends the immediate introduction and passage of legislation to extend this portability on a permanent basis. Additionally, as it was noted, not all medical professionals are covered within the existing portability; therefore, we recommend that all medical professionals that are able to conduct VA exams within VHA be included in the permanent extension of license portability.

- **Validate veterans' experience in the examination process**—DAV has received feedback from our National Service Offices around the country in reference to VA exams. The number one complaint from veterans regarding contract exams was that they felt the exams were not thorough enough; next was that examiners were not knowledgeable about the veteran's claim at the time of the exam. While these two complaints may not speak to the actual quality and thoroughness of the VA contract exams, as required by VA; they do speak to the perception of veterans about the quality and satisfaction of VA contract exams.

We acknowledge the recent reporting from MDEO of a 96 percent veteran satisfaction rating for contract exams. However, based on the perception of veterans we noted above, we recommend that VBA continue to address the customer satisfaction with their contractors, but also include VHA, and conduct surveys or town hall-like events to communicate directly with veterans concerning their satisfaction with VA examinations.

There have been many discussions and ongoing debates on who provides a more quality exam, VHA professionals or contractors. Many believe that returning the VA disability exam process to VHA will eliminate veterans' negative perceptions on the quality of exams. We have concerns.

- **Data for a comparison does not exist**—Prior to 2017, VHA was the predominant provider for VA disability exams. VA was not capturing the data that is currently required of contract examiners. So, a look at VHA versus contract provided exams cannot be conducted to arrive at an impartial decision. Over the past several decades, DAV has reviewed all types of VA disability examinations and have not taken a side in this debate, as we believe, that regardless of who provides the VA disability exam, quality, accuracy and timeliness are the most important aspects for veterans claims.
- **VHA does not currently have the capacity**—Currently VHA has over 40,000 health care vacancies that need to be filled; thus, VHA does not have the current staffing or capacity to take over the VA disability examination process.

We are aware of the June 23, 2023, memorandum from the VHA Undersecretary for Health. It encourages VA Medical Centers to return to providing VA disability exams at the levels prior to the pandemic, based on existing resources and staffing levels. Given these parameters, it does not indicate that VHA will be taking over the VA disability exam process from contract vendors.

- **Increasing in the VA claims backlog**—Currently, VBA has over 800,000 claims pending and more than 250,000 are backlogged, which means they have been pending over 125 days. The incoming PACT Act claims have exceedingly increased the number of claims, thus the current number of pending claims. If

VHA were to take over the VA disability exam process, given its shortfalls in staffing, this would almost certainly increase the number of backlogged claims, requiring veterans to wait even longer for VA claims decisions. This would create a crisis that is completely avoidable.

Mr. Chairman, we believe that DAV's recommendations would help to improve the quality of VA exams and importantly—the overall veteran experience.

In conclusion, the VA exam process is integral to the VA claims process. By continuing oversight of the VA disability exam process, we will ensure that veterans are obtaining the benefits and health care they have earned. We urge this Subcommittee to take immediate action on extending and expanding license portability to provide VA exams in all areas, specifically for rural and underserved veteran populations.

This concludes my testimony on behalf of DAV.

Prepared Statement of National Organization of Veterans' Advocates (NOVA)

Chairman Luttrell, Ranking Member Pappas, and members of the Subcommittee, the National Organization of Veterans' Advocates (NOVA) thanks you for the opportunity to offer our views on VA disability examinations and the quality of those services received by veterans.

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents more than 800 accredited attorneys, agents, and qualified members assisting tens of thousands of our Nation's military veterans and families seeking to obtain their earned benefits from VA. NOVA works to develop and encourage high standards of service and representation for persons seeking VA benefits. In 2000, the U.S. Court of Appeals for Veterans Claims (CAVC) recognized NOVA's work on behalf of veterans with the Hart T. Mankin Distinguished Service Award.

NOVA members represent veterans before the Department of Veterans Affairs and the Board of Veterans' Appeals (BVA). Accredited attorneys continue to represent more appeals before BVA than any other service organization or listed category; in FY 2022, attorneys represented appellants in 23.4 percent of decided appeals. With agent representation included, that level reached 25.7 percent. U.S. Department of Veterans Affairs, *Board of Veterans' Appeals Annual Report Fiscal Year 2022* at 49–50 (<https://www.bva.va.gov/docs/Chairmans—Annual—Rpts/bva2022ar.pdf>).

NOVA members also appear before the CAVC, the U.S. Court of Appeals for the Federal Circuit, and the Supreme Court, representing individual appellants and advancing veterans law in the process. As an organization, NOVA also advances important cases and files amicus briefs in others. *See, e.g., NOVA v. Secretary of Veterans Affairs*, 710 F.3d 1328 (Fed. Cir. 2013) (addressing VA's failure to honor its commitment to stop applying an invalid rule); *Procopio v. Wilkie*, 913 F.3d 1371 (Fed. Cir. 2019) (amicus); *NOVA v. Secretary of Veterans Affairs*, 981 F.3d 1360 (Fed. Cir. 2020) (M21–1 rule was interpretive rule of general applicability and agency action subject to judicial review); *National Organization of Veterans' Advocates, Inc., et al., v. Secretary of Veterans Affairs*, 2020–1321 (Sept. 20, 2022) (Federal Circuit invalidated knee replacement rule); *Arellano v. McDonough*, 598 U.S. __ (2023) (amicus); *Terry v. McDonough*, CAVC 20–7251 (amicus) (case pending).

Introduction

NOVA has long detailed deficiencies in the disability examination process, which result in poor quality of exams, inferior service to veterans, and ongoing delays across the entire VA disability adjudication system. *See, e.g., National Organization of Veterans' Advocates, Statement for the Record Before the House Committee on Veterans' Affairs Concerning Fulfilling Our Pact: Ensuring Effective Implementation of Toxic Exposure Legislation* (Dec. 7, 2022); *National Organization of Veterans' Advocates, Statement for the Record Before the House Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs Concerning Supporting Survivors: Assessing VA's Military Trauma Programs* (Nov. 17, 2021); *National Organization of Veterans' Advocates, Statement for the Record Before the House Committee on Veterans Affairs Concerning Discussion Draft: Veterans Appeals Improvement and Modernization Act of 2017* (May 2, 2017). We address these issues in detail below.

I. VA and Its Contractors Struggle to Provide Veterans with Adequate Examinations.

The CAVC has repeatedly emphasized VA's role in obtaining examinations and ensuring those examinations are adequate. *See, e.g., McLendon v. Nicholson*, 20 Vet.App. 79, 81 (2006) (outlining when VA must obtain an examination); *Barr v. Nicholson*, 21 Vet.App. 120, 123 (2007) (when VA seeks an opinion, the Secretary must ensure it is adequate); *Acevedo v. Shinseki*, 25 Vet.App. 286, 293 (2012) (adequate medical report must be based on correct facts and reasoned medical judgment).

Despite this clear precedent, VA frequently failed to ensure veterans received timely, adequate VA disability examinations when the Veterans Health Administration conducted nearly all examinations. *See, e.g., Department of Veterans Affairs (VA) Appeals Data Requested by House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs* (January 2015) (reasons for remands between FY 2009 and 2014 centered on issues with medical examinations and opinions). This problem has not been solved with the shift to contract examinations.

During stakeholder discussions leading up to the passage of the Veterans Appeals Improvement and Modernization Act of 2017 (AMA) and before this Subcommittee, NOVA testified to the importance of adequate examinations and the problems created when claims are sent back time and again for new examinations when the first examination or subsequent ones are deficient. Even with the 2019 implementation of the AMA, which was intended to reduce remands, NOVA members continue to report a significant number of cases remanded due to inadequate examinations. Current BVA statistics confirm these reports.

Frequently, BVA orders a particular type of examination, but it is conducted by an inappropriate provider, e.g., an OB/GYN nurse practitioner handling a neck and back exam. Or BVA provides specific instructions that are ignored by the examiner. Example: The veteran's claims for bilateral knee conditions were remanded back to BVA from the CAVC in 2020. BVA remanded in May 2021 and February 2022 for new medical opinions. In February 2022, BVA specifically ordered the VA examiner to address the veteran's competent lay statements regarding the history and chronicity of his knee symptoms. Because the VA examiner failed to comply with these instructions, BVA yet again remanded these claims for the examiner to comply with the order, adding untold months of waiting before the veteran receives resolution.

Unfortunately, a BVA remand under the AMA is far more costly than one in the legacy system. When BVA remands an appeal in the legacy system, a veteran, survivor, or family member who is dissatisfied with the results of the remand can return to BVA with **the same docket date** as before. By contrast, an AMA remand means the appellant loses their original docket date. If their appeal is remanded and denied again, they must start over again with a new docket date if they choose to return to BVA. Because backlogs at BVA continue unabated and the promise to reduce remands has not been kept, absent qualifying for advancement on the docket, the appellant will wait many years for BVA to issue a decision.

In addition, NOVA members report that confusing examination requests contribute to inadequate exams and deficient reports. Many times, the request does not match the veteran's claims or incorporate the remand instructions articulated by BVA or the CAVC. Sometimes, the request is not clear as to whether the veteran must appear for an exam or the examiner can write the report based on a record review. Without clear guidance, examiners burdened with large workloads are bound to conduct inadequate exams and write incomplete reports.

Just a year ago, in a report highlighted by this Subcommittee in its June 27, 2023, invitation, the VA Office of Inspector General acknowledged that "[r]esults of medical exams are critical pieces of evidence in supporting veterans' claims for benefits, and the exams represent a significant investment by VBA." Department of Veterans Affairs, Office of Inspector General, *Veterans Benefits Administration: Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions* i, June 8, 2022 (<https://www.va.gov/oig/pubs/VAOIG-21-01237-127.pdf>). The report also found, among other things, that "[a]ll three vendors failed to consistently provide VBA with the accurate exams required by the contracts" and "vendor exam accuracy has not improved and exam errors have not been resolved." *Id.* at 8; 10. Contract examiners must comply with the terms of their contracts and be held accountable when they fail to do so. Furthermore, contractors must correct errors and provide adequate examinations to reduce repeated remands, which result in continuing delay and backlogs.

NOVA urges this Subcommittee to conduct additional oversight to understand and quantify the root causes of inadequate examinations, the ongoing high remand rates due to inadequate examinations and potential overdevelopment, and the resulting delays endured by veterans with claims and appeals before the Veterans Benefits Administration and the Board of Veterans' Appeals due to these factors.

II. VA Seeks Additional Development When Adequate Evidence of Record Exists.

NOVA members also report that VA frequently orders additional examinations even when adequate medical evidence of record exists and a favorable opinion has been rendered. VA may not undertake “additional development if a purpose [is] to obtain evidence against an appellant’s claim.” *Mariano v. Principi*, 17 Vet.App. 305, 312 (2003). In some instances, NOVA members report the ordering of additional examinations that appear to be “tie breakers,” e.g., when there is one negative and one favorable opinion. Such exams are in contravention of VA law and policy requiring adjudicators to grant the claim when the evidence is in relative equipoise.

Example 1: In February 2022, a VA contract examiner provided a favorable opinion on the veteran’s claim for service connection for an arthritic condition. Despite this favorable opinion, VA obtained a second set of exams, which were unfavorable, and VA’s denial made no mention of the first favorable exam. After a higher-level review, the claim was sent back for more development due to the “difference of opinion.” This time, the original examiner ultimately concluded the condition was “more likely than not” service connected. Nonetheless, VA denied the claim.

Example 2: In July 2023, VA sent a claim out for an additional medical opinion where the VA examiner already provided a nexus opinion advising that the veteran’s depression was secondary to his service-connected hypothyroidism. The veteran, as a result of his Agent Orange exposure, is also service connected for Parkinson’s disease.

Furthermore, VA also routinely rejects favorable, well-rationalized, private medical opinions for improper/unlawful reasons, such as the examiner’s “failure to review the veteran’s claims file” or because the examiner’s opinion “was based on the history reported by the veteran.” The CAVC has repeatedly admonished BVA for rejecting favorable evidence for these reasons, yet these types of rejections continue to occur on a regular basis. *See, e.g., Nieves-Rodriguez v. Peake*, 22 Vet.App. 295, 304 (2008) (Board may not reject a private medical opinion in favor of a VA opinion solely because the VA examiner reviewed the claims file); *Kowalski v. Nicholson*, 19 Vet.App. 171, 179–80 (2005) (Board may not disregard a medical opinion solely because the opinion was based on a history provided by the veteran); see also *Coburn v. Nicholson*, 19 Vet.App. 427, 432 (2006) (“[R]eliance on a veteran’s statement renders a medical report incredible only if the Board rejects the statements of the veteran.”).

In July 2022, NOVA filed a statement in support of draft legislation, i.e., No Bonuses for Bad Exams Act, before the Senate Committee on Veterans’ Affairs. National Organization of Veterans’ Advocates, *Statement for the Record Before the Senate Committee on Veterans’ Affairs Concerning Pending Legislation to Include Discussion Draft, S. . .*, No Bonuses for Bad Exams Act of 2022 (July 13, 2022). That bill would have ensured inadequate examinations do not adversely impact veterans’ claims, e.g., by prioritizing new exams and subsequent claims processing when a veteran has received an inadequate examination, by permitting reports of inadequate or unnecessary examinations to be removed from the veteran’s record, and by ensuring inadequate or unnecessary examinations are not used for adjudication, review, or litigation purposes. The House and Senate Committees on Veterans’ Affairs should take up such legislation in this Congress and conduct ongoing oversight of the VA disability examination process.

III. Contractors Must Improve Communication to Veterans and Their Accredited Representatives and Provide More Overall Transparency.

A. Accredited Representatives Should Receive Copies of All Communication Between the Contractor and Veteran.

NOVA members report confusion and a lack of clear communication about scheduling to veterans that causes them to miss examinations. When a veteran cannot make the scheduled examination, it needs to be properly and timely rescheduled or there is a strong likelihood VA will deny the claim. Accredited representatives can assist their clients with navigating this process but timely notice is necessary.

At this Subcommittee’s March 2023 hearing, NOVA provided a statement which supported, among other bills, H.R. 1530, Veterans Benefits Improvement Act. This bill would require that every communication from a contractor to a claimant regarding the scheduling of a covered medical disability examination be “contemporaneously transmitted” to the accredited representative. Contractors should agree to provide this notice **without the need for legislation**, but if not, Congress should move to pass this bill.

In addition, any legislation should contain a new section that requires VA to automatically mail a copy of the veteran’s examination report to the veteran and his or

her accredited representative (if one has been appointed by the veteran). This amendment is necessary given the CAVC's recent unfavorable interpretation of the statute. *See, e.g., Martinez v. Wilkie*, 31 Vet.App. 170 (2019) (VA not required to provide copy of examination report under 38 U.S.C. § 5103A).

Finally, contractors should recognize and respect the veteran/representative relationship. NOVA members report that contractors state they are only authorized to speak with the veteran. If contractors do not have access to the signed 21–22 or 21–22a, they should be provided with such and accept the assistance of the veteran's representative who is authorized to speak for the veteran.

B. Contractors Need to Take Additional Steps to Improve Scheduling and Related Issues.

NOVA members report continuing issues, outlined below, that result in unnecessary denials and poor service to veterans. Contractors should take the necessary steps to eliminate these issues.

- **Failure to confirm appointment with veteran.** Timely notice is not always provided, the appointment is not confirmed, and when the veteran does not show, they are penalized because they have not shown good cause for missing the appointment. Contractors should ensure the appointment is properly confirmed.
- **Providers unable to accept cancellations.** When an issue or illness arises that prevents the veteran from attending an appointment shortly before, or the day of, the examination, the provider will refuse to accept the cancellation or inform a veteran they must contact the contractor. In many instances, the veteran does not have that information, and then gets marked as a “no-show.” Providers should be able to handle these cancellations.
- **Failure to provide basic information upon request.** Sometimes examiners refuse to answer basic questions raised by the veteran, such as their full name, specialty, diagnosis, or ROM measurements. Veterans have a right to know this basic information and it should be provided when requested.

Conclusion

Many aspects of the VA disability examination process remain problematic. NOVA urges this Subcommittee to continue oversight, with an emphasis on examining the high remand rates due to inadequate examinations and overdevelopment that add to ongoing backlogs before the Veterans Benefits Administration and the Board of Veterans' Appeals.

For more information:

NOVA staff would be happy to assist you with any further inquiries you may have regarding our views on this important legislation. For questions regarding this testimony or if you would like to request additional information, please feel free to contact Diane Boyd Rauber by calling NOVA's office at (202) 587–5708 or by emailing Diane directly at drauber@vetadvocates.org.

Prepared Statement of Optum Serve Health Services

Chairman Bost, Ranking Member Takano, and members of the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs: Chief Executive Officer of Optum Serve Health Services, I am pleased to submit this written statement for the record regarding our work on the U.S. Department of Veterans Affairs (VA)—Veterans Benefits Administration (VBA) Medical Disability Exam (MDE) program in the four geographic and pre-discharge regions.

On behalf of all the women and men at UnitedHealth Group (UHG), including Optum Serve Health Services, who work every day to help people live healthier lives and make the health system work better for everyone, I appreciate the opportunity to discuss our delivery of medical disability examinations, in support of the VBA, Veterans and their families, Service Members, Veteran and Military Service Organizations, community providers, and our program partners. Optum Serve Health Services brings parent company UnitedHealth Group's (UHG) broad commercial and government experience, and extensive resources with Optum's innovation, technology, scalability, and federal healthcare program experience to ensure our nation's Veterans and Service Members receive quality, objective, and timely compensation and pension examinations in accordance with VBA regulations and the terms of our contracts.

Let me also acknowledge the Committee's important work to pass the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act, or PACT Act for short, this past year. This important legislation greatly expands health care and benefits for Veterans exposed to toxic substances and represents our Nation's commitment to taking care of those who have served. Optum Serve Health Services is similarly committed to serving Veterans and Service Members and supporting our government partners in the execution of their missions. Our VBA MDE program is a prime example of this commitment as demonstrated by our performance of this work for more than a decade, our responsiveness to the challenges faced during the unprecedented COVID-19 pandemic, our rapid expansion to support the increased and sustained volumes resulting from the passage of the PACT Act, and our continued collaborative partnership with the VBA.

Optum Serve Health Services, formerly Logistics Health Incorporated (LHI), began performing medical disability exams on behalf of the VA in 2011. Starting with one contract managed by the Veterans Health Administration (VHA), Optum Serve Health Services, custom designed a program and a system to process examination requests efficiently and accurately. In 2018, oversight of the MDE program shifted from the VHA to the VBA and the second generation of MDE contracts were awarded. Optum Serve Health Services initially held competitive awards for contracts in Regions one (1), two (2) and three (3), and in 2021, Optum Serve Health Services was awarded a single-year, sole-source contract for Region four (4). Then in 2022, Optum Serve Health Services received competitive awards for the Region four (4) (March 2022) and the Pre-discharge contracts (April 2022), resulting in our current program which completes more than 20,000 appointments per week across five separate contracts and in all 50 states.

At the heart of the Optum Serve Health Services VBA MDE program is a network of certified compensation and pension examiners and diagnostic service providers. We have more than 4,300 examiners and over 1,900 diagnostic service providers operating in our network of clinics, provider offices and mobile examination units. The Optum branded and vendor partner clinics serve as the backbone of our network where examiners conduct compensation and pension examinations on a full-time basis. These clinics are located in larger markets and/or close to military bases where consistent demand for exam services exists. The clinics contain a mix of examiners (general medical, behavioral health, audiology, optometry, dental), diagnostic radiology and other diagnostic testing services based on the needs of the market and the availability of contracted examiners and diagnostic service providers in each specific market. Contracted examiners and diagnostic service providers add depth and breadth to our network and allow us to look at additional options when sourcing exam locations closer to where Veterans and Service Members live. Single examiner offices embedded in existing medical practices and our mobile medical units give us flexibility to provide services in more rural or underserved areas as well as addressing surges in demand in larger markets. Individual examiners also travel to different locations as needed to help fill temporary capacity gaps, provide services to incarcerated or home bound Veterans, and to provide additional coverage in rural communities.

Regardless of where an examination occurs, Optum Serve Health Services is committed to ensuring the highest levels of quality for the services we provide through the VBA MDE program. Each Optum Serve Health Services examiner is credentialed by Optum Serve Health Service's National Committee for Quality Assurance (NCQA) certified Provider Credentialing Department and must complete the VBA required training courses in the VHA TrainingFinder Real-time Affiliate-Integrated Network (TRAIN) learning management system. They are also supported and tutored by our own dedicated provider training and support team, who provide additional training, tutor examiners that need assistance, and create references and resources that are available to our examiners in our provider portal. We also provide tutor examiners should our providers need any additional support. Once an exam occurs, all required documentation is reviewed through system validation and manual checks by our Clinical Quality Review Department, prior to electronic submission to the VBA.

We are committed to providing a high-quality experience for the Veterans and Service Members we are honored to serve. In addition to the training and internal quality reviews performed by Optum Serve Health Services, we also work collaboratively with the VBA MDE Program Office and VA Regional Offices to identify and correct quality and patient experience issues. Optum Serve Health Services receives monthly reports and audit scores from the VBA MDE Program Office Quality Department as well as the VBA Veteran and Service Member experience survey results for each contract. Both of these reports are tied to performance metrics in our contracts and are part of the oversight the VBA exercises on our work. They com-

municate trends and identify areas for improvement as well as areas of outstanding performance during recurring quality, operations, and performance calls. Optum Serve Health Services uses this information to make adjustments to our processes and communicate necessary changes and adjustments to our entire network. The VBA Veteran and Service Member experience survey is administered by another VBA contractor and provides valuable feedback on Optum Serve Health Service's examiners and other aspects of the program. In partnership with VBA's MDE Program Office, the Veteran and Service Member feedback is leveraged as we continuously review the quality and experience provided by the program. We continuously monitor examiner training and credentialing and investigate all inquiries. Any examiner who does not maintain the proper credentialing and training, or who does not meet the quality and experience requirements of the contract is removed from our network. During the past year, our program quality audit and patient experience survey scores have consistently exceeded the requirements in the contract.

These positive changes in quality and member experience occurred during a demanding time for the program as we exited the pandemic and then responded to the increased demand resulting from enactment of the PACT Act. During the pandemic, face-to-face exams were temporarily suspended by the VBA, COVID precautions were put in place to protect Veterans and Service Members, and changes were made to scheduling and exam processing guidelines to avoid negative impacts to claims. Once face-to-face exams resumed and operations normalized, our program leveraged flexibilities in the use of telehealth and license portability legislation to schedule and complete exams, extending the reach of our network and providing options to Veterans and Service Members to receive their examinations in the way that was most convenient for them, while still maintaining objectivity and quality. Optum Serve Health Services used telehealth primarily for behavioral health exams and leveraged our fleet of mobile medical units and traveling examiners to provide services to Veterans and Service Members in rural and underserved areas. Telehealth, mobile medical units and travel examiners were also utilized to respond to fluctuations in exam volume in larger markets or covering for examiners who were personally impacted by COVID or chose not to practice during the pandemic. Even when the VBA adjusted its processes and guidelines in response to the relaxing of pandemic restrictions at the start of 2022, telehealth and license portability remained important enablers for Optum Serve's MDE program. Many behavioral health providers have not returned to face-to-face practice and continue to see patients remotely. The use of mobile medical units and traveling examiners has only increased as the volume of exam requests grew with the PACT Act and the health care industry continues to feel the reverberations of the pandemic. Optum Serve Health Services recommends making license portability provisions permanent and adding dentists, optometrists, and other types of licensed health care professionals to the legislation as this will provide additional flexibility and capacity to meet demand while providing options to support Veteran and Service Member preferences.

Since the passage of the PACT Act, the volume of weekly exam requests Optum Serve Health Services receives from the VBA has increased by approximately 45 percent. Optum Serve Health Services responded by opening or expanding clinics in 78 different locations, adding six (6) mobile medical units, and increasing appointment volume by 51 percent, resulting in a 47.5 percent increase in completed exam service requests per week. Even with these increases, our expansion efforts are ongoing as the VBA projects demand for exams will continue to increase into 2024. We use a continuous assessment process to monitor demand, identify changes in demand patterns, and initiate examiner network adjustments. In addition, we continue to enhance our systems and exam processes to best utilize our examiner's time, streamline the exam experience, and increase throughput without sacrificing quality or member experience.

Overall, the industry faces a historic maldistribution of medical professionals and increasing administrative demands on providers, such as the modality, quality, and length of the training required for MDE providers to become certified compensation and pension examiners. We routinely encounter medical providers who want to work with us in support of Veterans and Service Members, but then decline to become part of our network when we present them with the training requirements. We are currently collaborating with the VBA MDE Program Office, and they have been open to feedback about adjustments to the training courses in VHA TRAIN. We believe that through collaboration between the VBA and the MDE program vendors, we can identify ways to decrease the total time required to complete the training while retaining the key content necessary for continued high quality delivery, and we hope that Congress will be supportive of these efforts. This is especially important in the context of the challenging health care industry labor market. Many providers and other types of medical professionals left health care during the pandemic,

and the industry continues to change as we move into the post-pandemic period. In addition to the historic shortages of providers, technicians, and support staff in rural and underserved areas, there now seems to be a true shortage of providers in the aggregate, making it extremely important for the program to use different types of medical providers to perform this critical work. The continued use of mid-level medical providers as well as physicians, both general medical practitioners and specialists, is critical to meeting the demand of examination requests from the VBA.

Optum Serve Health Services supports the end-to-end examination process and through collaboration with the VBA and our own team's pursuit of innovation, we are evolving our processes to continue to find ways to better serve Veterans and Service Members. First, with communication and scheduling, our customer service, operations, and information technology teams are implementing multiple changes to engage Veterans and Service Members digitally and improve the appointment scheduling process. We updated our entire caller identification system so our outbound calls can easily be recognized, and Veterans and Services Members know they are coming from a valid source. Each member is contacted through multiple channels (text, email, phone) and then allowed to indicate their preferred method of communication going forward.

A second area with significant enhancement underway is the receipt and preparation of the claims files and supporting documents that are shared with examiners. In coordination with the VBA MDE Program Office, the process for receiving the claims files from VBA is being updated so the annotations made by VA Regional Office staff as they develop the claim will be exported as part of the file the vendors receive. This will ensure the information in the claims file that is most relevant is easily seen by the examiners who complete the exams. This is in addition to other changes made in the past year to more clearly identify relevant evidence, including layperson statements in the examination scheduling requests and the claims file. These changes will improve our examiners' ability to provide comprehensive and high-quality examinations, reduce rework requests, and likely result in fewer appeals. In addition to these changes made in collaboration with the VBA, Optum Serve Health Services also continues to refine our automated and manual processes for preparing the claims files for the examiners. Every claim file is reviewed, and key information is identified for examiners to ensure it is not missed during the examination process.

A final area to highlight is our focus on reducing barriers for Veterans and Service Members to get to appointments, consistent with Optum Serve Health Service's overall focus on health equity. The VBA reimburses Veterans for their travel to and from appointments, however, Veterans often indicate they do not have reliable transportation or cannot pay the money up front to travel to appointments. The Optum Serve Health Services MDE Program Operations team constantly looks at these challenges, interfaces with the VBA MDE Program Office and the VA Regional Offices and seeks to remove barriers to appointment attendance. In some cases, this means submitting a medical travel request and receiving approval from the VBA for special travel support. In other cases, we may coordinate a home-bound exam or utilize an Optum Serve Health Services mobile unit to offer services at or near a member's home. All of this is done in conjunction with the VBA and within the bounds of our current contracts. In addition to these methods, Optum Serve Health Services often goes above and beyond contract requirements by arranging for mileage reimbursement payments prior to an appointment or we will arrange and pay for the transportation ourselves. Earlier this calendar year, we started a transportation pilot with one of the premier ride share providers to supply transportation for Veterans to their appointments. In delivering this pilot, we coordinate with the Veteran directly to schedule their appointment and then also schedule rides to and from the appointment, easing the upfront burden and reducing out-of-pocket costs. Optum Serve Health Services will continue close collaboration with the VBA MDE Program Office by sharing the data and results from this pilot to support further evaluation of including transportation services such as this in the MDE contracts.

Optum Serve Health Services is committed to delivering a high-quality program that meets or exceeds our MDE contractual obligations in support of the overall health of those who have served our great Nation. Our highly dedicated program team works very closely with the VBA MDE Program Office and has established a robust cadence of connections around operations, quality, systems integration, and overall program performance. The VBA MDE Program Office conducts frequent audits on mileage reimbursement, scheduling and appointment completion processes, examiner training and credentialing, exam quality, contract performance, monthly invoices, and many other aspects of the program. They are receptive to feedback about program guidelines and requirements, and consistently offer support and guidance on difficult cases.

In closing, we appreciate the opportunity to submit this statement for the record to provide information regarding our work in support of the VBA. Thank you for your continued efforts to shape legislation that reduces barriers to access, allows medical professionals to deliver services across the Nation, increases coverage for members, and streamlines the claims and examination processes. Our highly dedicated team looks forward to our continued collaboration with the VBA, this Subcommittee, and all of our partners, as we collectively ensure our Nation's heroes continue to receive the health care they have earned and deserve.

Prepared Statement of Paralyzed Veterans of America (PVA)

Chairman Luttrell, Ranking Member Pappas, and members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to submit our views on the Department of Veteran's (VA) disability exams process. The Veterans Benefits Administration's (VBA) Compensation and Pension (C&P) examination process often acts as the first stop for servicemembers and veterans trying to access their earned VA benefits and health care. This is particularly true for veterans who have incurred a spinal cord injury or disorder (SCI/D) and their ability to access VA benefits without delay is critical for their care and recovery.

Any conversation about the C&P process should begin by noting that many veterans find it difficult to file even a basic claim for disability because the VA Form Application for Disability Compensation and Related Compensation Benefits form (21-526EZ) is long and contains a multitude of instructions, which makes the process confusing. This is why PVA has service officers staged throughout the country at VA's Regional Offices and the Department's 25 SCI Centers to help veterans, their families, and even VA employees navigate the Department's complex disability process. At the same time, we cannot overlook the good, often extraordinary work and efforts of so many VA employees. It is these employees, these people who most often make such a profound difference in the lives of the veterans and families we serve.

When a veteran with multiple sclerosis (MS) or amyotrophic lateral sclerosis (ALS) receives a Veterans Health Administration (VHA) conducted exam, they are normally evaluated by a neurologist, a doctor who specializes in treating diseases of the nervous system. From our experience, this greatly enhances the likelihood of getting an examination right, and significantly decreases the chance of errors.

However, in the case of VA contracted exams, a veteran with MS may be examined by a family practitioner, pediatrician, obstetrician, or other provider who may have little to no expertise with the disease. These inadequate contractor exams can result in lengthy claim processing times, VA Rating Decisions that provide a lesser degree of benefits, and necessitate the need for lengthy appeals which hurts our most severely disabled veterans and creates more work for VA at greater costs. For example, PVA is currently working with a 40 percent service-connected veteran who has been seeking service connection for his right knee and his back, secondary to his service-connected left knee since 2011. The matter has been remanded by the Board of Veterans' Appeals (Board) multiple times, with instructions in 2016 to specifically obtain an opinion from an orthopedist. It has also been appealed to the Veterans Court. There, the VA Secretary and the veteran agreed that the prior medical opinions had not been adequate for rating purposes and requested a new opinion. The Board then remanded the claim and specifically requested that an opinion be provided by an orthopedist. Instead, a nurse practitioner provided an opinion. The Board conceded the nurse practitioner was not qualified and remanded the claim again, but did not specifically request an orthopedist. This time around, an obstetrician provided the new opinion which of course, triggered additional appeals and decisions by the Board. Twelve years later, a rather simple claim by this veteran is still not resolved, but it serves as an excellent example of how convoluted the process can be when an exam is not conducted by a specialty provider. A PVA member with MS who was examined by a contractor with a specialty in orthopedic surgery produced similar outcomes, and we have many other similar examples of this happening with other disabilities.

At times, it seems these contract exam requests are being sent to any available medical provider, regardless of their practice area. This just results in challenges and delay; it's not a good use of VA's resources or anyone's time and it certainly isn't beneficial to the veteran. A contractor's inexperience with VA and lack of knowledge of veterans can adversely affect the claims process as well. Too often, we have seen contractors submit an exam to VBA, and then VBA is forced to go back to the contractor, two, three, four, or maybe even more times for clarifications on

something. This also causes lengthy delays in decisions on a claim and again can result in poor decisions that must be appealed.

We agree that C&P exams completed by contractors may be sufficient for some of the more common or less severe disabilities. However, in most cases, they are inadequate for veterans with SCI/D and other complex and more significant disabilities. PVA strongly believes only VHA examiners should provide C&P exams for veterans with complex claims. This would greatly reduce errors and ensure VBA obtains everything it needs during the initial examination.

A June 2022, VA Office of the Inspector General (VA OIG) report faulted the Department for not ensuring that its contract exam vendors were held accountable for correcting errors and improving exam accuracy.¹ The report indicated that all three of the Department's current contractors have an accuracy rate, in many cases well below the 92 percent accuracy requirement, with little to no improvement from 2017 through 2020. We understand the formula used by VA OIG may be slightly flawed because errors noted in an exam that had no relevance to deciding a claim, service connection, or the percentage of disability, counted toward a deficiency in the accuracy score. We also understand a more effective methodology is now being used and it indicates a 95–97 percent accuracy rate. That still means three to five percent of exams are inaccurate which translates into millions of veterans that may have been awarded a higher or lesser level of benefits that they deserved, or worse, had their claims denied based on inaccurate exams. VA has paid \$6.8 billion for contract exams since 2017 and as noted above, there was little to no improvement in accuracy from 2017 – 2020. Yet, and although they were reportedly suspended, we question why would VA provide monetary incentives to contractors, to improve upon the work they are already being paid to do.

VA also maintains that a Rating Veterans Service Representative (RVSR) can always send an inadequate exam back to the contractor. While this is true, it can delay a decision on a veteran's claim. Additionally, the language used in these requests is confusing and seem more like computer generated requests, than a person speaking in plain language, telling the contractor what is needed.

The Department further attempts to minimize the issue of low accuracy by stating an RVSR is required to review and consider the entire evidence of record when deciding a claim, not just the contracted C&P exam. While it's true an RVSR is supposed to review the entire evidence of record, this is not reality. C&P exams are the documents RVSRs rely on the most in deciding claims. A veteran's digital file in the Veterans Benefits Management System can have hundreds, if not thousands, of documents. Although not all of the documents are relevant to a particular claim, many are, and it's unrealistic to believe an RVSR is going to spend days pouring through hundreds of documents on one claim, when they are required to meet certain quotas.

If one of our service officers determines an exam is inadequate, we can appeal a decision. However, since implementation of the Veteran Appeals Improvement and Modernization Act of 2017 (P.L. 115–55), there are other avenues that must be taken, such as a Higher-Level Review and Supplemental Claims, before an appeal to the Board of Veterans' Appeals, if necessary. All of this takes time and resources, and can cause significant delays.

In addition to concerns about contracted exams, we also believe VA simply orders too many unnecessary exams. Under 38 U.S.C. 5125, VA can accept private medical evidence alone to support a claim for benefits, and there are many cases in which it would be much more efficient both in cost to VA and time to the veteran if they just accepted a claimant's evidence. We see cases where, at least in retrospect, there was credible private evidence and the exam looks more like they are laying the groundwork for a VA denial. Recently, we had a veteran receive an award for his heart condition based on his PTSD. VA rated the veteran based on his medical records and awarded him Individual Unemployability because he met the criteria with the new ratings. This action provided benefits for the veteran without delaying the award for exams. This could and should be happening more frequently.

Finally, there seems to be a disconnect between whoever is scheduling the exams and the experts and the veterans. It's as if the schedulers either don't know, don't care, or more likely, don't have the authority to deal with situations whenever a veteran tries to prevent being scheduled for an exam by a specialist without expertise in their claims. The question to ask is if it is unreasonable for veterans to be evaluated by someone with experience and knowledge of their condition as well as treatment options and emerging science regarding it. Again, we feel very strongly that disability claims examinations for veterans with SCI/Ds and other complex and

¹ Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions (va.gov)

more severe disabilities should only be conducted by VHA providers specializing in the field of medicine for the disability being claimed. In the instances where they are not, a veteran should have the right, and VA contractors should have the ability, to schedule them with a provider actually practicing in the field of medicine for the condition under consideration.

PVA would once again like to thank the Subcommittee for the opportunity to submit our views on this issue, and we would be happy to answer any questions you may have.

Information Required by Rule XI 2(g) of the House of Representatives

Pursuant to Rule XI 2(g) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2023

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events—Grant to support rehabilitation sports activities—\$479,000.

Fiscal Year 2022

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events—Grant to support rehabilitation sports activities—\$ 437,745.

Fiscal Year 2021

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events—Grant to support rehabilitation sports activities—\$455,700.

Disclosure of Foreign Payments

Paralyzed Veterans of America is largely supported by donations from the general public. However, in some very rare cases we receive direct donations from foreign nationals. In addition, we receive funding from corporations and foundations which in some cases are U.S. subsidiaries of non-U.S. companies.

Prepared Statement of Quality. Timeliness. Customer Service. (QTC)



STATEMENT OF
Larry Schaefer
Chief Executive Officer
QTC, a LEIDOS Company
FOR THE RECORD OF THE
Subcommittee on Disability Assistance and Memorial Affairs
Committee on Veterans' Affairs
United States House of Representatives

"VA DISABILITY EXAMS: ARE VETERANS RECEIVING QUALITY SERVICES?"

JULY 27, 2023



Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee:

ABOUT QTC

Thank you for inviting QTC - a Leidos Company - to submit a statement for the Subcommittee's oversight hearing entitled, "VA Disability Exams: Are Veterans Receiving Quality Services?" Our organization provides critical access points for disability examinations across the country and overseas, as well as support for the pre-discharge programs. Over the last 40 years, QTC grew from a small medical center started by Asian immigrants to 90 medical clinics nationwide, a network of 19,000 subcontract providers, 12 mobile medical clinics, and large administrative offices in California, Texas, Pennsylvania, and Tennessee. We are now the nation's leading provider of medical, disability, and occupational health examinations and have conducted more than 12 million exams in our 40-year history, exceeding customer quality measures.

QTC was founded with the mission to provide high Quality, Timely, and Customer-focused medical examination services. These three words are embedded in our company culture and drive everything that we do. QTC's quality of service is a top priority to ensure reliable medical reports. Our extensive network of medical providers undergoes a rigorous training and credentialing validation process to ensure they are qualified and prepared to perform quality examinations. QTC's timeliness is determined by customer policy standards and a proven 6-step operational methodology. Our patented software technology is designed to optimize the exchange of information between our clients and providers to ensure the timely delivery of medical reports. QTC requires that all providers and employees maintain or exceed excellent customer service. We understand the importance of creating positive first impressions and are trained to do so with every customer interaction. We are committed to treating every examinee with the respect, dignity, and courtesy expected of us as caregivers. We also strive for innovation and continuous improvement to ensure our services are always leading the industry.

BACKGROUND

In 1996, President Clinton announced that Vietnam Veterans with prostate cancer and peripheral neuropathy were entitled to disability payments based on their exposure to Agent Orange. The administration also proposed legislation to meet the needs of Veterans' children afflicted with the birth defect spina bifida.¹ Congress responded by passing the Veterans' Benefits Improvements Act of 1996 (P.L. 104 – 275) which provided the authority for the Department of Veterans Affairs (VA) to use contract examiners to help with the expected increase in claims. The initial legislation limited the use of contract examiners to 10 VA Regional Offices (VARO). In 1998, VA awarded QTC one of the first contracts to conduct VA medical disability exams.

In late 2009, VA Secretary, Eric Shinseki, expanded disability compensation eligibility for those affected by both combat PTSD and Agent Orange. The backlog, defined as claims that are more than 180 days old, *more than doubled* in size in less than four months following these changes between November 2010 and March 2011.² Improved VA outreach amid a difficult economy

¹ Richter, P. (2019, March 5). Clinton Expands U.S. Benefits for Veterans Exposed to Agent Orange. Los Angeles Times. <https://www.latimes.com/archives/la-xpm-1996-05-29-mn-9695-story.html>

² Friedman, B. (2013, June 3). The Rise (and Fall) of the VA Backlog. TIME.Com.

caused a steady, overall rise in disability claims—especially among aging Vietnam Veterans. Additionally, between 2001 and 2013, over 2.5 million service members were deployed in Afghanistan and Iraq. Of those, more than one-third were deployed more than once. Compared to previous generations of Veterans, Iraq and Afghanistan Veterans filed claims for a higher number of disabling conditions, including complex conditions like traumatic brain injuries—which further exacerbated the VA’s ability to provide timely disability claims decisions.³

In January 2013, the Department of Veterans Affairs released its plan and aspirational goal to eliminate the disability compensation backlog by the end of 2015. Secretary Shinseki changed the definition of backlog claims from 180 days to 125 days. In March 2013, VA’s disability claims backlog peaked at 611,000 claims, with over 800,000 claims in inventory. VA’s plan had several components based on three main initiatives: people, processes, and technology. Key among these initiatives was the implementation of an automated system of claims processing. As part of the plan, VA modified and streamlined certain claims and appeals processing procedures for Veterans who opted to participate in these initiatives in exchange for an expedited decision. VA also shifted some workload between regional offices and increased the use of contractors to handle some aspects of the claims process.⁴ QTC was instrumental in helping to reduce the claims inventory during 2013-2015, completing over 1.3 million exams in support of VBA.

VA saw a net gain of 700,000 unique patients in a few years as Veterans from Iraq and Afghanistan transitioned from the military, and in 2014, it became clear that VA was facing patient wait-time challenges within its healthcare system. Extensive wait times were further exacerbated by the agency’s struggle to fill 5,100 provider vacancies in 2013. In conjunction, appointment slots with VA clinicians were also being used to conduct disability exams rather than allowing VHA to focus on its primary statutory mission of healthcare delivery. To support the VA’s plan to reduce the healthcare backlog and alleviate the burden of conducting disability examinations from healthcare providers, Congress passed P.L. 113-235, which expanded contract examinations coverage in phases from 12 VAROs in 2015 to 15 VAROs in 2016; and finally, to all VAROs in 2017. P.L. 113-235 allowed VA clinicians to focus on healthcare delivery while contract examiners were utilized fully to help the department achieve a functional zero in the disability claims backlog.

By August 2015, the backlog dropped below 98,000 claims, an 84% reduction from its peak in March 2013 and the lowest since VA started measuring the claims backlog in 2007. The department attributed the backlog reduction to a transformation plan it launched in 2011, which included a refocus on electronic claims processing, more streamlined coordination of private medical records, and expanding the use of contract examiners.⁵ VA largely enjoyed a functional zero in disability claims until the COVID-19 pandemic.

On April 4th, 2020, the COVID-19 virus forced VA to halt in-person medical disability examinations. As a result, disability claims inventory and backlog grew significantly. When all exam restrictions were lifted, the disability claims inventory and backlog leveled off, and as of March 2021, the backlog stood at approximately 209,000.⁶ This same year, Congress expanded license portability for contract examiners to include physician assistants, nurse practitioners,

³ Office of Public and Intergovernmental Affairs. (2013). VA.gov | Department of Veterans Affairs. <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2418>

⁴ Veterans’ Disability Benefits: Timely Processing Remains a Daunting Challenge. (2013). Government Accountability Office.

⁵ Kesling, B. (2015, August 25). VA’s Backlog of Disability Claims Falls to 8-Year Low. WSJ.

⁶ Veterans Benefits Administration Monday Morning Report as of March 13, 2021.

audiologists, and psychologists. With this authority, QTC was once again instrumental in helping reduce the excess inventory of disability claims by completing over 2.8 million exams during 2020-2022. We deeply appreciate Chairman Bost's and the committee's support for this legislation.

In 2022, the historic Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act (PACT Act) was enacted. This led to an influx of cases from millions of Veterans with toxic exposures who are now authorized to receive healthcare services and compensation benefits from VA. There were initially 24 presumptive conditions identified through the PACT Act legislation, but this was amended to include an additional 20 presumptive conditions, more presumptive-exposure locations, and a requirement for the VA to provide toxic exposure screenings to all Veterans enrolled in VA healthcare. This change is expected to increase the backlog in both disability examination services, as well as clinical services. To prevent an unmanageable increase in excess exam inventory, QTC has been increasing capacity by increasing its network of providers across the country over the past two years. We stand ready to help VA reach functional zero of claims by the end of 2025.

CONTRACT EXAM PROCESS

When additional information is required to substantiate a claim, VBA orders an exam. Upon receipt of the Exam Scheduling Request (ESR), QTC implements our 6-step workflow to process the ESR. This begins with a comprehensive review of the ESR and clarifies any uncertainty with the VBA to ensure the veteran/service member receives the appropriate exams. The next step is to contact the examinee to begin the scheduling process at a location and date/time that balances the preferences of the examinee with the requirements of the VBA's Medical Disability Examinations (MDE) contract. The contact process can include phone calls, text messages, emails, and tracked mail packets to ensure confirmation of the scheduled appointments. We strive to complete the scheduling step within 2 days of receiving the ESR and have the appointments occur within 8 days from the scheduling date. We follow up with both the examinee and the provider to ensure they are ready for the exams prior to the appointments, which drives a low no-show rate of 5-7%.

In support of the scheduling process and the provider's preparation for the exams, QTC implements sophisticated IT solutions to ensure all of the correct exams, DBQs, diagnostics, and associated medical records are ready for an efficient exam process. We use IT systems that are fully cyber-compliant for the secure handling of the privacy and health information of the examinees. We interact with both examinees and providers through secure portals, so the data is never exposed outside of our system. There has never been a data breach in all the years that QTC has been conducting exams on behalf of the VA.

The next step in the process is the provider completing the exams to gather the results necessary for the VBA to adjudicate the examinee's claim. When performing the exam, the provider uses the secure portal to access the medical records and the DBQs required for the exam. We prepare the entire set of medical records for review by the provider and apply IT tools to make the search and review of all records easy and efficient for the provider. One of these tools is our proprietary Medical Exam Protocol (MEP) system which has patents and has been refined over the past 20 years to ensure high-quality results. This system presents a provider-friendly view of the DBQs and assists the provider in the navigation of a complex set of documents.

We gather all the supporting diagnostic results and pull them into the secure portal for the provider's review and incorporation into their results. Once the provider completes the DBQs, the next step is for QTC's quality assurance (QA) staff to ensure they are clear, consistent, complete, and meet the quality guidelines of our contract. Our Quality Assurance team includes former VBA employees with experience adjudicating claims who are experts in the claims process. The QAs will clarify any necessary items with the provider in the same portal to ensure secure interactions, as well as capture all the data associated with these clarifications (more information on the QA process is described in the following section). Once the provider has completed any report adjustments, they sign the report, and it is ready for secure transmission to VBA. We target completing the DBQs and QA process within 6-8 days of the exam date.

QUALITY

Quality Measure

From 2017-2020, the Medical Disability Examination Office (MDEO) initially established a quality standard for contract examiners requiring 92% of error-free exams. In a June 2022 report, OIG stated that all vendors failed to meet the quality standard during this time period. From 2017-2022, quality assessments were scored using an "all-or-nothing" approach, like penalizing vendors for not including inconsequential information such as a fax number, rather than leveraging a standardized scoring method. In addition, there were instances where samples were not statistically representative.

In response to this report, VA indicated that MDEO had re-assessed the scoring process and executed major contract modifications on October 1, 2021 to include the implementation of a revised quality audit checklist and methodology for quality scoring. This change is a more reasonable approach to assessing exam quality as it measures the accuracy of a case based on all required exam elements. However, non-clinical/administrative errors, with no impact on the rating decision, continue to be cited and scored against the vendor quality score (i.e., missing fax numbers).

Along with the changes to the scoring process, the quality standard changed to 96.5% of exams containing no errors. Additional modifications were included regarding how the score was determined, allowing QTC to align our processes and scoring to the MDEO efforts. As of April 2023, the quality standard was reduced slightly to 96.0%, and QTC has consistently met this standard in the current fiscal year through our efforts to align with MDEO's scoring procedures.

Training

To provide high-quality exams, QTC prioritizes having a well-trained provider network. Through our rigorous recruitment and credentialing processes, all providers' qualifications and licensure are verified, ensuring they are in good standing. Once verified, examiners undergo the same training requirements and modules as that of VHA providers, including Disability Medical Assessment (DMA) modules, HIPAA, and Rules of Behavior (ROB) training, and training for special examinations such as Gulf War Illness, Spina Bifida, 1151 cases, PACT Act exams, and many other associated trainings like military sexual trauma and Veteran experience training. In these modules, core competencies for a VA or contract examiner are discussed, including medical opinions, complex cases, legal decisions, and best practices for identifying Veterans who need a fiduciary.

For each of the DMA modules, QTC partnered with VA to identify gaps in the training from the vendor perspective, as well as opportunities to enhance the training to make the information clearer to a medical provider. For example, for the course on Toxic Exposure Risk Activity (TERA) opinions, QTC recently made recommendations to increase the training on the Individual Longitudinal Exposure Record (ILER) and provided case studies, prompting enhancements by VA.

In addition to DMA training modules, QTC employs a team of highly trained Provider Liaisons to provide orientation and on-the-job training with MDE-specific tools like the goniometer, as well as to assist them through their first set of cases. The Provider Liaison team works with each new examiner to establish a baseline quality assessment and provide ongoing support and re-training to address questions and any quality improvements as they begin actively seeing examinees. Each examiner must demonstrate an ability to deliver quality exams before being allowed to conduct VA exams independently.

If a provider's quality begins to decline, a hold is placed on their schedule, and re-training occurs to address the quality concerns. After re-training, the provider is allowed to continue seeing examinees, but a quality re-audit is performed 30 days after the re-training is completed to ensure their quality has improved and address any remaining concerns. If the examiner does not demonstrate improvement and/or is inconsistent with their improvement over a period of time, the contract with the examiner is assessed for termination and further scheduling of VA examinees is disallowed.

QTC's QA Process

Over the 25 years that QTC has provided disability exams to Veterans, we have developed a robust and mature quality assurance process. Our quality process has multiple layers to ensure the comprehensive coverage of all aspects of quality. We start with a Quality Compliance team that is staffed with former VA employees that bring a wealth of experience and insight to our QTC team. This team is instrumental in coordinating with the MDEO quality team and providing oversight of the quality program at QTC with both staff and providers. They also have the experience necessary to understand VA's perspective to ensure the QTC processes align properly and provide sage recommendations to BA on enhancements to the overall quality effort. This team provides audits of both QTC staff and providers to ensure high-quality DBQs, training regarding changes to DBQs or VA processes, and monitoring for trends that may need to be addressed with follow-up training or other actions.

The Quality Compliance Team works closely with our operational QA personnel to help navigate complexities associated with new exams and changes to the claims process. We have used this effectively over 25 years for the major adjustments caused by the initial presumptive conditions, the emergence of Gulf War claims, the implications of the COVID pandemic, and most recently, the complexities of the PACT and TERA claims.

In addition, MDEO works closely with contract exam providers to ensure quality contract exams. As VBA stood up MDEO, QTC has observed enhanced efforts to ensure quality exams through weekly/monthly calls to discuss quality results and error trends and on-site visits throughout the year, with some visits lasting a full week for a deep dive on exam processes/procedures, facility audits, and contract compliance check. Based on these efforts, QTC has been able to collaborate

with MDEO to identify ways to improve the quality of services and the quality audit process further. Examples include the recommendation to reserve quality scores for only items which may impact the claim decision and addressing administrative errors separately to allow better trending of true quality issues for more expedited solutions. This ongoing collaboration has led to a reduction in rework percentage from 0.63% in 2021 to 0.54% in 2022, indicating an improvement in report quality and VA clarification requests to accompany demonstrated improvements in our overall quality scores.

To improve the quality of exams for complex claims (i.e., Gulf War Illness, Traumatic Brain Injury, Military Sexual Trauma, or PACT/TERA), MDEO provided results from a special focused review in July 2021 and again in February 2023. Concurrently, VA updated the medical opinion request language for Military Sexual Trauma claims in 2021 to provide an explicitly defined request. QTC immediately updated all policy and procedure guidance to align with the changes set forth by VA, and additional resources were incorporated into the providers' medical evaluation portal to ensure the guidance was made readily available in real-time.

Along with the focused reviews, VA developed a process to assess the quality of QTC exam reports for complex claims using the existing rework and Error Citation Report structure. VA will occasionally return exams to us because they were missing key information that was necessary to rate a claim. We refer to this as "rework." Presently, less than two percent of cases require rework. MDEO also provided feedback on TERA medical opinions in the Error Citation Reports for both March and April 2023.

TIMELINESS

QTC strives to provide timely exams while honoring the Veterans' preferences within the requirements of the contract. MDEO set a timeliness standard of returning completed exams in an average of 20 calendar days and an average of 30 days for overseas and pre-discharge exams, with Veterans traveling no more than 50 miles for non-specialty exams and 100 miles for specialty exams. QTC has met this standard since the start of the current contracts.

To meet the timeliness standards, QTC focuses on developing an extensive provider network and has led the industry to develop new exam delivery models and tools that support timely, veteran-centric exams. This is a difficult task as more than 30% of the Veterans live in rural locations, and most are underserved by provider networks. This is why QTC has invested heavily in innovative service delivery methods for taking our exam services to where the Veterans are located. This includes our rapid site deployment solutions and our mobile medical clinics. We implement both solutions with the license portability allowed for MDE exams. These solutions and our other innovations are described in more detail below.

For the small percentage that travel greater distances, an approval process was established with the MDEO to provide justification and proof that we have discussed with the examinee, and they have agreed to the travel. We document those details and request approval from the MDEO office before proceeding. In most situations, this is to support a medical specialty that is underserved across the country or to help accelerate the timeline for processing the examinee's claim.

CUSTOMER SATISFACTION

MDEO assesses veteran satisfaction on contract exams through anonymous survey cards. QTC has achieved and maintained a Veteran satisfaction score of over 90% since Q1 of FY2017, consistently meeting and exceeding the contractual requirement. Presently, the satisfaction score is 95.9%, demonstrating a high level of customer satisfaction. Satisfaction scores are calculated through survey cards that are sent to each Veteran in their appointment information packet - both a paper copy and an online link are provided. Survey cards are then collected by an independent vendor that VBA has contracted to tabulate the responses. The responses are sent to the MDEO, who provides each of the vendors with their information, respectively. Veteran feedback in these survey cards serves as a valuable tool to drive continuous improvements in our exam quality. For example, this feedback has allowed QTC to spot trends and address customer service concerns associated with specific providers or locations. As we study this feedback, we have relocated and opened new QTC clinic locations, identified clinics where a site audit is needed, improved the mileage check reimbursement processing speed, and improved operational workflows to include the implementation of an automated appointment reminder system for the examinees. Each of these improvements was implemented based on feedback received from survey cards.

In addition to the survey cards, QTC pioneered the first and only customer experience department among the vendors. This team includes Customer Experience Liaisons with work histories from the Veterans' Service Organizations (VSO) and congressional casework, who are highly skilled and knowledgeable in understanding and improving the veteran experience. Through these efforts, QTC has been able to expand beyond the survey cards and capture customer feedback through social media channels, establishing a robust tracking and monitoring system to improve communications, timeliness of resolutions, and overall outcomes for the Veterans that we serve.

GOING THE EXTRA MILE

As the first provider of contract exams, QTC introduced various veteran-centric disability exam delivery models that are in use today. In the early days of providing disability exams, QTC established one-stop clinics to handle the leading claimed conditions, including musculoskeletal conditions, PTSD and other mental health conditions, and hearing loss and tinnitus claims. To provide exams closer to Veterans where they live, we have continued to build clinics, recruit an extensive provider network, and employ innovative solutions to reach Veterans in underserved communities, limiting the need to travel long distances.

In 2018, VA challenged us to find new ways to meet the needs of rural and underserved Veterans. QTC is improving access to disability exam services for these Veterans by traveling across the country in our fleet of custom-built Mobile Medical Clinics (MMCs). We embraced the opportunity to innovate by developing our Mobile Medical Clinics (MMC), leveraging the license portability authority provided by Congress. Since 2018, we have driven over 500,000 miles in the continental U.S., delivering service to almost 100,000 examinees. These are miles that examinees would have otherwise had to travel themselves to access health services. We have proudly served 1,700 terminally ill patients in their homes. VBA also partners with QTC to process claims on the spot, reducing average wait times from 100 days to two weeks.

Our mobile clinics are ADA-compliant, with state-of-the-art technology, and designed for the MDE program. We can do everything that a brick-and-mortar clinic can do, including radiology, audiology, general medicine, vision, mental health, dentistry, and diagnostics. Each MMC is

equipped with four unique power sources, including QTC's first-ever solar-powered clinic. Each MMC is outfitted with the necessary medical equipment for all kinds of exams. Operated by a hand-picked team, the MMCs afford QTC the ability to travel long distances into underserved communities or wherever they are most needed. These MMCs can operate in a wide array of climates ranging from the Mojave Desert at 130 degrees to the winter plains of Minnesota at -40.

QTC is also proud to have partnered with Native American tribes in Washington and Montana to provide medical disability exams to tribal Veterans on reservations for the first time in history. Federal agencies are prohibited from entering Tribal reservations without special permission granted by a Tribal Council. To promote and build tribal relations, QTC prioritized respecting the rules and land of the Makah and Suquamish. The QTC team collaborated with a Tribal Liaison to effectively communicate with each Tribe's council. For one two-day event, the QTC medical team stationed the MMC near their town hall and Indian Health Clinic. There are no house addresses on the reservation, so the Tribal Liaison transported some of the Veterans to their appointments. As the team provided exams, the VA representative processed claims. Being able to lead a team in the first-ever Tribal event in VA and QTC history was an incredibly humbling experience. We are eager to work with VA to organize future clinic events for various Tribes.

Over the years, QTC has created additional exam delivery models to serve Veterans better. In 2016, we developed a comprehensive and sophisticated logistics capability to ship equipment and staff to short-term rentals in medical facilities in rural locations or even large cities when surge capacity is required to help work down excess claims inventory. This approach became much more effective when the MDE license portability law was passed.

More recently, QTC introduced booth-less audiology technology to Veterans. With similar innovations in the pipeline, QTC looks forward to supporting VBA to provide exams that are Veteran-centric, high quality, and delivered on a timely basis.

RECOMMENDATIONS

Congress should eliminate the sunset date on the licensure requirement for medical disability exam providers and expand the definition of a health care professional.

There is a national shortage of these medical providers. The United States faces a projected shortage of between 37,800 and 124,000 physicians within 12 years, according to the Association of American Medical Colleges. The American Hospital Association called the workforce shortage that hospitals are experiencing a "national emergency" and projected the overall shortage of nurses to be 1.1 million. Therefore, Congress must extend and expand license portability authority for VA contract MDE providers to address the shortage of medical providers and prepare for the anticipated increase in MDE requests.

VA should require VHA examiners to have the same standard timeliness and quality performance metrics as contractors and ensure incentives/disincentives are aligned equitably.

In 2022, multiple studies found substantial disparities in Veterans Health Administration (VHA) patient appointment wait times. A RAND analysis found that only 55% of Veteran patients reported that they were always able to get a routine appointment as soon as they needed one. More than half

of VA Medical Center directors reported that some Veterans faced clinically meaningful delays in care. Although the VA Medical Centers are at full capacity, there has been discussion about whether VA Medical Centers should resume conducting MDEs, which would likely overwhelm the already overburdened health system and increase patient wait times further. Therefore, Congress should apply standard timeliness and quality performance metrics across contract providers and VHA providers to ensure quality exams for all Veterans. Congress should also ensure that VHA healthcare wait times will not be impacted before VA commits additional VHA healthcare provider resources to deliver routine medical disability exams.

VA should engage VSOs and MDE providers who are the end users of VBMS, as VBA plans to modernize VBMS.

The Veterans Benefits Management System (VBMS) is the core software that VA uses to power disability claims processing. Over the years, there have been issues with VBMS system outages and system defects. As VA continues its focus on updating VBMS to support disability claims processing. It is important that VA engage Veterans Service Organizations (VSOs) and the Medical Disability Exam (MDE) providers in the front end before changes are made to VBMS. VSOs and MDE providers can provide valuable insights into the end-user experience and offer input on areas for VBMS improvements. This input would help VA plan accordingly so that VBMS improvements support the Department's ability to rise to the challenge of incoming PACT Act claims and meet Veterans' expectations of timely processing of disability claims. Congress should enable VA to modernize VBMS.

CONCLUSION

Thank you for inviting QTC to share our views. We understand the significance of filing disability claims as being an entry point for Veterans to access critical services and benefits that they have earned. We are proud to partner with VBA and our team of over 23,000 providers and staff are committed to meeting our mission to provide high Quality, Timely, and Customer-focused medical examination services every day to our nation's Veterans. Contract disability exam providers allow VA to maintain focus on their core competency of delivering care and treatment by providing a more dynamic and flexible disability exam solution that expands access, availability, and capacity for disability benefits exams. Contract medical disability vendors like QTC will play an important role in helping VA achieve its "mission to fight relentlessly for our Veterans with a relentless focus on providing our Veterans with timely world-class healthcare and ensuring our Veterans have timely access to their benefits."



Larry Schaefer
Chief Executive Officer

Larry Schaefer is the Chief Executive Officer for QTC. He joined QTC in 2006 after serving more than 23 years with the United States Air Force (USAF), retiring at the rank of Colonel. Mr. Schaefer leads QTC with a focus on employees, customers, and business partners to achieve its strategic growth plans. His plans include a highly strategic formula that consists of a healthy and diverse values-based culture, technological innovation, and an ongoing determination to continuously improve QTC's processes and systems supporting excellence in operations. Mr. Schaefer was previously QTC's Chief Operating Officer, Vice President for Provider Relations, and Director of Central Operations.

While serving in the USAF, he led multiple space programs for both the Air Force and national intelligence agencies working both software and hardware applications. During his military career he was also responsible for developing the USAF's and Intelligence Community's strategy for acquiring satellite launch services and for reengineering and modernizing travel services for the entire Department of Defense. He culminated his career as a Wing Commander responsible for sustaining more than 40% of the aircraft in the USAF inventory.

He holds Masters Degrees in Strategic Studies from the USAF Air War College and Systems Management from the University of Southern California with an undergraduate degree in Aerospace Engineering from the University of Colorado.

Prepared Statement of Veterans Evaluation Services (VES)



July 26, 2023

To: Honorable Morgan Luttrell, Chairman and, Honorable Chris Pappas, and members of the House Committee on Veterans' Affairs Subcommittee

From: Teresa A Weipert, General Manager and President, Maximus Federal

Subject: Statement for the Record from Teresa A Weipert, General Manager and President Maximus Federal for the Subcommittee on Disability Assistance and Memorial Affairs Oversight Hearing July 27, 2023

VA MDE – Delivering high-quality, timely medical disability exams for our Veterans.

Veterans Evaluation Services (VES), a Maximus company, supports the VA in providing high-quality and timely medical disability exams for Veterans and transitioning service members. VES ensures fair and objective evaluations performed by trained professionals in a respectful and hospitable environment.

VES has partnered with Veterans Benefits Administration (VBA) to facilitate Compensation and Pension (C&P) exams and continues to scale with a focus on delivering high-quality, accurate, and exceptional customer service. We process more than 5,000 exams daily. Under the VA VBA's leadership, we have increased production by 50% in the last year to meet the demand while continually exceeding the quality standard reporting in at 96.5%. We continue to work closely with our VA VBA program team through weekly and bi-weekly meetings to review production progress, address program issues, and resolve any outstanding actions that impact services to our Veterans. Our experience collaborating with the VA VBA team over the past six months has been enhanced through communication and direction from the VA VBA team as they address the demands of this program and provide critical services to our Nation's Veterans.

Trained Clinicians in Locations Across the Globe.

Each member of the VES team plays a vital role in ensuring medical disability exams are conducted as promptly as possible. This enables claims to be processed with the necessary speed to deliver the benefits Veterans have earned and deserve. To do this, VES has a network of over 7,000 professionally trained and certified clinicians both in the U.S and international, 45 VES clinics (currently expanding), and four mobile clinics across the U.S. States. Our dedicated team of experienced healthcare recruiters evaluate the daily requirements to ensure veterans across the country and globe receive a timely exam.

Specialties available through our global network:

- General medicine
- Psychology
- Psychiatry
- Neurology
- Physical medicine & rehabilitation
- Ophthalmology
- Dentistry
- Audiology

✓ Hands-on Support Throughout the Medical Disability Exam Process.

Our Veteran Liaisons are Veterans themselves, providing a personal connection with Veterans and an understanding of their needs. Veteran Liaisons are there every step of the way from proactive communication to Veterans about their exam appointments, addressing questions about the process, providing resources for exam preparation and robust customer service hours of operation to be available when needed. We take pride in our understanding of Veterans' unique experiences and have built a program to meet Veteran's needs.

✓ Ongoing Support to Veterans, Providers, and the Veteran community.

We continue to work closely with the VA stakeholder community taking direction from our VA VBA program team to meet with various groups to share the experiences and to participate in local activities sponsored by stake holder groups.

VES is adhering to the current guidance on the license portability across state lines. And we suggest an extension of this program after December 31, 2023, especially as we service veterans residing near state borders.

VES works with the VA VBA program team on our forecasts and capacity and is meeting all volume commitments. We are in the process of training additional staff to meet an increase in volume. We run structured training programs working with our provider community and our own teams that work to review, schedule and provide quality control for all examination requests and disability benefits questionnaires.

As we continue to meet weekly with our VBA program team and, based on the program teams actions with recent contract modifications, we are in an excellent position to drive our teams to manage volume and quality to meet the increases. Veterans Benefit Administration's management and oversight of the program has been especially collaborative in the past several months working through a comprehensive contract modification that clearly outlines incentives and metrics to meet demand and quality of service.

This program has many components that are complex overall and require detailed program management and operations initiatives. The data volume is extensive with medical records and gathering of all the information that is necessary to meet the examination requirements. Our providers must be trained in many facets, and we work closely with the provider groups to meet the requirements and to ensure quality in all interactions with our veterans.

We are especially proud of the work we do, and our teams are passionate about serving our veterans. As the spouse of a veteran, it is an honor to lead this program. We will continue to address solutions and other efficiencies to enhance in any service area. In concert with VBA's focus on modernization, VES-Maximus has undertaken an expansive, end-to-end process transformation and technology modernization effort. The result will be a streamlined, scalable, state-of-the-art operation utilizing best-in-class technology that will meet program needs now and into the future, all while significantly improving veteran experience.



Thank you for the opportunity to provide a statement to this committee. We are prepared to provide more detailed information and data.

About VES:

Veterans Evaluation Services, a Maximus company, honors America's Veterans and transitioning service members and supports them in the medical disability exam process for the U.S. Department of Veterans Affairs (VA). We provide high-quality, timely reports through fair and objective evaluations performed by trained and licensed professionals in a respectful and hospitable environment.

About Maximus:

Moving people forward At Maximus, we believe extraordinary missions call for extraordinary results. As a strategic partner, we improve the delivery of public services and empower governments to respond to complex challenges with agility and urgency. From technology infrastructure to program operations, our end-to-end solutions help agencies better meet their mission and the growing expectations of the people they serve.

**Prepared Statement of American Federation of Government Employees,
AFL-CIO**

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee: The American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's hearing titled "VA Disability Exams: Are Veterans Receiving Quality Services?" AFGE represents more than 750,000 federal and District of Columbia government employees, 291,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. These include front-line providers at the Veterans Health Administration (VHA) who VA disability exams, including Compensation and Pension (C&P), as well as the VBA claims processors who request claims to help determine a veteran's benefits. AFGE appreciates the opportunity to provide our views at today's hearing that will review the Department of Veterans Affairs (VA) oversight of disability exams conducted by Veterans Health Administration clinicians and contractors.

Background:

There is no need to belabor the history of C&P exam outsourcing over the past three decades. Suffice it to say that disability exams, including C&P exams, used to be performed almost exclusively by VA clinicians. As should be well known by the Subcommittee, in 1996, Congress authorized a limited program allowing only 10 VBA Regional Offices (ROs) to assign C&P exams to outside contractors. The pilot program was later expanded, and gradually allowed all ROs to engage outside contractors starting in Fiscal Year 2017.

The migration of C&P exams from the VA to private contractors has far exceeded what Congress intended when it authorized the VA to use private contractors in a limited and supplemental manner for the provision of C&P exams. Today, approximately 90 percent of all disability exams are performed by VA contractors. The cost of this privatization of has been staggering. In 2016, the VA expanded the contracting of C&P exams by awarding 12 contracts to private contractors valued at \$6.8 billion over five years.

AFGE has closely monitored the effect of the VA's reliance on contractors has had on the provision of C&P exams. Based on the growing evidence of deficiencies in contracted C&P exams and feedback from VA employees whom AFGE represents, it is AFGE's judgment that veterans requiring C&P exams – as well as taxpayers would – be far better served if these exams were conducted in-house by VA professionals than by private contractors.

Benefits of VHA In House Exams

No one disagrees that the outcome of C&P exam has a far-reaching impact on a veteran's future. A veteran's economic security and well-being, as well as that of his or her family's, can be decisively affected by the results of this exam. Because so much is riding on it, we all want the VA to get the C&P exam right, and on the first try. Above all, we all want the veteran receiving the exam to have the confidence that his or her exam has been conducted by a highly skilled and experienced clinician whose allegiance is to the VA's mission and values and who is directly accountable to the VA for the quality of the exams performed and the treatment and respect accorded to the veteran.

To achieve this, AFGE believes there should be uniformity and consistency in the clinicians who are charged with this important task. In many ways, a C&P examiner is a judge, expected to render an objective and fair decision that considers the veteran's entire medical history and military service. At the same time, a C&P examiner is a caregiver, expected to treat the veteran before him or her with compassion and sensitivity.

To the extent others share AFGE's conviction, it is hard to understand why we would tolerate an overwhelming volume of C&P exams migrating from VA clinicians to a panoply of private contractors.

Simply put, the most important determinant in the outcome of veteran's exam is the clinician performing the exam. And it logically follows that who employs the clinician has a strong correlation on how the clinicians goes about this important work. Every place of employment, public or private, has its own unique culture and incentives that manifest themselves in how employees are paid, how much flexibility employers give their employees to manage their caseload, and how much opportunity employees are given to practice and perfect their professional trades.

AFGE believes that compared to private contractors, VA has a vastly superior culture and incentive structure for C&P examiners that redounds to the benefit of vet-

erans and their families, with a focus on quality instead quantity driven approach of private contractors.

Workplace Culture and Incentive Structure

C&P examiners work for the VA and are paid fixed salaries for their work. Importantly, this means that their compensation does not vary based on the number of exams they perform each day or week. Consequently, examiners give each veteran before them the time and attention to conduct the exam thoroughly. They have no financial incentive to rush through a disability exam. To the extent examiners do have incentives, they are often harmful. An exam rife with errors or omissions will impair a VA clinician's performance evaluation and result in disciplinary action – one of the most important features of Title 5 and Title 38 governing VA employees that does not apply to private contractors.

Additionally, with no incentive or pressure to rush through their work, VA clinicians can be thorough in their examination. This is particularly important in the administration of the Integrated Disability Evaluation System (IDES), one of the true innovations in the care of veterans in which disability claims examiners play a critical role – and which private contractors, because of the complex nature of the IDES program, do not. The IDES program was developed by VA and the Department of Defense to improve the experience of service members facing potential medical discharges. By integrating the VA claims process into the DoD disability evaluation process, IDES provides participants with a single set of medical exams and a single-source disability rating that serves as the basis for VA's disability determinations. IDES ensures consistency in disability determinations and the timely award of VA Disability Compensation Benefits to service members who are medically discharged and is an underutilized method of effectively and efficiently getting veterans their disability rating without filing claims at VBA.

In contrast, private contractors' focus is time – specifically, how to fit as many C&P exams in the time they allocate for them. There is no getting around the basic fact that private contractors take on C&P exams to make money. Their secondary focus on veterans. The incentive and focus on quantity results in a loss in quality, with less attention being given to the veterans whose exams are at issue, and can lead to more mistakes, the need for additional exams, and a delays in receiving benefits that can last years.

Unique Expertise

It is by now widely recognized that veterans medical care, like pediatrics and gerontology, is a specialty focused on a distinct population. Like VA medical professionals generally, VA C&P examiners exclusively practice veteran medicine. They are constantly acquiring experience and expertise diagnosing health care conditions either unique to or prevalent among veterans, such as Traumatic Brain Injury (TBI), Post Traumatic Stress Disorder (PTSD), Military Sexual Trauma (MST), Veterans who served as Prisoners of War (POWs), and toxic exposure illnesses covered under the PACT Act. A workforce of clinicians who regularly, if not exclusively, perform disability exams offers veterans a significant benefit for their exam.

Failure of Accountability

At a time when the House Veterans Affairs Committee examined accountability at the VA, the committee must direct that focus on more accountability and oversight of private C&P contractors and their substandard performance.

Numerous studies by GAO and the VA Office of Inspector General in the past few years show that the track record of private contractors performing C&P exams, the VA's oversight of contractors, and the savings promised to taxpayers have fallen far short of expectations. Outsourcing has resulted in problems of cost, quality, over-billing, lack of subject matter expertise, and training of those conducting the exams. Congress must admit and correct these serious problems, not double-down on a privatization model that has failed veterans.

These studies show that the vast and rapid expansion of privatization has not been accompanied by a corresponding increase in VA oversight of private contractors. For example, the department has been slow to adopt clinical quality measurement for, and evaluation of, contractor exams. The VA has also consistently lacked sufficient information on contractors' performance regarding the quality and timeliness for exams. To the extent the VA has been able to rate performance, most contractors' quality scores have fallen below VBA's target score. Even a task as basic as verifying contractors' claims of veterans failing to show up for C&P exam appointments, for which the VA is obligated to pay penalties, has not been carried out by the VA in a consistent and vigorous manner, potentially resulting in millions of

dollars in payments to contractors for false no-shows that could instead be used to insure these exams.

Recommendations:

AFGE recommends that VA's own highly trained, credentialed, experienced, and accountable employees should perform C&P exams, with very few exceptions, and should be the VA's exclusive provider for specialty exams. The continued failures of C&P contractors make the elimination of in-house C&P capacity around the country all the more troubling. AFGE welcomes the opportunity to work with the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs to build on the progress made in the last Congress and craft new legislation to restore VA's internal C&P exam capacity and narrow the VA Secretary's unrestricted authority to contract out these exams. In the near term, AFGE urges immediate action to stop the elimination of C&P examiner positions around the Nation and urges the VA to only provide internal C&P exams for mental health and specialty claims to better assist veterans when immediate or emergency treatment is needed.

AFGE appreciates the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs holding this important hearing, and we look forward to working with the Committee to find ways to improve C&P exams for all veterans.

