

LEGISLATIVE HEARING ON
H.R. 1753; H.R. 3790; H.R. 4016; H.R. 4190;
H.R. 4306; H.R. 5559; H.R. 5891; H.R. 5870;
H.R. 5870; H.R. 5890; AND H.R. 5938

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY
ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

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

The subcommittee met, pursuant to notice, at 12:02 p.m., in room 360, Cannon House Office Building, Hon. Morgan Luttrell (chairman of the subcommittee) presiding.

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

Also present: Representatives Bost, and Trone.

OPENING STATEMENT OF MORGAN LUTTRELL, CHAIRMAN

Mr. LUTTRELL. Good morning. Thank you everybody for coming in today. Excuse, just so everyone knows, I am in another committee that is in the middle of a markup right now. I will be handing the chair off to Mr. Bost. Thank you, sir. The Chairman for VA is here and he will be taking that as soon as I finish my remarks.

The subcommittee will come to order.

Good afternoon. We are here to discuss the 10 bills that would benefit veterans and their families. These bills would increase accountability and transparency for both the VA Board of Veterans Appeals and the VA Fiduciary Program, improve the VA appeals process by building on the accomplishments of the Veteran Appeals Improvement and Modernization Act of 2017, recognize and increase access to disability compensation for female service members who serve as members of the cultural support teams (CST), increase access to benefits for military firefighters and surviving spouses of veterans who suffered from Amyotrophic Lateral Sclerosis (ALS) as well, and expand access to disability exams for rural and underserved veterans.

I am proud to have introduced two bills on today's agenda. H.R. 5890, the Review Every Veterans Claim Act, would prevent VA from denying certain types of claims solely because a veteran misses one VA exam. I believe it is ridiculous that under the current law, when a veteran misses their VA disability compensation and pension (C&P) exam without providing good cause or rescheduling, VA automatically denies the veteran's claims. That is not le-

gitimate governing, in my opinion. That is working against the veteran. There is no reason why a veteran who has been pursuing their VA claim for years, has had undergone multiple VA exams, should have to start completely over because they missed one exam.

My bill would prevent VA from denying a claim solely because a veteran failed to appear for one exam while having an open VA benefit claim. The bill would ensure that veterans receive an access to a comprehensive decision based on considerations of all of the evidence in their VA claim file, including every disability exam they have already appeared for.

My other bill, 5891, the Veteran Appeals Decision Clarity Act, would build on Chairman Bost's and House Republicans' work to modernize the VA appeals process. The bill would require the VA Board of Veterans Appeals to notify veterans of the evidence the Board did not consider when making a decision on a veteran's claim. In return, veterans would have more transparency from the Board and when we allow our veterans to have access to all the information they need to decide whether they want to request the VA consider the left out evidence in a potential future claim.

The bill would also require the Board to explicitly state in its decision which appeal forms successfully started an appeal and which did not. Right now, when the Board overlooks or incorrectly rejects a veterans' appeal form as untimely but does not issue an explicit decision stating that, the U.S. Court of Appeals cannot correct the Board's mistakes, sending veterans back to square one. My bill would cut through the red tape and ensure the U.S. Courts of Appeals can hold the Board accountable for their mistakes. Let me say this again, their mistakes, not the veterans', where right now, that falls on the veterans' shoulders.

I look forward to working with Chairman Bost and my colleagues on this subcommittee to advance these important proposals today. I also appreciate the feedback from the witnesses who have joined us. I know my colleagues have worked hard on each of these proposals to improve the overall disability benefits process for the veterans and their families. This is a top personal priority for Chairman Bost and myself, having gone through the VA disability claims. I welcome a healthy decision about the merits of all the legislations, and I am looking forward to the input from the VA and the other stakeholders. I appreciate the discussions we are holding today and having—excuse me, I appreciate the discussions we are going to have today on the bills, but that does not guarantee that all of them will move to markup, especially since some of these bills have a high cost and are not fully offset. I now yield to the Ranking Member Pappas for his opening remarks.

OPENING STATEMENT OF CHRIS PAPPAS, RANKING MEMBER

Mr. PAPPAS. Thank you very much, Mr. Chairman, for convening this hearing. I want to welcome our colleagues who are joining us from off committee and all of the witnesses who are contributing to this session here today. Thank you for your shared goal of improving the lives of our veterans and their family members.

Today, we have several critical measures aimed at enhancing the experiences of veterans, their survivors, and dependents when

seeking access to their hard-earned benefits from VA. For example, Representative Slotkin has introduced H.R. 3790, the Justice for ALS Veterans Act. This legislation would ensure that families of service members diagnosed with ALS receive critical assistance. While the cause of ALS remains unknown, it is established that veterans are twice as likely to be diagnosed with ALS compared to civilians. Alarming, ALS patients typically have a life expectancy of just 2 to 5 years, often leaving their families without necessary assistance. The proposed bill aims to broaden the scope of increased VA dependency and indemnity compensation (DIC) to encompass the surviving spouse of a veteran who succumbed to ALS related to their service, irrespective of the duration of the veteran's affliction before passing.

Additionally, my colleagues Representatives Connolly and Trone have introduced bills targeting fraud against veterans in VA's fiduciary program. These bills are H.R. 4016, the Veteran Fraud Reimbursement Act and H.R. 4190 the Restoring Benefits to Defrauded Veterans Act. Together, these bills seek to safeguard and support veterans, their survivors, and their estates by providing avenues for compensation and benefits restitution in cases of fraudulent activity by fiduciaries, something this subcommittee has heard a great deal about.

Furthermore, Representative Spanberger has put forward H.R. 4306, the Michael Lecik Military Firefighters Protection Act, named in honor of a Virginia veteran and firefighter who passed away in 2021 after a long battle with cancer. This bill aims to build on the efforts that were led in the last Congress with the The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act to address the legacy of toxic exposure among service members and veterans.

Now currently, VA does not acknowledge the direct service connection between military firefighting and cancer beyond 1 year following active duty. This bill would establish the presumption that veteran firefighters who become disabled by serious diseases, including heart disease, lung disease, and certain cancers, contracted the illness due to their service in the military. This bill represents an important first step in tackling the toxic legacy of Per- and Polyfluoralkyl Substances (PFAS) exposure among service members. There is much more to do, certainly on the broader issue.

Of course, there are other bills today on the agenda from colleagues on both sides of the aisle, and I look forward to the testimony that we will hear on them, and I hope it will provide this subcommittee with valuable information to refine and pass these bills before us to offer much needed services to our Nation's veterans and their survivors. With that, I yield back.

Mr. BOST. [Presiding] The gentleman yields back. I now recognize myself to introduce and talk about the bill I have before the committee today.

STATEMENT OF MIKE BOST

Mr. BOST. I am proud to have introduced my bill, H.R. 5559, the Protecting Veterans Claim Options Act. My bill will remove the new and relevant evidence requirement for supplemental claims filed within 1 year of VA denial of a veteran's disability claim.

When the veterans file a supplemental claim, they expect VA to consider their additional evidence and issue a new decision on that claim. The new and relevant requirement is meaningless to the veteran who simply wants decisions on their claim. This is an unnecessary burden for the proof of the veteran. The veterans are forced to first convince the VA that their additional evidence is new and relevant. This process violates every veteran's right to continue the pursuit of VA benefit claim. This can add months and sometimes years of waiting to the process.

Veterans are being punished simply by submitting additional evidence to support their VA benefit claim. My bill would ensure that no veteran has to jump through hoops in the claims process. My bill would also ensure that our veterans have all the information they need to navigate the appeals process after the Board denies their claim. When a veteran appeals the Board's decision to the Veterans Court, they often learn exactly what evidence is needed for them to succeed in their claim for the VA benefits. My bill would allow veterans to submit such additional evidence to the Board after the Veterans Court sends the case back to the Board to fix its mistakes.

My bill would ensure that each step of the veterans claims appeals process is effective. We have more and more veterans submitting claims and coming to VA, and we owe it to these men and women to make the process as effective and efficient as possible.

I look forward to the discussions on my bill today, and with that, I yield back, and now recognize myself again.

I like the flow on this. Here, you can have that. Thank you.

All right. We have got a full agenda today, so I will be holding everyone to 3 minutes per bill so that we can get through this all. You know, Jeff Miller used to chair this and he called this whenever we held them real tight, we called it a rodeo hearing. That means when the light turns red, you got 8 seconds to finish or we throw you out.

This morning, we are joined by several of our colleagues—and I will not be throwing you out, we will let you finish, okay—both on and off the committee who are going to be testifying about the bills they have sponsored. Now we first want to recognize Representative Self for his bills.

STATEMENT OF KEITH SELF

Mr. SELF. Thank you, Mr. Chairman, for holding this hearing. My bill is H.R. 5870, the Veterans Appeals Transparency Act, and I believe this bill represents a vital step toward making the appeals process for our veterans more transparent, fair, and streamlined. The Board currently publishes the average time it takes for the Board to issue decisions in cases on each of its dockets. These averages can be misleading, and those averages provide veterans with no accurate sense of where they are in line.

Further, the Board does not report to veterans, the public, and Congress exactly how far behind they are in working down their backlog of cases in each docket. One of the key provisions of my bill is the requirement for the Board to publish information about which appeals in each of the Board's dockets are actively working

on during a given week. This is a critical step toward transparency and ensuring that veterans have a sense of where they are in line.

Another important aspect of this legislation is clarification it provides regarding the appeals process. I will get to that in just a second. My bill clarifies that the appeals process under the Veterans Appeals Improvement and Modernization Act was always meant to be streamlined. My bill makes it clear that this streamlined process, veterans have the option to submit a single administrative review request such as a supplemental claim, higher level review request, or notice of disagreement within 1 year of the most recent VA denial of their claim. This streamlined approach is veteran friendly because veterans can navigate a single appeal stream and VA can easily track that stream.

However, a recent legal development has brought complexity into the appeals process. The *Terry v. McDonough* decision by the Veterans Court interpreted the Appeals Modernization Act (AMA) as allowing veterans to submit multiple administrative review requests against a single VA denial as long as they file within the one-year deadline. This has created a convoluted system that will undoubtedly be challenged in court by both veterans and the VA and challenging to navigate. This convoluted system might just end up being more complicated than the legacy appeal system the Appeals Modernization Act was intended to fix.

My bill corrects the Veterans Court misinterpretation of Congress's intent when Congress passed the Appeals Modernization Act. This, along with your bill, Chairman, the Protecting Veterans Claim Options Act, will simplify the appeals process while protecting every veteran's right to appeal denials of their claims handed down by the agency of original jurisdiction. A clear and streamlined process is beneficial for our veterans. Ultimately, my bill restores clarity and efficiency to the appeals process. I yield back.

Mr. BOST. I thank the gentlemen for yielding back. Yes, we do. We recognize Representative Spanberger, and you are recognized for 3 minutes to speak on H.R. 4306, the Michael Lecik—how do you pronounce it?

Ms. SPANBERGER. Lecik.

Mr. BOST. Lecik, Okay. Military Firefighters Protection Act.

STATEMENT OF ABIGAIL DAVIS SPANBERGER

Ms. SPANBERGER. Thank you so very much, Chairman Bost. Thank you to the Ranking Member Takano. Thank you to the members of the committee. Mr. Pappas, thank you for your kind introduction of this legislation. Thank you for the opportunity to testify before the committee in support of my bipartisan Michael Lecik Military Firefighters Protection Act.

I am here today not only as a Congresswoman, but also as a representative who had the privilege of getting to know Mike Lecik and his family, including his wife, Tiffany, and his three beautiful daughters. Mike was a former U.S. Air Force firefighter who selflessly served our Nation. He deployed twice to the Middle East. He later became the chief fire inspector at the U.S. Army Garrison, Fort Gregg-Adams.

In 2021, Mike Lecik tragically passed away due to multiple myeloma, a rare and aggressive form of cancer that attacks the body's plasma cells. He was only 41 years old. Mike's service to our country undoubtedly led to his cancer, and civilian fire departments across the country recognize the connection between the chemicals used in firefighting and certain types of cancer. However, the Veterans Health Administration (VHA) currently does not cover treatment costs for diseases like Mike's because the VA still inexplicably fails to recognize the direct service connection between military firefighting and life-threatening illnesses such as his, if it is more than 1 year beyond active duty.

This injustice must be rectified. The Michael Lecik Military Firefighters Protection Act would finally provide veteran firefighters with the compensation, healthcare, and retirement benefits that they have earned through their service. This legislation would create a presumption that veteran firefighters who become disabled by serious diseases, including heart disease, lung disease, and certain cancers, that they contracted these illnesses due to their military service. This presumption of service-connected illness is so important.

It would also extend the window of time for veteran military firefighters to claim presumptive service connections to 15 years. By establishing this presumption, the VA would finally be able to provide long overdue benefits and treatment costs coverage to veteran firefighters like Mike, who gave so much of themselves to our country.

I am proud to lead this legislation alongside my Republican colleague, Congressman Don Bacon, himself, the former U.S. Air Force chief. Our bill would at long last recognize the link between occupational hazards faced by military firefighters and the development of these devastating diseases. Scientific evidence demonstrates the connection between firefighting and the increased risk of certain diseases, and it is time for the VA to recognize this fact. Many states have already acknowledged this link, but the VA does not.

We have bipartisan support to fix this issue, demonstrating that this is a cause that transcends party lines and unites us in the name of gratitude to our military firefighters. Throughout his fight with cancer, Mike never stopped advocating for his fellow veteran firefighters. It is why I introduced this bill. It is why I continue to push for it. As Members of Congress, in his memory, in his honor, we have the opportunity to make sure that his fellow military firefighters receive the care, the benefits, and the recognition that they have earned. Thank you to the committee, and I yield back.

Mr. BOST. Thank you, Representative Spanberger, and we appreciate it. Thank you for your testimony today. I want to now recognize Representative Issa and recognize him for 3 minutes to speak on H.R. 1753, the Jax Act.

STATEMENT OF DARRELL ISSA

Mr. ISSA. Thank you, Mr. Chairman, and thanks for this opportunity to talk about a small bill, 310 brave women who were CSTs. They did not fight, but they carried weapons. They carried 60-

pound packs. They, in fact, as cultural support team members, were essential to our operations in Iraq and Afghanistan.

As many of you know, within Islam, women have a special role, particularly in countries like Afghanistan, one in which they are uncomfortable, or even in fact, could become frantic if confronted by a man, let alone a man with a gun. In order to get cooperation and information and to save lives on both sides, the United States military employed these special brave women, many of them intelligence officers, but all of them willing to do everything their male counterparts did.

We are relatively new to women in combat at this level, and as a result, it is not surprising that the VA, and for that matter, the Department of Defense (DOD), was not prepared to have their DD 214s, and their VA records show this direct combat activity. As we all know, Post-Traumatic Stress Disorder (PTSD) and other injuries occurred during their operations. In fact, put them in a special category of people, mostly men, but 310 women. Currently without a designation, these 300-plus CSTs find themselves being treated as noncombat individuals, not recognized along with their counterparts. In a perfect world, I guess we would simply update all of them to say that they were men. Since that is not in the making here today, let us simply say that this Act designates them in a way, in a one-time way, effectively, but a model for the future, to make sure that women are recognized and treated for their combat activities equally.

This is a bipartisan effort with more than 25 cosponsors. To say the least, we could have gotten more cosponsors, but our goal was to keep it simple. This is something where we can cure a wrong by simply having a designation.

I want to close with just one thing. Many of you probably are aware that Congressional Budget Office (CBO) decided there was a score. I ask you, if there has ever been a time in which to look at CBO and roll your eyes, it would be this one. These women are entitled to what they are to receive, and if there is a change in what they receive, it is not a score. It is evening a score, making it right. I thank you for your indulgence and for moving this legislation. I yield back.

Mr. LUTTRELL. Thank you, Ms. Spanberger, forgive my absence. Mr. Issa, having been part of the spec work community, working alongside women in combat, and I mean actual gunfighting combat, I support everything that you are doing. I just wanted to add that. Mr. Ciscomani, you are recognized, sir.

STATEMENT OF JUAN CISCOMANI

Mr. CISCOMANI. Thank you, Mr. Chairman. I appreciate it, and my fellow members of the subcommittee for convening today to discuss my bill, H.R. 5938, the Veterans Exams Expansion Act of 2023.

I represent southeastern Arizona, including parts of the Tucson metropolitan area, but also very rural areas in Cochise County, Graham County, and Greenlee County, which borders New Mexico. Veterans in our rural areas have historically had issues with access to care and benefits due to the lack of resources nearby. This bill aims to close those gaps by extending the license portability that

VA-certified practitioners currently have and also expands this authority to dentists, optometrists, and so on. This authority helps veterans who may have difficulty getting to a VA facility or a contract facility for their exams because of their disability or because of the rural area in which they live.

We must meet our men and women who serve our country where they are, and it is in Congress' responsibility to ensure that the VA has the authorities they need to do so. I urge all my colleagues to support this legislation. I yield back, sir.

Mr. LUTTRELL. Thank you, Mr. Ciscomani. As is our practice, we will forego a round of questioning for the members. Any questions may be submitted for the record. I now invite our second panel to the table. In accordance with committee rules, I ask unanimous consent that Representatives Issa of California be permitted to participate in today's subcommittee hearing. Never mind, he left.

Everyone ready? All right. Joining us today from the Department of Veterans Affairs is Ms. Beth Murphy, Executive Director of Compensation Services at the Veterans Benefits Administration (VBA). She is accompanied by Mr. Kevin Friel, Deputy Director of Pension and Fiduciary Services at the Veterans Benefits Administration and Mr. Kenneth Arnold, the Vice Chairman of the Board of Veterans Appeals.

I ask all witnesses, please stand and raise your right hand.

[Witnesses sworn.]

Mr. LUTTRELL. Please be seated. Thank you. Let the record reflect that all witnesses answered in the affirmative. Ms. Murphy, you are now recognized for 5 minutes to present the Department's testimony.

STATEMENT OF BETH MURPHY

Ms. MURPHY. Thank you. Good afternoon, Chairman Luttrell, Ranking Member Pappas, and members of the committee. Thank you for the invitation to discuss our views on pending legislation. Thank you for introducing my colleagues Mr. Friel and Vice Chairman Arnold from the Board of Veterans Appeals.

VA offers support for much of the proposed legislation before us today. We have provided detailed comments in the full testimony to include areas of support and concern, along with noting certain provisions that could be clarified or amended in the text of the bills. We look forward to collaboration with the committee on those provisions.

I will briefly highlight key points on each. First, VA supports H.R. 4016, the Veteran Fraud Reimbursement Act, which would streamline reissuance of benefits in fiduciary misuse cases, enabling timelier repayment of misused funds to veterans and their survivors.

VA supports the intent of H.R. 1753 to ensure proper recognition of veterans combat service. However, we cite concerns with specific elements and have provided feedback in our testimony for the committee's consideration.

VA appreciates the aim of H.R. 3790, which would amend existing law to extend increased indemnity and—dependency and indemnity compensation paid to surviving spouses of veterans who died from ALS, regardless of how long the veteran had such dis-

ease prior to death. VA supports this bill but requests amendment to include criteria for determining whether a disability has a high mortality rate.

Moving to H.R. 4190, the Restoring Benefits to Defrauded Veterans Act, this bill would address reissuance of misused benefits in cases where reissuance did not occur prior to the beneficiary's death. VA supports the bill if amended. We have highlighted our concerns and suggestions in the written testimony.

Regarding H.R. 4306, the Michael Lecik Military Firefighters Protection Act, this bill represents a veteran centric approach to addressing health effects related to firefighting during active military service. VA supports this bill if amended. We recommend changes to enhance administrative efficiencies and ensure fairness and equity, such as removing some of the qualifying requirements.

VA supports the intent of H.R. 5938, the Veterans Exam Expansion Act, to improve temporary licensure requirements for contract healthcare professionals performing medical disability exams for VA and for other purposes. VA would advocate to remove the license portability sunset date and expand the definition of a healthcare professional.

VA appreciates the intent of H.R. 5890 to preclude VA from denying a claim for benefits solely because the veteran failed to appear for a VA medical exam scheduled in connection with the claim. However, we do have some concerns, including the effect the bill may have on practices of some in the for-profit disability benefits questionnaire completion industry. We provided additional details in the testimony and welcome opportunity to discuss those concerns with the committee.

Regarding H.R. 5559, the Protecting Veterans Claims Options Act, VA cites concerns with part of the bill and does not support other provisions. In particular, VA is concerned that the bill would negatively impact progress made since implementation of the Appeals Modernization Act by rolling back some of that law's key provisions. We welcome opportunity to discuss the bill further.

Moving to H.R. 5870, the Veterans Appeals Transparency Act of 2023, this bill aims to improve processing for claims for benefits by VA and transparency of actions by the Board. VA is committed to make ongoing improvements to these programs. However, the intent of some of the proposed language is unclear. VA does not support the bill unless amended. We have provided specific comments in the testimony for consideration.

Last, VA does not support H.R. 5891, the Veterans Appeals Decision Clarity Act, for several reasons outlined in our testimony, including that the bill would add significant delays to appeals processing timelines, increase the appeals backlog, and result in confusion among veterans.

In closing, thank you again for the opportunity to discuss this important legislation to improve benefits and services for veterans, service members, survivors, and their families. We look forward to working with you and are prepared to respond to your questions.

[THE PREPARED STATEMENT OF BETH MURPHY APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Ms. Murphy, thank you for your testimony. We will now move into a line of questioning. Mr. Arnold, good after-

noon, sir. VA testimony states that the Veterans Appeals Decision Clarity Act would add significant delays to appeal processing timelines, but the Board judges should already know the time periods during which untimely evidence was submitted and therefore cannot be considered. Why do you think the general statement that my bill would add significant delays to the Board issuing a decision?

Mr. ARNOLD. Yes, sir, thanks for asking that question. Basically, the Board opinions have grown in length based on the procedural requirements. I mean, in some cases, they are as long as a Supreme Court opinion. In this case, what happens is when a veteran chooses under AMA to come to the Board, there is an evidentiary window. Either they come in clean, everything that VBA, for instance, considered is the record, consider that.

Mr. LUTTRELL. We can make believe that no veteran is going to come in clean. It is not in the cards, I do not think, but anyway.

Mr. ARNOLD. Sir, actually about 45 percent right now choose that option, consider what VBA had, and just make a decision judge. Then another percentage of the people say, hey, I got 90 days to offer additional evidence. They can add 90 days to add or get delays on that. Or they can request a hearing, at which time they can offer evidence at the hearing plus 90 days after that.

One of the challenges here is in the waiting period, for instance, for a hearing or for the court to get to the decision, very often the veteran will send in news articles or even thousands of pages of information for the Board to consider, but it is outside those evidentiary windows. I am worried that a requirement like this would cause so much administrative burden to identify the time period that we received it and why it could not be considered that it turns into essentially a gotcha exercise. You put the wrong date, and then it is a basis for remand from the court.

Mr. LUTTRELL. The legislation is trying to streamline the process.

Mr. ARNOLD. Yes, sir.

Mr. LUTTRELL. For more or less what I am understanding you are saying is the veterans overloading the system with arbitrary, superfluous material that does not need to—is that the case?

Mr. ARNOLD. Not intend—

Mr. LUTTRELL. For us, we are trying to streamline it so the veterans are taken out of the equation once it enters into the VA system.

Mr. ARNOLD. Yes, sir.

Mr. LUTTRELL. I find it hard to believe through all the Inspector General (IG) investigations that I have sat in front of today that it is on the veterans, it is the veteran's fault, and not—I am going to throw this one at you—and not the VA's lack of ability to create a structured environment to process the applications appropriately.

Mr. ARNOLD. Not at all, sir. The concerns that we are—first of all, I am going to say that the Board makes mistakes all the time. We are human. This is not an issue of the veteran complicating the system. The veteran is trying to just get as much information to VA as possible on their claim. When you—

Mr. LUTTRELL. The VA is hand-walked through this process by all the VA staff, correct? More or less from start to finish.

Mr. ARNOLD. Yes, sir. Yes, sir.

Mr. LUTTRELL. I do not really say that we cannot put the veteran in the position that it is their fault. I hate to say that—

Mr. ARNOLD. Sure, it is—

Mr. LUTTRELL [continuing]. but they are not trained in law and they are not the judges and they are not the Board.

Mr. ARNOLD. No, sir. I am not saying that at all. The overwhelming majority, almost all veterans come in represented. They get free representative.

Mr. LUTTRELL. Sure, yes, sir. I got it, yes. I got it.

Mr. ARNOLD. They are being guided through the process. What happens is we provide direct interface with veterans even when they are represented, and they will send us information via the mail. It is often duplicative. I saw this news article in the Veterans of Foreign Wars (VFW) magazine, I wanted to share that. It is about Agent Orange. It is a whole bunch of information that the Board cannot consider because the choice that they made when they came into the Board with their representative on how they wanted us to review the case, this is a bunch of extraneous information that if we had to call it out specifically in our opinions and list each of those pieces of evidence and talk about when we received it and why we cannot consider it, we are adding a lot of burden.

Mr. LUTTRELL. The challenge that comes into that and where I have a problem is on my side, not only as Member of Congress, but as a veteran, is that if the more information that I gather from your side, the better off I am going to be, or they are going to be. I find it troublesome that there is more or less an irritability that providing the veteran themselves with more information, and that may be two sentences, it may be three, and I do not know.

Mr. ARNOLD. Yes, sir.

Mr. LUTTRELL. Again, you shoulder a very heavy rucksack, okay? Having answers, this is something I hear from my veterans all day, the more information I can have from those that I am engaging with, the better off I am going to be in order to solve my problem. If I just receive a letter in the mail from the VA that says, hey, you have been declined.

Mr. ARNOLD. Yes, sir. That is—

Mr. LUTTRELL. That is where this piece of legislation cleans the process some.

Mr. ARNOLD. Yes, sir. One of the most robust, the most robust decision you are going to get out of the Board is if we are denying, because we have to provide the reasons and bases for why we are denying your appeal.

Mr. LUTTRELL. That is important, yes?

Mr. ARNOLD. Super important.

Mr. LUTTRELL. The veteran needs to know that, correct?

Mr. ARNOLD. They absolutely do.

Mr. LUTTRELL. Okay.

Mr. ARNOLD. Absolutely. Sir, as a 30-year veteran and as somebody who is the beneficiary of getting our sole income as a family when I was growing up was my dad's 100 percent disability benefits and related, like, free milk free lunch program, this is super important to me. It is why I am at VA. I really I love what we are trying to do with these things for how we can benefit the veteran.

This is one that I am so worried it is just going it is going to slow down how we do our decisions. It is going to create complexity in the appellate space with the courts. I know some people probably have questions about that. That is going to be gotcha exercises that just contribute to the churn and keep more people waiting in line. That is my biggest concern.

Mr. LUTTRELL. Yes, sir. All right.

Mr. ARNOLD. Yes.

Mr. LUTTRELL. I will circle back. My time is up. I yield to the ranking—excuse me—I recognize the ranking member for his line of questioning.

Mr. PAPPAS. Thank you, Mr. Chairman. Ms. Murphy, if I could start with you on H.R. 4306. This is the Michael Lecik legislation that Representative Spanberger spoke about before. This would establish a service connection based on a specific occupation, which is a first, I believe, as opposed to dealing with specific service dates and locations. It is based on what we know to be true, where firefighters are exposed to toxic substances, including PFAS, through their work, and creates presumptives around that. You mentioned that you could support this legislation if amended. Could you explain a little bit further what you mean by that and how you would like it to be changed?

Ms. MURPHY. Thank you, Ranking Member Pappas. This is really a veteran centric bill, as I mentioned before. What we have seen when we are talking about actual claims processing, the more complexities that you add to a process, the more difficult it can be to navigate for the claims processors and to get to yes for the veteran. In particular, the requirements for a 10 percent minimum evaluation, the 15-year disease manifestation period, and the aggregate of 5 years, adding up 5 years of service in that particular occupation are some of those complexities that would make this more difficult, potentially, for our claims processors.

Stripping out those requirements that way, we are not hunting for additional records, it looks like this person was in 4 years and 2 months. We need, you know, 10 more months. Those are the sorts of changes that we are advocating, is strip out those complexities and just make it more streamlined for our claims processors and for the veterans.

Mr. PAPPAS. Okay. Can you address the broader issue about PFAS exposure? I know we have got hundreds of military bases around the country where there is PFAS contamination that our service members have been exposed to. We are talking about drinking water near or on military installations. How can VA address this challenge if we do want to move in this direction of ensuring that people get access to care and benefits through their service who have been exposed to these substances?

Ms. MURPHY. Certainly, sir. This is a great start, Congress putting this presumptive in place. I will tell you that we on the benefits side have been working increasingly more with our VHA partners in the health outcomes, military exposure, or home office, who they are doing the surveillance, the research, studying the PFAS issue. It is an important one, and I think it is coming to a head, but certainly not fast enough. This bill would move us forward fast-

er on a topic that is recognized, is being researched, but is just not there yet on the VA side.

Mr. PAPPAS. Okay. Switching gears to H.R. 3790, this is the ALS Veterans Act legislation that Representative Slotkin has introduced. You mentioned that you would support this if it was modified to include criteria for determining whether a disability has a high mortality rate. I am wondering what criteria VA uses to determine if a service-connected disability has a high mortality rate currently and how these criteria could be incorporated to ensure consistency moving forward as we consider this legislation.

Ms. MURPHY. Chairman—I am sorry, Congressman, I am going to turn to my colleague, Mr. Friel—

Mr. PAPPAS. Thank you.

Ms. MURPHY [continuing]. who is the expert in this matter.

Mr. FRIEL. Yes, thank you for the question. To clarify the ALS, today if a veteran passes away from ALS, the surviving spouse is entitled to DIC because we have made that connection. What this law will do, what this proposed bill will do, is allow us to pay them the additional eight-by-eight, which is where we identify that a veteran was 100 percent for 8 consecutive years and the spouse was married to them for that timeframe, and pay the additional, like today, it is \$313 in benefit.

Where we talk about the high mortality rate, our concern is, is that it is not just about mortality, right? I guess it is about speed. I am not trying to be cold hearted, but speed to death, right? From onset of the disability to when the beneficiary passes away. We know ALS is a rapidly progressing disease and does not give the veteran potential to meet that 8-year period. That is kind of where we are trying to look at the requirement for the high—the definition of the high mortality rate as it relates to a disability that is, you know, has a short lifespan from onset to the potential death of the person.

Mr. PAPPAS. Well, I guess my question is, should not we be supporting the work that VA clinicians and researchers are doing around that, as opposed to Congress making a determination?

Mr. FRIEL. Yes, and we were just kind of looking for clarity on Congress's intent. Is it 5 years, is it 7 years? You know, like what is the actual timeframe that we would be looking at where we consider it a high mortality rate?

Mr. PAPPAS. Okay. Well, maybe we can keep working to refine that. I appreciate the flag. Yield back my time.

Mr. LUTTRELL. Thank you, Mr. Pappas. Chairman Bost, you are recognized for 5 minutes, sir.

Mr. BOST. Thank you, chairman. Ms. Murphy, with the AMA, the supplemental claim option was intended to allow veterans the option for filing additional evidence for their claim. Under the current law, when VA decided that the veteran did not file a new and relevant evidence, VA refuses to issue the decision on the claim for the benefits. Now, this effectively has forced thousands of veterans to start the claims process all over again. How do you think my bill would ensure that the veterans receive a decision on their VA claim that they can then appeal?

Ms. MURPHY. Chairman Bost, if I could make kind of an overarching statement about many of these are appeals-related bills. I think VA's position is that we certainly want more clarity.

Mr. BOST. Right.

Ms. MURPHY. We want it to be more streamlined, easier to understand, simplified. AMA has been in progress now for, you know, 5, 6 years. We have learned from that. I think the process that we used to create the AMA legislation was one of the most solid that I have heard great feedback from stakeholders. The fact that folks got to come to the table, be heard, give their perspectives, and really contribute to a holistic change from a system that was not working for anybody—

Mr. BOST. Right.

Ms. MURPHY [continuing]. VA or veterans.

Mr. BOST. It was not working.

Ms. MURPHY. I think to the extent that we can continue that forward movement—

Mr. BOST. Mm-hmm.

Ms. MURPHY [continuing]. collectively, rather than having maybe one-off changes and tweaks to the process, would be what VA would support more.

Mr. BOST. Okay.

Ms. MURPHY. Does that makes sense?

Mr. BOST. Let me say this, because you know how much I was involved with this.

Ms. MURPHY. Yes, absolutely.

Mr. BOST. Let me say that. Then I am going to ask Mr. Arnold a question as well. Like any legislation, once we put it in place and then we start implementing, we see how different agencies, it is not doing everything that we want. That is why we tweak. It is, and it was our concern the long, long, long wait times, and we do not want to tweak and cause those long wait times to come back. We also know where we have seen the flaws.

As we are trying to work through this, it is for the veteran that we are trying to make the decision so that their claims can be handled. There has to be—the frustration that a person could feel if all of a sudden they said, okay, I have got new evidence, and now all of a sudden it just gets dropped and we are going to start the whole thing over again. That is the frustration we feel.

Mr. Arnold, I am going to ask you something here. In your testimony, you suggested the veterans would file more appeals with the court simply to add additional evidence that would further delay the final resolution of the appeals that they originally filed. I just want to let you know I disagree with that, okay? They do not file Appeals Court to prolong their claim. They are wanting to get their claims taken care of. They want a final, correct decision on their claim from the Board. After the court sends a claim back to the Board, veterans cannot file additional evidence to the Board. Their only option is start new claims process all over again with VBA. Why do you think the focus is on returning the claim to VBA to look to additional evidence rather than making the Board—making it so sure that the Board can consider evidence when it is fixed—when it is just fixing a mistake that they may have caught?

Mr. ARNOLD. It is a great question, sir. I started on the day that—I started on the day that—I am button-challenged. Sorry, sir. I started on the day that AMA was implemented fully in 2019. I was not at the table in 2017 when all of the sausage making happened. As I understand it and the evidence is proving this, that there was a—in all of the debate amongst the stakeholders, it was a really important facet of what I think is incredible legislation under AMA. As a veteran, I am so proud of that. I mean, you built a four-lane highway.

Mr. BOST. I am too.

Mr. ARNOLD. Yes, you built a four-lane highway and but we are not recognizing is all the tractor trailers that are on it. I got that analogy from our new chairman when he started a year ago when we were educating him, he goes, this is a beautiful four-lane highway. There is all these tractor trailers that are blocking progression.

I would view what we are trying to do here in a piecemeal fashion is it is time for people to step back and look more holistically. This part of the legislation that is proposed would add a new 90-day window when one important facet that everybody agreed to with AMA for accountability purposes is the evidence and information that was considered by VBA, that is what the Board looks at. Thumbs up, thumbs down. Did you get it right because you said no. We added a kicker as part of the compromise, you can have 90-day windows at the Board if you so choose to supplement it. You got something else you want to tell us after getting that no from VBA. It was, I am looking at the case plus what you want to add.

Then we make our decision. It is only going to the court really, if we denied it, although that is not always true either. If we deny and we give the reasons and basis for why we have to deny, it comes back from the court oftentimes to say, explain further. The court's looking at the case that the Board looked at. Here, we would be talking about now it is an entirely new case. I am going to be honest, given the passage of time, sir, for how long this whole process takes with the court, and something that I am really glad you are pointing out, what happens is when it comes back to the Board, the condition's often gotten worse. It is a new case. Somebody has been waiting an extra 2 years. Now, their foot's numb from their back, and it was not 2 years ago when they were at the Board.

The challenge with that is then there is new medical evidence that really, we are not supposed to play doctor at the Board. We can evaluate the evidence that does come in, but 99 times out of 100, we are going to have to say, we got to send this back to VBA anyway to have them evaluate this new set of conditions that the veteran is facing. That is what I am worried about, because we very liberally grant delays when people need evidence for good cause, and it is not uncommon to see multiple additional delays. I want the veteran to get the fastest decision they can. If the Board gets it wrong, heck, I want the court reverse it and grant. Please, do not make these veterans wait any longer. I am with you, sir.

Mr. BOST. Okay.

Mr. ARNOLD. Our concern with this was it is adding delays and we actually cannot really solve it in most cases then.

Mr. BOST. I am out of time, but we will talk more about this, I guarantee it.

Mr. ARNOLD. Yes, sir.

Mr. BOST. I yield back.

Mr. LUTTRELL. Thank you, Chairman Bost. Mrs. Ramirez, you are recognized for 5 minutes.

Ms. RAMIREZ. Thank you, Chairman Luttrell. You really are committed to making sure that we experience how it feels physically on the other side. I appreciate the seating chart here.

I want to transition and first to say thank you to the witnesses that are here today. I also want to talk about the importance of uplifting and amplifying the contributions of women, women veterans. Even as a Member of Congress, look around, I find myself often being the only woman in the room on this side. Certainly, in many more cases, the only Latina. I think it is important to acknowledge that and how critical it is for us to be in these spaces, certainly for me to be able to serve my community.

While I know that our women in uniform do not serve for recognition, their sacrifices and their contributions are too often overlooked. That is why it is so important that our service women and their contributions to our country and our communities are uplifted and truly recognized. Ms. Murphy, I first want to ask you a quick question around the cultural support team program. Can you describe how important the cultural support team program is to achieving the U.S. military objectives?

Ms. MURPHY. Thank you for the question. We have been in initial conversations with the Department of Defense, our colleagues in DoD, about what this cadre of service persons did, what their roles were. We are still in those early learning phases. We are in that gathering information from DoD to understand what their role and missions were.

Ms. RAMIREZ. Okay. Well, can you describe how important it is that those service women be fully recognized for their engagement in combat in order to receive the benefits and care that they have earned?

Ms. MURPHY. We go out of our way, we bend over backward every claim we touch, we look at all the facts and circumstances, we take the evidence into consideration. Sometimes in cases maybe such as this, when all of the information is not there that we need to demonstrate what that service member did, where they were, what may have happened to them during service, that is where we are kind of hamstrung in the claims process. The more transparency that we could have and the more information about this cadre of individuals, we would be better positioned to assist.

Ms. RAMIREZ. Got it. A couple of yes or no questions.

Ms. MURPHY. Yes, ma'am.

Ms. RAMIREZ. Thank you for your response.

Ms. MURPHY. Mm-hmm.

Ms. RAMIREZ. In your opinion, have service women been historically not fully recognized?

Ms. MURPHY. I do not have an opinion on that. We just take each case by case and we process the claims—

Ms. RAMIREZ. Okay.

Ms. MURPHY [continuing]. and proceed that way.

Ms. RAMIREZ. Let me ask you a follow up.

Ms. MURPHY. Yes, ma'am.

Ms. RAMIREZ. This is also yes or no, and maybe you could answer yes or no in this case. Do you think this is something that the VA should actively work to correct to make sure that service women are fully recognized?

Ms. MURPHY. Yes. We should do everything we can to gather all the necessary information so that we can say yes on every case that we encounter that we are able to.

Ms. RAMIREZ. Yes. Well, thank you so much, Ms. Murphy. During my time in the committee, one of my priorities has been to address fraud and waste at every level, from education to veteran benefits. We certainly have to strengthen the protection of our most vulnerable communities, and that includes veterans. Ms. Murphy, your testimony provides that this bill will enable timelier reissuance of misused benefits to veterans and their survivors and enable more effective application of VA resources toward more productive methods of oversight to protect beneficiary funds.

Let me ask you a follow-up question. In Fiscal Year 2022, there were only 25 investigations into fiduciary misuse opened and referred for prosecution. Of those 25, eight cases were declined for prosecution. Are all instances of misuse by fiduciary intentional?

Ms. MURPHY. Ma'am, if I could turn to my colleague, Mr. Friel. He is the subject matter expert here. Thank you.

Ms. RAMIREZ. Great, thank you.

Mr. FRIEL. Thank you for the question. No, not all issues or circumstances of misuse are intentional. In some cases, we find that, you know, the individual just made a mistake. They withdrew money from an account, you know, used the wrong debit card, or things like that. We work with them to correct it and identify the circumstances. I do not know, is that the question?

Ms. RAMIREZ. Yes, no, that is helpful. I mean, just in my last 20 seconds, I mean, how are funds that were negligently misused recovered?

Mr. FRIEL. We actually create a debt for them that is transmitted out, you know, and we give them an opportunity to repay. If we are unable and unsuccessful with that, we transmit that debt to Treasury, and then Treasury does their piece in garnishing, you know, tax returns or other assets to collect that debt.

Ms. RAMIREZ. All right. Well, thank you, Mr. Friel. With that, I yield back. Thank you, Chairman.

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

Mr. SELF. Thank you, Chairman. I have heard a great deal here about concern about adding to the VA workload. I am addressing my H.R. 5870, Veterans Appeals Transparency Act of 2023. Mr. Arnold, is it true that the law requires the Board of Veterans Appeals to issue decisions in docket order?

Mr. ARNOLD. Yes, sir.

Mr. SELF. Does that mean that the Board is already carefully tracking and selecting the range of dates of cases for each docket, each Board docket that are being assigned to veterans law judges for a decision at any one time, you are tracking it at any given time?

Mr. ARNOLD. We know what we are distributing for cases at any given time, sir. The pace at which they are decided when they are with the judge, there is some variability on that. Yes, sir.

Mr. SELF. Got it. Given those two answers, can you elaborate on why your testimony states that it would be administratively burdensome to simply publish what the Board is already doing?

Mr. ARNOLD. Yes, sir. Administratively burdensome, but actually our greater concern, even though it says that is how confusing it would be for the veteran, which is why I go to the—

Mr. SELF. That is my next question, so—

Mr. ARNOLD. Oh, yes, sir. Okay. Let me go to administrative burden—

Mr. SELF. Right.

Mr. ARNOLD [continuing]. first of all, sir. I am going to tell you that the line is changing at every moment of every day. To understand how appeals move through the Board in docket order, there is a bunch of exceptions to that. In any given year, let us say we do 100,000 decisions. Last year we did 103,000-plus. One hundred thousand decisions every year, 30 percent of those, so 30,000, are advanced on the docket. We get notified this veteran moved to hospice. This veteran's—

Mr. SELF. Well, let me—

Mr. ARNOLD [continuing]. stage four. They jump to the head of the line. Yes, sir.

Mr. SELF. Let me stop you stop you there. How far do they move?

Mr. ARNOLD. They move to the head of the line.

Mr. SELF. To the head of the line?

Mr. ARNOLD. Yes, sir. Every time I have got somebody who is like, say, a stage four, they move to hospice. They are at end of life, over the age of 75, very advanced age. They are—there is a motion, or on the Board's own motion, they are moving to the head of the line in the fast pass lane.

Mr. SELF. How often do you publish them now?

Mr. ARNOLD. In terms of what we are doing with dockets?

Mr. SELF. Yes.

Mr. ARNOLD. What we are doing now, sir, is because the range might be 10 years in a given week, I could be doing a case that has a 2004 date and a date—all right, well, yes.

Mr. SELF. Well, how often do you publish?

Mr. ARNOLD. We publish monthly. We update our average days to complete them and average days that cases have been pending by docket.

Mr. SELF. Okay. I am still not following why it would be burdensome if you took a weekly update or whatever, but let us move to the—

Mr. ARNOLD. Yes, sir.

Mr. SELF [continuing]. misleading. I assume it is because of the changes that you are talking about.

Mr. ARNOLD. Yes, sir.

Mr. SELF. I accept the fact that you might have 30,000 in a year, did you say?

Mr. ARNOLD. Yes, sir.

Mr. SELF. That move to the head of the line. Would it not then be possible to have a separate category of them that you notify them as opposed to simply publishing? I got the issue.

Mr. ARNOLD. Yes, sir. What—the better way to explain this is it is 30 percent—

Mr. SELF. I do not want the outliers to drive the entire—

Mr. ARNOLD. Yes, sir.

Mr. SELF [continuing]. system.

Mr. ARNOLD. Yes. That is 30 percent of what moves in the line. I still got 200,000 in line at the end of the year—

Mr. SELF. Correct.

Mr. ARNOLD [continuing]. which is unconscionable to me. Then there is another 15 percent that come back from the court. They go to the head of the line by law. By law, they must be expedited. That is the second category. Now I am up to 45 percent. Then everything that has to go back to VBA, either as a pass-through remand from the court, or because we say I cannot call this thumbs up or thumbs down. This needs a new exam. You did not have a duty to assist. That is another 25 percent. 70 percent of what we put out every year essentially cuts the line.

Mr. SELF. Okay.

Mr. ARNOLD. That is happening constantly.

Mr. SELF. Okay. I—

Mr. ARNOLD. Yes, sir.

Mr. SELF [continuing]. I have got that. If you did it, then the next question is, once they jump to the head of the line, how long is it before they get heard?

Mr. ARNOLD. Again, it depends on how many the judge can decide. Right now, we are deciding on average of, say, 2,000 to 2,200 cases a week.

Mr. SELF. Per judge.

Mr. ARNOLD. No, sir, at the Board.

Mr. SELF. Ah-ha.

Mr. ARNOLD. Yes, sir.

Mr. SELF. We have whittled it down quite a bit. I still think, and I have got 25 seconds, from this discussion, you have enlightened me, and I appreciate your answers.

Mr. ARNOLD. Yes, sir.

Mr. SELF. I think we can do a better job. That is what this bill does. Now, I have not even gotten to the other issue in the bill, but great discussion, I think we can do a better job in the bill of making it transparent to the veterans. I yield back.

Mr. ARNOLD. Yes, sir.

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

Mr. MCGARVEY. Thank you, Mr. Chairman. To switch gears just a little bit here and appreciate what you guys are doing. Also, you know, thank you all. One of the things I try to say at every committee hearing is this committee is united in its effort to protect our veterans. I think we do share the common mission of making sure that the men and women who put on a uniform to take care of us, that we are doing everything we can to take care of them, that we are doing everything we can, just as when they go in, as when they come out.

One of the things we know is that in the Veterans Board of Appeals, we are dealing with our veterans who are out of the service, but we are taking care of them, right? The people who are taking care of them are in a way still part of the VA, still on their active-duty tour. In order to make sure that we are properly taking care of our veterans, we have got to make sure that we have enough people within the veteran system who are qualified and ready to take care of them.

One of the things I am worried about is the adjudication of appeals and making sure that those appeals are adjudicated correctly because I do not think any veteran should ever have their earned benefit taken away from them. I know you guys probably share my feelings on that. While there are several bills on the agenda today aiming to enhance service and transparency at the Board of Veterans Appeals, I want to highlight that there is not a bill to improve the recruitment and retention of the board of attorneys who are on the front lines of moving those veterans claims forward.

Again, we are taking care of our veterans. They have done their tour. They have earned this benefit. We have people right now taking care of them who are still on the front lines and need help. The Board of Veterans Appeals currently faces a 7 percent attrition rate in board attorneys, which is well above the average in the Federal workforce. This is why I found it surprising that the Board downgraded the full performance level of board decision writing attorneys hired after November 2021 from GS-14 to GS-13. For such a small but critical subsection of the VA workforce, with fewer than 1,000 decision-writing attorneys, it seems like a misstep not to fully compensate our public servants and have the best tools at our fingertips to attract the top talent for our veterans. Again, these are the people who are processing these claims to make sure our veterans get the benefits they deserve.

Mr. Arnold, what can this subcommittee do to help address this counterproductive policy to improve recruitment and retention at the Board, which is going to make sure that veterans, including those in Louisville, including those in Kentucky, who are waiting for appeal decisions, have their appeals handled quickly by the best and by the brightest?

Mr. ARNOLD. That is a great question, sir, and I am really glad you asked it. First of all, I am proud that in the 5 years I have been at the Board, the attrition rate for attorneys has dropped from 13.9 percent in Fiscal Year 2018, that is what I inherited, to 7.4. We got a ways to go. Like you said, 7.4 is not acceptable—

Mr. MCGARVEY. Right.

Mr. ARNOLD [continuing]. to me. The one thing I just want to correct, sir, is we did not downgrade our attorneys from GS-14. We did change our automatic career ladder system where there is an automatic, assuming successful performance, up to 13, and then there is I am going to call it a competition, but not with numbers attached to it. There is essentially an evaluation. Are you ready to make that step as a GS-14 attorney, where we are relying on you more than you are relying on us to help learn the craft—

Mr. MCGARVEY. Okay.

Mr. ARNOLD [continuing]. on that. This was an important development in our attorneys. I am going to say the Board of Veterans

Appeals has become really an employer of choice in a lot of different areas in terms of the diversity that we are able to hire and the scope and breadth of people we are attracting. Last year, our open announcement, we had 1,705 applicants. We evaluated or interviewed 600, and almost 700 of them. We extended offers to about 300, and we onboarded over 200 so far this year. We are going to rinse and repeat.

We have got people who want to come to—we changed our workforce to being virtual. That was something that we really struggled with. Did they need to be in the office, especially in the early years? That is contributed to we got people all over the country now that are really kicking it. Our productivity, it shows what we are gaining from it.

We increased our attorney ranks by 16 percent last year, so we are beating the attrition curve. Again, losing one is not okay for me. I will tell you there is some internal policy stuff with respect to retention. The law is already on the books, but we have some VA policies that we have been working on really hard to allow the ramp up time for attorneys where we do not have to make a go, no go decision as quickly on, hey, they are going to be able to swim here as fast as we are trying to move through the veterans' line. Thank you, sir.

Mr. MCGARVEY. No, thank you. Thank you, Mr. Chairman. I yield back.

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

Mr. CRANE. Thank you, Mr. Chairman. I was told it was going to be Mr. Ciscomani next, but I do appreciate you sticking me on this side.

Mr. LUTTRELL. You are welcome.

Mr. CRANE. All right.

Mr. CISCOMANI. They went by looks, so. Mr. Crane, you were next.

Mr. CRANE. What did you say?

Mr. CISCOMANI. They went by looks. Yes, yes, you got it.

Mr. CRANE. Okay. Thank you. Thank you, sir.

Mr. LUTTRELL. We can shift over to Mr. Ciscomani if you would like.

Mr. CRANE. No, no, no. I will take it now. Thank you.

First question. I consistently receive feedback from veterans in my district regarding significant shortcomings in the VA's claims processing. These ongoing issues result in delays and denials for veterans, mainly stemming from mishandling the review of new evidence submitted by veterans contributing to major setbacks. Specifically, Ms. Murphy, when the VA recognizes a deficiency in new and relevant evidence in a supplementary claim, does this obligate veterans to restart the entire process for claiming compensation?

Ms. MURPHY. Thank you for that question. It depends on the case. I know that sounds like not the answer you are looking for. When we are looking at claims, when we are looking at supplemental claims, we do have two different lanes that were created by AMA. If you have a closed record, we go to the higher-level review. If there is additional evidence, that would be a supplemental claim.

The new and relevant evidence, it helps us manage to work. It helps us make sure that actionable claims are being considered and moving forward. We are trying to avoid just churn or rehashing if the same or similar evidence is received over and over again. It helps us balance our resources and make sure that those actionable claims can move forward more quickly.

Mr. CRANE. Thank you, Ms. Murphy. What type of communication is the veteran receiving typically at that time the decision is being made?

Ms. MURPHY. There are notification letters at different stages. We received your claim. You have this option. This was the decision on your claim. Here are your options for, you know, higher level review, supplemental claim, appeal. There are follow-up letters that are sent. We also have a very robust call center. They are answering millions of claims a year—

Mr. CRANE. Okay.

Ms. MURPHY [continuing]. inquiries a year, and they are available to answer questions. I also want to give credit to our Veterans Service Organization (VSO) partners and other advocates who assist greatly in this process.

Mr. CRANE. Thank you. This is a follow up for my colleague, Mr. Lutrell. Mr. Arnold, VA's testimony refers to letters that the Board sends veterans when the Board could potentially reject their notice of disagreement. He was not talking about those letters. He thinks those letters are a good thing. What he is really talking about here are the letters that the Board administrative staff sends veterans letters actually rejecting their appeals. I think it is unacceptable that veterans must dispute those rejection letters in order to get a decision from a Board judge that the court can review.

Mr. Lutrell's bill would get rid of that unnecessary hoop that veterans have to jump through just to get their notice of disagreement in front of a Board judge. His bill would ensure that any Board rejection of a veteran's appeal can be reviewed by the court, and his bill would also ensure that the Board will be held accountable for when it improperly rejects a veteran's appeal. Do you agree that when the Board improperly rejects a veteran's appeal, the Board should be held accountable for that error?

Mr. ARNOLD. I absolutely do, sir, and we have a process in place to do that. I think there is some confusion around this. When a veteran, and we get, you know, thousands and thousands of appeals on a weekly basis, when they file their notice of disagreement, if it is timely or not, yes, we have administrative staff who are essentially hand jamming that into the system.

This is where I mentioned earlier, and I really appreciate Chairman Lutrell's comment about mistakes and the Board being accountable for mistakes. Mistakes do happen.

Mr. CRANE. Absolutely.

Mr. ARNOLD. That letter notices the individual, if you think we got this in error, please tell us, because it is then going to go to a Board member judge. I created an Office of the Clerk of the Board that is headed by a judge right now. It will be headed by an executive Board member with a presiding judge when we are done. Right now, a presiding judge is there to rule on that when it comes in and actually give a formal determination. They are not

waiting for 2 years in line waiting for it to actually get distributed to a judge, which is one thing I worry about the——

Mr. CRANE. Thank you.

Mr. ARNOLD. Yes, so, yes, sir.

Mr. CRANE. Real quick, what does that accountability look like, Mr. Arnold, when there is a mistake like that?

Mr. ARNOLD. For the individual employee——

Mr. CRANE. Yes.

Mr. ARNOLD [continuing]. or for the judge or what are you——

Mr. CRANE. Yes.

Mr. ARNOLD. Sir, it runs the gamut and it just it kind of depends. There is actually an en banc decision that we got in the Kearns case that went for over 2 years up in the Court of Appeals for Veterans Claims, where we were notified when that mistake was made. We tried to immediately rectify it, and then went on 2 years of litigation to eventually be dismissed because we docketed it. We docketed that appeal. Then it occurred in the first week of when we were evacuating for COVID——

Mr. CRANE. That——

Mr. ARNOLD [continuing]. at the end of March.

Mr. CRANE [continuing]. so, it really——

Mr. ARNOLD. That was a——

Mr. CRANE [continuing]. does not answer to my question as far as accountability is.

Mr. ARNOLD. That was a set of circumstances where the mistake that was made at the time when we were converting to all virtual operations at the beginning of COVID we extended a lot of grace to the individual that made that miscount. I think they were off by a day or two when they did it. In that particular case, there is no formal repercussions for that other than essentially a counting line.

Mr. CRANE. Can you give us an example of any repercussions or accountability that is actually that employees are held to when mistakes that affect veterans' lives are——

Mr. ARNOLD. Sir, I would not get into personnel actions in this kind of forum, but I am happy to talk about that offline in terms of how we hold people accountable.

Mr. CRANE. Is that secret information?

Mr. ARNOLD. It is not secret information, sir, but I would not talk about. You asked for an example on a particular case, and I am just I am super cautious about talking about any particular set of circumstances on how we handled it.

Mr. CRANE. Okay. Well, this is the VA committee, and we are asking about accountability. You said that you believe in accountability, and you said that it happens. We are just wanting to know, what does that look like? Nobody is asking for——

Mr. ARNOLD. Yes——

Mr. CRANE [continuing]. an employee to be thrown in prison or to be——

Mr. ARNOLD. Yes, sir. No, Okay.

Mr. CRANE [continuing]. you know, whipped, but.

Mr. ARNOLD. Generically speaking, so we created an Office of the Clerk of the Board that has been now built out over the course of the last couple of years. It is currently headed by a dual-hatted executive. We are in the process of creating another senior executive

position to oversee this function. There is a presiding judge who is detailed there for up to a year. They oversee right now this whole process. The administrative, from inbound operations, like you are talking about here, when somebody files an appeal and they are responsible for accountability in that whole process for how an appeal moves through the Board from the time it is filed until the time a decision goes out the door.

I will say one thing I am the most proud of is how the veteran trust increases in the Board throughout that journey. It increases about 10 to 11 percent in trusting the Board to above 50 percent, which I find really incredible when we are only granting about a third of the time. Almost 20 percent of veterans say when they roll craps and they get a denial at the Board, when they get that final decision, they say they trust the Board. That is because of the way we handled it and the way we were accountable for ourselves and the way that we educated them for why it was still a no.

I appreciate it, sir. I really do. Accountability is a big watchword for me.

Mr. CRANE. Yes, it sounds like a watchword, but yet, with all due respect, sir, it does not sound like you gave me any example of any accountability that, you know, any actions that are taken at all. Honestly, sir, that is one of the biggest problems with the American citizens and the U.S. Government, is that they feel as if there is never any accountability. I have been trying to ask you for the last 3 minutes, can you give us an example of, you know, any administrative actions, accountability that has been taken when mistakes are made on these claims and yet this panel has not heard any. That is a problem. Thank you. I yield back.

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

Mr. CISCOMANI. Thank you, Chairman, and thank you to the panel for being here. Just a few minutes ago, I talked about the bill, of course, and a little bit on my district. Just to reiterate, I serve in Arizona's 6th congressional District, southeastern Arizona, and I have over 70,000 veterans in my district, two military bases, both in Tucson, the Davis-Monthan (DM) Air Force Base, and also in Sierra Vista, Fort Huachuca Army Base. Very important issue in my district.

I have just a few questions and I am going to direct them to you, Ms. Murphy. The first one, how has the temporary authority of licensed portability granted in Isakson and Roe been useful for veterans in more rural areas, or those veterans with issues traveling to their exam appointment from the five counties that I serve in Arizona? Four of those are considered rural counties, and even the fifth, Pima County, has some areas that could be rural as well. Very important question for my district.

Ms. MURPHY. Congressman, the ability to use contract exam support to augment what VHA's ability to conduct C&P exams, it has been tremendous. It is been phenomenal. The ability to have that flexibility to utilize providers across state lines in rural areas has further enabled that support. It has been essential.

Mr. CISCOMANI. Thank you. Would you mind also, Ms. Murphy, elaborating on the VA's concern that my bill does not adequately cover the definition of a healthcare professional?

Ms. MURPHY. I want to clarify that we are thankful and appreciative of all the expansion in this area. I do not want to come across that we are not appreciative. I would ask my colleague, Mr. Friel, to expand on your question.

Mr. FRIEL. Thank you. What VA is asking is that we actually get a little more expansion into the bill. As Ms. Murphy said, we appreciate the expansion that is been granted, but we would also like the opportunity for VA to be able to identify and designate, you know, specific physicians, dynamics that would meet the need of VA without having to have a congressional mandate, you know, to identify this particular physician group as being acceptable for VA purposes. Allow VA to do that, which would allow us to expedite, you know, treatment for where—when a condition is something that we do not yet have a physician that is covered for it, and allow VA to opt that particular group of physicians into the program.

Mr. CISCOMANI. Thank you to both. Last question, Ms. Murphy, how do you think talking about here the expansion and the extension of the license portability authority, how will that contribute to veterans receiving more timely and accurate decisions?

Ms. MURPHY. It will be a great expansion. Being able to identify which healthcare professional that we deem necessary to provide the C&P exam, any of that flexibility, any of the portability that comes with that, like I said before, it just further expands our ability to go find the veteran where they are. We have heard over the years concerns about veterans who have had to travel long distances for their C&P exam. That is not something that we want to put them through. Any of these authorities enable us to meet the veteran where they are more effectively.

Mr. CISCOMANI. We have got a few more seconds here, and I can either yield it back to my friend Representative Crane to continue the exchange with Mr. Arnold, but I think I will skip on that for a second. Although I am very interested in the accountability as well. I think that is essential in all that we do. Kind of like in the same light here, when you did this expansion, I think for us here, and this is part of what I think Mr. Crane was getting at, is important to know how this impacts people and give examples. Not always are we asking with name and last name on things, but I do think it is important to, when it comes down to accountability, get some guidance of how you usually approach these kinds of things. I think that is important to us to better understand and actually, to some extent, support whatever effort is out there so we can—but we need to better understand that.

Now, in this case with Ms. Murphy, you talked a little bit about how this impacts and gave a few examples. Can you just give me in the last 20 seconds how this exactly would help, and maybe just a couple of examples on that.

Ms. MURPHY. So, if we are speaking still about accountability, sir?

Mr. CISCOMANI. No, no, I am sorry.

Ms. MURPHY. Oh.

Mr. CISCOMANI. I went back and forth. You are right.

Ms. MURPHY. Okay. I am sorry.

Mr. CISCOMANI. No, I am talking about the expansion and the extension of the—

Ms. MURPHY. Oh, oh.

Mr. CISCOMANI [continuing]. of license portability.

Ms. MURPHY. Certainly. I think if we could ask for, you know, still one more thing is expanding or taking away any of the sunset provisions so that we do not have to keep coming back and asking for extension would be also something that would be very helpful.

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

Mr. LUTTRELL. Thank you, sir. In accordance with committee rules, I ask unanimous consent that Representative Trone from Maryland be permitted to participate in today's subcommittee hearing. Without objection, so ordered. Mr. Trone, you are recognized for 5 minutes, sir.

STATEMENT OF DAVID TRONE

Mr. TRONE. Thank you, Chairman Luttrell, and thank you, Ranking Member Pappas, for this hearing today to review legislation that will help support our veterans. It was an honor to serve on the Disability Assistance and Memorial Affairs (DAMA) subcommittee last Congress, and I am thankful to have the opportunity to testify on behalf of my bill Restoring Benefits to Defrauded Veterans Act. I want to thank my co-lead, Mr. Ciscomani, a member of this committee. Thank you for your leadership in advancing this bill.

As we approach Veterans Day, we are all reminded of the courageous men and women who have dedicated their lives to our country. It is now our job to ensure we pass legislation that improves their quality of life and tackles the various challenges that they face today. Today, as a proud son of a World War II Navy combat veteran, I am here to shine a light on an issue that affects far too many of them, fraud.

Many veterans fall victims to financial predators, online scams, identity theft. These veterans are then exploited out of their benefits that they have so rightfully earned. Last year, the Federal Trade Commission reported over 195,000 complaints from military consumers, including over 150,000 reports from veterans and military retirees. The military community reported monetary harm over \$414 million of fraud, an increase of 50 percent from the year before.

Under current law, if a veteran passes away before their case is resolved, the family cannot be reimbursed for those lost dollars. Unacceptable. Our bill, the Restoring Benefits to Defrauded Veterans Act, will help those veterans and their families reclaim the defrauded dollars and give them access to the money they are entitled to. This legislation required the Secretary of Veterans Affairs to reissue misused benefits to the beneficiary's estate and costs when the beneficiary passed away before that reissuance.

While we ask so much of our service members, we must never forget their in-service has been on the families who are there to support their systems back home. It is the best that we can do to ensure these earned benefits stay with their loved ones. I encourage my colleagues support this commonsense bill will help our vets and their families reclaim defrauded dollars and give them access to money they deserve. Thank you, Mr. Chairman. I yield back.

Mr. LUTTRELL. Thank you, sir. Ladies and gentlemen, thank you so much. It is a heavy rucksack that you carry. We know that. We understand that. We listen to our veterans in our districts. It is our job to explain to you what we are hearing at our level. It is our job to provide oversight so that these fraudulent waters are streamlined in a way that the ship will sail smoothly, and it is not an easy task. The machine that you work for is incredible, but it is very important. Thank you very much for coming today. On behalf of the subcommittee, I thank you for your testimony and joining us. You are now excused. We will for a moment, and then the third panel will come to the witness table. Have a blessed day.

Good afternoon. Is everyone ready to start this fun filled day? Outstanding. Welcome, everyone, and thank you for coming. Our third panel includes Mr. Shane Liermann, Deputy National Legislative Director for Disability American Veterans, Ms. Quandrea Patterson, N. Patterson, excuse me, Associate Director for Veterans of Foreign Wars of the United States, and Mr. Zachary Stolz, partner at Chisholm, Chisholm, and Kilpatrick. I will please ask all witnesses to stand and raise your right hand.

[Witnesses sworn.]

Mr. LUTTRELL. Please be seated. Thank you. Let the record reflect that all witnesses answered in the affirmative. Mr. Liermann, you are recognized for 5 minutes to present the testimony of Disability American veterans.

STATEMENT OF SHANE LIERMANN

Mr. LIERMANN. Thank you. Chairman Luttrell. Ranking Member Pappas, and members of the subcommittee, Disabled American Veterans (DAV) is grateful for the opportunity to appear before you today and our written testimony covers the 10 bills being considered. However, my comments this afternoon will focus just on a few of these. Mr. Chairman, DAV is a congressionally chartered and VA accredited veteran service organization that provides VA claims and appeals representation to veterans and their families at no cost.

H.R. 3790, the Justice for ALS Veterans Act would provide the DIC kicker to survivors of veterans who died due to service-connected ALS. If a veteran is 100 percent disabled 8 years prior to their death, the survivors will receive an additional monthly DIC payment, which is commonly referred to as the DIC kicker.

Individuals diagnosed with ALS usually live only 2 to 5 years after diagnosis. Sadly, many veterans are unable to meet DIC's 8-year requirement for their families to receive the kicker. The Justice for ALS Veterans Act would provide the kicker to families of veterans who die due to service-connected ALS, regardless of the 8-year period.

Mr. Chairman, DAV strongly supports the Justice for ALS Veterans Act, which is evident by the over 24,000 emails our members have sent to Congress in support of this legislation. We must ensure veteran survivors and their families receive the benefits they deserve and are not penalized from receiving increased compensation due to the rapid progression of ALS.

H.R. 5890, the Review Every Veterans Claim Act, would not allow VA to deny a veteran's claim solely based on failing to report

for a VA exam. VA will deny a claim for an increase, for example, based on that missed examination. Although the evidence of record may contain sufficient evidence for that increased evaluation, VBA will deny based on that failure to report.

Mr. Chairman, for over 25 years as a VA-accredited benefits advocate, I have personally seen thousands of claims denied just for this reason. This is legislation that could be a game changer. Not only would this impact claims for service connection but would apply to all claims for a benefit under VA's jurisdiction. We believe the Review Every Veterans Claim Act would be applied to other claims such as total disability based on individual unemployability and aid and attendance. DAV strongly supports the Review Every Veterans Claim Act as it would provide meaningful reform to the claims process while ensuring VA's decision-making process is based on the entire evidentiary record.

H.R. 5938, the Veterans Exam Expansion Act would expand license portability for VA contract examinations. Specifically, it will allow and extend the ability for certain medical professionals to provide VA claims exams across state lines. The current license portability expansion that began in January 2021, has resulted in over 1,400 providers completing over 150,000 medical appointments and over 425,000 disability benefits questionnaires. This legislation would expand the license portability for psychologists, podiatrists, dentists, and optometrists, as well as extend the authority from 3 to 5 years, expiring in January 2026.

Previously, DAV recommended that the license portability be made permanent and that all medical professionals that are able to conduct VA exams within the Veterans Health Administration be included in a permanent extension. Mr. Chairman, DAV fully supports the Veterans Exam Expansion Act as license portability has had a positive impact for veterans living in highly rural areas, Tribal lands, and incarcerated veterans, all while assisting in reducing the backlog of examinations, which has a direct impact on the backlog of claims. We urge swift passage as the current authorization expires in January 2024.

Mr. Chairman, this concludes my testimony, and I look forward to any questions you and the subcommittee may have.

[THE PREPARED STATEMENT OF SHANE LIERMANN APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Mr. Liermann. Ms. Patterson, you are now recognized for 5 minutes to present the testimony of the Veterans of Foreign Wars of the United States.

STATEMENT OF QUANDREA PATTERSON

Ms. PATTERSON. Thank you, Mr. Chairman. Chairman Luttrell, Ranking Member Pappas, and members of the Subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States, to include its auxiliary, thank you for this opportunity to provide our remarks on legislation pending before this subcommittee.

The VFW views on today's bills can be found in my written testimony. I will take the opportunity to highlight a few of them. The VFW supports the Review Every Veterans Claim Act of 2023 that limits the authority of VA to deny a claim of a veteran for benefits

on the sole basis of failure to appear for a medical examination. VA has made significant improvements to ensure filing for service disability compensation is easier for veterans. However, one of the major frustrations that remain for veterans is the practice of denying benefits due to a missed medical examination. The VFW has assisted countless veterans that have had to reapply for benefits because they fall within this category.

Life happens to us all, and competing priorities can at times make it impossible for a veteran to make the scheduled examination. Restarting a VA claim for this reason is unnecessary, and veterans would benefit from a process that does not place so much power in a missed appointment. We look forward to working with the subcommittee to address our concerns.

Fraudulent practices and growing scams are plaguing the veteran community as compensation measures are approved by Congress to provide for those who served and their families. The VFW continues to stand against predatory acts and for making victims whole who have experienced predatory advances.

Our position on fiduciary matters is unchanged from previous testimony, but it bears repeating. The VFW supports H.R. 4016, Veteran Fraud Reimbursement Act and H.R. 4190, Restoring Benefits to Defrauded Veterans Act that seeks to restore benefits to veterans and their families who are victims of abuse or fraud by fiduciaries.

Historically, VA could make automatic payments only when veterans were defrauded by their fiduciaries in certain cases. A provision within the Isakson and Roe Veterans Healthcare and Benefits Improvement Act of 2020 intended to correct this inequity and allow for automatic reimbursements in all instances of fiduciary fraud. It has also created a requirement for VBA to make a negligence determination and for VA to investigate its own culpability in all cases of fiduciary misuse before reissuing payments to beneficiaries.

According to a 2021 Office of Inspector General (OIG) report, it took VBA an average of 228 days to complete misuse determinations on 40 cases. Some cases took a year or longer. These delays perpetuate hardship for many veterans and their family members who are eligible to receive these benefits. We support this legislation that seeks to provide relief for this already vulnerable population.

The VFW supports H.R. 4306, Michael Lecik Military Firefighters Protection Act, to establish presumptions of—I mean to establish presumptions of service connection for diseases associated with firefighting. Many military firefighters report the use of firefighting foam in training operations and the presence of PFAS chemicals in bunker gear. Our members who served as military firefighters reported continuous exposure to these chemicals during training and faced a significant occupational risk due to health hazards.

We have a suggestion to expand and improve the language of this legislation so all veterans exposed to these chemicals are provided with the care and benefits that they have earned. We believe that the 5-year requirement as a firefighter is too long, as it only takes one exposure to cause harm. Additionally, there should not

be a time limit for when the veteran can file a claim, as many of these conditions manifest years after exposure. This legislation is incredibly important to prevent PFAS from becoming another situation like Blue Navy or Camp Lejeune, in which veterans became sick and died waiting decades for their conditions to be properly recognized and appropriately treated.

Chairman Lutrell, Ranking Member Pappas, thank you for the opportunity to provide my remarks. I look forward to your questions.

[THE PREPARED STATEMENT OF QUANDREA PATTERSON APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Ms. Patterson. Mr. Stolz, you are now recognized for 5 minutes to present the testimony of the Chisholm, Chisholm, and Kilpatrick.

STATEMENT OF ZACHARY STOLZ

Mr. STOLZ. Thank you, Chairman Lutrell, Ranking Member Pappas, and members of the subcommittee. Good afternoon. I am Zach Stolz, a partner with Chisholm, Chisholm, and Kilpatrick. CCK is a law firm with dozens of VA accredited attorneys and advocates handling VA benefits claims at all levels of the process. I have personally spent the bulk of my career practicing before the U.S. Court of Appeals for Veterans Claims and the U.S. Court of Appeals for the Federal Circuit. I would like to focus my opening remarks on the procedural issues contained in some of the proposed bills.

The Appeals Modernization Act has brought with it both good and bad so far. Good, faster decisions at the regional office, more choice and control for our veterans. Bad, some massive delays at the Board of Veterans Appeals due to complications for both adjudicators and veterans with simultaneously running procedural systems.

H.R. 5559, Protecting Veterans Claims Option Act, would have a positive effect on the VA adjudicatory system. Amending 38 United States Code Section 5108 and requiring VA to adjudicate all supplemental claims filed within 1 year of the original decision without a requirement for new and relevant evidence would help to advance the non-adversarial nature of the VA claims system. The bill also has provisions close to my heart as an advocate who handles cases at the Courts of Appeals for Veterans Claims (CAVC), the amendment to 38 U.S.C. 7113. This amendment would aid the thousands of veterans whose claims are sent back to the Board on remand from the court. The amendment would put AMA veterans on the same footing as their legacy counterparts by providing a 90-day period in which the appellant could submit evidence directly for Board consideration.

Appellants are currently sent back to the lane from which the appeal originated. This process leads to a number of scenarios in which efficiency is reduced and it subjects veterans to needless shuffling around VA. Even worse, it costs many veterans their place in line at the Board because in the AMA, veterans do not retain their docket numbers once the case is sent back to the regional office. It may seem esoteric, but if the Board decides for any reason to remand a veteran's case back to the regional office, the veteran

has to start the appeal process to the Board at the very end of the line.

Given the 3-to 5-year delays at the Board that we already know about, this is devastating for pursuing appeals. This amendment to 7113 is certainly a step in the right direction and will help get the right issues before the right adjudicators at the right time.

Speaking of Board delay, until recently, the only appeals being decided in the AMA at the Board were those cases advanced on the docket for advanced age, severe financial hardship, and serious illness. What about everyone else? It is unclear sometimes what is happening at the Board. Combining H.R. 5559 with Section 3 of the Veterans Appeals Transparency Act, 5870, would mandate more transparency at the Board that is critically needed. In my written testimony on this subject, I mentioned the frustrations we encountered in attempting to get basic information for how the Board was adjudicating appeals. This section is a good step in requiring more transparency and better information from the Board.

Last for my opening remarks, I would like to offer support for H.R. 5891, the Veterans Appeals Decision Clarity Act. Under the proposed amendment to 38 U.S.C. 7104, when the Board declines to consider evidence because it was not received during a period permitted under section 7113, it would be required to, "identify the time when such evidence was received and provision of section 7113 of this title that establishes that such evidence may not be received at such time." In other words, the Board has to let a veteran know when evidence came in and that they cannot use it. It would also require the Board to state the adequacy of the timeliness of a notice of disagreement.

All of this is essential for veterans and their advocates to navigate this very complicated system. I would also suggest that it would be better for personnel at the Board and at the regional offices. It could cut down on unnecessary claims, questions, and requests from veterans.

It is always good to remember this is a non-adversarial system. There is no traditional discovery. This puts veterans in a position to understand what is happening in their cases, both substantively and jurisdictionally. Thank you so much for the opportunity to be here today, and I look forward to your questions.

[THE PREPARED STATEMENT OF ZACHARY STOLZ APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, sir. We will move into our first line of questions. Mr. Stolz, do you agree with the VA's statement that Board decisions on appeals would be delayed if we required the Board to provide a general statement about the timeframes during which untimely evidence was submitted?

Mr. STOLZ. No. I do not quite understand. With all due respect, and I know the Board of Veterans Appeals has a Herculean task, and I do not in any way want to advocate for something that would slow them down. From where I sit and it is just from where I sit, they have to do this work anyway. The Board member and their staff is going to have to go through the evidence that comes in. They have to do it writing it in one or two sentences, I think, as you pointed out, Mr. Chairman, I do not see how that would slow down the Board in any meaningful way. Would it create a little bit

more typing? Yes. Would it slow them down in a meaningful way that will affect veterans? I do not see it.

Mr. LUTTRELL. Okay. What happens when the Board sends a veteran a letter rejecting their notice of disagreement?

Mr. STOLZ. Well, what happened in the case before the court is it becomes very confusing, and it is happened several thousand times. I do not know that there is one simple case I can talk about the one—

Mr. LUTTRELL. I am sure everyone is different.

Mr. STOLZ. Everybody is different, right. It is confusing, because you get this, you do not get appeal rights, and you get a letter from probably, and the way that I understand that it was working, and I understand that perhaps some of it has been fixed, but the way that it was working in what is a publicly recorded case, is administrative staff sent a letter. The veteran got very confused by it. You try to fix it through the Board, then the Board issues a decision that should have appellate rights, and then you get your day in court. The fast answer is you get something that you cannot appeal. You cannot appeal.

Mr. LUTTRELL. Cannot.

Mr. STOLZ. That is my understanding.

Mr. LUTTRELL. Can the veteran appeal the rejection letter to the court? You said, no.

Mr. STOLZ. Not directly. They have to go through the Board, and then the Board would have to issue a decision.

Mr. LUTTRELL. Do you think that a veteran should have to go through the extra hoop of disputing a rejection letter from the Board administrative staff in order to receive a Board decision by a Board judge that the court can review for accuracy?

Mr. STOLZ. I do not.

Mr. LUTTRELL. Mr. Liermann, how would the Review Every Veterans Claim Act help veterans who are filing claims other than original claims for compensation, such as claims for increased compensation?

Mr. LIERMANN. Thank you. Actually, it would have a big impact. Whenever a veteran files a claim for an increase evaluation when the condition has grown in severity, VA automatically is going to order them an examination if there is no evidence currently to grant that increase. In a lot of cases, if the veteran fails to report for that for the increase, VA will automatically deny it from that part because they requested the exam solely for the increase.

Then we have to come back and say, well, no, actually, the veteran tried to reschedule the exam, and for some reason, that did not get relayed. Now we have a denial. Now we got to find a way to fix it to where if they cannot deny it solely for that reason, the veteran is going to have more continuity or more time to continue through the process without being just stymied up front for failing to report.

Mr. LUTTRELL. Okay. Thank you. Mr. Pappas.

Mr. PAPPAS. Thank you, Mr. Chairman. Thank you all for your comments here. I think these are all incredibly helpful as we go about our work.

Ms. Patterson, maybe I could start with you. We heard earlier from Representative Issa about his legislation, the Jax Act. I un-

derstand that VFW supports the bill, and a lot of us up here do. From my perspective, the constraints on eligibility in the bill make it narrow, and it leaves people behind, for example, the Lioness teams of Iraq in 2003. My question is, should we be looking to improve the bill to make sure that we do not continue to leave groups of women veterans behind?

Ms. PATTERSON. Thank you for that question, sir. We also, VFW also agrees that if there are other categories of veterans out there who have experienced similar situations to where they are not included, that we do revise the bill, or that we do things to make sure that they are included.

Mr. PAPPAS. Thank you for that. Similarly, the way the bill is drafted causes some confusion as to who is eligible under the bill, and particularly, it seems to limit eligibility to veterans who have previously filed a claim and had that claim denied. We all know that veterans often decline to file a claim in the first place because of the perceived futility in some cases of doing so. I imagine that it is particularly true for the women that we are discussing today. I am wondering if VFW would support removing the requirement that a veteran must have previously filed a denied claim in order to be eligible under this Jax Act?

Ms. PATTERSON. Absolutely.

Mr. PAPPAS. Okay. Mr. Liermann, I see you nodding as well. Would you provide any comments on that legislation?

Mr. LIERMANN. Yes and thank you. I think once they determine that they have combat exposure, everything is applicable at that point. I do not think it would just—they would have to have been denied before. I think that presumption of combat, which is so important to help veterans establish benefits, I think that would override what their language writes, but we would be supportive of correcting that. When there are a group of other women veterans that fit those categories and criteria under DoD, absolutely we think it should be expanded.

Mr. PAPPAS. Thank you for that. Maybe I could follow up with you about a separate piece of legislation. This is Representative Slotkin's bill, the Justice for ALS Veterans Act. I understand that DAV supports the bill, has mobilized its membership to reach out to their Member of Congress in support of the legislation. We thank you for that.

One provision instructs VA to identify other diseases or illnesses with similar characteristics of fast progression and high mortality, and that also may deserve similar treatment to what is being proposed for ALS under the bill. Can you talk about DAV support and what other conditions that you may see that we should consider with the same treatment as ALS under this legislation?

Mr. LIERMANN. Thank you. Just real quick to make reference to what was discussed earlier, we believe that it is already ALS in itself meets the criteria of a rapid progressing disease, because once a veteran files a claim for it, it is an automatic 100 percent disability evaluation within the VA. We think that meets that already, especially when you look at the average of 3 to 5 years from the diagnosis until the veteran passes.

Other conditions, pancreatic cancer, which is now a disability presumptive to the PACT Act, would be one other disability that

I would clearly mention because of its devastating effects, and sometimes it is a weight manifestation, so it does progress very rapidly.

Mr. PAPPAS. I am sure you must have members that either have ALS or have firsthand knowledge about how terrible this disease is. I am wondering if you also could provide some comment on what the additional DIC payment would mean to survivors of veterans who suffered from ALS.

Mr. LIERMANN. When the veteran passes, the family no longer gets the veteran's compensation. The family and the surviving spouse would have to apply for what we often refer to as DIC, or dependence indemnity compensation. Right now, that is about 40 percent of what a 100 percent veteran receives. It is a great reduction in their income. Making them eligible for this additional compensation or the kicker is going to help improve the quality of life for that family after the veteran has passed.

Mr. PAPPAS. Thank you very much. I yield back, Mr. Chairman.

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

Mr. CRANE. Thank you, Mr. Chairman. Thank you guys for showing up. I realize we are here today, ultimately, to make sure that our veterans are taken care of. I do believe that the vast majority of people in this room, and at the VA as well, try and do everything they can to take care of our veterans.

That being said, there are circumstances where that does not happen, and I think that is one of the things that we are looking into today. Were you guys in the room when I was asking the panel before you about accountability? What did you guys think about the responses that I was getting? Ms. Patterson, I want to start with you. Did it sound like there was any accountability whatsoever as far as, you know, any, you know, any counseling documentation being put into records? You know, clearly, I was just asking for, hey, can you tell the panel what happens when people at the VA make mistakes? What do you think of that, Ms. Patterson?

Ms. PATTERSON. Thank you for that question. The VFW thinks that accountability for veterans, whether it is in the processing of the claims or for those who are involved in the process, the processing of the claims, the more clarity that is out there, the more that it can be clear that this is the consequence to failing a veteran in this process, the more proficient the process will be.

Mr. CRANE. Yes.

Ms. PATTERSON. I did not hear where there is a process or what that process is. I did not think you were asking for names. You were just asking for what is the process? How do you—

Mr. CRANE. Thank you.

Ms. PATTERSON [continuing]. determine who is accountable? If people who are doing things wrong, if they know that if they do not do certain things, that there is a consequence. We would like to see also a clear, you know, process that does hold people accountable just so we can ensure that the veterans are being taken care of.

Mr. CRANE. Thank you, Ms. Patterson. Mr. Stolz, you realize this is an oversight hearing, right?

Mr. STOLZ. I do.

Mr. CRANE. Do you think that that is appropriate, that, you know, those of us that are tasked to not only fund the VA, but also conduct oversight of it, be given reasonable answers to questions such as, is there any accountability when individuals at the VA make mistakes?

Mr. STOLZ. I do.

Mr. CRANE. You do? Did you think that the answers that this panel was given are acceptable?

Mr. STOLZ. I did not hear a direct answer to your question, Mr. Crane.

Mr. CRANE. Did it sound like I was asking for specifics, specific names?

Mr. STOLZ. It did not.

Mr. CRANE. Okay. What about you, sir, on the end? Liermann, Mr. Liermann?

Mr. LIERMANN. I do not believe the question was answered to your point. There was no actual discussion on the accountability. Again, I have been doing this for 25 years for DAV at five different locations around the country. We reviewed rating decisions, would find problems, take them back to coaches, people within VA, to explain an issue.

When it comes to accountability, my experience has been it is there. It just may not move nearly as quick as we want it to or have the correct measures that we deem would be appropriate.

Mr. CRANE. Yes.

Mr. LIERMANN. Accountability is a big issue for us, but I think sometimes it is hard to actually see it take place.

Mr. CRANE. Thank you. I want to reiterate that I do not believe that the vast majority of employees at the VA are making mistakes or making mistakes on purpose. I do believe that they try and do a good job. I agree with the chairman who said that we understand that the individuals sitting on that panel have a very daunting and difficult task. This is a huge organization. As somebody, you know, who came from the military myself and then started a small business, I can tell you that when we had employees that, you know, continually made mistakes, we tried to document those mistakes, have a counseling, and, you know, made sure that that went their personnel file, so that if we continue to see the same mistakes over and over and over again, we could take, you know, follow on actions. Possibly, if it got too bad, even termination.

It is disappointing when we have these oversight hearings and we are not just talking about products being made like at my company. We are talking about actual veterans, their families, their health, their lives. If there is no transparency or accountability, it makes me understand why I hear the same things from veterans in my district over and over and over again about the type of care that they are receiving, the type of communication they are receiving, the type of transparency that they experience. Thank you. I yield back.

Mr. LUTTRELL. Thank you, Mr. Crane. Mrs. Ramirez, you are recognized for 5 minutes.

Ms. RAMIREZ. Thank you, chairman. You know in the panel right before this, I mentioned that one of the priorities for me is to ensure that we continue to recognize the service of women. I certainly

just want to follow up on a few questions related to female veterans, and then I want to move into a couple of other things. Mr. Liermann, can you speak to the importance of women veterans being fully recognized and how recognition in combat can result in access to benefits?

Mr. LIERMANN. Absolutely and thank you. As we were discussing earlier, the presumption of combat will open up doors to where a veteran will not have to prove a specific disability as long as it is consistent with the hardships of combat. That is why this is such an important presumptive.

Getting people recognized, women veterans who may not have been recognized before as at combat, this is going to help their ability to get claims granted, to not have to be burdened with an over amount of evidence to prove it, and it is going to streamline the process for them to get access to those benefits.

In reference to women veterans as a whole, DAV has been championing this particular issue for women veterans for decades. We came out with a Women Veterans Report in 2014, 2018, and we are currently going to be putting out another Women Veterans Report going to be focusing on the importance of mental health and women veterans. We are hoping to have that out in March or April of next year, and we will make sure—

Ms. RAMIREZ. Great.

Mr. LIERMANN [continuing]. the committee gets a copy of it.

Ms. RAMIREZ. Thank you. I was about to ask you when we can expect it, so thank you. I appreciate that.

I want to shift gears a tad bit, and I want to go to your testimony. In your testimony, you state that the Director of Claims and Fiduciary Inspection Division, the Office of Audits and Evaluations of the VA OIG—a mouthful—confirmed that negligence determinations by the VA do not have a specified time period and that beneficiaries are waiting more than 400 days for reimbursement of misused funds. My question for you is, can you describe how this wait is impacting, wait time is impacting veterans?

Mr. LIERMANN. It is a matter between paying their rent, buying groceries, getting prescriptions, because once that misuse has been done, they stop making any payment.

Ms. RAMIREZ. Yes.

Mr. LIERMANN. Now that veteran's family is not getting any compensation payment for that 400-day period until they either make a determination of the misuse or establish a new fiduciary and then set up new funds. We are talking potentially a year and a half of a veteran's family not having direct access to compensation just for the basic daily needs.

Ms. RAMIREZ. Yes. You could imagine in that year and a half, where a shelter, where food, with basic needs, and the impact that they have. I ran a homeless shelter, so I can tell you I have seen the impact of both female veterans and male veterans. I want to ask you just a few more questions before my time is over. Does your organization work with veteran fiduciaries?

Mr. LIERMANN. DAV provides free representation for veterans and their families. We have and do represent veterans that have fiduciaries, and I have interacted and represented them myself

multiple times over the last 25 years, and our organization does on a daily basis.

Ms. RAMIREZ. Okay. What does this procedural fix mean practically for veterans and their families?

Mr. LIERMANN. Well, it is giving them access back to their compensation. I mean, fiduciaries do a very difficult job, and when there is a decision of misuse or waiting for it, that slows down what the fiduciary can do, but more importantly, slows down the access to veterans and their families for the money. This fix would give them access to their compensation much faster than waiting for that determination.

Ms. RAMIREZ. I got a little bit, about 45 seconds left. I am going to give you 30 of those seconds to share with us here to the committee, is there any suggestions you have for additions or changes to the current legislation we are discussing or any of the legislation before us today? Go.

Mr. LIERMANN. Oh, thank you. The Michael Lecik bill. DAV does not support it. We are a resolution-based organization, which means we must have a resolution to support it. We do not support it or oppose it. We are really concerned with the 5-year must have served on active duty, then your disability must have been diagnosed within 15 years in order to get it service connected. When we do that to presumptives, what we are doing is limiting and restricting the number of veterans who are actually going to be eligible. If we want to do this to provide that benefit, we need to remove it. The other part of that I want to mention is—

Ms. RAMIREZ. I am out of time. I am going to take what you gave us before the chairman rings the bell. I would love for you to be able to provide any of the other additional information, if it is not in the testimony, in writing. Thank you, Chairman. I yield back.

Mr. LUTTRELL. Yes, ma'am. Mr. Pappas, closing remarks?

Mr. PAPPAS. Well, thank you, Mr. Chairman, for convening this hearing, and I want to extend my gratitude to all the members and witnesses who participated in it. I appreciated all the insights that were shared, and I think this hearing highlighted some important issues. We received an abundant amount of feedback that is going to help us ensure we are working together on the bills that were put forward.

I believe that both Republicans and Democrats share a genuine commitment to enhancing the well-being of veterans. I also believe we need to continue to uphold our promise that we made to veterans and their families who may face challenges in accessing the benefits to which they are entitled. For me, these benefits are vital in safeguarding the dignity and well-being of all those who have served this great Nation.

In advance of Veterans Day this weekend, I want to thank all those who have served this great country and who are serving today in uniform and extend my gratitude to our panelists for their insights. I want to thank all my colleagues for their contributions. Let us keep working together on these bills and see what we can get done here. Thank you, Mr. Chairman. I yield back.

Mr. LUTTRELL. Thank you, sir. I look forward to working through these issues with the department and my colleagues on the subcommittee. The bills discussed today would provide important im-

provements for veterans going through the veterans claims and appeals process. They would also improve access to benefits for groups of veterans who earned their benefits.

As I said before, the complete written statement of today's witnesses will be entered into the hearing record. I ask unanimous consent that the statements for the record submitted from the following members and organizations be entered into the hearing record. Representative Gerald Connolly of Virginia, American Veterans, AMVETS, National Organization of Veterans Advocates, NOVA, Paralyzed Veterans of America, PVA, Quality Timeless Customer Service, QTC, Special Operations Associations of America, SOAA, ALS Association, Service Women's Action Network, SWAN. Hearing no objection, so ordered.

I ask unanimous consent that the letter of support for Military Veterans Advocacy is entered into the hearing record. Hearing no objection, so ordered.

I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks and include extraneous materials. Hearing no objections, so ordered.

I thank the members and the witnesses for their attendance and participation today. I thank all the veterans and their spouses and families in the room today for show going up. God bless you. Thank you for your service. Happy Veterans Day. This hearing is adjourned.

[Whereupon, at 1:57 p.m., the subcommittee was adjourned.]

A P P E N D I X

PREPARED STATEMENTS OF WITNESSES

Prepared Statement of Beth Murphy

Good afternoon, Chairman Luttrell, Ranking Member Pappas and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss pending legislation, including bills pertaining to disability compensation, VA fiduciaries and appeals. Accompanying me today are Mr. Kevin Friel, Deputy Director, Pension & Fiduciary Service, Veterans Benefits Administration and Mr. Kenneth Arnold, Vice Chairman, Board of Veterans' Appeals.

H.R. 1753 - To ensure that certain members of the Armed Forces who served in female cultural support teams receive proper credit for such service

H.R. 1753 would require VA to consider service on a female cultural support team (CST) as combat service for purposes of determining whether a Veteran incurred a disease or injury during that period of service.

VA supports the intent of the bill to ensure proper recognition of Veterans' combat service; however, as discussed below, we cite concerns with several specific elements, which we believe may prevent VA from being able to implement the legislation. VA has discussed this bill informally with the Department of Defense (DoD). Further collaboration between VA and DoD is needed to confirm both the number of Veterans who participated in CSTs and whether these Veterans meet the definition of "engaged in combat" for the purposes of 38 U.S.C. 1154(b).

Per VA's procedural guidance in M21-1.VIII.iv.1.D.2.b, there are no limitations as to the type of evidence that may be accepted to confirm engagement in combat. Any evidence that is probative of combat participation may be used to support a determination that a Veteran engaged in combat. The requested list and memo from DoD may be sufficient to satisfy this evidentiary requirement. However, VA notes that a finding that a Veteran engaged in combat for 1154(b) purposes requires that the Veteran "have personally participated in events constituting an actual fight or encounter with a military foe or hostile unit or instrumentality, as determined [by VA] on a case-by-case basis." *Moran v. Peake*, 525 F.3d 1157, 1159 (Fed. Cir. 2008).

VA also provides the below comments on the bill. To obtain an award of service connection, a claimant must generally establish three elements: (i) a current disability, (ii) a disease or injury was incurred or aggravated during service (i.e., in-service incurrence) and (iii) a causal relationship between the current disability and the in-service disease or injury (i.e., nexus). By statute, satisfactory lay or other evidence that an injury or disease was incurred or aggravated in combat will be accepted as sufficient proof of in-service incurrence if that evidence is consistent with the circumstances, conditions or hardships of such service even if the disease, disability or injury is not otherwise documented in the official record. Thus, if a CST Veteran states that a disease or injury was incurred in combat and the same is consistent with the circumstances, conditions or hardships of service, the rating activity and the examiner will accept the lay evidence as satisfying the "in-service incurrence" requirement for an award of service connection, even if there is no other record of the same. This would allow for grant of service connection of a disability, from traumatic brain injury to a musculoskeletal disability from carrying heavy gear, assuming the CST Veteran establishes a current disability and a causal relationship (i.e., nexus) between the current disability and the in-service disease or injury.

The bill contains provisions specific to cases in which a Veteran or survivor (i) prior to the Act's enactment submitted a claim for service-connected disability or death; (ii) had such claim denied for lack of service connection; (iii) submits a claim within 3 years of the Act's enactment for the same disability that was previously denied. In those cases, the bill would specifically require VA to re-adjudicate entitlement to service connection and, if service connection were granted, to apply an unusually liberal effective date rule. Under current law, VA already has an obligation to re-adjudicate entitlement to service connection when the claimant submits another claim seeking service connection for the same condition if, since the last de-

nial, there has been a change in law that would provide a new basis for entitlement. Combat Veterans are afforded a relaxed standard of proof to satisfy the “in-service incurrence” requirement for an award of service connection. Because this bill would enable CST Veterans to avail themselves of the same relaxed standard of proof, it would create a new basis of entitlement for which VA would already be obligated to re-adjudicate. Therefore, VA believes the re-adjudication provision is superfluous and recommends removing it.

As for the effective date provision, H.R. 1753 authorizes an effective date as early as the date of the previously denied claim. Under existing effective date rules, an award of benefits pursuant to a liberalizing law will not be earlier than the effective date of the law or 1 year prior to the date VA receives the supplemental claim, whichever is later. While H.R. 1753 would also place a 3-year time limit for qualifying claimants to file a supplemental claim and have this effective date provision applied, it may nonetheless result in significant retroactive benefits for some claimants, depending on the original date of claim. This bill would carve out an effective date exception for only this small group of Veterans, which may be perceived as inequitable. VA would suggest amending this section of the bill to align with current laws concerning effective dates of claims.

Mandatory costs to the compensation and pension account are estimated to be \$69.2 million in 2024, \$101.9 million over five years, and \$147.1 million over 10 years. There are no discretionary costs may be associated with H.R. 1753.

H.R. 3790 – Justice For ALS Veterans Act of 2023

Dependency and indemnity compensation (DIC) is a monthly monetary benefit payable to the qualifying survivors of Veterans who die from a service-connected disability or who die while either receiving or entitled to receive VA compensation for a disability that has been continuously rated totally disabling for a period of 8 or more years immediately preceding death. Under current law, a higher rate of benefits is payable to a surviving spouse if two conditions are met for a continuous period of at least 8 years immediately preceding the Veteran’s death: the Veteran was married to the individual seeking benefits as a surviving spouse and the Veteran was either receiving or entitled to receive VA compensation for a disability rated totally disabling.

H.R. 3790, the “Justice for ALS Veterans Act of 2023” would authorize payment of the higher DIC rate to surviving spouses of Veterans who die from amyotrophic lateral sclerosis (ALS) regardless of whether the Veteran had a disability rated as totally disabling for a continuous period of at least 8 years immediately preceding death. In addition, the bill would require that, within 180 days of enactment, the Secretary submit a report to Congress that identifies any service-connected disability, other than ALS, that the Secretary determines should be treated in the same manner as ALS for purposes of entitlement to the higher rate of DIC. The report should include a comprehensive list of service-connected disabilities with high mortality rates and detailed information on the average life expectancy for persons with each such disability. We note that the bill recommends that the Secretary of VA identify similar service-connected disabilities with high mortality rates but does not define criteria for what is considered a high mortality rate. VA believes that a clear definition for a high mortality rate should be incorporated within the bill to ensure implementation that is consistent with congressional intent.

We would support this bill, if modified to include criteria for determining whether a disability has a high mortality rate, and subject to the availability of appropriations.

Mandatory costs are estimated to be \$847,000 in 2024, \$4.9 million over 5 years, and \$11.9 million over 10 years. There are no discretionary costs associated with this legislation.

H.R. 4016 – Veteran Fraud Reimbursement Act

H.R. 4016 would streamline reissuance of benefits in fiduciary misuse cases. Where VA finds that a fiduciary has received VA benefits for the use and benefit of a beneficiary’s VA benefits, but uses those benefits for another purpose, 38 U.S.C. § 6107 requires VA to reissue the misused benefits to the beneficiary or a successor fiduciary. The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116–315), authorized VA to reissue the amount of funds misused by a fiduciary without regard to whether the misuse was due to VA’s failure to exercise proper oversight. However, current law contemplates that VA will make a determination regarding whether VA failed to exercise proper oversight prior to any reissuance of benefits.

VA supports this proposed legislation and its incorporation of language which would result in a shift of negligence considerations toward program oversight and

away from an unnecessary determination tied to the reissuance of benefits that will occur regardless of the outcome of the determination. This proposal will enable timelier reissuance of misused benefits to Veterans and their survivors and enable more effective application of VA resources toward more productive methods of oversight to protect beneficiary funds.

No mandatory or discretionary costs are associated with H.R. 4016.

H.R. 4190 – Restoring Benefits to Defrauded Veterans Act

H.R. 4190 addresses reissuance of misused benefits in cases where reissuance did not occur prior to the beneficiary's death. This bill would provide a preferred hierarchy for payment of reissued funds to an individual or entity in a stipulated order of preference. Additionally, the bill would not allow for a reissued payment to be made to a fiduciary who misused the benefits of the beneficiary.

VA supports the bill, if amended. For uniformity, VA suggests the various forms of the term “reissuance” be used in lieu of the various forms of the term “repayment” in 38 U.S.C. § 6107. Existing statutes specifically address the disbursement of VA benefits that were either due and unpaid or paid, but not negotiated prior to the death of the beneficiary. See 38 U.S.C. §§ 5121, 5122. In the reissuance context, however, the payment and negotiation of benefits necessarily occurred before the question of reissuance arose. See 38 U.S.C. § 6107(b) (providing that VA “shall pay to the beneficiary or the beneficiary’s successor fiduciary an amount equal to the amount of such benefit”). Existing law does not address disbursement of such funds if the claimant predeceases reissuance. Adding legislative language addressing who may receive payments representing reissued benefits on behalf of a deceased beneficiary would provide greater consistency and clearer legal basis for making such a determination prior to the reissuance of misused funds. Incorporating an order-of-priority would also align this statute with other sections of title 38 United States Code (i.e., 38 U.S.C. §§ 5121 and 5122).

Nonetheless, the proposed priority scheme differs from the priority scheme in those statutes in that the proposed priority scheme relies on state law. Where Federal law does not address questions of inheritance, State law applies. The proposed language would specifically direct VA to apply State law. An alternative would be to apply the same priority scheme currently codified in 38 U.S.C. §§ 5121, 5122.

Alternatively, VA suggests some modifications to the proposed prioritization. In the bill, the first priority class is “[t]he estate of the beneficiary” while the third priority class is “[t]he next inheritor determined by a Court of competent jurisdiction. Yet, a decedent’s “estate” typically refers to the individual’s collective assets and liabilities at death. ESTATE, Black’s Law Dictionary (11th ed. 2019). An inheritor is someone who is entitled to receive any assets remaining in the estate after all liabilities have been satisfied. INHERITOR, Black’s Law Dictionary (11th ed. 2019). Therefore, VA recommends consideration of whether the first and third priority classes may be effectively coextensive.

In the bill, the second priority class is “[a] successor fiduciary serving the beneficiary when the beneficiary died.” VA notes that existing caselaw establishes that a fiduciary does not have rights beyond the beneficiary himself. *Youngman v. Shinseki*, 699 F.3d 1301, 1304 (Fed. Cir. 2012). VA is concerned that the bill language would create a disparity between successor fiduciaries in cases of prior misuse and fiduciaries in cases not involving any misuse: because the bill provides for reissuance to the successor fiduciary without directing what the successor fiduciary must do with the funds, the successor fiduciary would obtain a right to some of the Veteran’s benefits based on the happenstance of misuse by a prior fiduciary.

VA notes concern over the addition of proposed (c)(2) which provides that “[t]he Secretary may not make a payment under this subsection to a fiduciary who misused benefits of the beneficiary.” VA’s concern is the wording would preclude a fiduciary who misused benefits, but who is also a member of the estate of the beneficiary as identified under proposed (c)(1)(A) or an inheritor as identified under proposed (c)(1)(C) from receiving payment of reissued funds. VA notes concern this imparts a legislative restriction which surpasses precedential legal estate disposition. This is particularly a concern if the fiduciary who previously misused benefits of the beneficiary is also a member of the beneficiary’s estate or an inheritor. In this example, a previous fiduciary who is not the subject of the current misuse matter, but who did misuse benefits at one time, may be entitled to a reissuance payment following misuse by a more recent fiduciary. VA recommends the Committee consider removing the restrictive language within (c)(2) and instead explicitly provide that funds due to be paid to a fiduciary who misused benefits may not be withheld by VA. Ultimately, this would allow VA to reissue misused funds to the appropriate heirs while ensuring that estate administration laws are properly followed.

No mandatory or discretionary costs are associated with H.R. 4190.

H.R. 4306 – Michael Lecik Military Firefighters Protection Act

H.R. 4306, the Michael Lecik Military Firefighters Protection Act, would create presumptions of service connection for Veterans who were trained in fire suppression, served on active duty in a military occupational specialty or career field with a primary responsibility for firefighting or damage control for at least 5 years in the aggregate, and in whom one or more specified diseases manifest to a degree of 10 percent or more within 15 years of the date on which the Veteran separates from active service. The specified diseases are heart disease, lung disease, certain cancers and each additional disease for which the Secretary determines a presumption is warranted.

VA supports this bill, if amended, and subject to the availability of appropriations. This bill represents a Veteran-centric approach to addressing health effects experienced by Veterans who trained in fire suppression and served on active duty in an occupation with a primary responsibility for firefighting.

VA views the proposed presumption of service connection as a reasonable first step for Congress to address potential health outcomes from firefighting hazards to include exposures to per- and polyfluoroalkyl substances (PFAS), which are synthetic chemicals commonly used as a key ingredient in firefighting foams.

This bill would also provide immediate relief for certain covered Veterans and at a much faster rate than if VA were to consider the same presumption under the new presumptive decision-making process created by the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022.

The establishment of a presumption for firefighters would streamline the claims process, thus reducing the number of claims that would be subject to medical opinions and other time-consuming development of evidence showing exposure to chemicals such as PFAS. However, VA supports a broader-based policy approach. To further enhance administrative efficiency and to ensure fairness and equity, VA recommends removal of the 10 percent minimum evaluation requirement; the 15-year disease manifestation period; and the requirement of 5 years in the aggregate in an occupation or career field with a primary responsibility for firefighting.

These requirements of H.R. 4306 are more onerous than the fiscal year (FY) 2023 National Defense Authorization Act provision that established a presumption for Federal firefighters under 5 U.S.C. 8143b, which recognizes 16 diseases (mostly cancers) as presumptively related to fire suppression duties. Removing the above requirements would ensure Veteran firefighters do not face a higher standard of proof than other Federal firefighters. It should also be noted that the PACT Act did not include any such requirements for presumptions, and this has significantly streamlined the processing of PACT Act presumptive claims. Relaxing these standards would allow claims processors to process claims more quickly and at a higher accuracy rate. For example, analyzing the exact number of years and days that a Veteran served as a firefighter could involve extensive development and review of a Veteran's military personnel records which may or may not be conclusive regarding time spent in an occupation. Also, a review of firefighter mortality studies by Haas et al. (2003) did not observe an increase in all-or specific-cause mortality with increased time in firefighting occupation. And finally, amending the bill to streamline eligibility requirements would facilitate VBA's ongoing effort to automate disability compensation claims.

Finally, although VA supports the bill, VA also provides the following discussion on the current state of the scientific evidence on health outcomes based on firefighting occupation. Notwithstanding the state of the scientific evidence (below), VA aims to ensure that military firefighters who may have been exposed to toxic substances and chemicals during military service do not have a higher burden of proof than other toxic-exposed Federal firefighters who may be entitled to compensation for these diseases under comparable Federal statutes (5 U.S.C. 8143b).

The International Agency for Research on Cancer (IARC) published a monograph in 2023 that classifies the firefighter occupation as a Group 1 carcinogen (known to cause cancer in humans). This conclusion is based on sufficient evidence in multiple cohorts for mesothelioma and bladder cancer and limited evidence for colon, prostate and testicular cancers; malignant melanoma; and non-Hodgkin lymphoma. IARC noted that evidence for all other types of cancers in firefighters is inadequate. Additionally, recent studies and authoritative reviews have noted associations between kidney and testicular cancers and PFAS exposure specifically, with less conclusive evidence for breast cancer. In terms of other chronic health outcomes, a cursory review of the literature reveals an association between firefighting and cardiovascular disease risk. There is also evidence for lung diseases, such as sarcoidosis and interstitial lung disease, in firefighters. Further, an association has been noted

between exposure to PFAS and the development of thyroid disease, as well as less evidence for an association with ulcerative colitis.

Mandatory and discretionary costs are associated with H.R. 4306; however, additional time would be needed to complete estimates.

H.R. 5559 – Protecting Veterans Claims Options Act

Under existing law, VA must re-adjudicate a previously decided claim if the claimant files a supplemental claim and identifies new and relevant evidence. Subsection 2(a) of H.R. 5559, the Protecting Veterans Claims Options Act, would remove the new and relevant evidence requirement with respect to supplemental claims filed within 1 year of the agency of original jurisdiction's decision on the earlier claim. The bill provides that subsection 2(a) would apply to supplemental claims filed on or after August 23, 2017, and directs VA to prescribe implementing regulations for subsection 2(a) within 180 days of the bill's enactment. Subsection 2(b) would add a new evidentiary window under 38 U.S.C. § 7113(d) for cases that have been remanded by the Court of Appeals for Veterans Claims to include evidence submitted by the appellant and his or her representative, if any, within 90 days following such remand, which the Board of Veterans' Appeals (Board) shall consider in the first instance.

VA cites concerns with subsection 2(a) and does not support subsection 2(b). With respect to subsection 2(a), VA is concerned that eliminating the requirement for new and relevant evidence in support of certain supplemental claims will result in needless re-adjudication of claims based upon identical evidentiary records, which would be unlikely to result in a different decision. VA does not consider such duplication of efforts to be an efficient use of scarce adjudicatory resources. This amendment would essentially collapse any distinction between a supplemental claim filed within 1 year of when the agency of original jurisdiction issued a decision and higher-level review of such a decision under 38 U.S.C. § 5104B.

VA also is concerned with the retroactive provision of section 2(a)(3) of the bill. In effect, that retroactive provision would require VA to re-adjudicate every claim decision made after August 23, 2017, upon submission of a supplemental claim without new and relevant evidence, since section 2(a)(1) of the bill eliminates any requirement for new and relevant evidence in support of supplemental claims filed within 1 year "after the date on which the agency of original jurisdiction issues a decision with respect to such claim." The combined effect of these provisions would seem to require that VA re-adjudicate every supplemental claim filed since August 23, 2017, that was in turn filed within 1 year of an initial decision on a claim but denied for lack of submission of new and relevant evidence. Once again, this will result in needless re-adjudication of claims based upon identical evidentiary records. It would also require VA to data mine to identify every claim filed since August 23, 2017, that might be eligible for re-adjudication, including those where claimants expressed no disagreement with VA's decision that the supplemental claim filed within 1 year of the initial decision was not accompanied by new and relevant evidence. VA does not consider such duplication of efforts to be an efficient use of resources.

VA also notes that while the Appeals Modernization Act (AMA) was enacted on August 23, 2017, AMA was not fully implemented until February 19, 2019. Some claims were processed under AMA on an opt-in basis prior to that date, but for most claims, the term "supplemental claim" as characterized in AMA would not have been applied prior to February 19, 2019.

In addition, VA is concerned that section 2(a)(4) of the bill requires VA to develop complying regulations within 6 months following enactment. VA generally estimates 1 year for development and publication of a regulation or regulatory amendment. Therefore, VA anticipates difficulty complying with this timeframe.

With respect to subsection 2(b), VA believes that this newly proposed evidentiary window frustrates current jurisdictional considerations for having a closed appellate record for the Board of Veterans' Appeals (Board) and reviewing Federal Courts to consider. Approximately 6,800–7,700 remanded appeals are returned to the Board each year by the Court of Appeals for Veterans Claims (CAVC) and the majority of those remands require the Board to provide additional "reasons or bases" for why the original, closed record considered by the Board was insufficient to grant the relief sought. This newly proposed evidentiary window would erode the carefully considered relevant evidence windows currently available to Veterans under AMA and may act as an inducement for appellants to file even more appeals with CAVC simply to add additional evidence that would further delay final resolution of the appeals they originally filed. This would contribute to even higher backlogs of pending appeals.

We would welcome the opportunity to discuss the bill in more detail with the Committee.

H.R. XXXX – Veterans Appeals Decision Clarity Act

Under current law, each decision of the Board must include a written statement of their findings and conclusions, and the reasons or bases for those conclusions, on all material issues of fact and law presented on the record; a general statement reflecting whether evidence was not considered in making the decision because the evidence was received at a time when not permitted under section 7113 of this title and noting such options as may be available for having the evidence considered by VA; and an order granting or denying relief. The Veterans Appeals Decision Clarity Act would further require that each Board decision includes a written determination as to whether the Notice of Disagreement was adequate and timely, and if there was evidence that was not considered because it was received outside the time limitations in section 7113, identification of the time when such evidence was received and the provision of 38 U.S.C. § 7113 that establishes that it may not be received at such time.

VA believes that the bill would add significant delays to appeals processing timelines and lead to exponential growth in appeals backlogs. At the end of FY 2023, VA began to see a reduction in the number of appeals pending before the Board after AMA went into effect in 2019. However, VA also anticipates an increase in pending appeals due to implementation of the PACT Act. The bill would further delay resolution of appeals and would create an additional burden on the Board because, having identified the evidence received outside the allowable submission window, the Board would then have to provide a written statement of when each piece of evidence was received and the provision of section 7113 that is implicated. From VA's perspective, the closing of the evidentiary record is one of the foundational features of AMA, and one of its most valuable in terms of enabling VA, over time, to process appeals more efficiently. Requiring VA to individually list or summarize each piece of evidence received outside of the window of time permitted by section 7113 would dilute much of the administrative value of closing the record.

The requirement would substantially increase the likelihood that Veterans will inappropriately appeal decisions with allegations that the Board failed to administratively identify each piece of evidence submitted outside the relevant evidentiary window and discuss why it cannot be received at such time. VA feels that this will cause increased confusion and slow the appeals process as Veterans and their representatives appeal Board decisions that fail to meet these new administrative requirements to CAVC, only to end up with a remand that requires the Board to cure the administrative deficiency without any substantive change in the ultimate outcome of the appeal. Under those circumstances, the attorney representing the appellant on such appeals to the Court will receive a substantial attorney fee under the Equal Access to Justice Act while the Veteran receives no better outcome than they had prior to the appeal.

As for the adequacy and timeliness of a Notice of Disagreement, currently, written docketing notices must be sent to appellants and their representatives, advising them that their appeal was docketed or that there are potential timeliness or adequacy issues with the filing. These notices also provide an opportunity to appellants and representatives to dispute and/or cure any potential defects well in advance of when the case would be adjudicated. Those final timeliness and adequacy determinations that are disputed and potentially adverse to the appellant are ruled upon by a Veterans Law Judge on detail to the Office of Clerk of the Board. The bill would delay those formal determinations until the time when the Board formally adjudicates the case (which may be months or even years later), which will cause unnecessary delay and potential harm to appellants.

H.R. XXXX – Veterans Appeals Transparency Act of 2023

The “Veterans Appeals Transparency Act of 2023” seeks to clarify which review options are available to claimants within 1 year following a decision by the agency of original jurisdiction (AOJ) and to clarify that only one review option may be selected at a time. In addition, the bill would require the docket dates of cases assigned to a Board member for a decision that week to be published weekly by the Board.

VA does not support the bill unless amended. VA generally supports efforts to clarify or simplify the decision review and appeals process, and to clearly establish that only one decision review option is permissible at a time for any given issue; however, the impact of some proposed language in this bill is unclear absent amendment.

Specifically, VA has concerns with the proposed removal of the phrase “in succession,” from 38 U.S.C. § 5104C(a)(2)(B) as this may cause confusion, or inadvertently allow multiple, redundant decision or appellate reviews of the same evidence by the

same appellate or reviewing body—a practice that is currently prohibited to ensure that each time a claimant exercises a review option it offers either a review of new evidence or a review by a higher-level body. For example, the statute as currently written, with its implementing regulations, prohibits claimants from challenging a higher-level review (HLR) decision by the AOJ by filing an HLR on the same issue with the AOJ; prohibits filing for an HLR by the AOJ of a Board decision and precludes requesting Board review of a Board decision. If such redundant review of the same evidence by the same reviewing authority were allowed under the proposed bill, it would create endless cycles of review by the same body of the same evidence, which would bog down the system and fail to offer a meaningful review process to claimants.

If the bill's intent is to clarify the requirement to only pursue one decision review or appeal option at a time and to clarify in statute which specific review options are available to challenge either an AOJ or a Board decision, then VA suggests either leaving the current statutory language explaining that options may be exercised “in succession” for the reasons above, or adding the following language specifying which particular review options are available within a year following an AOJ, Board or CAVC decision, which mirrors current regulatory language in 38 C.F.R. § 3.2500(c):

- “(1) Following notice of a decision on an initial claim or a supplemental claim, the claimant may file a supplemental claim, request a higher-level review, or appeal to the Board of Veterans’ Appeals.
- (2) Following notice of a decision on a higher-level review, the claimant may file a supplemental claim or appeal to the Board of Veterans’ Appeals.
- (3) Following notice of a decision on an appeal to the Board of Veterans’ Appeals, the claimant may file a supplemental claim or file a notice of appeal to the Court of Appeals for Veterans Claims.
- (4) Following a decision on an appeal to the Court of Appeals for Veterans Claims, the claimant may file a supplemental claim.”

We note that to the extent the Committee opts to model the language on VA's current regulation, the Committee should be aware that VA has committed to change current paragraph (c)(4) to extend to review by the U.S. Court of Appeals for the Federal Circuit and the U.S. Supreme Court, and currently applies this rule pursuant to Policy Letter 20–01. Accordingly, the Committee could consider replacing “a decision on an appeal to the Court to Appeals for Veterans Claims” with “completion of judicial review” or a similar phrase.

With respect to the weekly reporting requirement, VA believes that the requirement will be administratively burdensome to execute and, more importantly, may be misleading to Veterans and representatives because of how variable those docket dates will be. For example, approximately 2,000–2,500 appeals are adjudicated each week at the Board. Approximately 30 percent of cases adjudicated by the Board each year are Advanced on the Docket (AOD) cases which are automatically moved ahead of other cases which may have been pending much longer. These are cases involving Veterans with serious health conditions, severe financial hardship and advanced age. They will have docket dates that may be years ahead of others waiting. Another 35–40 percent of cases adjudicated are also expedited because they are legacy cases returned after remands from either the Court or the AOJ and they automatically move to the head of the line either because the law requires it (Court remands) or because the docket dates are much older in comparison to AOD cases or those waiting for first-time adjudication. Finally, original appeals (those getting first-time adjudication) will fall somewhere in between those two extremes. For example, the Board still has over 15,000 original Legacy system appeals that have not been adjudicated previously by a Board judge because so many other appeals (older Legacy remand cases and AOD cases under both AMA and Legacy) move ahead of them in line. It would be impossible for the Board to provide an exact estimate for when a particular appeal may be adjudicated because each appeal place in line is constantly based on which appeals are joining (or re-joining) the appeals queue each day.

H.R. XXXX – Review Every Veterans Claim Act of 2023

The Review Every Veterans Claim Act of 2023 would preclude VA from denying a claim for VA benefits solely on the basis that the Veteran failed to appear for a VA medical examination scheduled in connection with the claim. VA has a statutory duty to provide a medical examination or obtain a medical opinion or when such examination or opinion is necessary to decide a compensation claim. A medical examination or opinion is necessary to decide a claim in certain cases in which the

evidence of record is insufficient to support a grant of benefits, but there is a reasonable possibility that the examination or opinion will provide that evidence.

VA notes that while this bill would prohibit denial of a claim on the sole basis that a Veteran failed to appear for a medical examination, there may be cases where, without the examination, there is insufficient evidence to support entitlement. Even if this bill were enacted, claims would still be denied in those circumstances. The only difference would be that the denial would be due to lack of sufficient evidence, not solely the failure to appear for the examination.

VA cites concerns with this bill as written. While VA appreciates the intent, the bill may have the effect of continuing and worsening the practice of those involved in the for-profit Disability Benefits Questionnaire completion industry who often submit inconsistent and questionable disability impairment descriptions in exchange for large fees and a portion of any future VA compensation benefits awarded. These bad actors intentionally and specifically instruct Veterans to not report for their scheduled VA disability examinations.

If a Veteran who fails to report for a VA examination establishes good cause for failing to report, VA will reschedule the examination. Absent good cause, VA action depends on type of claim at issue. If the examination was scheduled in connection with an original compensation claim, VA will decide the claim based on the evidence of record. If the examination was scheduled in connection with any other claim for compensation or a claim for pension or dependency and indemnity compensation, the claim will be denied solely on the basis of the failure to report for the examination. VA recognizes that this distinction may result in inequities. VA intends to consider whether a single rule should apply to all types of claims. Moreover, the bill, as written, is limited to compensation claims. VA recommends that the same principle apply with respect to pension claims. However, expanding the bill as written to include pension claims may have unintended effects.

We would welcome the opportunity to discuss the bill in more detail with the Committee.

H.R. XXXX – Veterans Exam Expansion Act of 2023

The Veterans Exam Expansion Act of 2023 would extend existing temporary licensure rules for contract health care professional who perform medical disability examinations for VA to podiatrists, dentists and optometrists. The bill would also extend the license portability sunset date from 3 years to 5 years. The bill also includes a reporting requirement for the 1-year period following the date of the enactment of this Act.

While VA appreciates the legislation, VA seeks to further expand the definition of a health care professional to include any health care professional deemed appropriate by VA to conduct medical disability examinations. This definition, for example, does not include advanced practicing nurses. Expanding the definition of a health care professional to any health care professional deemed appropriate by VA to conduct medical disability examinations would provide VA with greater flexibility to complete such examinations.

Additionally, while VA appreciates the extension of the Licensure Requirements (Portability) for Contractor Medical Professionals to Perform Medical Disability Examinations from 3 years to 5 years, VA is seeking to eliminate the Sunset Date on the Licensure Requirements (Portability) for non-physician Contractor Medical Professionals to Perform Medical Disability Examinations altogether. Removing the sunset date and expanding how a health care professional is defined are critical to ensure continuous completion of thorough, accurate and timely medical disability examinations to Veterans, thereby leading to timely and accurate rating decisions associated with VA benefit entitlement. Additionally, these suggested amendments would allow VBA the flexibility to use a wider range of qualified medical professionals and reach more Veterans.

No mandatory or discretionary costs are associated with this proposed legislation. Any additional requirements could be funded under existing budget authority.

Conclusion

Mr. Chairman, this concludes my testimony. My colleagues and I are prepared to respond to any questions you or other Members of the Committee may have.

Prepared Statement of Shane Liermann

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

Thank you for inviting DAV (Disabled American Veterans) to testify at today's legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs.

DAV is a congressionally chartered, VA-accredited, non-profit veterans service organization (VSO) comprised of more than one million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity. To fulfill our service mission, DAV directly employs a corps of benefits advisors, national service officers (NSOs), all of whom are themselves wartime service-connected disabled veterans, at every Department of Veterans Affairs (VA) regional office (VARO) as well as other VA facilities throughout the Nation, including the Board of Veterans' Appeals (Board).

We are pleased to offer our views on the bills impacting service-disabled veterans, their families and the programs administered by VA and the Veterans Benefits Administration (VBA) that are under consideration by the Subcommittee.

H.R. 1753 – to ensure that certain members of the Armed Forces who served in female cultural support teams receive proper credit for such service

H.R. 1753 would recognize the honorable service of women veterans who served in a female cultural support team between January 1, 2010, and August 31, 2021, as engagement in combat with the enemy in course of active military service.

Purely from a VA claims point of view, this would positively impact those women veterans seeking claims related to their combat service. VA regulation 38 Code of Federal Regulations, Section 3.304 (f), specifically relates to the requirements for service connection for post-traumatic stress disorder (PTSD).

Subparagraph (f)(2) states, "if the evidence establishes that the veteran engaged in combat with the enemy and the claimed stressor is related to that combat, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor."

By establishing combat service for the women who served in the recognized female cultural support teams, H.R. 1753 would provide them what is often referred to as a verified stressor for PTSD claims. This would positively impact their ability to establish a claim for PTSD and have it granted based on their combat service.

Additionally, the recognized combat service would make title 38, United States Code, Section 1154 (b) for application. It notes, "in the case of any veteran who engaged in combat with the enemy in active service with a military, naval, air, or space organization of the United States during a period of war, campaign, or expedition, the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran."

In cases where a veteran asserts service connection for injuries or disease incurred or aggravated in combat, title 38, United States Code, Section 1154 (b) and its implementing regulation, 38 Code of Federal Regulations, Section 3.304 (d), are applicable. This statute and regulation ease the evidentiary burden of a combat veteran by permitting the use, under certain circumstances, of lay evidence. If the veteran was engaged in combat with the enemy, VA shall accept as sufficient proof of service connection satisfactory lay or other evidence of service incurrence, if the lay or other evidence is consistent with the circumstances, conditions, or hardships of such service.

The United States Court of Appeals for the Federal Circuit (Federal Circuit) has held that in the case of a combat veteran not only is the combat injury presumed, but so is the disability due to the in-service combat injury. *Reeves v. Shinseki*, 682 F.3d 988, 998–99 (Fed. Cir. 2012). Therefore, the veteran is not only competent to report an in-service injury, but credible.

H.R. 1753 would provide eligible women veterans with the uniqueness of presumption of a combat injury. In accordance with our Resolution No. 010, DAV supports this bill, as it will ease barriers for women who served in combat and assist them in establishing claims and appeals within VBA and the Board of Veterans' Appeals.

H.R. 3790 – the Justice for ALS Veterans Act of 2023

The Justice for ALS Veterans Act would provide the survivors of veterans who die of amyotrophic lateral sclerosis (ALS), the DIC “kicker” amount without meeting the eight-year time period requirement.

Currently, title 38, United States Code, Section 1311(a)(2), allows an additional DIC monthly payment of \$331.84 to survivors in the case of a veteran who at the time of death was in receipt of or was entitled to receive compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. This monetary installment is commonly referred to as the DIC “kicker.”

Studies have shown that veterans are twice as likely to develop ALS as the general population. ALS is an aggressive disease that leaves many veterans totally incapacitated and reliant on family members and caregivers. VA already recognizes ALS as a presumptive service-connected disease and due to its progressive nature, automatically rates any diagnosed veteran at 100 percent disabled. Individuals diagnosed with ALS have an average lifespan of between two to five years. Sadly, many veterans are unable to meet DIC’s eight-year requirement.

In accordance with our Resolution No. 162, DAV supports the Justice for ALS Veterans Act, which would provide these increased DIC payments to surviving spouses of veterans who die from ALS, regardless of the current eight-year period.

Earlier this year, our members sent over 24,000 emails to Congress to elicit support for the Justice for ALS Veterans Act. We must ensure veterans’ survivors and their families receive the benefits they deserve and are no longer penalized from receiving increased compensation due to the fast progression of ALS.

H.R. 4016 – the Veteran Fraud Reimbursement Act

The purpose of the VA Fiduciary Program, under VBA, is to protect beneficiaries who are unable to manage their VA benefits. VBA appoints fiduciaries to receive direct payments on behalf of beneficiaries and disburse those funds for beneficiaries’ care, support, welfare, and needs. VA beneficiaries rely on their appointed fiduciaries to make financial decisions in their best interests.

VA fiduciary staff provide oversight to help prevent fiduciaries from misusing funds. Misuse occurs when a fiduciary spends a beneficiary’s benefit payments for something other than the “use and benefit” of the beneficiary. Use and benefit is any expense reasonably intended for the care, support, or maintenance of the beneficiary or the beneficiary’s dependents.

Currently when there are allegations and reports of misuse of funds by the VA-appointed fiduciary, VA is required to investigate a VA negligence determination during misuse determinations. The July 2021 VA Office of the Inspector General (OIG) report found that in 40 cases, beneficiaries faced significant wait times in the processing of misuse determinations, an average of 228 days, negligence determinations, an average of 468 days, and reimbursements of misused funds, an average of 426 days.

At the September 28, 2023, hearing of this Subcommittee, Lisa Van Haeren, Director of Claims and Fiduciary Inspection Division in the Office of Audits and Evaluations of the VA OIG, confirmed that negligence determinations by the VA do not have a specified time period and beneficiaries are waiting more than 400 days for reimbursement of misused funds.

H.R. 4016 would amend title 38, United States Code, Section 6107, by removing paragraph (a) “Negligent Failure by Secretary.” It would further add, in any case in which a fiduciary misuse all or part of an individual’s benefits paid to a fiduciary, the Secretary would be required to pay the beneficiary or the beneficiary’s successor fiduciary an amount equal to the amount of the benefit misused. In addition, the bill would require the Secretary to make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.

H.R. 4016 would remove the requirements of negligent failures investigations by the VA before an issuance is remitted. DAV supports the Veteran Fraud Reimbursement Act in accordance with our Resolution No. 033, which calls for improvements to the VA Fiduciary Program.

Our most vulnerable, veterans and beneficiaries who have fiduciaries, must be protected from fraud and misuse of their earned benefits. When the fraud and misuse is discovered, VA needs to respond with immediate repayment of those earned benefits.

Beneficiaries should never wait for more than a year for the repayment of misused benefits. We are extremely concerned about the financial hardships this creates for veterans and their families.

H.R. 4190 – the Restoring Benefits to Defrauded Veterans Act

There are numerous reports of fraud and misuse by VA-appointed fiduciaries. For example, the VBA FY 2022 Annual Report noted fraud and misuse indicating that fiduciary personnel conducted 2,067 misuse investigations, of which 817 fiduciaries were removed. Of the cases VA referred to the VA OIG, 25 misuse cases were accepted by OIG for further investigation.

Under current statute, title 38, United States Code, Section 6107, if a veteran dies before their case with VA concerning misused funds by the fiduciary is resolved, the veteran's family cannot seek reimbursement for these funds.

The Restoring Benefits to Defrauded Veterans Act would require VA to reissue misused benefits to a beneficiary's estate in cases where the beneficiary predeceased reissuance and would provide reissued benefits to either the veteran's estate, successor, or next inheritor. Most importantly, the Restoring Benefits to Defrauded Veterans Act would not allow the VA to make any reissuance to any family member who was the fiduciary and was misusing the veteran's benefits.

DAV supports H.R. 4190, as it is in alignment with our Resolution No. 095, which calls for meaningful claims reform. The Restoring Benefits for Defrauded Veterans Act will not allow family members who defrauded the veteran to receive any of the reissued benefits, which is a significant reform to the claims process. However, DAV is concerned about situations where the family member who misused funds is a part of the estate and will still reap the benefits of the restored funds that they originally misused.

H.R. 4306 – the Michael Lecik Military Firefighters Protection Act

H.R. 4306 would establish presumptive service connection for certain diseases for veterans who were trained in fire suppression and served on active duty with a military occupational specialty or career field with a primary responsibility for fire-fighting or damage control for at least five years. Additionally, it would require that the disease be at a 10 percent degree or more within 15 years of the veteran's separating from active military service.

The diseases that would be presumed due to firefighting are listed as:

- Heart disease;
- Lung disease;
- Brain cancer;
- Cancer of the blood or lymphatic systems;
- Leukemia;
- Lymphoma (except Hodgkin's disease);
- Multiple myeloma;
- Bladder cancer;
- Kidney cancer;
- Cancer of the reproductive system (including testicular cancer);
- Cancer of the digestive system;
- Colon cancer;
- Liver cancer;
- Skin cancer;
- Lung cancer; and
- Breast cancer.

On December 23, 2022, the Federal Firefighter Fairness Act was signed into law. It creates the presumption that federal firefighters who become disabled by serious diseases, including heart disease, lung disease, certain cancers, and other infectious diseases, contracted the illness on the job. This law is similar to the legislation being discussed here today and is based mostly on exposures to perfluoroalkyl and polyfluoroalkyl substances (PFAS), man-made chemicals found in fire-fighting foams (or aqueous film forming foam; AFFF). However, to date, neither VA nor Congress has conceded exposure to PFAS chemicals found in the drinking supply of over 700 military installations.

DAV, a resolution-based organization, does not have a specific resolution for this legislation and we take no position on H.R. 4306. However, we do have some concerns, thus our recommendations below:

1. **Remove the restrictions for exposure and disease development.** The "Firefighters' occupational exposure: Contribution from biomarkers of effect to

assess health risks,” study published in the Environmental International, Volume 156, in November 2021, does not cite a required amount of exposure or a timeline for diseases to be manifested. Also, the ongoing “Fire Fighter Cancer Cohort Study,” which started in 2016, and aims to collect cancer-related information from US firefighters over 30 years, has not yet yielded any results based on required exposure timeframes or disease manifestation.

The 2018 National Defense Authorization Act authorized the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR), both agencies of the of the U.S. Department of Health and Human Services, to conduct exposure assessments in communities known to have had PFAS. The study did not provide any time requirements for exposure or time for the diseases to develop. Additionally, the 2022 National Academies of Science, Engineering, and Medicine (NASEM) report, *Guidance on PFAS Exposure, Testing, and Clinical Follow-Up*, found no time restrictions for exposure or disease development.

It is evident that the time requirement of at least five years as a firefighter and all diseases must be manifested within 15 years are not based on the current findings of the scientific community. Therefore, we recommend that these restrictions be removed from this presumptive legislation. These restrictions will greatly limit the number of veterans who will be eligible for the same exposures and diseases except to an arbitrary time not based on science.

2. Include PFAS exposure at all military bases with contaminated water supplies. DAV strongly believes that if there is legislation to address PFAS exposure for firefighters, it must include the PFAS exposure in the contaminated water supplies at potentially more than 700 military installations as well. The previously noted NASEM report found suggestive evidence of an association with PFAS exposure and increased risk of breast cancer; liver enzyme alterations; increased risk of pregnancy-induced hypertension; increased risk of testicular cancer; thyroid disease and dysfunction and increased risk of ulcerative colitis.

The men and women exposed to toxins, whether as a firefighter or through exposure and consumption of contaminated water supplies, must be a priority to ensure they have the benefits and health care they have earned.

H.R. 5559 – the Protecting Veterans Claim Options Act

The Protecting Veterans Claim Options Act would provide needed clarity on Supplemental Claims and specifically, VA’s regulatory provision of 38, Code of Federal Regulations, Section 3.2501. This would direct VA to accept any Supplemental Claim within one year of the VA decision in question, based on the evidence of record and not require New and Relevant evidence. Conversely, it points to any Supplemental Claim received after the one-year timeframe of the VA decision in question and would require New and Relevant evidence.

The Appeals Modernization Act (AMA) provided the Supplemental Claims section as well as the requirement for New and Relevant evidence. However, the VA regulations do not clarify on the application thereof and has created confusion within VA and the regulation is not following the Congressional intent of Supplemental Claims and the requirement for New and Relevant evidence.

Additionally, H.R. 5559 would require a change regarding remanded cases from the Court of Appeals for Veterans Claims (Court), that evidentiary record before the Board should “include evidence submitted by the appellant and his or her representative, if any, within 90 days following such remand, which the Board shall consider in the first instance.”

Without the ability to supplement the record after a Court remand, the veteran is forced to wait until after a decision from the Board to provide favorable evidence that may have changed the outcome of the Board’s decision. Currently, the Board’s AMA remand rate of appeals is near 40 percent. Allowing for post-Court remand evidence to be submitted in support of a veteran’s Board appeal should serve to reduce the AMA remand rate.

In accordance with our Resolution No. 095, DAV supports the Protecting Veterans Claim Options Act, as it will provide VA with needed clarity for Supplemental Claims and allow the Board to take jurisdiction over evidence submitted to the Court subsequent to a remand decision. H.R. 5559 will provide the required reforms to ensure the VA and the Board are adjudicating decisions and accessing evidence in the best interest of veterans and their families.

H.R. 5890 – the Review Every Veterans Claim Act of 2023

The Review Every Veterans Claim Act would limit the VA's authority to deny a veteran's claim solely based on the veteran's failure to appear for a medical examination associated with the claim.

Currently, title 38, United States Code, section 5103A (d) paragraph (2) provides, "the Secretary shall treat an examination or opinion as being necessary to make a decision on a claim for purposes..." This requirement usually results in VBA denying a veteran's claim if they did not attend the requested examination, even if the rest of the evidence of record contains service medical records, private medical records and lay statements from the veteran.

H.R. 5890 would strike that language from the statute and replace it with "provide for a medical examination or obtain a medical opinion." Additionally, this legislation would add a new paragraph to the statute, "If a veteran fails to appear for a medical examination provided by the Secretary in conjunction with a claim for a benefit under a law administered by the Secretary, the Secretary may not deny such claim on the sole basis that such veteran failed to appear for such medical examination."

Not only would these statutory amendments impact claims for service connection, but would apply to all claims for a benefit under VA's jurisdiction. We agree with this change, as in most claims for increase in an existing disability, VA will deny an increased evaluation solely on the missed examination. Although the evidence of record may contain sufficient evidence for the increased evaluation, VBA will deny based on the failure to appear. Additionally, this would be applied to other benefits claims such as Total Disability Based on Individual Unemployability (TDIU) and Aid and Attendance (A&A).

In accordance with our Resolution No. 095, DAV supports the Review Every Veterans Claim Act, as this is meaningful and significant reform to the duty to assist. As it was allowing VBA to deny a claim based solely on a missed examination, we argue that it is interfering with the veteran's due process of a claim. Thousands of veterans' claims for service connection, claims for increase and for other benefits such as TDIU and A&A are denied solely on the basis of the missed examination. We look forward to the passage of the Review Every Veterans Claim Act and the positive impact it will have for veterans.

H.R. 5891 – the Veteran Appeals Decision Clarity Act

Effective February 19, 2019, the AMA was a historic overhaul of VA's appeals process. It provides claimants with three paths after a final VA decision, a supplemental claim, a higher-level review and an appeal directly to the Board, a Notice of Disagreement.

Additional changes brought by the AMA are specific to the submission of evidence when establishing a Notice of Disagreement to the Board. The choices at this stage include:

- A direct review by the Board without a hearing or the submission of additional evidence.
- A review by the Board including additional evidence that must be submitted within 90 days from the date of the Notice of Disagreement.
- A hearing with a Veterans Law Judge at the Board with the opportunity to submit additional evidence within 90 days after the hearing was held.

If additional evidence is received outside of those time periods, the Board cannot review or use that evidence in their decisions and is not required to note the receipt of such evidence in their decision. This creates confusion for veterans, VSOs, attorneys and claims agents as to when the evidence was received, why it was not considered and who has jurisdiction over said evidence.

The Veteran Appeals Decision Clarity Act would require the Board to identify the time the evidence was received and acknowledge they cannot use it in their determination. Additionally, it would require the Board to state the adequacy and timeliness of the Notice of Disagreement.

In accordance with our Resolution No. 095, DAV supports H.R. 5891, which calls for meaningful appeals reform by clarifying the evidence received outside of the mandated timeframes and that it cannot be used by the Board. The Veteran Appeals Decision Clarity Act will help to reduce confusion over evidence submitted during the appeals process. We acknowledge this will increase the requirements of Veteran Law Judges and attorneys in decision writing; however, it will further reform the appeals process while removing doubt of what evidence was considered or

why it was not considered, thus providing veterans, VSOs, attorneys and claims agents with clarity on their potential next steps.

H.R. 5938—the Veterans Exam Expansion Act of 2023

The Veterans Exam Expansion Act would positively impact VA contract examinations for veterans' disability claims as it would expand license portability. In our testimony before this Subcommittee in July 2023, we recommended extending and expanding these authorities.

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 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 for three years, 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.

In July 2023, information from VBA's Medical Disability Examination Office indicated that this license portability expansion in January 2021 had resulted in 1,462 providers completing over 150,000 medical appointments and nearly 425,000 disability benefits questionnaires (DBQs). 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.

H.R. 5938 would expand the license portability for psychologists, podiatrists, dentists and optometrists as well as extend the authority from three years to five years, now expiring in January 2026.

DAV strongly supports the Veterans Exam Expansion Act, which will provide VA exams in all areas, specifically for rural and underserved veteran populations. Additionally, it addresses the deficiencies noted by the GAO report and will enable VA and contract examiners to provide more exams to more veterans than ever before. However, as we noted in our testimony of July 2023, we recommend that the license

portability be made permanent and that all medical professionals that are able to conduct VA exams within the Veterans Health Administration be included in the permanent extension of license portability.

Draft Bill – the Veteran Appeals Transparency Act of 2023

The Veteran Appeals Transparency Act would amend Title 38 United States Code section 5104C(a) language to make it consistent with VA's interpretation in their regulatory provision of 38 Code of Federal Regulations Section 3.2500.

Additionally, the Veteran Appeals Transparency Act would require “[o]n a weekly basis, for each docket, the Board shall publish the docket dates of the cases assigned to a Board member for a decision for that week.”

In accordance with our Resolution No. 095, DAV supports the Veteran Appeals Transparency Act. The changes in language will provide consistency between the statute and regulatory provisions, resulting in more reliable and consistent VA decisions and appeals. By requiring the Board of Veterans' Appeals to weekly publish docket dates of cases being worked, this provides veterans, their families and representatives with greater understanding and transparency as to the status of the pending appeal, not to mention it will help Congress hold the Board accountable concerning appealed cases.

This concludes my testimony on behalf of DAV. I am happy to answer any questions you or members of the Subcommittee may have.

Prepared Statement of Quandrea Patterson

Chairman Luttrell, Ranking Member Pappas, and members of the subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on legislation pending before this subcommittee.

H.R. 1753, Jax Act

The VFW supports this legislation to ensure that certain members of the armed forces who served in female cultural support teams receive proper credit for such service. A part of our organization's mission is to foster camaraderie among United States veterans of overseas conflicts. This aligns with the goal that the special operations forces had in 2010 when a female cultural support team was implemented to bridge a communication gap that prevented the maximization of strategic objectives during counterinsurgency in Iraq and Afghanistan. However, the Department of Defense 1994 Direct Ground Combat Definition and Assignment Rule created a barrier that would not allow the combat characterization assignment for females. The decision to implement these teams in Iraq and Afghanistan combat operations paved the way for a major change in this rule that integrated females into combat roles.

Today, covered service is not classified as combat service. In some instances, this has a negative impact on the favorable awards of service-connected disability compensation and benefits. This legislation would allow the Department of Veteran Affairs (VA) to treat covered service as combat service and grant service-connected compensation and certain benefits when female veterans who participated in combat operations claim traumatic brain injuries, post-traumatic stress, and disabling physical trauma. It is unjust that the members of female cultural support teams, who facilitated a major change in combat roles, should be denied the full benefits they deserve from their hazardous duty experiences.

H.R. 3790, Justice for ALS Veterans Act of 2023

The VFW supports this legislation. VA considers amyotrophic lateral sclerosis (ALS) a presumptive service-connected disease and, due to its progressive nature, automatically rates any diagnosed veteran at 100 percent once service connected. If a veteran with service-connected ALS then dies, the surviving spouse is eligible to receive Dependency and Indemnity Compensation (DIC). In cases where a veteran had a VA disability rating of totally disabled with ALS for at least eight full years leading up to death and was married during those same eight years, the surviving spouse is then entitled to an additional monthly payment called the DIC kicker. A surviving spouse should be entitled to the eight-year provision regardless of how long the veteran had ALS. Taking into consideration the full-time care often needed for a person diagnosed with ALS and that the average life expectancy following diagnosis is from two to five years, we see this as an important addition for these survivors.

H.R. 4016, Veteran Fraud Reimbursement Act and H.R. 4190, Restoring Benefits to Defrauded Veterans Act

The VFW supports both bills that seek to restore benefits to veterans and their families who are victims of abuse or fraud by fiduciaries. The Veterans Benefits Administration (VBA) appoints fiduciaries on behalf of veterans who are unable to manage their financial affairs due to injury, disease, age, or other reasons. It also investigates reports of fiduciary misuse of these funds. According to a July 2021 Office of Inspector General (OIG) report, from January 1, 2018, through September 30, 2019, VBA staff initiated approximately 12,000 allegations of misused benefits by fiduciaries.

Historically, VA could make automatic repayments only to veterans defrauded by their fiduciaries in certain cases. A provision within the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* (P.L. 116–315) intended to correct this inequity and allow for automatic reimbursement in all instances of fiduciary fraud. An unintended consequence of this provision was that it created a requirement for VBA to make a negligence determination and for VA to investigate its own culpability in all cases of fiduciary misuse before reissuing payments to the beneficiaries. This has created an unnecessary and time-consuming process as VA's role in the appointment of the fiduciary or its lack of proper oversight does not change the outcome for the veteran.

The OIG report identified significant wait times for beneficiaries and delays in repayments. Of the forty cases reviewed, it took an average of 228 days for VBA to complete the misuse determinations. Some cases took a year or longer. It also cited that negligence determinations were a key inefficiency in the reimbursement process. VA negligence determinations should never delay veterans from receiving their reimbursements, as this could potentially create significant financial hardship for an already vulnerable population.

Additionally, we support the provision to ensure whenever the Secretary of Veterans Affairs determines repayment of those funds must be issued to the veteran, but the veteran has passed away, the funds would be paid to the veteran's estate. These benefits may be critical for the veteran's surviving spouse, next of kin, or caregiver.

H.R. 4306, Michael Lecik Military Firefighters Protection Act

The VFW supports this proposal to establish presumptions of service connection for diseases associated with firefighting. Many military firefighters report the use of aqueous film-forming foam (AFFF) in firefighting and training operations, and the presence of per-and polyfluoroalkyl substances (PFAS) in bunker gear. Our members who served as military firefighters reported continuous exposure to AFFF during training and face a significant occupational risk due to the health hazards associated with these chemicals.

We have suggestions to expand and improve the language of this legislation so all veterans exposed to these chemicals are provided the care and benefits they have earned. We believe the five-year experience requirement as a firefighter is too long. For these individuals, one exposure alone could cause harm. Additionally, there should not be a time limit for when the veteran can file a claim as many of these conditions manifest years after exposure. This legislation is incredibly important to prevent AFFF/PFAS from becoming another situation, like Blue Water Navy or Camp Lejeune, in which veterans became sick and died waiting decades for their conditions to be properly recognized and appropriately treated.

H.R. 5559, Protecting Veterans Claim Options Act

The VFW supports the intent of H.R. 5559, and thanks Chairman Bost for what he is trying to achieve with this legislation. Far too many cases submitted in this category are left lingering with a "no decision" classification on Appeals Modernization Act reports. We believe the change of evidence threshold as written is too vague, and we are concerned about the unintended consequence of further adding to the appeals backlog. As VA works to streamline appeals processes and to ensure staff is knowledgeable and trained in the complex areas involved with some appeals, every effort must be made to provide veterans suffering from service-connected disabilities with the compensation they deserve. The retroactive component of this legislation is applauded along with the other aspects that protect veterans as they navigate this daunting process. The VFW is committed to working with Chairman Bost's committee staff to clarify the intent of this bill.

Discussion Draft, Veteran Appeals Decision of Clarity Act

The VFW seeks further explanation on this legislation to amend title 38, United States Code, to improve decisions issued by the Board of Veterans' Appeals (BVA). This seeks to complete the communication from BVA to the veteran, making all aspects of the decision clear. To ensure that the full intent of the legislation is realized, clarification of lines 23–25 is requested with reference to Section 7105 paragraph (1) of subsection (b). Specifically, a notice of disagreement or modern-day appeal to BVA via VA Form 10182 should be addressed prior to docketing of the claim at BVA. Therefore, referencing either after a decision has been made is irrelevant and cannot benefit the veteran. To wait until there is a BVA decision to learn that a notice of disagreement was inadequate or untimely only delays the opportunity for compliance or correction. This legislation should provide the veteran with recourse to address deficiencies in a timely manner prior to a final decision.

Discussion Draft, Veteran Appeals Transparency Act of 2023

The VFW seeks further clarification on this legislation to make certain improvements to the processing of claims for benefits under the laws administered by the Secretary of Veterans Affairs and the transparency of BVA. This amendment is a positive clarifying change that provides guidance in actions that can be taken by the veteran. Although generally understood, this legislation amplifies options along with other resources and aids such as the VA appeals status tool. This calls for weekly publications of expected actions on each docket. The VFW believes that publishing claims that are docketed at BVA is not informative unless supporting information indicates the number of claims being decided during that period. Monthly publications as opposed to weekly should be considered and may be sufficient. Otherwise, it gives the impression that a much sooner decision is forthcoming. Further, there needs to be education on the fact that this is not a first in, first out process. If clarity reveals that the publishing of claims docketed for decisions each week implies that they *will* receive decisions that week, then it is exceptional and welcomed information to provide the public. These considerations would help fulfill the intent of transparency in this legislation.

Discussion Draft, Review Every Veterans Claim Act of 2023

The VFW supports this legislation to amend title 38, United States Code, to limit the authority of the Secretary of Veterans Affairs to deny the claim of a veteran for benefits on the sole basis of failure to appear for a medical examination. VA has made significant improvements to ensure filing for service-connected disability compensation is easier for veterans. However, one major difficulty that remains is the practice of denying benefits due to a missed medical examination. Veterans miss appointments for many reasons and would benefit from a process that does not place so much emphasis on this aspect. This legislation is a step in the right direction for continued improvements.

The VFW has worked with countless veterans who had to reapply for benefits because they missed examination appointments. Restarting a VA claim simply because of this is burdensome and unnecessary. We recommend that if an appointment is missed, then the file should go back into the queue in a type of hold that can be reactivated later. This would allow the veteran to restart the claim process from that point instead of starting over from the beginning.

Discussion Draft, Veterans Exam Expansion Act of 2023

The VFW supports this bill that amends previous legislation to improve the temporary licensure requirements for contract health professionals who perform medical disability examinations for VA. Veterans deserve the best care possible, but not at the expense of timely service. It is important to develop an examination process that is proficient and well serves veterans with service-connected disabilities. Recent highlights in Government Accountability Office reports recommend changes that would produce better results with the practice of license portability. With well-developed procedures accompanied by proper oversight and clear guidance on the execution of this practice, the extension of license portability to include psychologist, podiatrist, dentist, or optometrist would be instrumental in the processing of PACT Act claims and all service-connected claims going forward. Recommendations including reporting requirements that measure the success of amendments proposed in this legislation would allow VBA to continue with appointments at a faster rate to the benefit of veterans.

Chairman Luttrell, this concludes my testimony. Again, the VFW thanks you and Ranking Member Pappas for the opportunity to testify on these important issues before this subcommittee. I am prepared to take any questions you or the subcommittee members may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any Federal grants in Fiscal Year 2023, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.

Prepared Statement of Zachary Stolz

Chairman Luttrell, Ranking Member Pappas and Members of the Subcommittee: Thank you for inviting Chisholm Chisholm & Kilpatrick LTD (CCK) to testify at today's legislative hearing of the Subcommittee on Disability Assistance and Memorial Affairs.

CCK is a public interest law firm, with offices in Providence, Rhode Island and Houston, Texas. We serve clients across the Nation focusing on veterans disability compensation, bequest management, and long-term disability insurance claims. Since 1999, CCK has represented thousands of veterans and family members before VA and the U.S. Court of Appeals for Veterans Claims. CCK has the most VA-accredited attorneys, practitioners, and claims agents of any law firm in the United States. The firm has been involved in legislative processes and landmark, precedent-setting cases that have benefited the entire veterans' community.

We are pleased to offer our views on these bills impacting service-disabled veterans and their families.

H.R. 1753: Jax Act

H.R. 1753 is an important step in recognizing the honorable service of women veterans who deployed alongside Special Forces in Iraq and Afghanistan, expanding operational and intelligence-gathering capabilities. These veterans shared combat experiences with their male counterparts.

By acknowledging combat service for the women who served as members of Cultural Support Teams, H.R. 1753 would positively impact their ability to establish entitlement to VA benefits.

In cases where a veteran asserts service connection for an injury or disease incurred or aggravated in combat, 38 U.S.C. § 1154(b) and its implementing regulation, 38 C.F.R. § 3.304(d) (2023), apply. These provisions ease the evidentiary burden on combat veterans because VA must accept as sufficient proof of service connection satisfactory lay or other evidence of service incurrence, if the lay or other evidence is consistent with the circumstances, conditions, or hardships of such service.

H.R. 1753 would provide these veterans with the appropriate combat presumptions already articulated in statute, regulation, and caselaw.

H.R. 5890: Review Every Veterans Claim Act of 2023

The Review Every Veterans Claim Act would limit VA's authority to deny a veteran's claim solely based on the veteran's failure to appear for a medical examination associated with the claim.

Thousands of veterans' claims are denied only because the veteran missed a VA examination. In our experience, many of these scheduled examinations are unnecessary to adjudicate the claims. Yet, 38 U.S.C. § 5103A(d)(2) currently says that "[t]he Secretary shall treat an examination or opinion as being necessary to make a decision on a claim for purposes..." This requirement often results in VA regional offices and the Board denying veterans' claims if they did not attend the requested examination, even if the comprehensive record before the VA contains other evidence, including service and private examination reports, supportive of the claim.

The Review Every Veterans Claim Act would strike that language from the statute and replace it with "provide for a medical examination or obtain a medical opinion." Additionally, this legislation would add a new paragraph to the statute: "If a veteran fails to appear for a medical examination provided by the Secretary in conjunction with a claim for a benefit under a law administered by the Secretary, the Secretary may not deny such claim on the sole basis that such veteran failed to appear for such medical examination."

These changes would be enormously helpful to veterans seeking VA benefits. Many claimants have already submitted reams of medical evidence, testimony, service records, etc. It serves no purpose for VA to deny claims simply because of a

missed VA examination, especially when the evidence is otherwise sufficient to grant a claim.

HR 5938: Veterans Exam Expansion Act of 2023

The Veterans Exam Expansion Act would positively impact VA contract examinations for veterans' disability claims. It would expand the license portability for psychologists, podiatrists, dentists, and optometrists as well as extend the authority from three years to five years—now expiring in January 2026.

This will give veterans greater access to expert evidence substantiating their claims. This is particularly important under the Veterans Appeals Improvement and Modernization Act of 2017 (AMA) because the role of examinations and examiners is heightened due to the need for new and relevant evidence to begin the claims process or continue an option of review in the appeals process. Moreover, the supplemental claim lane has become the most popular selection for veterans seeking benefits due to a host of reasons, including the dramatic delays for appeals adjudication at the Board of Veterans' Appeals. The PACT Act has also expanded the need for Toxic Exposure Risk Activity examinations. The more professionals VA has on board to serve our veterans, the more streamlined claims processing can be.

H.R. 5891: Veteran Appeals Decision Clarity Act

Under the AMA, claimants submit their notices of disagreement directly to the Board, rather than to the regional office. *See* 38 C.F.R. § 20.203(a) (2023). This is a change from the Legacy system. *See* 38 C.F.R. § 20.300 (2018). A recent case before the Court of Appeals for Veterans Claims, *Kernz v. McDonough*, demonstrates that the Board managed this change by having “administrative professional[s]”—not Board members—review and determine the timeliness of NODs. Vet.App. No. 20–2365, *Secretary's Response to Request for Class Certification and Class Action*, Exhibit J p. 2 (filed 5/17/21). If the administrative professional determined that the NOD was untimely, VA sent a letter signed by the Vice Chairman notifying the claimant that the appeal would not be docketed. *Id.*

Unfortunately, however, the administrative professionals' timeliness determinations were often wrong. The result is that the Board erroneously failed to docket the timely appeals of an estimated 2,000 claimants. Vet.App. No. 20–2365, *Request for Class Certification*, p. 5–6 (filed 2/5/21).

Mr. Kernz sought to remedy this by appealing the untimeliness notice he received from the Board to the Veterans Court and requesting the Court certify a class of similarly situated claimants. While Mr. Kernz's appeal was pending before the Veterans Court, the Board took corrective action in his case and docketed his appeal. However, though it was undisputed that other claimants were also wrongly denied their right to a decision by the Board, the Board refused to identify those claimants and take corrective action in those individual claims. According to the Board, it would be too burdensome to identify these claimants. Due to its inadequate mechanisms for tracking the notice letters, it would have to manually identify the claimants who received the letters. Therefore, instead of identifying the injured claimants, the Board published a notice on its website inviting claimants to contact the Board if they received notice and believed it was wrong.

In its decision earlier this month, the Court dismissed Mr. Kernz's appeal as moot because the Board had taken corrective action and docketed his individual appeal. *See Kernz*,—Vet.App.—, 2023 WL 6459373, *7–9 (Oct. 4, 2023). And it refused to certify the class, citing the mootness of Mr. Kernz's appeal. *Id.* at *12–13. So, the many claimants who were adversely affected by the Board's plainly erroneous actions remain without a remedy, short of identifying the error by themselves and asking the Board to docket their appeals.

This case demonstrates the necessity of passing this Act. It would ensure that Board members no longer delegate their responsibility to make decisions on *all* issues presented on appeal—including the timeliness of an NOD—to “administrative professionals.” Claimants would be entitled to a “written determination of the Board whether the notice of disagreement was adequate and timely filed under section 7105 of [Title 38].” While this imposes an additional responsibility on the Board, it will result in a more complete decision from that body. This will place claimants in a better position to understand the decision and the rights it confers on them.

H.R. 5559: Protecting Veterans Claim Options Act

This Act contains a vital change regarding remanded cases from the Veterans Court in 38 U.S.C. § 7113 proposed subsection (d). It would require the evidentiary record before the Board to “include evidence submitted by the appellant and his or

her representative, if any, within 90 days following such remand, which the Board shall consider in the first instance.”

This change is important because in the AMA, veterans are currently sent back to the lane from which they originally appealed, without the ability to supplement the record. This is harmful because veterans have already waited years to have their day in Court. Without the ability to supplement the record after a Court remand, the claimant will be forced to wait until after a decision from the Board to provide favorable evidence that may have changed the outcome of the Board’s decision. Moreover, the benefit that claimants were supposed to receive in exchange for losing the Board’s assistance in developing evidence was a significantly lower Board remand rate. Yet, VA’s own metrics document that the Board’s remand rate in AMA is close to 40 percent, which remains much higher than anticipated. Allowing for post-Court remand evidence to be submitted in support of a claimant’s Board appeal should serve to reduce the AMA remand rate. This is especially critical because Board remands in AMA further harm veterans, who are forced to file new appeals to the Board if those remands are denied by the regional office. When veterans file appeals again to the Board, they no longer retain their docket numbers before the Board, but are assigned new docket numbers. This means their appeals go to the back of the line for adjudication. So, the veterans fighting the longest are put in the position of waiting the longest, too.

In the spirit of the choice and control the AMA provides veterans, veterans should be able to have a Board member decide their appeals without having to start over. The Protecting Veterans Claim Options Act is a critical correction to ensure veterans are not harmed by the AMA.

Discussion Draft: Veteran Appeals Transparency Act

This Act contains an important provision for veterans and their advocates to increase understanding of where claims are in the Board of Veterans’ Appeals process. Requiring that “[o]n a weekly basis, for each docket, the Board shall publish the docket dates of the cases assigned to a Board member for a decision for that week” will allow for greater understanding and oversight of the Board’s progress in working its docket.

CCK spent months pursuing a writ of mandamus from the Veterans Court in *Gray v. McDonough*, 36 Vet.App. 117 (2023). While the petition ultimately became moot, it is telling that it took the Secretary’s counsel months—and several Court orders—to provide basic information about how it was adjudicating cases in compliance with the laws governing docket order. Should this Act become law, it will help Congress hold the Board accountable and allow for veterans and advocates to have much needed information concerning where cases are in the appeals process.

H.R. 4016: Veteran Fraud Reimbursement Act

The proposed amendments to 38 U.S.C. § 6107 are important to making whole a veteran who has been abused by the fraudulent practices of a fiduciary. Veterans who require the assistance of a fiduciary to manage their funds are, by definition, vulnerable. Often, investigation into fraud is a slow process, which can delay the remedy required to make the victim of the harm whole. This Act prioritizes providing a remedy to the veteran over a determination of whether VA was at fault. These solution-focused revisions are an important step in making defrauded veterans whole. Unfortunately, fraud perpetrated against veterans is prevalent especially as it relates to acquisition of benefits. We support measures aimed at reducing and eliminating fraud perpetrated against veterans and their families in the veterans benefits arena, especially those directed toward actors illegally charging fees or misusing funds belonging to veterans.

H.R. 4190: Restoring Benefits to Defrauded Veterans Act

This Act recognizes the harm claimants experience at the hands of fraudulent actors and provides additional recourse than currently exists to make them whole. The addition of proposed section (c), to reissue amounts when the beneficiary has pre-deceased resolution, is an important step in redirecting those funds appropriately.

CONCLUSION

Thank you again for allowing us to present our views on this important legislation. If you have questions or would like to request additional information, please feel free to contact:

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STATEMENTS FOR THE RECORD

Prepared Statement of American Veterans (AMVETS)

Chairman Luttrell, Ranking Member Pappas, and Members of the House Committee on Veterans Affairs, Subcommittee on Disability Assistance and Memorial Affairs, AMVETS appreciates the opportunity to present you with our views on proposed legislation in the House.

As the largest veteran service organization open to all who have honorably served, we are dedicated to pursuing those issues that stand to improve the quality of life for our nation's servicemembers, veterans, and their survivors. AMVETS works tirelessly to address these important concerns, and we are proud to provide our input on the legislation included in today's legislative hearing. We thank the Subcommittee for their consideration.

Regarding Surviving Spouses

AMVETS is a service organization dedicated to veterans, servicemembers, and their families. As such, we as an organization unequivocally stand behind our surviving spouses who have lost their partners in the line of duty or due to service-connected conditions. We pursue numerous efforts on their behalf in full recognition of their immense and irreplaceable sacrifices.

AMVETS supports H.R. 3790 – Justice for ALS Veterans Act of 2023. AMVETS recognizes the need to extend increased dependency and indemnity compensation (DIC) compensation to those whose spouses died due to amyotrophic lateral sclerosis. Regardless of how long a veteran or servicemember suffered from this ailment, this service-connected disability must be included among other recognized conditions eligible for DIC payments upon their passing.

Regarding Disability Exam Expansion

AMVETS supports the Veteran Exam Expansion Act of 2023. AMVETS has heard from its membership and other trusted partners that there is a significant wait time for active duty servicemembers to receive compensation and pension exams to determine service-connected disabilities. Reducing these wait times and helping veterans complete their disability exams would allow new veterans to get their disability determinations, access to medical care, and compensation faster. Our nation's veterans deserve speedy, efficient processes to provide them with the benefits they earned.

Regarding Issues of Fraud

AMVETS remains concerned about the increasing number of fraud cases related to veterans' benefits, claims, fiduciaries, and other relevant circumstances. As such, AMVETS has made numerous strides to educate and alert veterans to potential scams and fraudulent activity by immoral actors. Protecting our veterans and their earned benefits continues to be a top priority of our organization.

AMVETS supports H.R. 4016 – Veteran Fraud Reimbursement Act. AMVETS believes that in cases involving a fiduciary misusing a veteran's benefits and related compensation, the VA must pay the beneficiary or the beneficiary's successor fiduciary the same amount that was misused. The VA must also investigate any misuse of funds by fiduciaries, holding them accountable for their actions and combating negligence within the Department of Veterans Affairs.

AMVETS supports H.R. 4190 – Restoring Benefits to Defrauded Veterans Act. AMVETS supports the repayment of certain benefits to the estates of deceased beneficiaries whose benefits were misused by fiduciaries. Our organization believes that inheritors and successor fiduciaries are entitled to these benefits.

Regarding Presumptive Conditions

AMVETS played a major role in the passage of the PACT Act last year, a monumental law that compensates veterans impacted by service-connected toxic exposure. Similar to this effort, AMVETS continues to support the recognition of further conditions that impact servicemembers, both presumptive to their service and following their service experiences.

H.R. 4306 – Michael Lecik Military Firefighters Protection Act. AMVETS supports this bill that would establish presumptions of service connection for diseases associated with firefighting. Such conditions included in this bill severely impact the quality of life for these veterans and should be acknowledged as service-connected.

Regarding Transparency in VA Claims, Appeals, and Other Processes

AMVETS supports H.R. 5559, the Protecting Veterans Claim Options Act, Chairman Luttrell's Review Every Veterans Claim Act, Chairman Luttrell's Veteran Appeals Decision Clarity Act, and Representative Self's Veteran Appeals Transparency Act. These bills work toward more transparent processes within the Department of Veterans Affairs, boosting accountability and accessibility for all of our nation's veterans. AMVETS believes that each veteran's claim must be granted the attention it deserves, and any further VA action with claims, appeals, or similar processes should be clearly communicated to impacted veterans.

Other Legislation

H.R. 1753 – Jax Act. This bill seeks to properly credit members of the military who served in female cultural support teams. AMVETS supports the recognition of these servicemembers given their exceptional service to the United States.

Conclusion

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee, I would like to thank you once again for the opportunity to provide commentary on these issues that impact AMVETS' membership, active duty service members, American veterans, and their surviving family members. As Congress continues its oversight of the Department of Veterans Affairs and works with the VA to address these concerns, it will be imperative to remember that this legislation will help improve the lives of millions of individuals who have dedicated their lives to defending our country. AMVETS looks forward to continuing to contribute to this conversation and keeping the interest of our veterans and the military-connected community at the forefront of national discourse. Thank you.

Executive Director Joseph Chenelly

Joseph R. Chenelly was appointed national executive director of the nation's fourth-largest veterans service organization in May 2016. In this capacity, he administers the policies of AMVETS, supervises its national headquarters operations, and provides direction, as needed, to state and local components. Joe previously served as AMVETS' national communications director.

Joe Chenelly is the first veteran of combat operations in Afghanistan and Iraq to lead one of the nation's four largest veterans service organizations' staffs. A native of Rochester, N.Y., Joe enlisted in the U.S. Marine Corps in 1998, serving with the 1st Marine Division, and was honorably discharged as a Staff Sergeant in April 2006. He is a combat veteran of Operation Enduring Freedom and Operation Iraqi Freedom, having served in Afghanistan, Pakistan, Iraq, Kuwait, East Timor, and the Horn of Africa.

Joe became a veterans' advocate, a journalist, and a political adviser after his time in uniform. He covered military and veterans matters on staff with Leatherneck magazine, the Military Times newspapers, USA TODAY, and Gannet News, reporting on operations in the Middle East, Southwest Asia, and Africa, as well as disaster relief in the United States. Joe was named one of the 100 "most influential journalists covering armed violence" by Action on Armed Violence in 2013. He was the first U.S. Marine combat correspondent to step into enemy territory after September 11, 2001, as a military reporter in Pakistan and Afghanistan. He also reported from the front lines with American and Allied forces in Kuwait and Iraq as that war began. He was on the ground for the start of both Operation Enduring Freedom and Operation Iraqi Freedom.

Joe served as AMVETS' national communications director in 2005 and for the past eight years as assistant national director for communications for the Disabled

American Veterans (DAV) in Washington, D.C. leading grassroots efforts through social networking and new media.

He has also served as president of Social Communications, LLC, and as a public affairs officer director for the Department of Navy. Joe is an alumnus of Syracuse University and Central Texas College. He resides in Fairport, N.Y., with his wife Dawn, a service-connected disabled Air Force veteran, and their five children.

ABOUT AMVETS

Today, AMVETS is America's most inclusive congressionally chartered veterans service organization. Our membership is open to both active duty, reservists, guardsmen, and honorably discharged veterans. Accordingly, the men and women of AMVETS have contributed to the defense of our nation in every conflict since World War II.

Our commitment to these men and women can also be traced to the aftermath of the last World War, when waves of former service members began returning stateside in search of the health, education, and employment benefits they earned. Because obtaining these benefits proved difficult for many, veterans savvy at navigating the government bureaucracy began forming local groups to help their peers. As the ranks of our Nation's veterans swelled into the millions, it became clear a national organization would be needed. Groups established to serve the veterans of previous wars wouldn't do either; the leaders of this new generation wanted an organization of their own.

With that in mind, 18 delegates, representing nine veterans' clubs, gathered in Kansas City, Missouri, and founded The American Veterans of World War II on Dec. 10, 1944. Less than three years later, on July 23, 1947, President Harry S. Truman signed Public Law 216, making AMVETS, the first post-World War II organization to be chartered by Congress.

Since then, our congressional charter has been amended to admit members from subsequent eras of service. Our organization has also changed over the years, evolving to better serve these more recent generations of veterans and their families. In furtherance of this goal, AMVETS maintains partnerships with other Congressionally chartered veterans' service organizations that round out what's called the "Big Six" coalition. We're also working with newer groups, including Iraq and Afghanistan Veterans of America and The Independence Fund. Moreover, AMVETS recently teamed up with the VA's Office of Suicide Prevention and Mental Health to help stem the epidemic of veterans' suicide. As our organization looks to the future, we do so hand in hand with those who share our commitment to serving the defenders of this Nation. We hope the 116th Session of Congress will join in our conviction by casting votes and making policy decisions that protect our veterans.

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—None
 Fiscal Year 2022—None
 Fiscal Year 2021—None
 Fiscal Year 2020—None
 Fiscal Year 2019—None
 Fiscal Year 2018—None
 Fiscal Year 2017—None
 Fiscal Year 2016—None
 Disclosure of Foreign Payments—None

Prepared Statement of National Organization of Veterans' Advocates, INC. (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 pending legislation.

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents nearly 850 accredited attorneys, agents, and qualified members assisting tens of thousands of our nation's military veterans, families, survivors, and caregivers 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.

NOVA members represent veterans before all levels of VA's disability claims process, and handle appeals before the U.S. Court of Appeals for Veterans Claims (CAVC), U.S. Court of Appeals for the Federal Circuit, and the Supreme Court of the United States. As an organization, NOVA advances important cases and files amicus briefs in others. *See, e.g., Henderson v. Shinseki*, 562 U.S. 428 (2011) (amicus); *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); *Buffington v. McDonough*, No. 21-972 (February 7, 2022) (amicus in support of petition for writ of certiorari before U.S. Supreme Court); *Van Dermark v. McDonough*, No. 23-178 (September 25, 2023) (amicus in support of petition for writ of certiorari before U.S. Supreme Court). In 2000, the CAVC recognized NOVA's work on behalf of veterans with the Hart T. Mankin Distinguished Service Award.

NOVA also advocates for laws to improve the VA disability claims and appeals process. NOVA participated in the stakeholder meetings that resulted in the development and passage of the Veterans Appeals Improvement and Modernization Act of 2017, Pub. L. 115-55, 131 Stat. 1105 (August 23, 2017) (AMA). As VA has implemented the new system over the last several years, NOVA has provided extensive training to our members on the statute, regulations, and practice under the AMA. We have also gathered information from our members across the country on their experiences advocating for clients in the new system. As such, we have a unique view of the strengths and weaknesses of this legislation. Our statement, therefore, will focus on the bills that impact the adjudication of claims and appeals: (1) H.R. 5559: Protecting Veterans Claim Options Act; (2) H.R. 5891: Veterans Appeals Decision Clarity Act; (3) H.R. 5870: Veterans Appeals Transparency Act of 2023; and (4) H.R. 5890: Review Every Veterans Claim Act of 2023.

H.R. 5559: Protecting Veterans Claims Options Act

The first major provision of this bill would amend 38 U.S.C. § 5108 by eliminating the requirement to submit new and relevant evidence with supplemental claims filed within one year of the original decision. The "new and relevant" standard was adopted in the AMA to replace the "new and material" standard required for reopening previously denied claims in the legacy system. The statute makes clear that the "new and relevant" standard is not intended to be a higher standard than the former "new and material" standard. *See* 38 U.S.C. § 5108 note (the new and relevant standard "shall not be construed to impose a higher evidentiary standard than the new and material evidence standard"). NOVA members report, however, that VA frequently rejects supplemental claims due to a purported lack of "new and relevant" evidence. By easing the standard, Congress recognizes the importance of the nonadversarial process before the agency. This amendment also more closely reflects the feedback of stakeholders during discussions of the original legislation, who generally advocated that the threshold requirement should be solely "new" evidence. NOVA supports this amendment.

The second major provision of this bill would amend 38 U.S.C. § 7113 by adding a new subsection (d). This amendment is important to all appellants whose cases are returned to the Board of Veterans' Appeals (Board) after a remand from the CAVC. First, the amendment clearly provides for an appellant to submit additional evidence to the Board for consideration and requires the Board to allow a full 90-day period for such submission. Currently, appellants are sent back to the lane from which they originated. If an appeal was previously adjudicated through the direct review lane, for example, the appeal would be returned to that lane with no opportunity to add additional evidence. Such a restriction may rob the appellant of the benefit of the remand negotiated by the parties or ordered by the CAVC in a decision. It also promotes inefficiency in the system.

But most importantly, by adopting this amendment, an appellant could have the appeal resolved more expeditiously and be spared a return to the agency to endure another multi-year wait if they are not granted the benefit at the agency level. An appellant in the AMA system does not retain their Board docket date when sent back to the agency, so this amendment could be a lifeline for veterans, families, sur-

vivors, and caregivers who have already waited years for VA and the Board to adjudicate their appeals. Not only is this amendment more veteran friendly, it promotes efficiency throughout the disability claims and appeals system. NOVA supports this amendment.

NOVA requests that this provision be expanded to allow an appellant to choose to return to the hearing lane if desired.

H.R. 5981: Veterans Appeals Decision Clarity Act

NOVA supports the Veterans Appeals Decision Clarity Act. Under the proposed amendment to 38 U.S.C. § 7104, when the Board declines to consider evidence because it was not received during a period permitted under § 7113, it would be required to “identify[] the time when such evidence was received and provision of section 7113 of this title that establishes that such evidence may not be received at such time.” This language codifies the CAVC’s intent as expressed in *Cook v. McDonough*, 36 Vet.App. 175 (2023). In that case, the Court stated that “[f]or a claimant to make an informed decision on whether and how to have VA consider any evidence not considered by the Board, the Board must accurately inform the claimant whether it did not consider evidence because it was received during a time not permitted by section 7113, and what options may be available for having VA consider that evidence.” *Id.* at 189. Codifying this clarification will reduce confusion and provide important information to an appellant so they can return to the supplemental claim lane if they choose, have the evidence considered, and preserve the earliest possible effective date.

This amendment not only furthers the nonadversarial system intended by Congress, it also promotes agency efficiency. When appellants clearly understand what evidence has or has not been considered, it reduces the need for repetitive claims and appeals and helps to alleviate ongoing churn.

In addition, requiring the Board to provide “a written determination of . . . whether the notice of disagreement was adequate and filed timely under section 7105 of this title” provides a definitive legal finding made by a Veterans Law Judge and not by a VA administrative employee. It is critical that this basic jurisdictional question be answered by the decision-maker to ensure there is no confusion about the appellant’s ability to challenge such an important decision.

H.R. 5870: Veterans Appeals Transparency Act of 2023

NOVA does not support the Veterans Appeals Transparency Act as written. This bill amends 38 U.S.C. § 5104C, which governs options following a decision by the agency of original jurisdiction. NOVA is concerned about the language added at (B)(ii), which requires the claimant to take the selected action “in response to, and not later than one year after, the date of the **most recent decision** on the claim made by the agency of original jurisdiction.”

As written, this language could codify the Secretary’s erroneous position in a case just decided by the CAVC and serve to undermine Congressional intent to provide more choice and control to veterans over the adjudicatory process. *Terry v. McDonough*, No. 20–7251 (October 19, 2023). VA denied Mr. Terry’s claim for sleep apnea and he opted into the AMA via the Rapid Appeals Modernization Program (RAMP) by choosing a higher-level review (HLR). VA again denied service connection for sleep apnea and, within the year of the original denial, the veteran filed a supplemental claim. VA denied the supplemental claim, finding the veteran did not submit new and relevant evidence required to readjudicate the claim. Still within a year of the original decision, the veteran filed a VA Form 10182 seeking Board review. The Board denied the appeal, finding the veteran could not appeal the HLR because it was not the “the most recent decision.” On that basis, the Board reviewed the supplemental claim, determined there was no new and relevant evidence submitted, and denied the appeal without ever reaching the merits of the veteran’s original claim. Not only was the veteran denied his right to one review on appeal of the claim as required under 38 U.S.C. § 7104(a), the Board misinterpreted § 5104C(a) by rejecting his appeal.

The Court agreed with Mr. Terry, holding that “5104C(a) plainly provides that a claimant may file more than one administrative review request within 1 year of an initial AOJ decision on a claim, provided that such an administrative review request is not pending concurrently with another administrative review request.” *Terry*, slip op. at 2.

Because this bill would limit a claimant’s options in the AMA, NOVA cannot support the amendments to the statute as written.

NOVA appreciates and endorses the Subcommittee’s plan to require more transparency from the Board. We suggest amending subsection (f) to state: “On a weekly

basis, for each docket, the Board shall publish the docketing dates of the cases that have been assigned to all Board members for decisions in the AMA system and legacy system and shall publish the docketing dates of all decisions issued by the Board in the AMA system and legacy system that week.” Currently, the only way for advocates to obtain this information is by filing a Freedom of Information Act (FOIA) request with the Board, which can be a timely and expensive endeavor. When advocates petition the CAVC to order the Board to issue a decision on an appeal that has been languishing, the Secretary routinely asserts that the Board must adjudicate all non-expedited appeals in docket order and asks the Court to dismiss the petition. Without any substantive information, the Court routinely grants the Secretary’s request to dismiss. Amending subsection (f) will promote transparency and provide veterans and advocates with useful information regarding the status of their appeals.

H.R. 5890: Review Every Veterans Claim Act of 2023

NOVA supports the Review Every Veterans Claim Act of 2023. This bill would amend current 38 U.S.C. § 5103A to provide that, “[i]f a veteran fails to appear for a medical examination provided by the Secretary in conjunction with a claim for a benefit under a law administered by the Secretary, the Secretary may not deny such claim on the sole basis that such veteran failed to appear for such medical examination.”

By eliminating denials based solely on the failure to appear for an examination, veterans will stop being unfairly penalized for situations often beyond their control. NOVA members frequently report instances where a veteran tries to communicate an inability to attend an examination for a host of reasons: conflict with work schedules, illness, family responsibilities, continuing concerns related to COVID-19, a lack of transportation, etc. Sometimes they are unable to reach someone to reschedule or that request is not honored. In other cases, the veteran never receives notice of the examination. Veterans who are homeless or at risk of homelessness are particularly vulnerable. Amending this provision reflects a veteran-friendly policy.

VA often schedules unnecessary examinations and reexaminations for veterans, which has been frequently reported by NOVA. *See, e.g.*, National Organization of Veterans’ Advocates, *Statement for the Record Before the House Committee on Veterans’ Affairs Subcommittee on Disability Assistance and Memorial Affairs Concerning “VA Disability Exams: Are Veterans Receiving Quality Services?”* (July 27, 2023); National Organization of Veterans’ Advocates, *Statement for the Record Before the Senate Veterans’ Affairs Committee Concerning Pending Legislation to Include Discussion Draft, S. __, No Bonuses for Bad Exams Act of 2022* (July 13, 2022); *see also* Department of Veterans Affairs, Office of Inspector General, *Veterans Benefits Administration: Veterans Are Still Being Required to Attend Unwarranted Medical Reexaminations for Disability Benefits* (March 16, 2023), <https://www.va.gov/oig/pubs/VAOIG-22-01503-65.pdf>. Unnecessary examinations are particularly troublesome considering the statutory requirement for VA to consider private medical evidence. *See* 38 U.S.C. § 5125 (“a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim”). By amending 38 U.S.C. § 5103A and prohibiting VA from denying a claim solely because of a missed examination, VA will be required to conduct a more fulsome review of the record to consider private evidence or ongoing VA treatment before ordering more examinations in a system that is already overloaded with requests.

NOVA urges the Subcommittee to clarify the change in the heading. The current bill would strike “COMPENSATION CLAIMS” and replace it with “CLAIMS FOR BENEFITS.” This change appears overly broad as VA “claims for benefits” encompass a broad range of services and awards that do not require an examination as a condition for a grant. By contrast, a heading such as “CLAIMS FOR VA DISABILITY BENEFITS” would be clearer and ensure that this prohibition against denials solely because of a missed examination would extend to all VA disability benefit claims and appeals.

Finally, we ask the Subcommittee to continue to engage stakeholders and consider other amendments to ensure the promise of the AMA is fulfilled. Specifically, NOVA members report continuing high level of remands from the Board, i.e., approximately 40 percent, often due to inadequate examinations and/or remands for additional development/examinations that often are unnecessary. Such a high level of remands was not intended in the AMA. In this new system, if an appeal is not

granted on remand, it no longer retains its original docket date and claimants are then forced to start all over at the end of the line if they want to appeal back to the Board. NOVA members report many direct review cases are waiting far in excess of the 365-day intended timeframe for a decision. (Delays exceeding three years are now common.) Given these long delays now approaching or surpassing the wait times experienced in the legacy system, a legislative solution should be considered.

CONCLUSION

Thank you again for allowing us to present our views on this important legislation. If you have questions or would like to request additional information, please feel free to contact:

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Prepared Statement of Paralyzed Veterans of America (PVA)

Chairman Luttrell, Ranking Member Pappas, and members of the Subcommittee, Paralyzed Veterans of America (PVA), would like to thank you for the opportunity to submit our views on pending legislation impacting the Department of Veterans Affairs (VA) that is before the Subcommittee. No group of veterans understand the full scope of benefits and care provided by VA better than PVA members—veterans who have incurred a spinal cord injury or disorder (SCI/D). Several of these bills will help to ensure veterans receive much needed aid and support. PVA provides comment on the following bills included in today's hearing.

H.R. 1753, the Jax Act

The Jax Act will ensure that women who served in cultural support teams assigned to the Commander of the United States Special Operations Command from January 1, 2010, through August 31, 2021, are recognized for their combat exposure in service while on active duty. While PVA supports the intent of this legislation, enhancements could be made to improve the bill's scope.

There are nearly two million women veterans in the U.S. According to the VA, nearly 55 percent of them served in the Gulf or Post-9/11 eras. As of December 2022, women made up more than 17 percent of the active-duty force and 21 percent of the National Guard and reserve component.

The repeal of the Direct Ground Combat Exclusion Rule for Female Soldiers by the Department of Defense (DOD) in 2013 authorized women to serve in all combat occupations. This information underscores that the scope of this legislation, which would impact 310 women, is far from adequate.

Women have served in combat and combat support roles since the Revolutionary War, a common statement often expressed by VA, DOD, and even Congress. To ignore that fact does a disservice to women veterans who have served this country through every major conflict we've faced as a Nation. The scope of H.R. 1753, as written, only covers women attached to Special Operations Command from 2010 through 2021, even though for the last years of that timeframe women were no longer exempt from combat. Women servicemembers were acting in the role of cultural support teams, female engagement teams, and the well-regarded Lioness Program well before 2010. To only offer recognition and support of such a small group of women does a disservice to women who have filled these roles and may also be facing difficulties when applying for VA benefits.

PVA strongly supports the bill's goal of removing systemic barriers for women who served in combat. We hope to see additional legislation targeted toward other groups of women veterans in similar situations. Service connection is granted for illness or injury incurred during service, regardless of combat deployments. If women veterans are facing challenges in accessing VA benefits and experiencing persistent denials of their claims, VA needs to address this in a meaningful way.

H.R. 3790, the Justice for ALS Veterans Act of 2023

Currently, if a veteran was rated totally disabled for a continuous period of at least eight years immediately preceding death, their eligible survivors can receive

an additional \$331.84 per month in Dependency and Indemnity Compensation (DIC). This monetary installment is commonly referred to as the DIC “kicker.”

Amyotrophic Lateral Sclerosis (ALS) is an aggressive disease that quickly leaves veterans incapacitated and reliant on family members and caregivers. Many spouses stop working to provide care for their loved one who, once diagnosed, only has an average lifespan of between three to five years. Because so few veterans survive beyond five years, the surviving spouses of veterans with ALS rarely qualify for the additional DIC benefit. Jann Vasiloff, the surviving spouse of PVA member George Vasiloff, was disqualified for this exact reason. Determined not to let this happen to other spouses, Ms. Vasiloff helped PVA craft the Justice for ALS Veterans Act to make the surviving spouses of future veterans with ALS eligible for the DIC kicker, regardless of how long the veteran had the disease.

Members of this Subcommittee were supportive of this legislation when it was reviewed in October 2021, but some suggested that there may be other service-connected conditions that deserve similar consideration. The VA recognizes ALS as a presumptive service-connected disease, and due to its progressive nature, automatically rates any diagnosed veteran at 100 percent once service connected. Although we are unaware of other service-connected conditions that have a 100 percent mortality rate, like ALS, we are pleased this version of the bill incorporates PVA’s recommended language directing the VA to study the matter and provide their findings to Congress. With the addition of this language, Congress should not further delay passage of this critical language.

H.R. 4016, the Veteran Fraud Reimbursement Act

In a July 21, 2021, report,¹ the VA Office of the Inspector General (OIG) highlighted the significant wait times defrauded veterans in the VA fiduciary program face due to the universal negligence determination requirement. Some veterans even died before seeing their reimbursements. The purpose of the VA Fiduciary Program is to protect beneficiaries who are unable to manage their VA benefits because of injury, disease, advanced age, or if they are under age 18. Studies show veterans are particularly vulnerable to scams, including those perpetrated by someone entrusted with their care.

Too often, we hear about VA-appointed fiduciaries failing to honor the trust given them and illegally misusing veterans’ funds for their own personal gain. Unfortunately, not all veterans who have VA-appointed fiduciaries are treated equally under federal law. If a fiduciary misuses a veteran’s benefits, the VA will remove the fiduciary, but it can only re-issue stolen benefits to the veteran if the fiduciary manages benefits for ten or more veterans. According to VA, however, 80 percent of beneficiaries have a one-on-one relationship with their fiduciary. The “10 or more” requirement leaves thousands of veterans unable to recoup benefits lost through no fault of their own. PVA supports H.R. 4016, which makes it easier for veterans with disabilities to be made financially whole by the Veterans Benefits Administration (VBA) in the event they are defrauded of their benefits.

H.R. 4190, the Restoring Benefits to Defrauded Veterans Act

Under current law, if a defrauded veteran passes away before their case with the VA is resolved, the veteran’s family cannot seek reimbursement for the defrauded funds. PVA supports this bill, which directs VA to reissue misused benefits to the veteran’s estate, successor, or next inheritor. The Subcommittee should, however, consider adjusting the text of the bill so it prevents any family members involved in the fraudulent activity from benefiting from funds restored to the veteran’s estate.

H.R. 5559, the Protecting Veterans Claim Options Act

PVA supports the Protecting Veterans Claims Options Act, which clarifies that veterans have one year to submit a supplemental claim. Also, if new and relevant evidence is included, all evidence of record would be considered. Occasionally, we see problems with the way VA interprets legislation that is directive in nature and we trust that the Subcommittee will work with VA to ensure that the bill’s requirements are sufficiently clear to ensure that the Department will properly implement Congress’s intent.

H.R. 5870, the Veteran Appeals Transparency Act of 2023

PVA supports efforts like this bill to increase transparency of the Board of Veterans’ Appeals and the appeals process. Some of the information required in the leg-

¹VBA’s Fiduciary Program Needs to Improve the Timeliness of Determinations and Reimbursements of Misused Funds (va.gov)

islation is already published. Thus, we encourage the Subcommittee to work with the Board to limit duplicative work that could also prove to be confusing for veterans.

H.R. 5890, the Review Every Veterans Claim Act of 2023

PVA strongly supports this legislation, which seeks to limit the VA's authority to deny a veteran's claim solely based on the veteran's failure to appear for a medical examination associated with the claim. Thousands of veterans' claims for service connection, claims for increase, and for other benefits like Total Disability Individual Unemployability and Aid and Attendance have been denied solely on the basis of missing an examination. There are many legitimate reasons why a veteran may not be able to attend a scheduled exam. We are also aware of numerous instances where VA contractors erroneously record the veteran as a "no show." Passage of this legislation will ensure that a missed exam isn't the only basis for denying a veteran's claim.

Discussion Draft, the Veteran Appeals Decision Clarity Act

PVA was honored to play a role in creating the new appeals system, along with some of the perfecting changes to the Appeals Modernization Act passed by Congress in recent years. We strongly support this legislation, which is consistent with prior U.S. Government Accountability Office recommendations. It restates what information the Board should provide veterans regarding the denial of an appeal, which is critical to ensuring that they are able to further pursue their claims, as needed.

PVA would once again like to thank the Subcommittee for the opportunity to submit our views on some of the bills being considered today. We look forward to working with you on this legislation and would be happy to take any questions for the record.

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.

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)

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee: Thank you for inviting QTC – a Leidos Company – to submit a statement for the Subcommittee's legislative hearing. Since our company's founding in 1981, we have focused on delivering high Quality, Timely, and Customer-focused examinations. Today, we are the leading provider of medical, disability and occupational health examinations. We are especially proud of our partnership with the Department of Veterans Affairs to serve those who have given much to our country. Claims development is the longest step of the claims process, with evidence gathering that includes examinations if the existing evidence is lacking. We provide veterans with critical

access points to compensation and pension disability examinations through our 90 medical clinics, 19,000 subcontract providers, and 12 mobile medical clinics. QTC is pleased to offer our views on the bills under consideration by the Subcommittee, focusing on those bills that would impact disability examinations.

H.R. 5938, Veterans Exam Expansion Act of 2023

QTC supports H.R. 5938 and urges swift enactment of the bill with our recommended enhancements.

With the enactment of the *Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022* (PACT Act), millions of Veterans with toxic exposures will receive expanded healthcare and compensation benefits from the Department of Veterans Affairs (VA). This landmark legislation established 24 presumptive conditions and is expected to lead to an influx of disability claims numbering in the millions. To process these claims, VA relies on contract primary care physicians, and specialty care physicians, to conduct medical disability examinations (MDEs) for Veterans. However, there is a national shortage of these medical providers who can conduct these exams.

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. This issue is especially acute among behavioral and mental health professionals. Today, more than 150 million people live in federally designated mental health professional shortage areas. According to the American Psychiatric Association, the country will be short between 14,280 and 31,109 psychiatrists, psychologists, and social workers within a few years. Moreover, demand for services is growing, exacerbated by the pandemic and a dwindling supply of professionals as they retire at a rate that outpaces new people entering the field. The shortage of behavioral health professionals is particularly acute in rural areas where many Veterans live.

In March 2013, VA’s disability claims backlog peaked at 611,000 claims, and most Veterans waited more than 125 days to receive their disability benefits. To support VA’s plan to reduce the claims backlog and relieve healthcare providers of the burden of conducting MDEs, Congress passed P.L. 113–235, which expanded contract examination coverage to VA Regional Offices (VAROs). This law enabled VA clinicians to focus on healthcare while contract examiners performed MDEs for disability claims, enabling the VA to achieve a functional zero in the claims backlog by the end of 2015.

QTC used license portability to conduct 35,033 exams with 280 providers in 2021 and increased the number of exams using license portability to 42,581 in 2022. License portability also enabled QTC to provide services to vulnerable Veterans who are hard to reach. Rural hospitals, which treat roughly one in five Americans, are struggling to stay open. Over 180 rural hospitals have closed since 2005, and another 500 are at immediate risk of closing. Nearly 3 million Veterans in rural communities rely on VA for healthcare services. QTC’s rural capacity has increased by more than 50 percent since Congress authorized licensed clinicians to practice across state lines.

Not all Veterans are able to make their way to a clinic for an in-person examination with physicians and other healthcare providers—and it’s not always the best solution. To provide high-quality medical evaluations for Veterans who are homebound, have limited mobility, or are living in rural communities or areas with limited medical infrastructure, QTC now brings examination services to their doorstep. The company’s 12 mobile medical clinics are state-of-the-art, RV-sized doctor’s offices on wheels.

The 12 mobile clinics traverse the entire continental United States to provide Veterans with all examination services that they would find in a permanent clinic. Available services include radiology, audiology, general medicine, vision services, and mental health exams. Staffed by licensed medical providers, these mobile clinics help reduce wait times from roughly 100 days to close to 2 weeks in many underserved communities, such as Veterans on tribal reservations. QTC completed 24,000 remote exams for Veterans in 2021 and more than 14,000 exams from January through June 2022. H.R. 5938 will enable QTC to expand medical disability exam services to underserved communities.

QTC recommends that the committee amend the legislation to provide VA with the flexibility to leverage the license portability authority for additional provider types, when needed, for providers completing disability examinations on behalf of VA. One way to do so is by granting contract medical disability examiners with the

same license portability authorities that Veterans Health Administration employees already have under 38 USC 7402. In addition, QTC recommends that the license portability authority be extended to at least September 2028 to cover the duration of the current MDE contracts. This would allow the Department to be nimble and swiftly respond to the problem of providers not being available where veterans live.

In 2016, Congress passed Veterans' Health Care and Benefits Improvement Act of 2016, which granted contract MDE providers license portability to ensure that the claims backlog stayed at functional zero. License portability, which authorizes a provider's license to cross state lines, is an effective solution to address the provider shortage in parts of the country where demand outpaces supply. In 2020, Congress expanded license portability to PAs, NPs, audiologists, and psychologists (38 USC 2002). We would like to thank Congress for passing S. 2795 last month, which extended license portability authority for PAs, NPs, audiologists, and psychologists. Additionally, we would like to thank the House of Representatives for passing license portability to the Department of Defense's Military & Family Life Counselors this year.

With the enactment of the PACT Act, Congress provided the legal authority to expand disability benefits. However, Veterans will likely encounter extended wait times if Congress does not concurrently legislate full license portability authority to enable all types of MDE providers to deliver timely, high-quality exams.

H.R. 4306, Michael Lecik Military Firefighters Protection Act

QTC supports H.R. 4306, as introduced

H.R. 4306 would establish a presumption of service connection for a list of diseases that are associated with firefighting. QTC supported the initial effort to baseline medical exams for first responders to the NYC World Trade Center (QTC) site after the September 11th terrorist attacks. We supported the Mount Sinai School of Medicine and the Federal Occupational Health team during 2007–2008. Under these contracts, we provided First Responders with the clinical evaluation needed for their own health and to monitor the effects of the exposures. The information gathered from these exams not only provided early detection of potential WTC-related health problems and enabled individuals to receive proper care and treatment. QTC stands by, ready to help if H.R. 4306 becomes law.

H.R. 5890, Review Every Veterans Claim Act of 2023

QTC supports the intent of H.R. 5890.

H.R. 5890 would limit VA's denial of disability claims on the sole basis that the veteran failed to appear for a medical examination that is associated with the claimed condition. 38 U.S.C. 5103A governs VA's duty to assist claimants. The Department's obligation to help veterans develop their claims includes ordering examinations if the evidence is lacking and believes that examinations will be helpful in resolving the claim.

QTC's scheduling process exemplifies the pro-claimant nature of the VA's duty to assist requirements by making multiple outreach attempts via phone calls, text messages, emails, and tracked mail packets. Contractually, we have 36 calendar days to schedule, conduct exams, and deliver the complete exam results back to VA. To meet this requirement, we will call the Veteran up to three times to schedule an appointment. If an appointment is not scheduled after the third attempt, then we send the Veteran a letter asking them to call us to schedule an appointment. If we don't receive a response from the Veteran within 3 calendar days, then we will schedule an appointment proactively and send them an appointment letter. If the Veteran does not show, then we send the exam request back to VA. We always call the Veterans to remind them of their appointment a day or two in advance. With these attempts, we have maintained a low no-show rate of 5–7 percent, which is far lower than the VHA's average (~ 18 percent for outpatient care) and the national average (23 percent across all medical specialties and a range of 10 percent for primary care and over 60 percent for mental health).¹

¹Milicevic, Aleksandra, Mitsantisuk, Kannop, Tjader, Andrew and et al. (2020) Modeling Patient No-Show History and Predicting Future Appointment Behavior at the Veterans Administration's Outpatient Mental Health Clinics. *Military Medicine*, Vol.185, Issue 7-8, pages e099-e004. <https://doi.org/10.1093/milmed/usaa095>

Prepared Statement of Special Operations Association of America (SOAA)



Special Operations Association of America

October 20, 2023

Statement for the Record
House Committee on Veterans Affairs
ibsum

House Committee on Veterans Affairs
364 Cannon Office Building
Washington, D.C., 20515



The Special Operations Association of America (SOAA) is a 501c19 Veteran Service Organization (VSO) located in Washington, D.C. that advocates for Special Operations Forces (SOF) and their families; commissions research on issues that affect SOF members; and, cultivates an engaged community of Active Duty and Veteran SOF and their families.

SOAA's mission is to provide sustained advocacy, research, education initiatives, and community building to ensure the success of the SOF community and their families.

Executive Director, David Cook

Mr. Cook is the Executive Director of the Special Operations Association of America (SOAA), which is a Veterans Service Organization (VSO) dedicated to legislation and policy advocacy on behalf of all men and women in the Special Operations community and their families. SOAA's mission is to be *"a voice for all members of the Special Operations community,"* on and off Capitol Hill, in order to ensure mission success and support for those that bear the greater burden.

In his role at SOAA, Mr. Cook frequently engages leaders of US Allies, the U.S. Congress, the White House, US Departments of Defense and Veterans Affairs, and other key stakeholders in the USSOCOM and Intelligence community on behalf of the SOF community.

Mr. Cook is a subject matter expert on Special Operations, national security, sensitive activities, military transition, preservation of the force and family, suicide prevention, military and veteran healthcare, and military and veteran postsecondary benefits.

Mr. Cook is a currently serving Psychological Operations soldier in the US Army Reserve, and proud recipient of multiple military awards and decorations.

Prior to serving with SOAA, Mr. Cook served for a decade on active duty in the US Army in both conventional and special operations units where he led small teams in combat zones and Embassy environments. Most recently, Mr. Cook served as a professional staff member for Congressman Darrell Issa focused on Foreign Affairs, emerging technology, and national security. Mr. Cook currently consults for all Department of Defense (DOD) service components in artificial intelligence and open source intelligence.

Dear Chairman Bost and Ranking Member Takano,

H.R. 1753, The "Jax" Act.

On behalf of our members of the Special Operations community and their families, we thank you for this opportunity to provide a statement for the record regarding the pending, bipartisan legislation HR 1753, The "Jax" Act.

The Global War on Terror made heavy use of Special Operations Forces (SOF) in combatting terrorist groups. However, SOF units predominantly operated in the Middle East & North Africa region where there is great sensitivity towards men speaking with women. Their inability to communicate with the female half of the population soon presented an enormous intelligence and trust-building gap.



Recognizing this gap, in 2009, Joint Special Operations Task Force-Afghanistan called upon U.S. Central Command (USCENTCOM) and International Security Assistance Force (ISAF) to implement women servicemembers into Special Operations Forces. This was despite current Department of Defense policy that prohibited women servicemembers from participating in combat roles, which policy was only reversed four years later in 2013. It took less than a year before U.S. Special Operations Command (USSOCOM) directed Tasking Orders for the Cultural Support Team (CST) Program to U.S. Army Special Operations Command (USASOC). The CST Program then transitioned to recruiting from the total-force under Joint Special Operations Command (JSOC).

Graduates of the CST Selection and veterans of the CST Program were issued the Skill Identifier D5K or R2J from USASOC or JSOC, respectively, though CST veterans did not receive any further indication of being a SOF combat veteran on their DD Form 214, nor any Additional Skill Identifier (ASI) to correspond with their original Military Occupational Skill school (MOS), which MOS were all non-combat roles.

While recognized for their contributions to Village Stability Operations, it is not widely known that CST veterans' service included Direct Action Operations. They are SOF combat veterans who fought and died in the Global War on Terror. These women veterans earned the same combat badges and incurred the same hardships as their male battle-buddies, but do not receive the same care from VA.

The Special Operations Association of America strongly supports HR 1753 for identifying the idiosyncratic problem pervading the CST veteran community, which is a lack of clear documentation of the ad-hoc CST program, coupled with a lack of clear identification of these women veterans' status as SOF combat veterans, to sufficiently support the service-connection nexus of these women veterans' claims.

Further, we applaud the Jax Act for offering a solution to this problem on behalf of these women SOF veterans, viz., to supply definitive service records of approximately 300 CST Veterans to the Department of Veterans Affairs, to re-open CSTs' previously denied claims for the Department of Veterans Affairs to review with these updated data, and to determine if the Department of Veterans Affairs' made a Clear and Unmistakable Error (CUE) in the denial of service-connected disability and treatment.

The Special Operations Association of America strongly supports HR 1753, The Jax Act, for succinctly and easily addressing and rectifying the issues preventing women veterans of the CST program from accessing the benefits they earned or the care they deserve, and look forward to working with this Committee and your colleagues in the Senate to solve this problem once and for all.

H.R. 3790, the "Justice for ALS Veterans Act of 2023"

Currently, under title 38, an increased payment of Dependency and Indemnity Compensation (DIC) is awarded to a surviving spouse upon the death of a veteran who is entitled to disability compensation and who is rated total and permanent for a period of eight years immediately preceding death. Veterans who are diagnosed with amyotrophic lateral sclerosis, or ALS, have an average life expectancy of 2 -5 years. Because of the aggressiveness of this disease, most veterans will not live long enough for their surviving spouse to receive this increased payment.

SOAA supports H.R. 3790 because it solves this oversight in statute by amending Section 1311(a)(2) to remove the eight-year requirement in cases where the veteran passes away from ALS. This is common



sense legislation will provide access to a benefit for the families of the approximately 5,000 who are diagnosed and die from ALS each year. SOAA strongly supports this legislation.

H.R. 4016, the “Veteran Fraud Reimbursement Act”

When it is determined that a veteran no longer possesses the mental capacity to manage his or her VA disability compensation payment, a fiduciary is assigned. VA is tasked with maintaining oversight of the use of those funds by the fiduciary. Under current statute, VA is only required to reissue misused funds in cases where VA negligently failed to identify the misuse. By no fault of their own, veterans who are victims of fund misuse by their fiduciary are not made whole when VA fails to properly monitor and identify misuse.

SOAA believes that by amending paragraph 6107 of title 38, H.R. 4016 addresses this issue by ordering the Secretary of VA to pay the amount of misused funds to the beneficiary or the beneficiary’s newly appointed fiduciary. Veterans should not be penalized for the actions or inaction of those who are entrusted to care for them. SOAA supports this legislation.

H.R. 4190, the “Restoring Benefits to Defrauded Veterans Act”

SOAA supports H.R. 4190 because there is no provision in law that allows the Secretary of VA to repay the estate of a diseased veteran in cases where there is misuse of funds by his or her fiduciary and that misuse is identified after the death of the veteran. This legislation will mandate the Secretary of VA to repay the estate of the deceased Veteran the amount of misused funds. SOAA supports this legislation.

A handwritten signature in blue ink, appearing to read 'David Cook', is centered on the page.

David Cook
Executive Director
Special Operations Association of America

Prepared Statement of ALS Association

Statement for the Record

Melanie Lendnal, Senior Vice President of Advocacy
 The ALS Association
 For the
 House Veterans Affairs Subcommittee on Disability Assistance and Memorial Affairs Hearing
 Entitled
 "Disability Assistance and memorial Affairs legislative Hearing on Pending Legislation"
 October 24, 2023

The ALS Association would like to thank Chairperson Luttrell, Ranking Member Pappas, and the members of the Veterans Affairs Subcommittee on Disability Assistance and Memorial Affairs for the opportunity to submit this statement for the record for the hearing to review pending legislation in your subcommittee.

Amyotrophic Lateral Sclerosis (ALS) is an always fatal neurodegenerative disease in which a person's brain loses connection with the muscles. People with ALS lose their ability to walk, talk, eat and eventually breathe. There is no cure, and the average life expectancy following diagnosis is 2-5 years.

Military veterans, regardless of branch of service, regardless of the era in which they served, and regardless of whether they served during a time of peace or a time of war, are at a greater risk of dying from ALS than if they had not served in the military. For this reason, the Department of Veterans Affairs has labeled ALS as a service-connected disease and rates ALS at 100% disability upon diagnosis. This is because ALS never improves and, in all cases, leads to total body paralysis.

While high-quality, multi-disciplinary care for ALS is provided by the VA (Veterans Affairs), military veterans living with ALS require care that extends outside of the clinical setting. Veterans living with ALS rely on their spouses, children, parents, and friends to provide the round-the-clock caregiving they need. The aggressiveness of ALS leaves many veterans totally incapacitated and reliant on family caregivers. It is an incredible price that veterans living with ALS and their loved ones pay because of their service to our country.

Support for H.R. 3790 the Justice for ALS Veterans Act

The ALS Association wholeheartedly supports H.R. 3790, the *Justice for ALS Veterans Act*, to ensure families of veterans are supported after their loved one passes.

Families of veterans who die due to a service-connected disease that is totally disabling are eligible to receive boosted "Dependency and Indemnity Compensation" (DIC) payments from the VA after their loved one passes. To be eligible for this benefit, a veteran must live with a totally disabling service-connected disease for 8 years. However, with life expectancy for ALS post-diagnosis ranging from 2-5 years, most veterans who have service-connected ALS will not meet the current criterion for the additional DIC payment. This is a fixable injustice for veterans living with ALS who already have little time left with their loved ones.



OUR VISION: Create a world without ALS.

OUR MISSION: To discover treatments and a cure for ALS, and to serve, advocate for, and empower people affected by ALS to live their lives to the fullest.

HOME OFFICE • 1300 Wilson Boulevard, Suite 600, Arlington, VA 22209 • PHONE 202.407.8580 FAX 202.464.8869 • als.org

The Justice for ALS Veterans Act, sponsored by Representatives Fitzpatrick (R-PA) and Slotkin (D-MI) ensures fairness for veterans living with ALS by eliminating the 8-year survival criterion for veterans with ALS.

Families of veterans living with ALS who serve admirably as caregivers should not be penalized because of an ALS diagnosis that offers them less time with their loved ones than the current requirement stipulates. Ensuring this boosted benefit, which equates to little more than \$300 a month for a surviving family, can make a marked difference.

Additionally, H.R. 3790 requires the VA to study other totally disabling service-connected diseases where life expectancy is less than the current 8-year requirement, allowing for more families to receive the benefits they have earned.

Conclusion

H.R. 3790, the Justice for ALS Veterans Act, ensures that veterans and families who have made the ultimate sacrifice for this country receive benefits they cannot currently receive, through no fault of their own. Increased DIC payments gives peace of mind to current veterans living with ALS because they will know their families are supported after they are gone. Additionally, the increased DIC payments can help ease financial burdens for surviving family members after their loved one has passed.

The ALS Association endorses this legislation and asks the Veterans Affairs Subcommittee on Disability Assistance and Memorial Affairs to consider and swiftly pass H.R. 3790 to deliver the increased DIC benefits surviving families have earned.

Sincerely,



Melanie Lendnal
Senior Vice President of Advocacy
The ALS Association
www.als.org



Prepared Statement of Service Women's Action Network (SWAN)

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee: The Service Women's Action Network (SWAN) appreciates the opportunity to submit a Statement for the Record on today's hearing that includes H.R. 1753 Jax Act. SWAN is a non-partisan, non-profit 501(c)(3) that represents over 10,000 service-women and women veterans regardless of rank, military branch, or years of experience. SWAN has specifically worked to transform military culture and reform veteran services focusing since 2009 on opening all occupations to qualified women, holding sex offenders accountable in the military justice system, expanding access to services for a broad range of reproductive health care, and eliminating barriers to women's disability claims especially for those who have experienced military sexual trauma as well as barriers to those who experienced combat injuries but whose experience is not correctly documented in their service records.

Today we want to acknowledge the efforts of the bi-partisan co-sponsors of the Jax Act to recognize the combat contributions of some of the women who served in OIF/OEF. These women served on Cultural Support Teams with Special Operations Command units during the Global War on Terror from 2010–2021. These women served alongside their male counterparts and suffered casualties, but have not been fully recognized or credited for this dangerous and essential service. Unfortunately, their service was seldom appropriately documented so they have faced arduous barriers to receiving the care and benefits they earned. It is especially important that those who were in the Guard and Reserves are given everything they earned.

While we recognize this legislation is a significant step forward for service women and women veterans, we also have to emphasize an often-forgotten point that U.S. History is filled with women who have served with or in the military under fire – many have been killed, wounded, and/or taken as POWs, and they too have not received adequate or appropriate care or full credit.¹ All of these women helped open opportunities for qualified women further in 2013–2016 when the combat exclusion officially ended and since then.²

The women of the Cultural Support Teams are fully deserving of the recognition and benefits this bill will provide. SWAN, however, must emphatically insist that this bill includes their predecessors-sisters of all the Services who served on Team Lioness and the Female Engagement Teams (FETs).³ These are the women from all the Services who served with USMC and Army ground combat units in 2003–2010 in Iraq and Afghanistan who pioneered and paved the way for the CST missions with the Special Operations Forces in 2010–2021. These women who volunteered (seldom receiving training or appropriate equipment) in the immediacy of war conditions served beside their male peers. These women, too, have earned (1) the correction of their records to document service in combat; (2) appropriate care and benefits; and, (3) the awards, recognition, and respect that have been denied them for so many years. Most importantly, these women increased the efficiency and effectiveness of field units as well as military readiness and the recruiting numbers for the All Volunteer Force (AVF).⁴

This oversight can be easily corrected by expanding H.R. 1753 to specifically include the Lioness Teams and FET members from 2003–2010. They too provided critical intelligence to U.S. and allied forces as well as interacted with local populations where and when their male counterparts could not effectively do so. A

¹Jeanne Holm, *Women in the Military: An Unfinished Revolution*, Novato: Presidio Press, 1992 (revised edition). We see this particularly starting in Desert Shield/Storm and through the changes in combat exclusion laws and policies and military restrictions that confronted commanders' realities "on the ground" starting in 1994. One only has to mention Jessica Lynch and Lori Piestewa to spark this recognition. See also Lorry M. Fenner, "Either You Need These Women or You Do Not: Informing the Debate on Military Service and Citizenship," *Gender Issues*, Summer 1998, Vol 6, Number 3, ed. Rita J. Simon, New Brunswick, NJ: Rutgers University. Lorry M. Fenner and Marie DeYoung, *Women in Combat: Civic Duty or Military Liability*, Washington D.C.: Georgetown University Press, and "Women in Combat: Civic Duty or Military Liability?," C-SPAN Videotape 166695 Part 1 of 1, 2001.

²Service Women's Action Network, *Women in the Military: Where They Stand*, 10th Edition 2019, pp.12–16 (<https://www.servicewomensactionnetwork.org/swan-research>). See also Ellen Haring, "Gender and Military Organizations, in Chantal de Jonge Oudrat and Michael Brown, eds, *The Gender and Security Agenda: Strategies for the 21st Century*, pp. 90–112.

³Meg McLaren and Daria Sommers, "Lioness: The Origins Story," *Veterans Breakfast Club Podcast*, particularly Episode 5 with CAPT Lory Manning USN, Retired, Women's Research and Education Institute and Shannon Morgan, Army Combat Veteran, August 24, 2023. Meg McLaren and Daria Sommers, *Lioness* (IMDb documentary), 2008, currently available on Amazon Prime.

⁴Sarah Percy, *Forgotten Warriors: The Long History of Women in Combat*, New York: Basic Books, 2023, especially pp. 268–281.

different kind of conflict that required winning “hearts and minds” could not have been waged effectively without these women. They too fired weapons, protected their teammates, and faced death, injury, and disability. Army women first joined U.S. Marine Corps ground combat units for raids on locations where Iraqi women and children might be present. Later, Marines and Sailors participated in Lioness operations with both Marine and Army units. Let us never forget those women who fought for the first time in close combat in Ramadi when that was not technically allowed by law, and those who died in Fallujah, Holly Ann Charette, 21, and Ramona M. Valdez, 20, in 2005 or the others who died like Marine Cpl Jennifer M. Parcell in Anbar in 2007, or those who suffered seen and unseen injuries and yet have not received due recognition. Even by 2005, 39 female U.S. troops had died in Iraq along with three Defense Department women, and six servicewomen had died in Afghanistan.⁵

Again, SWAN greatly appreciates the recognition of the women who served with Special Forces from 2010–2021 during OIF/OEF in H.R. 1735 Jax Act and its Senate companion. Now the sponsors have the opportunity to broaden this vital legislation in at least a small way. It should include the women of Team Lioness, from various specialties who were thrown into action with the USMC starting in 2004, and the women in the Female Engagement Teams, introduced first by Task Force Leatherneck in Afghanistan in 2009. These are the women who laid the ground work and inspiration for the Cultural Support Teams earlier. None of these women should ever be forgotten.

Prepared Statement of Gerald Connolly

I would like to thank Ranking Member Pappas, Chairman Luttrell, Chairman Bost and Ranking Member Takano for bringing up the Veteran Fraud Reimbursement Act (H.R. 4016) in this legislative hearing of the Disability Assistance and Memorial Affairs Subcommittee of the House Veterans’ Affairs Committee. This legislation will make it easier for veterans to be made financially whole in the event they are defrauded of their benefits and allow the Veterans Benefits Administration (VBA) to reimburse victims of fraud without first meeting unnecessary bureaucratic requirements. I would like to thank my friend Representative Ciscomani for championing this important effort with me to remove bureaucratic and unintended obstacles that have hampered veterans who have been defrauded by a fiduciary.

In January 2021, Congress enacted the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020. The bill included a provision meant to improve the VBA fiduciary program, which helps deliver benefits to veterans who cannot otherwise manage their finances. Unfortunately, one unintended consequence of the provision is that all cases of benefits misuse now require what is known as an internal negligence determination by VBA before a veteran who is a victim of fraud can be made financially whole. This determination, which is made for the purposes of improving VBA oversight, is immaterial to whether a veteran will be reimbursed. Furthermore, this extra, unnecessary step effectively extends the timeline for veterans to be reimbursed and creates a backlog of investigations. In some cases, a negligence determination can take well over a year, potentially causing late or deferred bill payments.

In fact, in a July 21, 2021 report entitled, “VBA’s Fiduciary Program Needs to Improve the Timeliness of Determinations and Reimbursement of Misused Funds,” the VA Office of the Inspector General (OIG) highlighted the significant wait times defrauded veterans in the VA fiduciary program face due to the universal negligence determination requirement. The report notes that some veterans even died before seeing their reimbursements.

Veterans under the VA fiduciary program are a financially vulnerable population, with approximately 50 percent being pensioners. Delaying reimbursement of misused benefits to this underserved population through unnecessary negligence determinations is unacceptable. My bill removes the negligence determination requirement while allowing the VBA to instead conduct a statistically valid analysis of the misuse cases to determine the rate and nature of negligence on the part of the VBA. The negligence determination would ultimately become a part of a quality assurance measure conducted after the affected veteran had been reimbursed. We must ensure that oversight of VA processes does not result in a financial burden on those who sacrificed so much for our country.

⁵“Female Troops in Iraq Exposed to Combat: Despite ban on women in combat, the front line in Iraq is everywhere, *CNN*, June 28, 2005.

This legislation is of high importance to some of our most vulnerable veterans, and was drafted in close coordination with VBA, who supports making this change. I once again thank my friend, Rep. Ciscomani, Chairman Luttrell, Ranking Member Pappas, Chairman Bost, and Ranking Member Takano for considering this legislation during this legislative hearing and look forward to seeing this bill receive a vote in the House of Representatives.

Prepared Statement of Military-Veterans Advocacy, Inc.



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SECTIONS:
Blue Water Navy
Agent Orange
Survivors of Guam
Veterans of
Southeast Asia
Veterans of
Panama Canal Zone
Veterans of Okinawa
At-Risk Veterans

October 20, 2023

Hon. Mike Bost
Member of Congress
ATTN: Noah Barger
Room 352, Cannon House Office Building
Washington, DC 25015

Re: HR 5559, Protecting Veterans Claim Options Act

Dear Representative Bost,

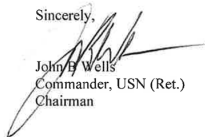
On behalf of Military-Veterans Advocacy® (MVA™), we would like to pledge our support for HR 5559.

To amend title 38, United States Code, to establish certain rules of evidence in certain claims under laws administered by the Secretary of Veterans Affairs. Thank you for introducing this bill.

You may use this letter as evidence of our support for this bill. Feel free to use it in Committee or in press releases.

MVA's point of contact is our Legislative Director, John B Wells, who can be reached at john.wells@madvocacy.org.

Sincerely,


John B Wells
Commander, USN (Ret.)
Chairman

cc: Hon. Mike Bost, House Committee on Veterans' Affairs Services Chairman
Hon. Mark Takano, House Committee on Veterans' Affairs Ranking Member
Hon. Morgan Luttrell, House Subcommittee on Disability Assistance and Memorial Affairs Chairman
Hon. Chris Pappas, House Subcommittee on Disability Assistance and Memorial Affairs Ranking Member