

LEGISLATIVE HEARING

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY
ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS

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

The subcommittee met, pursuant to notice, at 10:16 a.m., in room 360, Cannon House Office Building, Hon. Morgan Luttrell (chairman of the subcommittee) presiding.

Present: Representatives Luttrell, Bergman, Mace, Self, McGarvey, Pappas, Dexter, and Morrison.

OPENING STATEMENT OF MORGAN LUTTRELL, CHAIRMAN

Mr. LUTTRELL. Okay. The Subcommittee on Disability Assistance and Memorial Affairs will come to order.

Before we start, I have just been told that one of our colleagues, Mr. Sylvester Turner, he is actually from Texas, was the former mayor of Houston, passed away. I am not sure if it was last night or this morning, but may we please have a moment of silence for our fallen colleague.

Thank you. Our thoughts and prayers are extended to the Turner family. Not how I wanted to start my day off, but all right.

Thank you all for joining us today. We are here to discuss three bills that would each reinstate criminal penalties for anyone who takes advantage of veterans who are filing claims for VA disability compensation. Last week, I personally heard from veterans' advocates testifying on the bad actors for charging \$30,000 or more to assist veterans for filing their claims. I think we can all agree that veterans should never ever have to pay \$30,000 or more for assistance filing a U.S. Department of Veterans Affairs (VA) disability claim compensation claim.

I have also heard from veterans that they want the freedom to choose who helps them file their initial claims. Under the current law, companies are not allowed to charge a fee for assisting veterans with claims at the start of the claims process, limiting their options. At today's hearing, we will be discussing H.R. 1656, the Preserving Lawful Utilization of Services for Veterans (PLUS) Act, which would reinstate fines and jail time for companies that violate laws regarding representation of veterans pursuing VA benefit claims. The PLUS Act would also allow VA accredited agents and attorneys to charge a limited fee to assist veterans with filing their initial claims for VA disability compensation.

Second, H.R. 1732, the Governing Unaccredited Representatives Defrauding VA Benefits (GUARD) Act, would reinstate fines for violations of the law regarding the representation of veterans before VA.

Third, the Discussion Draft on today's agenda would reinstate fines and jail time for violating the laws governing the representation of veterans before VA. The Discussion Draft would also allow VA accredited agents and attorneys to charge a limited fee while assisting veterans with filings with filings on their initial VA benefits claims while prohibiting fees for certain types of initial claims.

I believe that regardless of the bill anyone supports, we must ensure that the veterans is at the center of the changes we make. I look forward to a productive discussion today about the three bills on our agenda.

We have not currently received VA's views on these bills. Secretary Collins has only recently began leading the VA, the second largest Federal agency in the Nation. In my opinion, he is still and currently getting his sea legs underneath him. Because the VA did not have its views cleared in time for our hearing, it was not in the best interest of everyone's time to have them come and testify. Because we do need VA's views, we will keep the record open for them. It is not uncommon for us to receive VA's views after hearings and I think the witnesses who have joined us today will understand.

I now yield to the ranking member for his opening remarks.

OPENING STATEMENT OF MORGAN MCGARVEY, RANKING MEMBER

Mr. MCGARVEY. Thank you, Mr. Chairman. I also echo your initial sentiments for our colleague Sylvester Turner from Texas, for his family. Not only was he a distinguished Member of this body, also a very well-respected mayor across the country for his work there. A loss.

Mr. Chairman, I appreciate you all having this hearing. Appreciate everybody for being here today. I am here for one reason today. It is not to protect turf in any turf wars. It is not to defend the status quo. It is not to whine and complain about things that do not matter for veterans' daily lives. I am here for one reason: to ensure that our veterans can access their earned benefits without delay and without being ripped off.

Now, I want to get this right, which is why I think it is important to hear from everyone. However, I also want to point out that we have one critical absence day. Mr. Chairman, you mentioned the VA is not here and I understand that there is a new Secretary. We did, however, receive written testimony from them and I do not think it actually said all that much. It said they are reviewing their bills, they could not give their views at this time. Again, I know they are new, but it is hard to hold a legislative hearing without knowing where the VA stands on these bills.

I think that is particularly important right now because they have been so supportive of the GUARD Act in the past. I hope their absence in reviewing this bill is not a signal that they are doing a 180. Because if the Trump administration is now going to support these companies who have been fleecing veterans out of hundreds

of millions of taxpayer dollars, money that is meant to help our veterans, then I do hope they will have—they will show up in front of this committee and tell us why.

Now, let us get to the topic at hand. My goal, and I think one that is shared by all of my colleagues here, is to alleviate the circumstances that lead any veteran to feel as though they have to pay to access the benefits they have earned. We should strive for a process that does not necessitate paid assistance, that is simple to navigate, that is quick to deliver an outcome, and that results in a pro veteran decision. I think anything short of that is window dressing.

Do not take that to mean, Mr. Chairman, that I am not interested in cracking down on those who are violating the law. Quite the opposite, in fact. It is clear that back in 2006, Congress made a mistake when it repealed penalties for assisting with disability claims without accreditation. I do not think anyone could have anticipated a cottage claims industry so brazenly flouting the law. That cottage industry, it is not so quaint anymore. In fact, we are talking about numerous large companies that are siphoning off hundreds of millions of dollars a year in veterans' benefits, companies that are attracting venture capital funding and working on Wall Street offerings, all to make a quick dollar on what has for decades been a free service.

I understand we live in a country where everyone is trying to make a living and if people can find a way to make a buck, they will, even if that means profiting from veterans' disabilities. Unfortunately, these companies have deep pockets which they use to buy influence. We have been at a stalemate here for years between those who want to crack down on this illegal behavior and those who want to bless it.

I think we are going to hear a lot about veteran choice and systemic capacity at today's hearings. I want to point out that there is a great deal of choice already with thousands of accredited representatives able to help, not to mention VA's longstanding duty to assist. Veteran Services Organization (VSO) capacity is robust and growing, especially with the new nontraditional VSOs coming on board, such as Tribes and labor unions. This is not about taking away veterans choices for me. There is a lot of choices out there. I want veterans to have their choice. I want veterans to be able to get, again, the benefits they have earned. These are earned benefits for our veterans in exchange for their services. This is about, for me, removing unaccredited, unregulated claim sharks who target veterans for those earned benefits.

We will also hear that these companies assert they provide better, faster service to a veteran. In fact, that is one of their principal lures. Okay, I do understand that. I understand why that could be enticing to a veteran. One, the VA is processing claims faster. Two, let us make sure that these appeals are not so attractive anymore, that the veterans are actually able to access the benefits they have earned.

There has been a lot of robust hiring at the Veterans Benefits Administration (VBA) facilitated by the The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive

Toxics (PACT) Act. Let us make these claims easier to navigate. That is what we are all looking for here.

I think most troubling, though, is we are going to witness some Olympic level displays of mental gymnastics today from those companies trying to rationalize how their activity is not illegal when it is and has been for decades. They have the option to be accredited, but have chosen not to do so, which, by the way, the accreditation is free. If the process is cumbersome, we should prioritize a finding a solution to streamline it, so we can offer more choices to veterans while keeping their earned benefits where they belong, with them. I agree with the chairman. It is ridiculous that a veteran is paying \$30,000 to have somebody navigate a claim for them. I think it is ridiculous that the claims are too difficult to access, that veterans feel they need someone to help them. I think it is the job of this committee to help our veterans.

I want to take a step back, actually work through what works best for them, absent of consideration of what works best for the companies who are purporting to support our veterans, but who are, in fact, taking tens of thousands of dollars, sometimes from each veteran and hundreds of millions of dollars overall.

I yield back.

Mr. LUTTRELL. Thank you, Mr. McGarvey.

This morning we have colleagues who will be testifying from the dais about the bills they have sponsored. General Bergman, sir, you are now recognized for 5 minutes to speak on the PLUS Act.

STATEMENT OF JACK BERGMAN

Mr. BERGMAN. Thank you, Mr. Chairman. Thank you to our witnesses for being here today, and to Chairman Bost and the entire VA Committee staff, for their work on the issue thus far.

I would like to start by stating I firmly believe that everyone present today on both sides of the aisle have the same fundamental goal: to prevent and punish bad actors seeking to take advantage of veterans and to ensure that veterans are able to quickly and easily receive the disability benefits they deserve. Congress must take action to ensure that veterans looking for help navigating the VA disability benefits system are not defrauded or otherwise taken advantage of.

However, this cannot come at the cost of removing veteran agency and choice. It would be unacceptable for Congress to push a heavy-handed ban on the entire industry of legitimate businesses, often veteran-owned, that have helped thousands of veterans get the claims they deserve. The PLUS for Veterans Act, which I introduced along with my friend Lou Correa from California, will preserve the right for veterans to get help from the private sector while preparing VA applications by incorporating these businesses into the VA accreditation system, all while imposing penalties on bad actors that seek to exploit veterans. By incorporating these businesses into VA accreditation, veterans will have protection against the abuse and recourse if they are taken advantage of, and VA will have the teeth it needs to punish bad actors.

Contrary to what some have claimed, no veteran would ever be forced to pay a fee to obtain the benefits they have earned through their service under the PLUS Act. In fact, the bill creates new re-

quirements for veterans to be informed of free options for getting assistance with their disability benefit applications, for instance, through the VSOs. This is on top of the new safeguards in the bill that prevent high fees, require informed consent in clear language, and prevent conflicts of interest between agents and doctors who provide medical evidence.

There also has been new additions and improvements made to the bill text following constructive feedback we have received over the past 2 years. Most notably, the bill now establishes a system of provisional accreditation that will allow new agents to begin assisting veterans in a timely manner while ensuring the veteran remains protected from abuse. It also establishes steep penalties for any malpractice by agents with provisional accreditation, including a fine of up to \$50,000. I remain open to constructive feedback and good faith dialog as we work to craft the best legislation possible.

In regard to concerns related to the fee cap structure included in the PLUS Act, I would like to make the following points clear. First, any imposed caps on fees by accredited agents must be set at a level designated to protect veterans from abuse, not at a level that effectively sets the price for the entire market and forces out high-quality, good-faith businesses.

Second, there is existing Federal precedent justifying a fee cap like in the bill. For example, the Social Security Administration's fee cap for assistance on disability claims is currently set at \$9,200, and yet assisting with VA claims is far more complicated and time consuming than with Social Security. Social Security disability claims do not have to prove service connection. There is no 0 to 100 disability rating, like with the VA, and the requirements for obtaining National Social Security Advisor certification are far lower than that of the VA accreditation. It would be nonsensical to impose a cap at or below that of Social Security's given all the additional complications and costs involved in helping navigate the VA.

Finally, the projections created through the PLUS Act, like providing information on free assistance options and incorporating all agents into VA accreditation, are fundamentally designed to provide veterans with a fair and well understood choice. If a veteran decides that they would like to pay a fee in order to get easier, faster, and more personalized assistance in filing their claims, who are we to tell them that they cannot? Veterans should be allowed to choose whatever option they decide to do in their best interest: filing on their own, going through a VSO, or through a private business. Adding overwhelmingly overly draconian fee caps will only limit the number of choices available to them.

The PLUS Act for Veterans recognizes that veterans are capable of choosing what options are best for them when seeking assistance in obtaining benefits. Denying this right is not protecting veterans. It is, and this is a strong word, a lot of syllables for a guy like me, infantilizing, it makes them feel like little babies. How is that? How is that? I mean, you know, that is Marine and Navy speak, but I do not know if the Air Force did, but you get it, right? All right.

I look forward—by the way, I am going to have to make sure that that is never in a speech again. I am going to have to look forward. Can I close now?

Mr. LUTTRELL. You should let the enlisted men do that.

Mr. BERGMAN. Okay. With that, I yield back.

Mr. LUTTRELL. Yes, sir. Thank you, General.

Mr. Pappas, sir, you are recognized for 5 minutes.

STATEMENT OF CHRIS PAPPAS

Mr. PAPPAS. Thank you very much, Chairman Luttrell and Ranking Member McGarvey, for your opening comments, and General Bergman for yours as well on your legislation.

I want to share with everyone today about information about my bill, the GUARD VA Benefits Act. This committee has heard me and many of my colleagues and veteran service organizations talk about this bill and reference the troubling increase in unaccredited representatives that are looking to profit off veterans' disability claims. They peddle a for-profit model that veterans can receive free of charge from veteran service organizations, like those who we will hear from today.

One Navy corpsman we heard from paid a company \$8,000 to help her access her disability benefits after she left the service. Another Navy servicemember said he was charged almost \$10,000 for just 6 hours of virtual coaching that he later said he could have found online on his own. It is alarming because the more third parties that have a hand in a veteran's claim, the more potential exists for fraud and abuse, which I am sure we all agree we want to prevent.

To provide veterans with qualified and competent help and protect them from individuals who may be targeting their benefits, VA has long operated an accreditation, discipline, and fees program to provide oversight of those who assist with fee preparation. Under current law, VA accredited representatives are the only individuals authorized to prepare, present, or prosecute VA claims on a veteran's behalf. Unfortunately, in 2006, Congress decided to strip VA of its ability to penalize those who violate the longstanding prohibitions on preparation, presentation, and prosecution of a VA claim before VA. Since then, the claims consultant companies have exploited this dangerous loophole to rake in millions of dollars from veterans across the country.

This bill is simple. It will reinstate criminal penalties for unaccredited claims representatives, does not create new criminal acts, nor does it change the well-established definitions of preparation, presentation, and prosecution. To that point, I want to be clear. The gathering or development of third-party medical evidence has long been excluded from the definitions of preparation, presentation, and prosecution. The GUARD Act does not change that dynamic, nor would I propose to.

I also want to address another argument that some have raised, that the GUARD Act would somehow limit the choices that veterans have with their claims. Some companies have even hired expensive lobbyists and lawyers to argue that this bill would violate First Amendment rights. Nothing could be further from the truth. This legislation does not ban a veteran from choosing whoever they want when seeking help with their VA claim. If veterans want options, they can talk to any number of professional, well-trained veteran service officers. They can seek help from VSOs like the Vet-

erans of Foreign Wars (VFW), the American Legion, and others. If veterans want a paid option, they are free to turn to agents and attorneys who are accredited for help. The difference is that all of these individuals are accredited. They go through that process. They are subject to the oversight of VA and the Office of General Counsel. It is exactly that oversight that for-profit claims consulting companies are seeking to continue to avoid.

These claims consulting companies, they know what they are doing is beyond the scope of the law and they have spent thousands and thousands of dollars lobbying against this bill. They also know that there is nothing stripping them or preventing them from becoming accredited today except that they will not make as much money unaccredited if they become accredited.

I just want to say that I look forward to working with my colleagues on developing a permanent solution to this. I think it must include ensuring that we reinstate criminal penalties. I look forward to hearing from folks on our panel about this and other bills under consideration today.

I want to commend the continued support of veterans service organizations in assisting the veteran community and in speaking out strongly for this legislation. We have strong bipartisan support in the Congress. The bill has been reintroduced and I am looking forward to working with my colleagues on a solution that is going to protect veterans, make sure that they can keep their earned benefits, and ensure that we are moving forward in a way that is worthy of the service and sacrifice of so many in this room and across the country.

With that, I yield back my time.

Mr. LUTTRELL. Thank you, Mr. Pappas. It is good to have you in here again, sir.

It 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 of witnesses to the table if they are present. Welcome, everyone. Yes, Mr. Smith. Colonel, go like this. It is on the record. It has got to be right. Apologies. Thank you, sir.

Now, welcome and thank you for joining us today. Our second panel includes Mr. Josh Smith, chief executive officer (CEO), Veterans Benefits Guide (VBG); Lieutenant Colonel Bill Taylor, co-founder and chief operating officer of Veterans Guardian VA Claim Consulting; Mr. Peter O'Rourke, president of the National Association for Veterans Rights; Ms. Diane Boyd Rauber, National Organizations of Veterans' Advocates (NOVA); and Mr. Pat Murray, acting executive director, Washington Office, Veterans of Foreign Wars of the United States.

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

[Witnesses sworn.]

Mr. LUTTRELL. Thank you. Be seated. Let the record reflect that all witnesses answered in the affirmative.

Mr. Smith, you are recognized for 5 minutes, sir, to deliver your opening testimony.

STATEMENT OF JOSH SMITH

Mr. SMITH. Joshua Smith. I am the CEO and cofounder of Veteran Benefits Guide. I would like to thank Chairman Luttrell and Ranking Member McGarvey and other committee members for providing me this opportunity to share my perspective.

I am testifying today in opposition to the GUARD VA Benefits Act and in strong support of the PLUS for Veterans Act. I want to thank Representative Bergman for introducing the PLUS Act and Representatives Mace and Self for cosponsoring the bill. VBG also supports the Discussion Draft that has been shared and believes it represents a reasonable compromise.

While well intended, the GUARD Act would severely and unfairly limit choices veterans have in seeking assistance with their claims. Instead of only targeting bad actors, it would make illegal for veterans to get advice or assistance from any private services, including honorable companies, like VBG. We believe the veterans need more help in getting their benefits, not more limitations on their options and choices.

In contrast, the PLUS Act and the discussion draft provide the right balance between establishing guardrails to protect veterans from bad actors and ensuring private companies are allowed to continue serving veterans. Each of these bills include strict disclosure requirements, fee caps, and privacy protections that we support.

Opponents of the PLUS Act and the Discussion Draft inaccurately claim that organizations such as ours choose not to be accredited. This is false. VBG would welcome the opportunity to become accredited. The PLUS Act and the Discussion Draft legislation would resolve this issue by providing a pathway for accreditation, allowing VBG and other good actors to come under the oversight of the VA. The fact that VBG is not currently accredited does not mean we are violating Federal law. We provide specially trained case managers to guide veterans through the claim process, but we do not act as a veterans agent or representative and we do not present before the VA.

We believe Federal legislation is needed now to resolve this issue. Different versions of the GUARD Act and Plus Act have been introduced in at least 30 states. Without a Federal solution, the result will be a chaotic patchwork of State legislation. Our Nation's veterans are being harmed every day by this chaos and gridlock is allowed to continue. This is not a partisan issue. In states where these bills are being considered we have heard from Democrats and Republicans expressing a desire to reach a compromise that both protects veterans and preserves choice.

In addition to being the CEO of VBG, I am also a Marine Corps veteran and a former VA employee. At the VA, I witnessed firsthand that veterans were being denied benefits they earned. That is why I left the VA and with my wife Lauren created VBG to help guide veterans through this complicated process. We have grown our company and have now more than 200 employees with offices in Nevada and California. Roughly 80 percent of our employees are veterans or immediate family members of veterans, and we employ former VA personnel, like myself, helping to assure we keep up to date with VA regulations and training.

It is clear that our service is needed. Despite their best efforts, veteran service organizations do not have enough manpower or resources to keep up with the demand for help. In congressional testimony, the National Association of County Veteran Service Officers acknowledged that they face disparities in staffing levels, technology, education, and outreach, and have become even more acute in recent years, and that they are scrambling to meet an influx of requests from veterans for support. In fact, more than 70 percent of our clients first navigated the process with the help of a VSO. They were either denied their full benefits or felt the process was taking too long continuing to submit claims. VBG's sole focus is getting on the getting the veteran's claim right the first time, avoiding the need of a lengthy and costly appeal.

The value we bring to our veteran clients is best reflected in their own words. Leo, an Air Force veteran from Nevada, stated the following and I quote, "There are some organizations out there that say do not go to these companies that have to pay for that you have to pay for. You should be doing it on your own. My argument is I did go on my own and try to file my claim and I did not get help. Many people, including VSOs, has promised to help me, but they did not actually help. It was not until I found VBG that I got the rating I deserve. If it is my money, it should be my choice what I do with it. I want every veteran to have the ability to make that choice," end quote.

With reasonable guardrails in place, we believe that veterans should be free to contact with whom they wish for help. This was the guiding principle in 2006 when Congress loosened restrictions on veterans being able to pay for help with their appeal claims. It should be the same guiding principle today.

Thank you for considering my testimony. I will be happy to answer any questions.

[THE PREPARED STATEMENT OF JOSH SMITH APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Mr. Smith.

Colonel Taylor, you are now recognized for 5 minutes, sir.

STATEMENT OF WILLIAM TAYLOR

Mr. TAYLOR. Good morning, Chairman Luttrell, Ranking Member McGarvey, and members of the subcommittee. My name is William Taylor and I am the cofounder of Veterans Guardian, a West Point graduate, and a 23-year Army veteran with six operational deployments. I am proud to have served my country and cofounded one of the largest veteran-owned and operated companies helping veterans navigate the VA claims process. In my written testimony I have included a detailed description of my military service and my company. For now I would like to focus—dive right into the issues.

The bottom line is we are veterans helping veterans. We provide a valuable service and are committed to serving veterans. Candidly, I am frustrated to have my integrity and honor regularly called into question by those who label me a claim shark simply because I use a different approach than the traditional model and that approach is often preferred by veterans. I have remained committed to finding a compromise that modernizes accreditation and ensures veterans have choice in claims representation. I once again

extend an offer to all entities at this table to work together and find ways to compromise without resorting to mudslinging.

The unfortunate reality is that many veterans face difficulties navigating the VA disability process. It cannot be ignored that there are currently over 935,000 claims awaiting adjudication by the VA. Contrary to the views under the Biden VA, the current systems do not meet the needs of veterans. Veterans need more options, not less. To address veterans needs, they should be able to pursue their claim in the manner that best serves them with full knowledge of all available options at any step in the process, including free and fee-based options.

I would like to address the allegations that my company is breaking the law. Nothing could be further from the truth. Section 5901 of Title 38 contains the foundational rule governing claims assistance. It states that, "No individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the VA unless such individual has been recognized for such purposes by the Secretary." The "agent or attorney" qualifier is also included in the statutory limitation on when fees may be charged for assistance under section 5904.

Veterans Guardian does not act in either role. We do not employ attorneys, so that category can be set aside. Our employees do not act as agents. We provide advice to our clients, but we do not file claims. We do not interact with the VA on the veteran's behalf. We do not represent the veteran before the VA. For those reasons we are not acting as an agent or attorney as required to meet the Federal restriction on claims assistance.

We also do not violate restrictions on assignment of benefits. Veterans Guardian never acquires a right to receive our clients' VA benefits' which is what the law prohibits. Rather, clients pay us a fee equivalent to five times the increase in monthly benefits obtained using our help. The fact that the amount a veteran pays Veterans Guardian is based on the increase in benefits does not mean that the company acquires the right to receive those benefits from either the VA or the veteran. A veteran can pay fees to Veterans Guardian out of sources that are completely segregated from benefits distributed by the VA. Once they start receiving benefits, they can pay our fees in a lump sum or on a flexible schedule that is independent from the VA's payment timeline. In other words, veterans pay a fee for our service. They do not transfer their benefits to us.

Even though our business is compliant with current law, it has become clear to me that maintaining the status quo is not sustainable for all parties involved. Divisive debates over the years have not served veterans. Our focus should be on finding solutions that make the system work better for veterans. H.R. 1656 introduced by General Bergman and Congressman Correa does just that. It would allow companies like mine to become accredited rather than legislating us out of existence. It improves oversight and ensures veterans are receiving competent assistance. It provides veterans the freedom to make informed decisions on how they want to pursue their claims.

The House Veterans' Affairs Committee (HVAC) Committee Discussion Draft is also well-intentioned and a step in the right direc-

tion, and we have provided amendments for consideration that would enable our full throttled support.

As for the GUARD Act, we support the intentions of the bill, but the execution is flawed and has failed to receive a markup in 6 years. Despite what some may allege, there is no sweeping momentum for GUARD-style bills in the states. GUARD-style bills were defeated in 20 states in 2024. In the last 2 years, only two states have passed laws that fully deny veterans the choice to use a private company: New Jersey in 2023 and Maine in 2024. Both laws are being challenged in court. While Congress is certainly not bound by the developments in the states. I believe conveying what is factually occurring in the states is important.

I look forward to a constructive discussion regarding the bills on today's agenda and how all of us should be working together to address the issues that veterans face and to provide veterans with more options and protections from predatory practices. I look forward to remaining engaged and working with you, your staffs, and the other parties as we address these important issues for our Nation's veterans.

Thank you, and I am happy to take any questions.

[THE PREPARED STATEMENT OF WILLIAM TAYLOR APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Colonel Taylor.

Mr. O'Rourke, sir, you are recognized for 5 minutes.

STATEMENT OF PETER O'ROURKE

Mr. O'Rourke. Thank you, Mr. Chairman, Ranking Member, members of the committee. I appreciate the opportunity to testify before you today. My name is Peter O'Rourke and I am the president of the National Association for Veteran Rights, NAVR; former acting secretary and chief of staff of the Department of Veterans Affairs; a veteran of the Navy and the Air Force. I am honored to be here to provide testimony addressing the legislation that your committee is considering today.

For the past 4 years, I have been part of a critical conversation, one that should be centered on veterans' rights, yet instead became a battleground over whether they should have the freedom to choose alternatives outside the Department of Veterans Affairs or the traditional VSO model when seeking their service-connected disability benefits. In a world evolving at breakneck speed, it is truly astonishing to me that some would argue against applying technology, innovation, and new ideas to improve veterans' services. Here we are, clinging to outdated systems, resisting progress, and defending the past at the expense of the future.

Over those 4 years, those who dare defend the notion of private sector assistance, many of whom are veterans themselves, have been vilified, slandered, and relentlessly attacked by the very institutions supposed to support and protect them. I have to ask, why do these groups believe they alone should dictate this conversation? Believe me, they do.

I was there in the 2023 Hill Summit when these groups shouted down a veteran who was describing his long, agonizing struggle to obtain a correct disability rating. I read op-eds from the same veterans groups that shamelessly accused their fellow veterans of

fraud, and even worse, wrongfully painting them as criminals, while simultaneously pushing legislation that would actually criminalize the assistance these veterans provide their fellow brothers and sisters. I have personally been accused of running a criminal organization by senior members of veterans groups that oppose our position, a position that simply stands for veterans choice. I have spoken with countless lawmakers across the United States who relay to me the lies, half-truths, and self-serving attacks that they have heard from those who want to maintain their monopoly over this process. Why?

2021 brought the first signs of resistance to the industry, but the oldest of these companies had already been operating for nearly 7 years when the first version of the GUARD Act was introduced in the Senate. Some of these companies heard the rhetoric then and simply believed that there was a misunderstanding, that if they just explained why veterans were choosing to pay for these services, if they just told the stories they were hearing from veterans, all concerns would be alleviated. The companies never were given a fair chance to tell these stories.

Unfortunately, opponents of veterans' choice, many of them are here today, have taken a divisive me first approach to debating this topic at the expense of a veterans first approach. The results have been predictably unproductive because both sides have fought to have an utter stalemate, and an unfortunate inaction forced honorable companies to take matters into their own hands. From this inaction, companies in the private benefits space created NAVR to fill the accountability void that remained from the ashes of this long and unrelenting fight.

Despite all these efforts to destroy the industry, veterans are still utilizing these private companies. Veterans choose these companies because they are tired of being let down by a giant bureaucracy and they choose these companies because they are tired of hearing excuses. Many of these companies have helped tens of thousands of veterans and have thousands of positive reviews that describe the quality and satisfaction that veterans have with these companies. They are truly accountable to the veterans that they serve.

Because veterans' choice has been resoundingly positive policy and because President Trump's agenda seeks solutions of tomorrow to solve the problems of yesterday, there is only one piece of legislation that will be discussed that meets this definition. The legislation is the PLUS Act, which preserves veterans choice, creates guardrails and commonsense rules that put veterans' needs first. This is why NAVR enthusiastically supports the PLUS Act.

In closing, this industry has grown over the past decade, employing thousands of veterans, including many veterans, and has helped tens of thousands of veterans secure their correct service-connected disability rating. This did not happen because veterans are being misled or defrauded. Let me be clear. We are talking about veterans. They are not naive. They are not being fooled into seeking this help. No, veterans are making conscious, informed decisions to seek help outside the VA's current system, and no one should be outraged that they now have a choice. The real question is not whether these choices should exist. It is how we ensure that they work for veterans, not against them.

My hope is that both sides of this debate can come together to pass common sense legislation like the plus act so that we can move forward, work as partners and take the next step of challenges facing our Nation's past and present warfighters.

Thank you and I appreciate answering your questions.

[THE PREPARED STATEMENT OF PETER O'ROURKE APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Mr. O'Rourke.

Ms. Rauber, you are recognized for 5 minutes.

STATEMENT OF DIANE BOYD RAUBER

Ms. RAUBER. Thank you, Chairman Luttrell, Ranking Member McGarvey, and members of the subcommittee. NOVA appreciates the opportunity to appear before the subcommittee and share our expertise regarding VA accreditation and ethical representation of veterans.

Our accredited members live, work, hire, and represent veterans, family members, survivors, and caregivers in your states and districts. Many are veterans, military spouses, or members of veteran or military families. Title 38 of the U.S. Code is clear that only accredited persons may assist Federal veterans with their claims and appeals. Moreover, only accredited individuals should be lawfully allowed to assist veterans because it provides for regulation of those individuals and recourse for veterans. Unaccredited claims consultants want you to codify the business model they have used for years in violation of Title 38. Today's hearing centers on whether the law should be changed to allow a veteran to hire a representative at the initial claim stage and, if so, what is the most veteran-centric way to do so.

Since providing veterans with the right of judicial review in 1988, Congress has decided three times to expand the conditions under which veterans can hire accredited attorneys and agents for representation before VA. Each time, Congress amended the triggering event, but left the basic fee model intact. Most recently in 2017, when passing the Appeals Modernization Act (AMA), Congress declined to move the triggering event to initial claims. Why? VA has long maintained it must have an opportunity to decide an initial claim before paid representation is available. This is based on the statutory requirement that VA must assist the veteran in developing the evidence to support an initial claim, which is at the heart of the nonadversarial process.

Should Congress conclude that the time is right to expand choices for paid assistance to veterans, the simplest option is to again move the line by revising 5904 to allow for charging at the initial claim stage. Such an amendment, discussed at length in our written statement, is most veteran-centric. NOVA does not support charging veterans prospective fees that would frequently result in a veteran owing more than they receive in their retro payment.

NOVA continues to support GUARD and the return of penalties to the statute. We also support the provisions of PLUS and the Discussion Draft that emphasize Title 38 preempts the patchwork of disparate State bills currently under consideration that propose to regulate this area.

NOVA does not support any system that would allow for unaccredited assistance or would create tiers of accredited representatives who handle only initial claims or only post initial decision work. Such a model would force a veteran who is completely happy with a representative to seek a new one for further assistance if VA does not fully grant the claim, which is a regular occurrence. This is inefficient, ineffective for veterans, and the opposite of choice.

Unfortunately, we must again address absurd charges made against our members. These companies are attempting to distract you with uninformed and misleading accusations that attorneys and agents purposely delay cases to earn higher fees. Let us be clear, this is against VA's standards of conduct. VA can cancel the accreditation of anyone who delays a proceeding without good cause. State bars can discipline their members. Veterans who believe their accredited representative has violated standards or does not deserve a fee has due process and recourse through VA and through the State bars. There is currently no due process or recourse for veterans who have been harmed by unaccredited actors.

Let us put the intentional delay myth to bed once and for all. The reality is the VA claims adjudication process takes time. According to testimony, these companies have been assisting veterans with claims for a decade. There has been, in fact, no appreciable reduction in the need for our members' assistance appealing adverse decisions and also no proof these companies' model or involvement has promoted greater accuracy or reduced any backlogs.

NOVA has worked for many years with VA, Congress, and other stakeholders to improve the adjudication process. We push for quality and timely decisions for veterans and have appeared before this committee several times to offer information and solutions. We remain committed to continued collaboration on these efforts.

Finally, NOVA will be holding a conference this September here in DC. We usually invite your staff to stop by and sit in on any sessions of interest. Please consider this an open invitation to all of you to come, meet NOVA members from your states, and hear firsthand about what they do to improve the lives of our Nation's veterans, family members, survivors, and caregivers at every level of the claims and appeals process.

Thank you again for the opportunity today and I would be happy to answer any questions you have.

[THE PREPARED STATEMENT OF DIANE BOYD RAUBER APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Ms. Rauber.

Mr. Murray, sir, you are recognized for 5 minutes.

STATEMENT OF PAT MURRAY

Mr. MURRAY. Thank you. Chairman Luttrell, Ranking Member McGarvey, and members of the subcommittee, on behalf of the men and women of the VFW, thank you for the opportunity to provide remarks today.

The VFW continues to lead the charge against unaccredited, unscrupulous actors we call claim sharks, who charge servicemembers, veterans, and survivors illegal fees. Our resolutions urge Congress to pass legislation that protects VA bene-

ficiaries from predatory companies and individuals attempting to bypass the VA accreditation system and monetize the disability and death benefits of veterans and surviving families.

Due to the stalemate in Washington DC, our members have worked to pass state-level legislation that installs consumer protection to enforce the Federal statute. Currently, nine states have laws that prohibit charging fees that are not allowed by Federal law and have various degrees of penalties. Washington, Iowa, Michigan, New York, Illinois, Nevada, New Jersey, Maine, and Massachusetts have laws that require anyone who charges fees to do so adhering to Federal law and regulation. Conversely, one State, Louisiana, allows charging up to \$12,500 for an initial claim.

The VFW has expressed to the committee our red lines regarding any accreditation bill put forth. Veterans should not have to pay future benefits, Active-Duty servicemembers should not have to pay for claims, and no one who prepares a claim should have any financial affiliation with medical examiners that could possibly affect the outcome of the claim. These are commonsense concerns that we insist be in any bill advanced by this committee.

In fact, VA agrees that payments of future benefits are not allowed under current law. In a November 2023 letter from VA in a response to a bipartisan, bicameral congressional inquiry, the VA was asked, what is VA's official position on contracts in which a veteran agrees to pay a product of the increase in future benefits? The response was where a contract ties the existence and extent of a claimant's payment obligation to the award of VA benefits, it is logically construed as contemplating those benefits as the source of the payment.

The statute allowing for the payment of fees to VA accredited attorneys and agents for the preparation, prosecution, or presentation of VA benefits claims from past due benefits is considered an exemption to the prohibition on assignments set forth in section 5301. Under current law, even this exemption does not go as far to allow for an agent or attorney to contract for the payment of fees from a claimant's future benefits.

VA also stated, in addition, they have concerns that would heavily depend on the different fee structures that could be proposed. For instance, a fee based on a product of the monthly benefits award, such as 5 times or 500 percent of the amount of monthly increase of benefits, would likely be unreasonable or, worse, predatory. They go on to state further, a flat fee limit, such as a cap of \$12,500 for services provided on an initial claim, seems excessive and thus unfair to veterans. These are VA's words, not the VFWs. Unfortunately, VA is not here to present those views, so I am doing that for them.

The VFW strongly supports the GUARD VA Benefits Act that seeks to reinstate penalties. We assert that this legislation, which adds only one sentence to Title 38, is a sound policy proposal that simply institutes a penalty for breaking current law. Anyone who claims to be adhering to Federal law should not be opposed to being subject to penalties of said law. This would signify a substantial step forward, holding bad actors accountable to the intent of the law. In fact, VA has stated that in its budget request each year in its legislative proposal section, since 2018, when Mr. O'Rourke

was the acting VA Secretary, they have asked for that legislative proposal in their budget request. We agree that that would be beneficial for veterans and survivors.

The VFW opposes the PLUS Act because of the concerns VA has with the components of that proposal, such as allowing assignment of benefits and unreasonable fee caps. The VFW agrees with those concerns.

Chairman Luttrell, Ranking Member McGarvey, and members of the subcommittee, thank you for the opportunity to speak on these bills. I am prepared to answer any questions you might have.

[THE PREPARED STATEMENT OF PAT MURRAY APPEARS IN THE APPENDIX]

Mr. LUTTRELL. Thank you, Mr. Murray.

We will move to a line of questioning. Thank you for your opening testimony.

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

Mr. MCGARVEY. Thank you, Mr. Chairman. Appreciate everyone being here today.

I want to say one thing off this, off the bat. Mr. O'Rourke, you said that people are outraged that veterans have a choice, and I just want to correct that. I am outraged that veterans are feeling so desperate in getting their claims adjudicated that they are willing to pay tens of thousands of dollars to get those claims adjudicated. That is what makes me outraged. These are veterans who have earned these benefits, who have put on a uniform, who are willing to sacrifice everything for us, and they are feeling so stymied right now, they are willing to go to companies to pay this kind of money. That is what has me outraged.

Let us get to the testimony. Colonel Taylor, page 6 of your testimony states "the PLUS Act lifts the outdated prohibition on paid representation for initial disability claims." It lifts the outdated prohibition. That sounds like you and I are in agreement that charging for assistance on initial claims is currently not legal, not allowed.

The Code of Federal Regulations states also that, quote, "No individual may assist claimants in the preparation, presentation, and prosecution of claims for VA benefits as an agent or attorney unless he or she has first been accredited by the VA for such a purpose." Now, I know in your testimony you said that you all do not act as an agent or attorney. Just to clear up some doubt, I just went to the Oxford Dictionary on my phone, an agent is described as, "A person who acts on behalf of another person or group or a person or thing that takes an active role or produces a specified effect."

You can see behind me how the VA defines "preparation" from this, in particular, but I will read it for people around, "Preparing a benefits claim generally includes, but is not limited to, consulting with or giving advice to a claimant or potential claimant in contemplation of filing a benefits claim, gathering evidence in support of a benefits claim on behalf of a claimant or potential claimant, or filling out VA forms for their submission to the VA."

We know what "preparation" means. We know an agent is someone who acts on behalf of another person or a person or a thing that takes an active role or produces a specific effect. When you look at this definition, when you look at the definition of "agent,"

Colonel Taylor, I just have to ask you, is your company doing any of these things?

Mr. TAYLOR. We fundamentally do not believe that we are acting as agents or attorneys. We acknowledge that we are helping with preparation. That is definitely clear.

Mr. MCGARVEY. Are you doing these things? In the preparation are you preparing a benefits claim generally includes, but is not limited to consulting with or giving advice to a claimant or potential claimant in contemplation of filing a benefits claim, gathering evidence in support of a benefits claim on behalf of a claimant or potential claimant, or filling out VA forms for their submission to the VA?

Mr. TAYLOR. We are assisting with the preparation. We do acknowledge that.

We do not believe that we are acting as agents. When you look at the definition of "agency," agency typically requires three parties: the agent who is acting on behalf of the client and engaging with the third party, which in this case would be the VA. We never represent the client, we never engage with the VA, and we never represent before the VA. We do not meet the three pieces of that triad that define agency. We are acting as a consultant that helps the veteran prepare to navigate the system on their own behalf in their own name.

When we talked about lifting the limitations within the current law, that was in reference to what accredited agents or attorneys can do. We believe that if we can change that, allow us to become accredited, we would like to work within and under the system with restriction.

Mr. MCGARVEY. I appreciate that. What you are talking about is a belief, and what I am trying to talk about is a commonsense definition of how we are representing people in preparation of a claim, which it very much sounds like you are doing, whether you are helping veterans or not. That is not what I am asking. These are the current laws we have. It seems you are doing these things on behalf of these veterans, and that is not allowed under the current law.

Mr. Smith, I have a question for you, and this is a very sincere question. We only have a minute. I am going to try and get through it very quickly. Right now, you could apply for free for accreditation to assist veterans. Instead, you are choosing not to do so. I do understand that the accreditation process can be time-consuming, so I am granting you that. I am even going to go so far as to say we should tweak that system, change the system. All right. Thousands of people have gone through it. My very sincere question to you is why have not you all?

Mr. SMITH. Yes, thank you for that question. That is exactly why we are here today, is to get a pathway for accreditation for companies, for our company to help veterans.

Mr. MCGARVEY. There is a pathway for accreditation. It exists right now and thousands of people have used it.

Mr. SMITH. Yes. We are in full support of the PLUS Act or the Discussion Draft to create additional pathways.

Mr. MCGARVEY. Why have not you gone through the pathway now? I mean, it is a very serious question.

Mr. SMITH. During my time at the VA, I was preparing claims for a decision and I was on the other side making the decisions for these claims. I spent years doing that. I have much respect for the VSOs doing it for free. I was a member of a VSO. They helped me with my claim along with the VA Home Loan and also with education.

My experience at the VA, I saw a wide variety of quality from the VSOs are from veterans doing it on their own. It showed a big disparity between the training I received as a VA employee versus—and the expertise I know of the VA regulation to how they were being represented from VSOs. I saw a big need for veterans to have the type of knowledge and expertise that I had as a VA employee, which is why I started the company. I had no idea what it would turn into. For 5 years, it just grew by word of mouth. We have tens and thousands of happy veterans——

Mr. MCGARVEY. Mr. Chairman, I know we are out of time, and all I am going to say is I appreciate people trying to help, honestly trying to help veterans. I asked you why you have not gotten any accreditation, and you just told me how good your company is, but that did not answer the question. That is something I want a sincere answer to the question to at some point.

Mr. SMITH. Yes, sir. Thank you.

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

Mr. LUTTRELL. Mr. Bergman, you are recognized, sir.

Mr. BERGMAN. Thank you, Mr. Chairman. Can I take a point of personal privilege before my time starts?

Mr. LUTTRELL. You may.

Mr. BERGMAN. All right. I figured out why I could not pronounce infantilizing. It has got five syllables. I am limited to four. I just wanted to let you know that, so I apologize. I am going to make sure my note writers, we limit it to four syllables. Okay. I am ready for the clock to start.

Let us get to the point very quickly. I heard my colleague talk about protecting veterans. When I think about protecting things, whether it be our country, our little children, or people who need assistance, we have to be very careful. I believe that when we try to protect someone, we do not limit their ability to become independent. I would suggest you we have to be very careful here as a committee and what we do in oversight and what we do as we look at things, do not let protect be the roadblock that enables independency on the part of the marketplace and the part of the veterans to interact with them.

With that, Mr. Taylor, I will start with a simple question. Does any part of the PLUS Act force veterans to pay a fee to receive assistance in obtaining their disability benefits?

Mr. TAYLOR. It absolutely does not. One of the things that we appreciate about the PLUS Act is that it maintains the veteran's freedom of choice. They can pursue a claim on their own. They can pursue it with the VSO from one of the veteran service organizations or a State or county employee or their congressional office. Or if they choose that those services are not meeting their needs, they can choose to use a private service like ours.

Mr. BERGMAN. Okay. I do not think anybody in this room disagrees, you know, with the fact that we need to accredit anybody

in any place. Doctors need to be accredited. You know, pick your—teachers need to be accredited. They need to show that they can do the job. Can you speak to the need for changes to the accreditation application system, for instance, through the temporary and provisional accreditation included in the PLUS Act?

Mr. TAYLOR. Thank you, sir. We do agree with the requirement to be accredited. We do believe that accreditation needs to be open to allow people to help at any step of the process. That is really the limitation to becoming accredited right now.

What is proposed in the PLUS Act would provide a provisional path to allow us to become accredited, to operate within the system, but also provides immediate protections that if we violate any of the rules, there is a heavy penalty that will be enacted if we do not act properly under the rules of the PLUS Act.

Mr. BERGMAN. I know we are going to—because this is going to—I had a zillion questions for all of you, but we are going to stay focused on here. What steps, Lieutenant Colonel Taylor, what steps does Vets Guardian take to make sure veterans can pay the fees they agreed to without placing financial strain on them or their family?

Mr. TAYLOR. We have developed a payment system that ensures that no veteran is financially disadvantaged from where they were when they started working with us. We do not believe in collecting fees until a veteran—we have validated that the veteran is getting their new benefits from the VA and that we believe that any benefits that are—any fee that is paid to us should be paid out of new benefits that the veterans are receiving. We would be happy to see additions to this bill that would codify some of those rules, require fees to be contingent on a successful outcome and require them to only be collected after the veteran is collecting their benefits.

Mr. BERGMAN. You have developed your business model and how you are going to do this. Would you be open to adding additional guardrails? We do—part of what we are looking here to do is to create guardrails and guidelines. Would you be open to additional guardrails to PLUS, ensuring agents who charge fees take steps like what you just articulated?

Mr. TAYLOR. Yes, absolutely. For the last—since I have been engaged in this process, we have been open to commonsense guardrails. We do understand there is predatory practices and that we need to protect veterans and we are open to anything that addresses those concerns.

Mr. BERGMAN. Okay, thank you.

Mr. MURRAY, got a couple of just, you know, yes or no questions. Does the VA accreditation system adequately ensure agents are held accountable to veterans and the VA?

Mr. MURRAY. I wish VA was here to answer that.

Mr. BERGMAN. Yes or no.

Mr. MURRAY. I cannot say no. I cannot say no.

Mr. BERGMAN. No, no, you are providing a perspective based upon your knowledge, your in-depth. I will repeat it. Does the VA accreditation system adequately ensure agents are held accountable to veterans and the VA?

Mr. MURRAY. We believe the system can.

Mr. BERGMAN. Does the VA accreditation system adequately insure agents, yes or no? You are looking at—you are very deeply into it. Or maybe simply, do you think it can do better?

Mr. MURRAY. It can always do better.

Mr. BERGMAN. Okay. Is it doing good enough now?

Mr. MURRAY. I do not think so.

Mr. BERGMAN. Okay. Thank you very much. I yield back whatever seconds.

Mr. LUTTRELL. Thank you, General.

Mr. PAPPAS, sir, you are recognized.

Mr. PAPPAS. Well, thank you. I appreciate everyone's testimony and the conversation here, and I really do hope we can have a deliberative process as we move forward to figure out legislation that is going to address this issue.

I started from this hearing about it from constituents, hearing about it from veteran organizations about the problem that does exist out there, where veterans are being charged exorbitant fees to get access to the benefits that they have earned. Many have talked about deceptive practices along the way. That is a problem that I believe this committee needs to work to address. We should do it by strengthening the accreditation program and passing my bill which would put in place those criminal penalties that were stripped out of the law in 2006.

Now, we heard from companies and others have said that we do not, you know, participate in the preparation, presentation, and prosecution of VA claims. If that is the case, then there is nothing to worry about with respect to reinstating criminal penalties for those that are running afoul of the law. I think my bill is pretty simple and straightforward.

Mr. Murray, I wanted to turn to you and just ask about your team and the work they do to get accredited and to do the work that they do. Just help us understand a little bit about what goes on in terms of your organization and assisting veterans with claims.

Mr. MURRAY. Sure. Thank you for that question, Mr. Pappas.

As VSOs, we have to go through 40 hours of training. A lot of it now can be done self-paced online. You need to pass a test, you know, with a certain percentage correct, and then pass a background check. That is just the process for veterans service organizations. The accredited attorneys and accredited agents have a different process as well.

Mr. PAPPAS. Can you talk about the difference between pre-filing consultations and claims preparation? We heard a little bit about this today. Companies are arguing that because they do not actually hit the send button on a veteran's application, they are not actually assisting in preparation. How do you view that issue?

Mr. MURRAY. We view not physically mailing the claim itself, that is not the only part of preparing a claim. As VA stated, gathering evidence, contemplation of a claimant, providing assistance and advice, we believe that is also part of the preparation because you are preparing the entire package. I know that legally "preparation" has a certain definition. We feel that the whole part of that is preparation, as does VA.

Mr. PAPPAS. Mr. McGarvey talked about frustrations that veterans have in terms of delays in getting claims processed, in getting their benefits. I think that is an issue we have been working on. We have to continue to address. Obviously, we have asked VA to do more in passing PACT Act and other legislation that has put a lot of pressure on the workforce at VA. I am wondering if you can talk about capacity within the VSO community, within the accredited agents and attorneys that are out there. Do we have enough capacity to deal with some of the new authorities that Congress has given VA?

Mr. MURRAY. I do not think so. There are a lot of places where the entire system can get better. The VFW is not saying that we can do this on our own. We are supported by an entire network of county VSOs, State VSOs, our other partners like the American Legion and Disabled American Veterans (DAV), and accredited agents and attorneys. There are places all around this country that can invest more in helping with those services. Nothing that we are talking about today, whether it is the GUARD Act or the PLUS Act or the Discussion Draft, will make VA process these claims any faster.

The backlog, you know, does exist. There are claims that are waiting for adjudication. Nothing on our front end is going to make that any better. A fully developed, fully prepared claim will, hopefully, get through correct the first time, but it is up to VA to process that. No one sitting at this table can speed up the actual process itself.

Mr. PAPPAS. Yes, that is the other essential element in this conversation.

Ms. Boyd Rauber, can I turn to you? I appreciate your reflections on the legislation before us today. You did say there were elements of the PLUS Act that you could support, and I am wondering if you could elaborate on that.

Ms. RAUBER. Well, we appreciate the fact that they want to put in the criminal penalties, just as you do in GUARD. We also, again, have seen this move in the states to pass these different bills, GUARD, PLUS. It is extraordinarily confusing for veterans. It is confusing for advocates. We absolutely think there has to be something in there that emphasizes that Federal law, this is a Federal area of disability benefits, trumps and preempts the State laws.

Mr. PAPPAS. My time is up. I may have some other questions, but I yield back. Thank you.

Mr. LUTTRELL. Thank you, sir.

Ms. Mace, you are recognized for 5 minutes.

Ms. MACE. Thank you, Mr. Chairman. As a daughter of a veteran, most of my family serves, I know how important it is to correct—to protect, excuse me, our veterans. I applaud and thank all of our veterans. This is standing room only today. You men and women showed up, you served your country. You showed up to protect your benefits and get what you deserve. Thank you and God bless you.

My mission in life and my mission on this committee and other committees I serve on is to protect veterans. It is also to protect women. I have some questions for Colonel Taylor, who is here today this morning. Thank you for being here. What percentage of the benefits a veteran gets, when they come through your company

to get benefits, what percentage of their benefits does your company receive when working with veterans?

Mr. TAYLOR. We do not work on a percentage basis.

Ms. MACE. How do you work on—how do you get your funds?

Mr. TAYLOR. We charge a contingent fee that is equal to five times the monthly increase. That fee is only charged if the veteran has a successful outcome and receives an increase in their benefits. We only invoice that fee once we validated that the veteran is getting their new benefits from that filing.

Ms. MACE. What are your gross revenues for your company? How much money are you guys making every year?

Mr. TAYLOR. We are a private company and we do make a profit, but when we look at our fee—

Ms. MACE. Gross revenues?

Mr. TAYLOR. I am—my compensation is not publicly disclosed because we are a private company.

Ms. MACE. How much money is your company making every year?

Mr. TAYLOR. I would be—

Ms. MACE. Ninety million, 100 million, or more?

Mr. TAYLOR. I would be prepared—

Ms. MACE. More or less than \$100 million?

Mr. TAYLOR [continuing]. to discuss it offline. I am not prepared to discuss that here today.

Ms. MACE. Of course not. All right. What percentage of your cases are fraudulent?

Mr. TAYLOR. I would say that 0 percent of my cases are fraudulent.

Ms. MACE. Mm-hmm. I have a question for you, a couple questions for you. What is your company's position on people who serve—well, do not serve, people who maybe attend a college or an academy for a year or two but never graduate and never serve and get 100 percent disability? What is your position on that?

Mr. TAYLOR. That is not a position that my company should determine. That is a position that is determined by the VA and their regulations and the law and how that is administered.

Ms. MACE. Have you ever helped anybody who has not served like that, that maybe went to college or an academy for a year or two and got them 100 percent disability? Has your company ever done that?

Mr. TAYLOR. I cannot speak on that. I would have to go back. I could come back to you with an answer on that question.

Ms. MACE. I doubt you could. Would a football injury, someone who was at college or an academy for a year or two and got a football injury, deserve 100 percent disability, in your opinion?

Mr. TAYLOR. In my opinion, no.

Ms. MACE. What if it was, like, from a car crash? Would they deserve 100 percent disability?

Mr. TAYLOR. Once again, that is not for my company—

Ms. MACE. What if they just made it up and lied to get their 100 percent disability and they only attended college and academy for a year or two? What if they just completely 100 percent made it up and lied?

Mr. TAYLOR. That would be a fraudulent claim.

Ms. MACE. If there was a fraudulent claim and there was an investigation, would you work with whoever's investigating it to ensure it does not happen again and to reverse the claim? Would you, I mean—

Mr. TAYLOR. Absolutely.

Ms. MACE. Mm-hmm. All right. I have some ethics questions. I understand your CEO, Scott Greenblatt, has a degree in criminal justice. Is that right?

Mr. TAYLOR. I believe so, yes.

Mr. MACE. What is your company position on rape?

Mr. TAYLOR. We are fundamentally against it.

Ms. MACE. What is your company position on voyeurism? Women who are filmed illegally without their knowledge, permission, or consent.

Mr. TAYLOR. Completely against it.

Ms. MACE. What is your company position on women who come forward to report rape?

Mr. TAYLOR. We fully support that.

Ms. MACE. Or voyeurism?

Mr. TAYLOR. We fully support that.

Ms. MACE. Would you work with anyone—would you work with a veteran who is accused of doing those things or something like it? Would your company ever want to affiliate with an individual like that?

Mr. TAYLOR. We would not.

Ms. MACE. You are saying you would not work with any students who try to get 100 percent disability who are at school for a year or two. Would your company ever work with any veterans who are being investigated for breaking the law?

Mr. TAYLOR. I would—from a initial position, we should not. I cannot say categorically that we have not in the past, but we do not believe that someone was—

Ms. MACE. If you knew someone was being investigated, would you help them get their benefits if they were being investigated for heinous crimes against women?

Mr. TAYLOR. We should not be, no.

Ms. MACE. You should not be.

Thank you, Mr. Chairman. I yield back.

Mr. LUTTRELL. Thank you, Ms. Mace.

Dr. Dexter, you are recognized for 5 minutes.

Ms. DEXTER. Thank you, Mr. Chairman, and to the ranking member for convening this hearing today. Thank you to our witnesses for coming and to our room full of veterans for standing up for your benefits. Thank you for being here.

No veteran should have to pay to file a claim to access the benefits that they have earned, full stop. Could we improve the VA claim system to make it faster and easier? Absolutely. That is why I am here in Congress, to make sure that government works for Oregonians. You know what I am not here to do? Sit by while Elon Musk takes a chainsaw to veterans' services or hands a blank check to industries ignoring the law. I know that is true because I hold town halls and I listen.

At my town hall on Saturday, the first person to speak was a Marine Corps veteran who was unjustly fired from the Veterans

Benefits Administration. He had just taken a job. I know who I am fighting for, and that is why I support the GUARD VA Benefits Act. Last Congress, the GUARD VA Benefits Act had overwhelming bipartisan support, 221 cosponsors in the House, 55 in the Senate, and backing from 44 bipartisan attorneys general, including those from every State and territory represented on this committee. Most importantly, it had the robust support from veterans and VSOs.

Yet, instead of advancing this commonsense, bipartisan bill, we are here debating other proposals to put corporate profit ahead of veterans. A loophole that should not exist is being exploited. Instead of fixing it, we are entertaining ways to help companies continue to take from our veterans. To top it all off, the VA is not even here to weigh in.

Ms. Boyd Rauber, I am sorry, I hope I said that right. Tell me, what does this committee need to do to make it faster and easier for veterans to file claims through the trusted accredited system that exists?

Ms. RAUBER. Well, I think that Congress has constantly been looking at ways on how to make the system better. We really strongly believe in accreditation and making sure that everyone who is representing veterans is accredited because that system requires people to become educated, to take the Continuing Legal Education (CLE). Agents have to pass an exam. VA has to oversee all of these things. In addition, for people who are charging fees currently under the system, they must submit every fee agreement that they sign with a veteran to the Department of Veterans Affairs, who always has the right to look at a fee and determine whether or not it is reasonable. We really think that those safeguards are very critical to protecting the system, protecting veterans.

Ms. DEXTER. Great. Ms. Boyd Rauber, what risks do veterans face when they file a claim with an unaccredited company?

Ms. RAUBER. Well, again, because someone's not accredited and to their points, they are standing in the shadows coaching a veteran, consulting, but they are not the person who is going to put their name on a power of attorney (POA) and represent themselves to VA and say, I stand for this veteran. I am the person you can contact when there is something wrong. I am the person who is going to reach out to VA and say this particular veteran needs to be advanced on the docket. We just see it as accountability to stand up and say, I am representing this person.

Ms. DEXTER. Very good. This administration claims it is tackling waste, fraud, and abuse. Again, they are showing their true colors, taking money from veterans to pad the profits of unaccredited, potentially predatory companies quite literally writes waste, fraud, and abuse into the law. I will not entertain bills that seem more interested in protecting a so-called free market than ensuring veterans can access the benefits they have earned.

Thank you. I yield back, Mr. Chair.

Mr. LUTTRELL. Thank you, Ms. Dexter.

Mr. Self, sir, you are recognized for 5 minutes.

Mr. SELF. Thank you, Mr. Chairman.

I am actually delighted to hear that we are making progress toward the, the PLUS Act or the Discussion Draft. I want to go back to a different situation and it is the case that we have in VA that we have debated now for 2 years, and it is veteran suicide. The VA wants to keep veterans in the big VA. There are veterans who want to go to a local clinic. There are veterans who want to go to peer-to-peer Non-governmental Organizations (NGO), counseling. They have choices. Here I think I have heard that we agree that the accreditation process is inefficient and changes need to be made. I always look to monopolies, need to have competition. I hope that we can reach agreement on whichever bill we can that will give our veterans choices because our veterans need choices.

I am not sure I have a question for our panel, but I want to say that I am encouraged with the conversation here. I think that at the end of the day I will—and I look forward to our hearing, a true hearing on these bills because I want our veterans to have as many choices in every area as they can have. Veterans are different. They have different interests, they have different needs. I am actually encouraged here and I want to see whatever bill this committee eventually advances, Mr. Chairman, will give our veterans a choice.

Thank you. I yield back.

Mr. LUTTRELL. Thank you, Mr. Self.

Dr. Morrison, you are recognized for 5 minutes.

Ms. MORRISON. Thank you, Mr. Chair. I want to thank you for holding this hearing today and thank our witnesses for being here. I also want to thank my colleagues for putting forward their proposals. I appreciate hearing the views and conversation that we are having.

As the wife of an Army combat veteran and the daughter-in-law of a disabled Vietnam veteran, I know the VA claims process can be challenging to navigate. Since we are talking about benefits that veterans have earned, I think we need to make sure that we are helping them avoid paying out of pocket for what they are owed.

It strikes me, too, that part of the challenge we are facing here is the increased and entirely appropriate need that the PACT Act is designed to meet. The news that was leaked last night, the administration plans to fire up to 83,000 more VA employees, is perplexing to me at best and designed to gut the VA at worst.

My question is for Ms. Rauber. In your testimony you described the patchwork of State laws that have passed because of congressional inaction, frankly, on the issue. It seems like it is not for lack of support. I believe last Congress the GUARD VA Benefits Act was cosponsored by the majority of members in both the House and the Senate. My question for you is, what are some of the other consequences that might result from further congressional inaction on these issues?

Ms. RAUBER. Well, I think that there is just more growth of these companies. They perceive that they are outside the bounds of the law, which we do not agree with, because it would seem perplexing that Congress over all these years would have said we do not want veterans to be paying for initial claims and that by saying that they were somehow allowing for a loophole that would be this big.

We really think that there has to be some kind of action to sort of get a grip on what has become a growing industry.

Ms. MORRISON. Thank you. This question has sort of been asked, but I am hoping, Mr. Murray and Ms. Rauber, that you could share some recommendations that you might have on how VA—what could VA be doing to make this process more efficient besides firing 83,000 people?

Mr. MURRAY. We think that would be harmful. What they have been doing, as we have seen the backlog for claims cases, how long it takes, I believe it was about 146 days a week ago. It is slowly decreasing. The stories of claims taking 3 years to adjudicate is a thing of the past. We want to see that continue. Continuing to hire people at VA to review those claims to hopefully make it faster.

We also would really appreciate things like adding additional resources to, like, our county VSO system. Right? There are plenty of states around the country that do great things. The Texas Veterans Commission is a great example. Not every State does that. We can here push out great resources to help other states do that, so that there are so many more resources for veterans to show up and get that help they need.

Ms. RAUBER. If I could add, in 2017, President Trump signed the Appeals Modernization Act. That was the product of a lot of collaboration between Congress, VSOs, stakeholders. It actually has made a lot of changes to the system that have greatly improved it. I know this subcommittee is looking at even further improvements to the AMA, some things that need to happen. We wholeheartedly support that and would love to maybe get some of these issues passed, so we can actually dig in on some of the meat of those.

Ms. MORRISON. I appreciate those answers. Thank you so much. I yield back, Mr. Chair.

Mr. LUTTRELL. Thank you, Dr. Morrison.

Mr. Smith, do you believe that a veteran should be charged a fee for helping filing an initial claim for presumptive disability that VA assumes is related to their military service?

Mr. SMITH. Thank you, Chairman Luttrell, for that question. We do not believe that veterans should be paying for any presumptive claims. These are in the spectrum of complicated cases, VA claims, presumptives tend to be relatively simple and—

Mr. LUTTRELL. Relatively simple. Do not ever say that again out loud.

Mr. SMITH. Regarding what it takes to be service-connected versus a nonpresumptive claim and the scope of that, there is not as many prongs that need to be met in order for a presumptive condition to be met. It is fairly automatic when you compare it to a disability you are claiming for military service. For presumptive claims, we do refer them to veteran service organizations and we refer all of our clients to any that there are free services. The majority of our clients have used them, such as myself.

Mr. LUTTRELL. Ms. Rauber, as a trade association of law firms assisting veterans at no cost on initial claims, what guardrails do you think should be in place if Congress passes legislation that would allow charging fees on initial claims?

Ms. RAUBER. Well, we think that the current guardrails that are in place would be adequate if people are—if Congress decides that

they are going to allow for some charging system, then what is under the accreditation system currently is adequate. Everyone has to file a POA on every veteran they represent. Again, to my earlier answer, because then you are showing that you are the person that is representing the veteran. You have to do CLEs. You have to, if you are an agent and you are not an attorney, you have to pass an exam. You have to submit all your fee agreements to the Department so they can look at them. The Department has the right to decide whether or not that fee is reasonable.

We think that the guardrails that are in place are solid ones. It is the determination that you all have to make as to whether or not you want to take that next step and allow for veterans to pay for assistance with filing their initial claims.

Mr. LUTTRELL. Mr. Murray, you were asked the question is the accreditation process, does it need to be changed, advanced, or moved forward? You said absolutely yes. Then you were asked what do you think about it actually? You are like, it is not good enough. My question to that is, if it is not good enough, is it worthwhile at all? You have members on this—you may have members in the hearing right now that do not have the accreditation.

Mr. Smith, your answer was absolutely out in left field. You are in the people's house and we want answers. That was not one, sir.

Colonel Taylor, I am going to ask you, because if the other companies are getting accreditation for accountability, responsibility, and to be held accountable, I seem to think that that is what the accreditation means. Do you have one?

Mr. TAYLOR. We believe—

Mr. LUTTRELL. Does your company have—is your company accredited?

Mr. TAYLOR. We are not accredited right now.

Mr. LUTTRELL. Okay. You are going to need to tell me why you are not. Because as the ranking member asked, there is a process and thousands of companies have gone through it. In my interpretation, it just means you do not want to be held accountable if anything happens, which the accredited agencies are going to be called to the carpet. Tell me why is the process skewed, flawed in a way that you have not done it? I have heard you say in your testimony that you plan on it. How long has your company been under active?

Mr. TAYLOR. We have existed since late 2017.

Mr. LUTTRELL. 2017, Okay. You may answer.

Mr. TAYLOR. Yes. Under the current accreditation rules, we are obviously not allowed to charge a fee to assist with an initial claim. Our entire assistance model is focused on helping veterans with initial claims. When I look at a veteran, I am looking at three pillars.

Mr. LUTTRELL. I heard you speak on the triad, which I think you are kind of skirting the line there a little bit, but go ahead.

Mr. TAYLOR. Okay. Well, aside from the triad, I want to look for things that a veteran should have claimed that they did not. That is an initial claim.

Mr. LUTTRELL. Are you telling these veterans to collect this information for you or you are actively doing it yourself?

Mr. TAYLOR. The veterans have to provide the information to us, and then we help them develop it from there.

Mr. LUTTRELL. Just over the phone. You are not touching anything. You are telling them you got a guideline you are reading off of like, hey, this is what you are going to do. I am trying to find out why you are not wanting to become accredited.

Mr. TAYLOR. We want to become accredited, but——

Mr. LUTTRELL. No, you do not. You do not, sir.

Mr. TAYLOR. Yes, sir.

Mr. LUTTRELL. Unless I am absolutely missing something, because the organizations that are sitting to your left are. In 2017, as you said. Tell me why.

Mr. TAYLOR. Because under the current accreditation limitations, we cannot assist with initial claims, and that is where we believe the veterans need the most assistance. For us to most effectively help our veterans and look at them holistically, I need to be able to assist them across the entire process, both of what accredited agents are allowed to do——

Mr. LUTTRELL. Legislatively, there is a problem, apparently.

Mr. TAYLOR. Yes, sir.

Mr. LUTTRELL. That is something that you are asking us to fix?

Mr. TAYLOR. Yes, sir.

Mr. LUTTRELL. Ms. Rauber, I would assume you would disagree with that statement or Mr. Murray?

Ms. RAUBER. Again, this is Congress' decision about initial claims.

Mr. LUTTRELL. Congress listens to the people. We are elected by the people. We are here to do the people's work.

Ms. RAUBER. Our members are accredited and help veterans, typically after they have been denied. As I talked about earlier, there is an appeals process, so veterans have a lot of choices to make when they get a denial. That is typically when agents and attorneys have been involved in the process. A lot of our members do initial claims pro bono, for free. It is just a different way of representing veterans. Again, our members are accredited and are putting their names out there to say we represent this veteran and we will be held accountable for it.

Mr. MURRAY. Mr. Chairman, I would—the VFW's position is exactly that everybody can get accredited. If Ms. Rauber and the other accredited agents and attorneys said we want to talk about extending fees within the current system, we are here for that. Right now, people who are operating outside the system, refusing to get accredited are saying you must change it before we start following the law. We do not agree with that.

Mr. LUTTRELL. Thank you, Mr. Murray. I apologize. I went over my time.

Mr. Pappas, sir, we are going to move into closing remarks. Would you like to close out? Please do.

Mr. PAPPAS. Our closing. Well, I want to thank our panel and certainly all the veterans that are in the room here today for this important discussion.

I see this problem as one of veterans being taken advantage of in our country and us needing to insist on some basic guidelines here in Congress. Yes, to protect veterans and ensure that they are able to seek the help that they need and successfully obtain the benefits that they all deserve.

Now, I think there are some in this room that we have heard from that think the problem is their company is not able to make as much money as they possibly can on the backs of our veterans. I just fundamentally believe that our veterans should not be a profit center. There should be penalties for those who are violating the law and ripping off our veterans. If companies believe that they are not violating the law today, then there is no reason why they should not welcome some additional teeth in the law and some oversight by VA. I think that the GUARD Act is pretty straightforward.

I also think that there was a lot said today about choice. We should be taking steps to bolster the choice that veterans have. We can do that by encouraging the hiring of more county veterans service officers, by supporting VFW and other organizations in the work that they do, by strengthening the accreditation process to ensure that more can come into the system under that umbrella. Ultimately, and this came out today, working as hard as we can to strengthen VA's response times and their customer service for the end veteran to alleviate that frustrating process that so many endure.

I think that we have got an ability to work this through and I hope that we will continue to engage the veteran community ultimately in the work ahead on this subcommittee. I just thank you for the opportunity to hear these bills today. I think this was really instructive for us.

I yield back.

Mr. LUTTRELL. Thank you, Mr. Pappas.

You know, the VA, it is not a perfect machine. It is not. It is big, it is bold, it is beautiful at times, and it fails at times. I do not mind wire brushing it and calling everything out. The VA, it is ours. I am looking at the 100-plus people sitting in the room with us today. It belongs to us. We dictate how it should be operated.

Now, these two pieces of legislation are amazing. Yes, the veteran has every right to pick and choose exactly who moves their claims through. Colonel, Mr. Smith, 100 percent they do. They have that choice. They earn that right. They put that uniform on, they can make those choices because, yes, they do go to the VA. The VA has failed multiple times. We hear it every day. It is no secret. We are trying to build out that infrastructure in order to handle us. We are a very complicated group of individuals, especially the Marines. We will not let any organization take advantage of the most cherished asset we have in our country, which is those individuals on the dais and sitting behind you and amongst every other State in the country. I hope I am very clear on that.

As we talk about this legislation, full committee, what we will do, because we should not be having this conversation. Now, whether if we messed up legislatively in the past, it is because we are listening to you and we are listening to you right now. Now it is our job on the subcommittee and the committee to fix this problem. Because what we want at the end of the day is for our veterans to be taken care of, their quality of life increased so they can be happy until the day we have to lay them down.

I want you to know, yes, I will get aggressive with you because sometimes you deserve it. I can assure you I get my ass handed

to me every day because I am voted in by the people and that is who I am speaking for, the 40,000 veterans in my counties. Okay.

I would like to thank the ranking member again for this hearing and the other members of this committee. I ask unanimous consent that the statements for the record we have received today be 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 material. Hearing no objections, this meeting is adjourned.

[Whereupon, at 11:44 a.m., the subcommittee was adjourned.]

A P P E N D I X

PREPARED STATEMENTS OF WITNESSES

Prepared Statement of Josh Smith

My name is Josh Smith and I am the CEO and Co-Founder of Veteran Benefits Guide (VBG). VBG is a private company that assists Veterans in navigating the Department of Veterans Affairs (VA) disability claims process.

I would like to thank Chairman Luttrell, Ranking Member McGarvey and other Committee members for providing me this opportunity to share my perspective on how best to regulate the private benefit services industry and on the related bills now being considered by the Committee.

On behalf of VBG and our Veteran clients, I am testifying today in opposition to the GUARD VA Benefits Act and in strong support of the PLUS for Veterans Act. I want to thank Representative Bergman for introducing the PLUS Act and Representatives Mace and Self for cosponsoring the bill. VBG also supports the Discussion Draft legislation that has been shared and believes it represents a reasonable compromise between the GUARD and PLUS bills.

While well-intended, the GUARD Act would severely and unfairly limit choices Veterans have in seeking assistance with their VA disability claims. Instead of only targeting bad actors, it would make it illegal for Veterans to get advice or assistance from any private services, including honorable companies like VBG. We believe that Veterans need more help in getting the benefits they earned from their service, not more limitations on their options and choice.

In contrast, the PLUS Act and the Discussion Draft legislation provide the right balance between establishing necessary guardrails to protect Veterans from bad actors and ensuring that honorable private companies like VBG are allowed to continue serving Veterans. Each of these bills includes strict disclosure requirements, fee caps, and privacy protections that we support. In most cases, we are already adhering to these terms.

Opponents of the PLUS Act and the Discussion Draft legislation inaccurately insinuate that organizations such as ours choose not to be accredited. That is false. VBG would welcome the opportunity to become accredited but cannot because Federal law currently prohibits accredited entities from charging a fee for helping Veterans on an initial claim. The PLUS Act and the Discussion Draft legislation would resolve this issue by providing a pathway for VBG and other good actors to become accredited and come under the oversight of the Department of Veterans Affairs.

The fact that VBG is not currently accredited does not mean we are violating Federal law. We provide specially trained case managers to guide Veterans through the claims process. But we do not act as the Veteran's agent or representative, and we do not present before the VA. Our Veteran clients file their own claims.

We believe Federal legislation is needed now to resolve this issue. Different versions of the GUARD Act and PLUS Act have been introduced in at least 30 State legislatures since the beginning of the year and are making their way through the State legislative process. Without a Federal solution, the result will be a chaotic patchwork of State legislation, where Veterans will face no access at all to private services in some states, a carefully regulated industry in others, and a free-for-all for bad actors in others. Our Nation's Veterans are being harmed every day this chaos and gridlock is allowed to continue.

I would also note that this is not a partisan issue. In State legislatures across the country where these bills are being considered, we have heard from Democrats and Republicans expressing a desire to reach a compromise that both protects Veterans and preserves choice.

For example, at a hearing on the GUARD Act in the California State Senate last year, the Democratic Judiciary Committee Chairman, Thomas Umberg, stated:

"I do think we should create a system where Veterans have the option of choosing someone who is accredited to be able to pay them to help in this adversarial process that we all agree is an adversarial process. And so rather than keeping Veterans at a disadvantage, not allowing them to pay for the best expertise, that

we should put the Federal Government to their proof... I think before this thing gets to the Governor's desk, that we ought to make a point that California stands with Veterans and would permit Veterans actually to pay for expertise."

At the same California hearing, the sponsor of the GUARD Act there, Democratic Senator Caroline Menjivar, a U.S. Marine Corps Veteran, acknowledged that she herself had used a private service and had a good result, and expressed a desire to reach a compromise. She stated:

"Because I was one of those people. The 70 percent that used the free service, and then I turned to a paid service. Because just like Senator Wilk, I myself wanted to pay for it, and I did get a good result... I will continue to find a way within that box, there could be something I can change. Because you're right, that is essentially what could happen, right? We're addressing the bad apples and then the good apples go away... I am committed to work alongside the opposition, which is made up of Veterans, and the support, which is also made up of Veterans, to find a common ground that elevates and supports all Veterans."

With the remainder of my remarks, I will detail a bit more about who we are as a company, why we were formed and what we do, and why the problems inherent in the VA disability claims system call for more choices for veterans, not fewer.

In addition to being the CEO of VBG, I am also a Marine Corps Veteran and a former VA employee. At the VA, I served as a Rating Veteran Service Representative, where I reviewed disability compensation applications and assigned disability ratings, determining the amount of benefits Veterans would receive. In that role, I witnessed firsthand that the VA's disability compensation benefits process is inefficient and often running counter to the agency's mission of helping Veterans.

While we were certainly helping some Veterans, far too many were being denied benefits they earned due to an absurdly complicated system. Through no fault of their own, Veterans were receiving lower disability ratings than they deserved or were simply waiting years to receive final determinations on their benefits.

That is why I left the VA and, with my wife Lauren, created Veteran Benefits Guide to help guide Veterans through the process and ensure they receive the full benefits they earned from their service in a timely manner. Much like a tax service provider, we help Veterans travel through a confusing bureaucracy to get what they are owed.

We have grown our company and now have more than 200 employees, with offices in Nevada and California. Roughly 80 percent of our employees are Veterans or immediate family members of Veterans. And we employ former VA personnel, like myself, helping to ensure we keep up-to-date with VA regulations and the practice of the VA disability compensation system.

I am proud of our record and the service we provide to Veterans. We have an A+ rating from the Better Business Bureau and consistently have perfect or near-perfect ratings from our clients on Google and Facebook. We have been recognized as a Military Times "Best for Vets" employer, named as a finalist for the Better Business Bureau "Torch Award for Ethics," and ranked as one of the "Best Places to Work in San Diego" by the San Diego Business Journal.

It is also clear that our service is needed. As the Committee is aware, the VA still faces a backlog of more than 250,000 claims and a claims inventory of almost one million. Despite their best efforts, Veteran Service Organizations do not have enough manpower or resources to keep up with the demand for help.

Many VSO representatives simply do not have the appropriate amount of time to spend on each case. These representatives are also volunteers with differing levels of expertise who are supported with limited State resources and must often rely on archaic technology and infrastructure. The result is that many Veterans have been misguided in filing their claims, requiring them to accept lower benefits than they deserve or undertake a costly appeals process.

In 2023 congressional testimony, the National Association of County Veteran Service Officers acknowledged that they face "disparities in staffing levels, technology, education and outreach" that "have become even more acute in recent years," and that they are "scrambling to meet an influx of requests from Veterans for support."

In fact, more than 70 percent of our clients first tried navigating the VA benefits process with the help of a VSO representative. They were either denied their full benefits or felt the process was taking too long.

To help address this problem, we provide specially-trained case managers to guide Veterans through the claims process. Up to six of our benefits specialists review and assist on each case. And our staff are often more knowledgeable of the VA process than VSO representatives.

Our Veteran clients also receive thorough and timely medical exams from a trusted nationwide network of more than 150 independent medical service providers. To be selected for our network, providers go through a rigorous credentialing and due diligence protocol that mirrors the credentialing process conducted by the VA. In fact, our company has previously served as a subcontractor to the VA to provide medical personnel to conduct exams.

Following these exams, our Veteran clients submit fully developed, accurate claims to the VA, which helps avoid the need for appeals and speeds up the final benefits decision. Our role in the process helps cut back on VA paperwork and labor needs, and reduces the VA case backlog.

VBG's process, from the time a client comes to us until the VA has decided on their claim, typically takes about 6.5 months. In comparison, an attorney or agent appealing an incorrect rating at the Board of Veterans' Appeals (BVA) will typically take more than 3 years to achieve the same result, on top of the time spent by the Veteran filing their initial claim.

It is important to recognize that attorneys may only be paid to assist Veterans during the appeals process, which provides a perverse incentive for them to offer uneven or incomplete help at the initial claims stage. And attorneys are then incentivized to drag out appeals, since they are paid up to 33 percent of the Veteran's back pay. The longer an appeal takes, the more the attorney is paid.

In congressional testimony in 2023, Kenneth Arnold, the Vice Chairman of the BVA, also noted that a small number of boutique law firms are getting paid millions of dollars while their Veteran clients see no increase in benefits. He stated:

"The courts clerk annually approved 6500 to 7300 attorney fee requests each year, almost all for remanded cases. This generates \$45 to \$50 million in attorneys' fees each year, with the majority going to a small number of boutique law firms, but relatively few Veterans receiving any increase in their monthly compensation from a new board decision post-remand."

BVA's 2023 Annual Report further noted that some attorneys cancel or postpone BVA hearings at the last minute, allowing them to profit from bigger backpay while harming other Veterans waiting for hearings. The report stated:

"[S]ome Veterans are represented by accredited representatives, who sometimes after waiting years for a requested hearing, waive the requested hearing or seek a postponement once it finally gets scheduled. Crucially from the Board's perspective, nearly half of the scheduled hearings that are ultimately canceled or withdrawn are done so with insufficient time for the Board to fill that empty slot with another patiently waiting Veteran. In these cases, the Board's judges have spent precious time reviewing case files and preparing for hearings not held, where that time could have been better utilized reviewing, editing, and signing draft decisions to resolve appeals for other waiting Veterans."

BVA's report found that 31.5 percent of hearings were canceled, withdrawn or postponed by attorneys in 2023, representing more than 32,500 cases where another Veteran was unfairly delayed in receiving consideration of their own claim.

In contrast, VBG's sole focus is on getting the Veteran's claim right the first time, avoiding the need for a lengthy and costly appeal.

In exchange for our service, we are paid a one-time nominal fee, but only if the Veteran receives an increase in their disability benefit. We charge no upfront fees.

VBG advises Veterans up-front in writing about the availability of free services and how to locate those services. We have never taken a Veteran to court to collect unpaid fees and we automatically write off 10 percent of fees due.

To date, we have guided more than 45,000 Veterans through the claims process. These Veterans have received an average increase in monthly benefits of \$1,300, benefits they would not have received without our help.

The value we bring to our Veteran clients is best reflected in their own words.

Leo, an Air Force Veteran from Nevada, stated:

"There are some organizations out there that say, 'Don't go to these companies that you have to pay for. You should be doing it on your own.' And my argument is I did go on my own and try to file my claim, and I did not get help. Many people, including VSOs, promised to help me, but they didn't actually help. It wasn't until I found VBG that I got the rating I deserve. If it's my money, it should be my choice what I do with it. I want every Veteran to have the ability to make that choice."

Lynn, a Navy Veteran from Arizona, stated:

"I have used both a VSO and VBG. The VSO did an adequate job, but what I loved about VBG is that they were upfront and guided me through the process. They told me how it works and explained what they were doing...[T]hanks to VBG's help, I can realistically look at retiring. I won't be rich, but I can get by and be comfortable. This service also allows Veterans the right to choose how we file our benefits, and I think that, in this country, is so important. If I want to pay, I'll pay. If I want to use a free service, I will. This option should be available to everybody."

Sam, an Army Veteran from Florida, stated:

"Companies like VBG fulfill a service that we desperately need. We're thrown to the wolves when we come home. We're expected to be subject matter experts on our own benefits. I had no clue how to file my disability benefits claim and was basically flying blind . . . I thought about going through a VSO, but I knew that I could write my claim just as well as they could... VBG was honest, and their contingency model is far more clear than an attorney who blanket-states that they're going to take 30 percent of your backpay. I paid less than VBG initially quoted me, and I thought what they quoted me was perfectly fair. I didn't realize how easy it could be."

I want to close by emphasizing again that we need a Federal resolution to this issue. Veterans are being disserved by the chaotic patchwork of State legislation that is emerging. They are being disserved by confusing legal arguments as to what is or isn't permitted under Federal law. We need a Federal law like the PLUS Act or the Discussion Draft that will ensure trustworthy companies meeting standardized guidelines are allowed to continue serving Veterans, while driving bad actors out of the marketplace and protecting Veterans from fraud.

Veterans are mature enough to navigate the choices available to them for claims assistance. And they understand that, with reasonable guardrails in place, they should be free to contract with whom they wish for that help. That was the guiding principle in 2006 when Congress loosened restrictions on Veterans being able to pay for help with their claims. It should be the same guiding principle today.

Thank you for considering my testimony as you deliberate about this significant legislation impacting our Nation's Veterans. I do have technical and clarifying suggestions on both the PLUS Act and the Discussion Draft, but would be happy to work with the subcommittees members and staff on those items at your later convenience. And I would be happy to answer any questions or provide the Committee with additional information.

Prepared Statement of William Taylor
TESTIMONY OF WILLIAM C. TAYLOR, LTC (RET) US ARMY
CO-FOUNDER AND CHIEF OPERATING OFFICER,
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS' SUBCOMMITTEE ON
DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
MARCH 05, 2024
OPENING STATEMENT

I. Introduction

Good morning, Chairman Luttrell, Ranking Member McGarvey, and Members of the Subcommittee. Thank you for the invitation to provide Veterans Guardian's views on several important pieces of legislation.

My name is William Taylor, and I am co-founder of Veterans Guardian VA Claim Consulting, and a Veteran of the US Army. I am a proud graduate of the United States Military Academy at West Point and retired in 2018 as a Lieutenant Colonel after a 23-year career that included six deployments to Afghanistan, Iraq, and the Balkans, and positions from the platoon to 4-star level staff positions. I am proud to have founded one of the largest veteran owned and operated companies assisting my fellow veterans with their disability claims.

In 2015, as I was considering retiring from the Army, one of the questions that came up was VA disability benefits. I knew little more than that they existed and, like so many in the military, I had heard horror stories about how cumbersome and complicated the process was. I also felt healthy and assumed I probably did not qualify, which I now know was wrong.

Information about claiming VA disability benefits was practically non-existent and difficult to find. Worse still, getting an appointment with a claims representative was even more challenging due to restricted operating hours and limited capacity for the large military population in and around Ft. Bragg. Despite being a senior officer, I struggled with the process, and it took a significant amount of support and advice from knowledgeable friends and colleagues, as well as my own research, for me to submit my claim and navigate the system. But I am glad to say that I was ultimately successful in securing the benefits owed to me for my service.

Unfortunately, I am the exception and not the norm. I realized that if, as a senior officer, I had this much trouble navigating the system, something surely was not right.

That's why I founded Veterans Guardian. I am proud of the work that we do and the way that we do it. Veterans Guardian employs a staff of veterans, spouses of veterans, or spouses of active-duty service members. We have been recognized by the Department of Labor by receiving the HIRE Vets platinum or gold award five years in a row. We have received the BBB Torch Award for Marketplace Ethics in every year since 2020. We were most recently named the Military Family Brands company of the year in 2023. We are the national presenting sponsor for Irreverent Warriors and support more than 60 national and local charities, including support to local chapters of many of the organizations that have also been invited to engage in this important discussion today.

II. Veterans Guardian's Mission and Work

Veterans Guardian's mission is to provide the best possible service to our veteran clients to ensure that they receive all the benefits that they are owed based on injuries that occurred during their time of honorable service to our nation. We do that by offering a transparent, effective, and efficient option to help veterans navigate a complex and oftentimes failing system.

We are a complimentary capability to the other services available to veterans, and we make sure that our clients know that. My trained and expert staff inform every veteran that there are free options and services available to them in the form of county and state Veteran Service Officers, the Veteran Service Organizations, and their local Congressional offices. We also connect them directly to these services if they choose.

We are up front about our process and fee structure, and about who we are, and who we are not. We tell our clients that we are not accredited, and our clients acknowledge their understanding of our status as well as the free options available to them when they sign our consulting agreement and the "Your Claim, Your Choice" affidavit. *See Exhibit 1.* Because of these policies, we can be confident that our veterans are choosing to utilize our services from a position of knowledge. In fact, our data shows that over 70% of the time, our veteran clients come to us after having used some of the free services at their disposal. That tells me that veterans are not unaware of the free services available to them, they are coming to Veterans Guardian because those free services are not meeting their needs or their standards.

Veterans make a fully informed choice to use our services for a multitude of reasons, including easy access and responsiveness; our experience and knowledge developed and refined over tens of thousands of claims; our specific method, in which experts are involved at each stage of the process; our ability to help develop medical and lay evidence

with a network of independent external doctors; and our competence in developing claims for secondary conditions. Those skills and capabilities translate to results for our veterans. I am proud to say that that we have assisted tens of thousands of veterans with an over 90 percent success rate in an average of 85 days or less. And the veterans themselves have made clear that we are providing an important and necessary service—veterans consistently give us positive reviews and refer their friends, loved-ones, and fellow veterans to us to assist with their claims. In fact, over 50 percent of our new clients each month are referred from previous or current clients. The thousands of positive reviews and direct referrals that we receive are a direct testament to the importance we place on client care. We have also received extensive outside validation for our work, including eleven awards from AMVETS NC, National AMVETS, Department of Labor HIREVETS – Gold and Platinum Medallion awards, the Better Business Bureau – Ethics Awards three years in a row, Military Friendly Employer, and Military Spouse Friendly Employer.

Those accolades reflect what we don't do as well as the services we provide. We don't have doctors on our payroll doing medical exams, nor do we have automated or international call centers. We don't collect any fee unless the Veteran achieves an increase in their VA benefits, and we don't have access to a Veteran's financial or e-benefits accounts. Any fee that a Veteran pays us comes from new benefits we have helped them secure, and no Veteran is financially disadvantaged from where they were before they utilized our services. Our veterans are paying a one-time fee for assistance while receiving a lifetime of benefits. Included in our written submission for the record is a detailed description of our fee structure.

Given the enormous volume of veterans that need assistance, it should be no surprise that there continues to be a backlog of more than 350,000 disabled veterans seeking benefits. Although the VA says otherwise, that number proves that the current system is not working. We simply do not have enough representatives or a level of service sufficient to meet the needs of our veterans. To address those shortcomings, we should be giving our veterans more options and more help, not less. In short, veterans should be able to pursue their claims in the manner that best serves them, with full knowledge of all available providers (including county and state employees, VSOs, lawyers, claims agents, and companies like Veterans Guardian) who can assist them at any step in the process.

III. Current Law

There have been many false accusations at both the federal and state level that Veterans Guardian is violating federal law as it is currently constituted. Nothing could be further from the truth. Federal restrictions apply only to those individuals and entities that act as a veteran's "agent or attorney," and Veterans Guardian does not serve in either role.

Section 5901 of title 38 contains the foundational rule of the federal regulatory structure governing claims assistance. It states that “no individual may act as *an agent or attorney* in the preparation, presentation, or prosecution of any claim under laws administered by the [VA] unless such individual has been recognized for such purposes by the Secretary.” 38 U.S.C. § 5901(a) (emphasis added). The “agent or attorney” qualifier also appears in the statutory limitation on when fees may be charged for assistance with claims. See *id.* § 5904(c)(1) (“[I]n connection with a proceeding . . . with respect to benefits under laws administered by the Secretary, a fee may not be charged, allowed, or paid *for services of agents and attorneys* with respect to services provided before the date on which a claimant is provided notice of the agency of original jurisdiction’s initial decision.” emphasis added)). Even the titles of the applicable federal statutes use the phrase: 5901 is labeled “Prohibition against acting as *claims agent or attorney*,” and Section 5904 is “Recognition of *agents and attorneys* generally.”

Both “agent” and “attorney” should be understood consistent with their common and established meaning. “Attorney” covers those licensed to practice law and serving as the legal counsel to a veteran as he or she pursues a claim for benefits. Only members of the bar satisfy the statutory definition of “attorney.” Cf. 38 C.F.R. § 14.627(d). Veterans Guardian does not employ attorneys.

The scope of the term “agent” is also straightforward. Authoritative sources define “agency” as “[t]he fiduciary relationship that arises when one person (a ‘principal’) manifests assent to another person (an ‘agent’) that the agent shall act on the principal’s behalf and subject to the principal’s control, and the agent manifests assent or otherwise consents so to act.” RESTATEMENT (THIRD) OF AGENCY, § 1.10. “[N]ot all relationships in which one person provides services to another satisfy the definition of agency.” *Id.* § 1.10 (Notes: Elements of Agency). Rather, “a relationship of agency always ‘contemplates three parties—the principal, the agent, and the third party with whom the agent is to deal.’” *Id.* “[I]f a service provider simply furnishes advice and does not interact with third parties as the representative of the recipient of the advice, the service provider is not acting as an agent.” *Id.*

That definition describes Veterans Guardian to a tee. We provide advice to our veteran clients, but we don’t file claims for veterans, we don’t interact with the VA on the veteran’s behalf, and we don’t otherwise represent the veteran before the Department. For those reasons, we’re not “acting as an agent” under common understandings of that term and thus do not violate federal restrictions on assistance with claims.

IV. GUARD Act of 2025 – Oppose

As our business model has shown, we are strong supporters of improving the process by which veterans obtain their disability benefits. Our goal should be to expand good options for our veterans, not restrict them; to improve oversight and ensure veterans are receiving competent assistance; and to provide our veterans the freedom to make an informed decision on how they want to pursue their claims. We have continued to be strong supporters of accreditation reform, including increasing knowledge requirements and scrutiny of applicants for accreditation.

To that end, we would encourage Congress to pass holistic reforms, such as the legislation that General Bergman and Congressman Correa are leading, as well as the HVAC Majority Committee Discussion Draft, all of which would open the tent to allow companies like Veterans Guardian to become accredited, rather than punishing companies like ours and legislating us out of existence. Such reforms would provide veterans with the widest range of high-quality options to help pursue their claim at any step of the process. This would also increase transparency from and VA oversight of accredited agents, provide for regular audits of claims agent performance and capabilities, establish more detailed standards of conduct, and provide the VA with the enforcement tools necessary to pursue bad actors.

The Governing Unaccredited Representatives Defrauding (GUARD) VA Benefits Act ("GUARD Act") doesn't do that. Instead of opening the tent and bringing more entities under the VA's oversight, it imposes criminal penalties on anyone not accredited by the Secretary who "directly or indirectly solicits, contracts for, charges, or receives, . . . any fee or compensation with respect to the preparation, presentation, or prosecution of any claim for benefits." In other words, it puts my company out of business.

The kind of restrictions GUARD imposes restrict veterans' choices and make it harder for them to secure the benefits they have already earned. That's why over 50 organizations ranging from Americans for Tax Reform to the Teamsters International Brotherhood of Maintenance Way Employee Division oppose the GUARD Act. Those organizations understand that our veterans deserve more than legislation that entrenches and exacerbates flaws in the existing system.

But the Guard Act isn't just bad policy, it's also unconstitutional. For one thing, companies like mine have a First Amendment right to provide advice to veterans and to receive compensation for doing so. The U.S. Supreme Court has repeatedly explained that specialized advice qualifies as protected speech, and professional speech is no less protected than other speech—even in a commercial context. *See Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010); *National Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018).

Moreover, the GUARD Act violates the First Amendment rights of the veterans we work with every day. The Constitution protects the right of every citizen, including veterans, to speak, associate, and petition the government for redress of grievances. *See* U.S. CONST., AMEND. 1. By making it impossible for veterans to communicate and associate with the private actors they believe afford them the best chance to navigate the VA system to secure the benefits they are owed, the GUARD Act manages to violate all three of those fundamental freedoms at once. That alone should be reason enough to stop the GUARD Act from becoming law.

V. PLUS Act of 2025 – Support

Rather than making the current flawed system worse, Congression should be looking for solutions. The PLUS Act offers those solutions by bringing private assistance into the sunlight of regulation and oversight. It empowers veterans by affording them the freedom to choose professional representation for initial claims if they wish, while establishing safeguards to protect them from exploitation. As Rep. Jack Bergman – the sponsor of the PLUS Act – explained, this bill “will reimplement penalties for unaccredited agents, modernize the VA accreditation system, and protect the right for veterans to seek help from the private market when filing for their disability benefits.” Simply put, the PLUS Act is about putting veterans first, expanding their options for quality assistance and restoring integrity to the process by cracking down on bad actors.

The PLUS for Veterans Act, contains several key provisions designed to improve the claims process and Veteran outcomes. The most significant features include:

Allowing Fees for Initial Claims: the PLUS Act lifts the outdated prohibition on paid representation for initial disability claims. Under current law, attorneys and accredited agents generally cannot charge any fee for helping a Veteran file an initial claim – they can only be paid if the case is appealed. This well-intentioned rule has had unintended consequences: it discourages professional assistance at the earliest (and often most critical) stage of a claim, and it drives some providers to operate outside the VA’s regulations. By allowing paid representation from day one, the bill protects veterans’ right to seek the help they decide is in their best interest – whether that is filing on their own, using a free VSO, or hiring a private firm. Importantly, this provision is not about supplanting VSOs or charging veterans for something they could get free; it’s about adding another viable option for veterans who want dedicated help when other options haven’t met their needs. Veterans will finally be able to hire qualified assistance without having to wait for a denial or appeal, which means claims can be better prepared and documented from the start.

That leads directly to the next benefit: **Improving Claims Processing Efficiency**. By expanding access to professional help at the initial claim stage, the PLUS Act is poised to make the VA claims process more efficient and effective. When a Veteran has expert guidance in preparing their claim, the submission is often more complete, accurate, and properly formatted, which in turn reduces avoidable delays and errors in VA's decision-making. Well-prepared initial claims mean fewer claims bouncing back for additional evidence and potentially fewer appeals down the line, thereby easing the burden on the VA appeals system. In fact, enabling competent assistance early can help veterans avoid the "appeals trap"—that is, the cycle of repeated denials and appeals that drag on for years—altogether.

Implementing Strong Consumer Protections: Recognizing that allowing fees for initial claims is a significant change, the PLUS Act builds in robust safeguards to ensure ethical practices and to ensure that veterans do not fall victim to unscrupulous actors. The bill's approach is pro-veteran at its core – no veteran will ever be forced to pay for help they don't want, and those who do opt for paid help are protected by law in multiple ways. Key consumer protection provisions in the PLUS Act include:

- "No win, no fee" Contingency Only – with Strict Caps: The legislation mandates that any fee for assisting with an initial claim can only be collected if the claim is resolved favorably for the veteran (in other words, if the veteran wins an increase in benefits), with no up-front or non-refundable fees. In short, charging a veteran if they gain nothing is prohibited. And even when a Veteran does prevail, the fee is capped at a reasonable level: specifically, the total fee "does not exceed the lesser of \$12,500 or five times the amount of the monthly increase in benefits awarded". This cap ensures fees are proportional and not excessive – roughly speaking, a veteran keeps at least 80% of their earned benefits in the first year and 100% thereafter, given the one-time nature of the fee. The model thus aligns incentives squarely with the veteran's success and will weed out anyone who can't deliver real results.

Clear Disclosure of Free Alternatives: the PLUS Act requires complete transparency with veterans before they enter a fee agreement. The VA is tasked with developing a standardized written form that every veteran must receive and acknowledge, which explicitly notifies them that free help from VSOs is available for their claim. This way, no veteran will mistakenly pay for assistance without knowing that organizations like the VFW, American Legion, state and county VA offices, and others offer support at no cost. In addition, the standard notice will inform veterans of their right to use their own private physician for any medical evidence (and the bill forbids the paid agent from referring the veteran to a physician with whom the agent has a business relationship, to avoid conflicts of interest). By embedding these disclosures and ethical requirements in the process, the

bill empowers veterans to make fully informed choices and prevents unscrupulous actors from steering veterans unwittingly.

- **Real penalties for misbehavior:** The bill imposes real penalties on those who would charge veterans illegally, thereby deterring potentially predatory behavior. Under the PLUS Act, a would-be representative must play by the rules or be banned – for instance, an individual who violates the fee provisions could be suspended for a year on the first offense and ten years on subsequent offenses. By pulling no punches against bad actors, the legislation raises the bar for anyone offering claims services. At the same time, it lowers unnecessary barriers for honest providers: it directs VA to speed up and streamline accreditation applications, ensuring that new, high-quality providers can enter the field to serve veterans without undue delay. The combined effect is a revamped system where only qualified, vetted professionals are assisting veterans, under close VA oversight – and those who might exploit veterans are kept out.

In sum, the PLUS Act's provisions work in tandem to expand veterans' access to help while fortifying safeguards. veterans will have more choices in how to pursue their claims, but every choice will be governed by standards of transparency, fairness, and accountability. These are exactly the kind of measures we need—"true protections that will ensure the veteran is not taken advantage of, while still preserving their rights to seek expert claims support."

VI. Addressing Potential Counterarguments to the PLUS Act

As we consider the PLUS Act reforms, it is important to address a few concerns that have been raised by stakeholders. Reasonable questions have been posed about cost to veterans, the role of VSOs, and the risk of exploitation. I will address each in turn.

Cost to Veterans: "Why should veterans have to pay for help to get a benefit they earned?"

This is perhaps the most sensitive concern, and I want to state unequivocally that no veteran *must* pay under the PLUS Act. Free assistance from accredited VSOs will continue to be available, and in no way does this bill diminish or replace those services – if anything, it may lighten their load so they can focus on the most vulnerable cases. What the PLUS Act does is acknowledge the reality that some veterans choose to pay for more individualized or timely help, and it ensures that those services are offered by reputable providers following established rules. For those who do opt to hire a claims agent or attorney, the cost is tightly controlled and tied to success. Veterans pay nothing upfront, and they pay nothing at all if their claim is not successful. Even with a successful claim, the fee is a one-time, capped percentage of their retroactive award or benefit increase, meaning the veteran retains much of their entitlement going forward. Furthermore, by

facilitating earlier awards of benefits, this legislation can put money in veterans' pockets sooner than if they are forced to navigate the initial phase without expert help. The peace of mind and quicker access to entitled benefits that professional guidance can provide is something many veterans feel is worth the regulated cost – and the PLUS Act lets them make that choice without being vulnerable to unscrupulous providers or practices.

The Role of VSOs (Free Services): Will allowing fee-based services will undermine VSOs or divert veterans from free help?

Again, no. I want to emphasize that the PLUS Act was crafted to complement, not compete with, VSOs. The bill explicitly requires that veterans be informed of VSO options before signing any agreement. In my experience, VSOs and private consultants share a common mission – reaching as many veterans as possible and securing the benefits they deserve. VSOs do incredible work but often face staffing and resource limitations, especially with surges in claims. Many veterans try the VSO route first – indeed, over 70% of Veterans Guardian's clients came to us after first trying other free options – and some find they need additional help or a different approach. By allowing accredited businesses to assist those veterans, we free up VSOs to focus on those who prefer a VSO or who have fewer complex claims, thereby reducing overall strain on the system.

It's also worth noting that major VSOs have shown support for this approach when done right: a representative of the Veterans of Foreign Wars (VFW) testified that "if a company is able to be accredited... then they are part of VA oversight, and the VFW would support that." In other words, bringing currently unregulated actors into an accredited, accountable framework is something even VSOs see as positive. The goal of the PLUS Act is not to pit VSOs against private consultants, but to create an "all hands-on deck" environment where any capable, ethical party can contribute to better outcomes for veterans, under uniform standards. Veterans who want a VSO will continue to use them (and they'll be reminded of that option), and veterans who prefer to hire help should finally be able to do so within the regulated system. Choice is itself a benefit to veterans, and I trust veterans to decide what is best for their own circumstances. Congress can support them by making sure all choices are good ones – the PLUS Act does that by holding every option to a high standard.

Ensuring Veterans Are Not Exploited: Will PLUS lead to veterans being exploited?

Many have expressed concern that, if we open the door to fee-based claims services, bad actors could exploit veterans for profit. I share this concern deeply; as a veteran and an advocate, nothing angers me more than those who prey on my brothers and sisters in arms. However, I believe the PLUS Act is the solution to exploitation, not the cause of it.

By bringing unaccredited services into the regulated sphere, the PLUS Act shuts down predatory actors or forces them to play by the rules. The bill's extensive consumer protections (contingency-only fees, caps, required disclosures, conflict-of-interest prohibitions, etc.) are specifically designed to weed out unscrupulous players. Someone who wants to charge exorbitant upfront fees or guarantee outcomes simply will have no place in the accredited system. And the VA's Office of General Counsel will have clear authority to go after unaccredited violators and to suspend or disbar any accredited agent who violates the rules. In short, bad actors will finally face consequences under this law.

Equally important, the PLUS Act elevates the standards for those who do participate: training, testing, and oversight for accredited agents will ensure veterans receive competent help, not misinformation. My company and other reputable firms welcome these protections – we want to compete on a level playing field of integrity and results. Protecting veterans is the whole point of our business. As I noted in prior testimony, “expanded pathways for accreditation” coupled with “enhanced oversight against bad practices” means veterans get the best of both worlds: more choice and more protection. Veterans will be able to tell the difference – and the many organizations who have endorsed reforms like this agree it strikes the right balance of expanding access while clamping down on abuse.

In closing, the PLUS Act represents a thoughtful, bipartisan solution to a pressing problem in the veterans' benefits realm. It is pro-veteran, pro-choice, and pro-accountability. This bill doesn't ask veterans to do anything different – it asks us, as a nation, to do better by them. It acknowledges that the status quo forces too many veterans to fend for themselves or fall into the hands of unscrupulous players, and it corrects that by allowing veterans to get the help they choose with proper protections in place. It also helps align the VA system for the 21st century, where information is plentiful, but guidance is often scarce. By passing the PLUS Act, or similar legislation, Congress will affirm veterans' right to competent representation at every step of their claim and ensure they receive the timely benefits they have earned through their service.

This legislation has wide support from veterans, veterans advocates, dozens of states, and many organizations who see its common-sense merits. I urge Congress to move swiftly to enact the PLUS Act. Every day that goes by under the current system is a day a veteran could be struggling unnecessarily. We have an opportunity to strengthen veterans' trust in the claims process and deliver the outcomes we promised them. As a veteran who once struggled with my own claim, and as someone who has devoted my post-military career to helping others in that struggle, I am convinced that the PLUS Act will make a profound positive difference.

VII. HVAC Majority Discussion Draft – Support with Amendments

We fully support the intention and direction of the HVAC Majority Discussion Draft; This proposal acknowledges the support for expanding accreditation to include companies such as mine, allows a fee to be charged for the initial disability claim, implements a fee cap, and has other safeguards to protect veterans from bad practices.

While we support this concept, we have concerns about a few provisions, as described below:

- The draft bill permits the Secretary of Veterans Affairs to charge an assessment from individuals seeking accreditation but includes no upward limitation. We suggest including a “not to exceed” cap to cabin the Secretary’s discretion so that the assessment cannot become a barrier to entry.
- The draft prohibits compensation for services rendered with respect to a claim if the disability is presumed to be service connected, based on a determination by the Secretary. Although we appreciate the intent and direction of this provision, we are concerned to it affords too much discretion to the Secretary to deem conditions service connected, and therefore excluded from compensation. It is important to recognize that even presumed service-connected disabilities can be complicated and may require significant work on the part of providers to prove. Accordingly, we recommend reworking this provision to narrow the category of claims for which compensation may be unavailable, perhaps to those made in a veteran’s first year following separation from the military when all conditions are presumed to be service connected.
- The draft prohibits compensation for services rendered in connection with a supplemental claim if the claim could have been filed as a continuous claim but was not “due to delay on the part of the agent or attorney.” We suggest adding a qualifying word, such as “negligent” or “unreasonable” before “delay” to avoid the prospect that providers are not compensated in circumstances where the delay was not due to any mistake or wrongdoing on their part.
- The draft provides that an agent or attorney can’t charge for a supplemental claim, request for higher-level review, or notice of disagreement “where another individual employed by the same organization as the agent or attorney, or employed by a subsidiary of such organization, previously charged the claimant for a fee for such services with respect to the same supplemental claim, request for higher-level review, or notice of disagreement.” We suspect there might have been an error here insofar as we understand this provision was intended to

prohibit “double dipping” between initial claims and later-stage proceedings. We suggest reworking this provision so that the text is consistent with the intent.

- The draft precludes referrals to medical providers “with whom the agent or attorney has a business relationship” and “who would receive any fee of other consideration for the provision of any service related to such initial claim or supplemental claim.” We appreciate and support the intent of this provision but have concerns about its breadth. It is common in our industry (as in others) for service providers to refer veterans to doctors they know and trust to perform exams. As written, the provision could preclude those arrangements if the doctor receives a fee for the exam, even if the service provider has no claim to any part of that fee. We suggest reworking this provision so that it does not have that effect.
- The draft permits the Secretary to revoke a conditional accreditation, charge a fine, and bar the agent or attorney for 10 years in the event that the person violates a law or regulation administered by the Secretary during his or her period of conditional accreditation. While we agree there should be appropriate punishment for misbehavior during the probationary period, the penalties here are quite harsh and do not require notice or an opportunity to be heard. We suggest including those due-process safeguards to ensure that providers are not subject to revocation and fines based on incomplete or inaccurate information.
- The draft provides that the penalties added to section 5905, which apply to anyone who charges a fee for claims-related services absent accreditation, will take effect after the Secretary promulgates the regulations called for in that section. Given the time period in which the Secretary is required to promulgate regulations, it is not clear that companies like mine will have acquired their provisional accreditation at the point at which penalties become applicable. Accordingly, the draft could have the effect of rendering my business illegal for some period of time. We believe this problem is correctable and would be pleased to work with the Committee to draft language to avoid this unintended result.

VIII. Conclusion

I look forward to a constructive discussion regarding these bills and how all of us can continue to work together to address the issues that veterans face and to responsibly serve veterans who have dedicated themselves to the service of our nation.

Attachments:

Exhibit 1: Veterans Guardian Proclamation, The Veteran’s Right to Choose, Your Claim, Your Choice.



VETERANS GUARDIAN PROCLAMATION
THE VETERAN'S RIGHT TO CHOOSE
Your Claim, Your Choice

Veterans Guardian VA Claim Consulting * 75 Trotter Hills Circle * Pinehurst, North Carolina 28374

I, _____, acknowledge that there are free services available to veterans to support the filing of claims for Veterans Administration (VA) benefits and for the services that Veterans Guardian will provide.

_____ I understand that I have the option to utilize the free services provided by entities such as the VA, National Service Organizations (e.g. VFW, DAV), Local Service Organizations, State Sponsored Veteran Service Officers, Local US Congressional office staff (where applicable), and/or the paid services of VA accredited agents or lawyers.

_____ I understand that utilization of Veterans Guardian consulting services is not required to submit a claim for VA benefits and I may achieve a positive VA benefit claim outcome with any of the free services or organizations.

_____ I understand that the Veterans Administration provides a search tool to find representatives who may assist with filing VA claims free of charge. I also understand that by choosing Veterans Guardian, I will receive enhanced assistance and a high level of service from dedicated and specialized professionals serving an organization with proven results.

_____ I understand that Veterans Guardian is not an accredited agent or entity recognized by the Department of Veteran Affairs and is not affiliated with the Department of Veterans Affairs in any way.

_____ I understand that this is a contingent based fee model whereby payment is only required upon successful completion of a claim and that the fee is not to exceed five times any monetary pay increase.

_____ I understand that if successful, I will be given the option to pay the final calculated fee in a lump sum, or over a 5 or 10 month period. I also acknowledge that custom payment plans are available in exceptional circumstances.

By signing this acknowledgement, I am certifying that I am aware of free services available and that I have exhausted all the free services or I have determined that the free services do not meet my personal needs. I am also certifying that I am choosing to use Veterans Guardian VA Claim Consulting, a contingent fee based pre-filing agency, to provide consulting services and that I will submit the claim to the VA on my own behalf.

Thank you for your service in support of a grateful Nation and thank you for your trust in Veterans Guardian.



Veteran Owned - Veteran Operated...The way it should be.

Prepared Statement of Peter O'Rourke



March 3, 2025

Peter O'Rourke's Written Testimony

A Brief Background on the Claims Consulting Industry

The first claims consulting companies began doing business in 2014 and for seven years, these companies helped tens of thousands of Veterans and no one was concerned or raised alarms. As these companies grew and gained popularity within the veteran community, the Veteran Service Organizations and other detractors finally took notice. The first bill to prohibit private companies from charging fees for assisting veterans with initial claims was introduced in 2021 and since then, similar bills such as the Guards Act have continually been rejected by both Congress and many state legislatures.

Over the past few years, the VA has seen an unprecedented rise in claims due to Congress's passage of the PACT ACT. The cost to taxpayers to process claims has grown massively during this time and despite a well-intentioned rapid hiring increase by the past administration, claims processing is still at unacceptable wait times. As of February 27th of this year, the average claims processing time was 146 days on February 27th, meaning the average claim takes longer than the Department's 125-day backlog threshold.¹

The processing times are problematic, but the accuracy of these claims is unacceptable. Time and time again, the GAO and the OIGs write reports that inform the American people that the VA is failing our veterans when it comes to claims accuracy. In 2023, the GAO discovered that the VA was underrating black veterans with PTSD, which likely impacted tens of thousands of black veterans.² In 2018, the OIG reported that the VA was improperly adjudicating PTSD claims alleged by women veterans who were the victims of military sexual trauma.³ The report indicated that 1 in 4 women veterans who claimed they were sexually assaulted while in service were not even offered a medical exam. And in 2022, the Department's OIG Report revealed that the government contractors who perform the exams for the VA were not expected to correct errors that the claims adjudicators at the VA discovered, resulting in the incorrect ratings levied for thousands of veterans.⁴

So why then are we still here, fighting this same fight – knowing that these problems exist within the VA claims process?

While the two sides of this debate have fought to a stalemate, the National Association for Veterans Rights has stepped in to police and professionalize the industry to preserve veterans' choice while providing veterans with the information and tools to make informed decisions about the choices veterans

¹ [Detailed Claims Data - Veterans Benefits Administration Reports](#)

² [VA Disability Benefits: Actions Needed to Further Examine Racial and Ethnic Disparities in Compensation | U.S. GAO](#)

³ [Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma | Department of Veterans Affairs OIG](#)

⁴ [Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions | Department of Veterans Affairs OIG](#)

make when it comes to their VA benefits. And make no mistake, a veteran's right to choose is absolutely a right worth defending and that is why NAVR fights relentlessly to empower veterans to make decisions for themselves.

To accomplish this, NAVR created certification tiers that help define ethical business practices and identify honorable businesses that separate the good actors from the bad, ensuring that veterans can trust the people they choose to work with. NAVR's representatives have travelled the country advocating for policy at the state and federal level such as the Safeguarding American Veteran Empowerment Act ("SAVE Act") and the Preserving Lawful Utilization of Services for Veterans Act of 2023 ("PLUS Act") and NAVR welcomes the opportunity to describe those efforts here.

Safeguarding American Veteran Empowerment (SAVE Act) is Gaining Traction in Statehouses

A NAVR supported bill known as the SAVE Act is getting bipartisan support throughout the states. The SAVE Act is similar in purpose and intent as Congressman Bergman's Plus Act which has currently been introduced in the House and Senate. The Act preserves choices for veterans and like the PLUS Act, provides common sense regulations that safeguard veterans by protecting them from bad actors. Those consumer protections include the following:

1. Prohibition on up-front fees for initial claims
2. Mandates that all fees are contingent on a successful outcome
3. Caps the fees at a reasonable rate that is proportional to the value the veteran receives
4. Forbids any guaranteed outcomes
5. Requires up-front disclosure of the free services
6. Creates a one (1) year moratorium as to when the company can contract with the veteran
7. Creates civil and criminal penalties for those who violate these protections
8. Prevents the use of overseas call centers
9. Prohibits referral fees for directing Veterans to claims assistance services, ensuring decisions are based on the Veteran's best interest rather than financial incentives
10. Addresses use of veteran's data and privacy requirements

The state of Louisiana already passed the SAVE Act in 2024 and at least one chamber has already passed the veteran friendly legislation in New Hampshire, Oklahoma, South Dakota, Michigan, and Indiana. Tennessee, Illinois, West Virginia, Missouri, Kansas, Idaho, Minnesota, Texas, Arkansas, Oregon, Arizona, and Ohio are considering the SAVE Act in 2025.

While the Save Act has experienced significant momentum in 2024 and now this year as well, the state versions of the GUARD Act, that completely ban companies' ability to assist veterans with their benefit claims, have been introduced in more than twenty states. Other than Maine, and bills passed in 2019 and 2023 in New York and New Jersey, these bills have been defeated, tabled or stuck in committee. As for the bill that passed in Maine, a group of veterans are suing the state on constitutional grounds.

The PLUS Act is the only Legislation that Preserves Veteran Choice, Improves Accountability and holds Bad Actors Accountable.

The PLUS Act is a federal bill that represents a commonsense approach to preserving choices for veterans while also adopting many of the best practices that NAVR identifies in its certification standards. Passing the PLUS Act would increase protections for veterans far beyond what currently exists within the current regulatory framework as applied to accredited agents and attorneys. Some of those protections include:

1. Mandatory background checks for all employees
2. Annual training requirements
3. Reasonable Fee Caps
4. Disclosure of free services
5. Prohibition on conflicts of interest between the companies and the medical providers

The PLUS Act is the legislation that strikes the best balance of the three between preserving choice and maintaining an industry where the process as currently devised, places the incentives properly to ensure that veterans are getting the best possible support while maximizing their benefits. For these reasons, NAVR supports the PLUS Act and would welcome the opportunity to discuss adding some of the protections from the SAVE Act so that the final bill provides the correct level of protection for veterans.

The Most Recently Drafted, Unnamed Bill Fundamentally Misunderstands how the Industry Currently Operates

The House of Representatives is considering a new, unnamed bill that would expand accreditation opportunities and allow for accredited agents and attorneys to charge fees on initial claims. NAVR can support that change. The problem with this third bill more particularly however, is that it completely misunderstands how these private companies operate.

For example, the bill's language essentially places the private companies into the definition of "agent" or "attorney" for accreditation purposes, but these companies are neither. When most private companies provide assistance, they expressly disclaim any notion of an agent/principal relationship. The veteran is filing their own claim, utilizing the guidance and counsel from these companies and private medical providers who perform the exams outside of the broken VA system. Agency has a clear and critical legal definition, "Someone who is authorized to act for or in place of another." Black's Law Dictionary (11th ed. 2019). Similarly, the Third Restatement defines "agency" as "[t]he fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act." Restatement (Third) of Agency, § 1.10. *See also Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 755–56 (1998) (using Restatement to interpret Title VII provision applying to "agent[s]").

This distinction is not merely surface level but is actually the very reason that these private companies are currently operating legally. The claims companies are merely helping gather evidence, providing advice and access to privately trained medical providers. This new bill would force *every* private company to dramatically change their model to accommodate their new found status as an agent of the veteran.

Likewise, this new bill also forbids companies from assisting veterans if the condition is “presumed to be service connected,” but such a prohibition does far more harm than good. One of the critical problems with the benefits system as currently configured is that veterans are often underrated *after* establishing service-connection. The new bill prevents companies from helping veterans with disabilities that are presumed to be service connected – even if the rating is incorrect. The sum of this provision would reduce the number of options that can help veterans who face this scenario. Another example, the legislation prevents companies from forbidding contract termination after the evidence is submitted to the VA. Such a provision creates an untenable scenario where the private companies provide all of the benefit and evidence to the veteran while fulfilling every promise, only to have a veteran terminate the agreement right before receiving a favorable decision.

The latest effort by the committee to resolve this long-standing debate over veterans’ benefits is well-intentioned and does provide some smart and useful tools. For example, the bill does expand accreditation to include new groups and entities and requires the Department to do more to monitor accredited agents and attorneys. There are certainly aspects of this bill that NAVR can and does support. But there is much work to be done before this particular bill strikes the best balance between protecting veterans and ensuring there are sound choices. NAVR would very much welcome the opportunity to work with the committee to improve upon its start.

The Guards Act Eliminates Choices for Veterans and does Nothing to Strengthen Protections

NAVR does not support the GUARDS Act because the legislation merely doubles down on a broken system that has failed veterans for far too long. The bill also eliminates choices, trapping veterans in the VA system that has continually failed to meet its own accuracy goals and has admitted to discriminating against certain subgroups of veterans.

The bill is so unimaginative and slavish that the legislation completely wipes out thousands of jobs overnight, criminalizes an entire industry dedicated to helping veterans obtain the correct rating and entirely eliminates any and all private choices for veteran assistance on initial claims. Supporters of this bill made no effort to improve the benefits process for veterans. There was no consideration given to holding large companies that perform exams accountable for the past refusal to correct errors in the exam reports. Likewise, supporters refused to include any language that improves upon the Veteran Court of Appeals or holds the department accountable when the backlog balloons to unacceptable numbers. Again, the bill merely eliminates choice for veterans and nothing more. For these reasons, the National Association for Veterans Rights does not support this bill.

In summary, NAVR welcomes the opportunity to participate in this dialogue about the future of VA benefits. We appreciate that the committee is open to hearing diverse viewpoints and has resisted the fevered pitch to “do something,” instead choosing a more deliberative approach. Thank you for your time and consideration.

Sincerely,

Peter O’Rourke

President

National Association for Veterans Rights (NAVR)

Prepared Statement of Diane Boyd Rauber
NATIONAL ORGANIZATION OF VETERANS' ADVOCATES, INC.



Statement of
Diane Boyd Rauber, Esq.
Executive Director
Before the
House Committee on Veterans' Affairs
Subcommittee on Disability Assistance and Memorial Affairs
on

H.R. 1732, Governing Unaccredited Representatives Defrauding VA Benefits Act; H.R. 1656, Preserving Lawful Utilization of Services for Veterans Act of 2025; and Discussion Draft: To amend title 38, United States Code, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes

March 5, 2025

On behalf of the National Organization of Veterans' Advocates (NOVA), I would like to thank Chairman Luttrell, Ranking Member McGarvey, and members of the DAMA Subcommittee for the opportunity to offer our views on legislation that would amend important laws regulating the accreditation and practice of attorneys and claims agents who represent veterans, family members, survivors, and caregivers before the Department of Veterans Affairs (VA). As an organization representing the only group of advocates who can legally charge veterans for services related to their VA disability benefits, we are uniquely qualified to speak to this topic.

WHAT NOVA DOES

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents over 850 accredited attorneys, agents, and other qualified members practicing across the country and assisting tens of thousands of our nation's military veterans, survivors, family members, and caregivers seeking to obtain their earned benefits from VA. NOVA works to develop and encourage high standards of service and representation for all persons seeking VA benefits.

NOVA advocates for laws and policies that advance the rights of veterans and provide for competent representation. For example, NOVA collaborated with Veteran Service Organizations (VSOs) and other accredited representatives, VA, and Congress on appeals modernization reform. Those efforts resulted in passage of the *Veterans Appeals Improvement and Modernization Act* (AMA), P.L. 115-55, 131 Stat. 1105, which was signed into law by President Trump in 2017. At the time of its passage, VA emphasized the AMA would provide claimants with more choice and control over the disability claims and appeals adjudication process by expanding their review options.

NOVA also advances important cases and files amicus briefs in others. *See, e.g., NOVA v. Secretary of Veterans Affairs*, 710 F.3d 1328 (Fed. Cir. 2013) (addressing VA's failure to honor its commitment to stop applying an invalid rule); *Procopio v. Wilkie*, 913 F.3d 1371 (Fed. Cir. 2019) (amicus); *NOVA v. Secretary of Veterans Affairs*, 981 F.3d 1360 (Fed. Cir. 2020) (M21-1 rule was interpretive rule of general applicability and agency action subject to judicial review); *National Organization of Veterans' Advocates, Inc., et al., v. Secretary of Veterans Affairs*, 981 F.3d 1360 (2022) (Federal Circuit invalidated knee replacement rule); *Arellano v. McDonough*, 598 U.S. 1 (2023) (amicus); *Terry v. McDonough*, 37 Vet.App. 1 (2023) (amicus); *Bufkin v. Collins*, S.Ct. No. 23-713 (argued October 16, 2024) (amicus).

A critical part of NOVA's mission is to educate advocates. NOVA currently conducts two conferences per year, each offering approximately 15 hours of continuing legal education (CLE) credit for attendees. Experts from within and outside the membership present and train on the latest developments and best practices in veterans law and policy. NOVA

sustaining members must participate in at least one conference every 24 months to maintain eligibility to appear in our public-facing advocate directory. In addition to conferences, NOVA offers webinars, online support, peer-to-peer mentorship, and other guidance to its members to enhance their advocacy skills.

WHAT NOVA MEMBERS DO

NOVA members are primarily accredited attorneys and agents who represent veterans in disability claims and appeals as a singular area of practice or as one specialty area in a more expansive practice. NOVA members can be found in large, medium, small, and solo practices across the country. Many are veterans, military spouses, and/or members of a military/veteran family.

Providing competent representation to veterans consists of many professional responsibilities. Accredited attorneys and agents interview their clients, family members, and buddies. Accredited agents and attorneys obtain access to and review their clients' VA claims files that include service treatment records, military records, private health records, VA health records, and VA correspondence and decisions. Accredited attorneys and agents research the latest federal statutes, VA rules and policies, and federal court decisions that impact their clients' cases. As result of the AMA, as noted above, veterans now have more choice and control over how to contest an adverse decision. This expanded choice comes with complexity. Accredited agents and attorneys counsel their clients as to the best path forward based on the specifics of each claim or appeal and in concert with their clients' preferences. These actions can include staying within the Regional Office for a higher-level review or supplemental claim, proceeding to the Board of Veterans' Appeals (and choosing one of three options there), and possibly seeking relief at the U.S. Court of Appeals for Veterans Claims, the U.S. Court of Appeals for the Federal Circuit, and the U.S. Supreme Court. These options can entail writing legal briefs, taking clients to informal conferences at a VA Regional Office, or appearing at a hearing before the Board of Veterans' Appeals. When necessary, accredited attorneys and agents can contact specific VA employees, file motions to advance on the docket when appropriate (i.e., for clients who are elderly, seriously ill, or facing significant financial hardship), or petition the U.S. Court of Appeals for Veterans Claims to provoke action on the part of VA, particularly where VA has unduly or unlawfully delayed issuing a decision. Representing a veteran always requires keeping on top of VA's process and progress, managing clients' multiple claims and appeals (which can involve multiple disabilities at various stages in the adjudication process), and communicating with clients along the way.

NOVA members work to resolve cases for their clients in a manner that ensures accuracy, maximizes benefits, and minimizes delay. Contrary to the false narrative pushed by some unaccredited claims consultants, NOVA members do **not** intentionally delay cases to

collect higher fees. Such conduct violates VA standards, as set forth in 38 C.F.R. § 14.632(c)(7), and can be cause for VA to cancel an advocate's accreditation or a state bar to impose sanctions against a member. Veterans who are unhappy with the services provided by their accredited representatives have recourse—through VA and through the state bar. No such recourse is available to veterans who are unhappy with unaccredited claims consultants.

Furthermore, the notion that accredited representatives would somehow delay VA from issuing a favorable decision to get a higher fee is a terrible business model and makes no sense. Veterans rightfully share information about their representation experiences with others, and on various rating platforms, e.g., Google or Yelp. If you violate standards of conduct, your client will not refer you to friends seeking competent representation. And why would an advocate delay getting paid? Moreover, because fees are based on retroactive benefits awarded, there would be added risks associated with delaying cases including losing a client through death or termination of representation, which could preclude any payment of fees at all.

Finally, the VA process is filled with delay, and as accredited representatives, NOVA members work to reduce that delay as much as possible, as described above, sometimes for no compensation whatsoever.

ADDITIONAL BACKGROUND

The history of attorney/agent representation, how agents and attorneys are accredited and regulated, how fees are charged and regulated, the proliferation of unaccredited claims consultants, and additional background, is set out in Exhibit 1. *See also* National Organization of Veterans' Advocates, *Statement Before the House Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs and Subcommittee on Oversight and Investigations, Joint Oversight Hearing, "At What Cost?—Ensuring Quality Representation in the Veteran Benefit Claims Process"* (Apr. 27, 2022), <https://docs.house.gov/meetings/VR/VR09/20220427/114660/HHRG-117-VR09-Wstate-RauberD-20220427-U1.pdf>.

NOVA supports a strong accreditation process to ensure competent representation. All people assisting veterans, survivors, family members, and caregivers must be accredited, whether in the early stages of consulting, educating, advising, assisting, or coaching throughout the more complex claims and appeals process. Accreditation must be required on an individual basis. Accredited individuals must submit a signed power of attorney to VA and, for anyone charging a fee, a properly executed fee agreement as well.

Any legislative proposal that expands choice must put veterans first. NOVA maintains that a federal solution, with preemption and reinstatement of criminal penalties, is critical

to ensure ongoing compliance and recourse for veterans. As described in more detail below, if expanded paid representation is the goal of Congress, the simplest and best option for veterans is to “move the line” and amend current 38 U.S.C. § 5904 to extend the current system to initial claims. This solution allows all individuals who wish to become accredited to do so, expands access to quality claims assistance, ensures protections for veterans, and prevents veterans from going into debt to receive qualified assistance.

**H.R. 1732, Governing Unaccredited Representatives Defrauding VA Benefits Act
(GUARD)**

NOVA continues to support the return of penalties to the statute, as it has since the 116th Congress when the Senate Veterans’ Affairs Committee approved a measure that would have allowed for prosecution of unaccredited representatives. *See* S. 4511, <https://www.congress.gov/bill/116th-congress/senate-bill/4511/text#toc-id9763de71-85ab-452e-877c-de824c5b889e>. We thank Rep. Pappas and McGarvey for reintroducing this language, along with the other 52 bipartisan original cosponsors. Likewise, we appreciate the bipartisan support for GUARD in the 118th Congress, which resulted in 221 co-sponsors in the House and 55 co-sponsors for the Senate companion bill introduced by Senators Boozman and Blumenthal.

Any bill that amends the current statute must contain penalty language for illegal action and a path for VA to refer those who break the law to the appropriate law enforcement authority.

Another issue requiring Congressional action is the proliferation of confusing and disparate state laws being introduced and passed in some states that purport to regulate the charging of fees and other aspects of representation before VA. As these laws are being passed, some are being challenged in court. Title 38 governs federal veterans benefits as defined by Congress and regulated by VA, and federal law preempts these state efforts. However, because the federal scheme is being called into question in some of the lawsuits, and to prevent the confusion of veterans and advocates across the country, Congress must include language that the tenets of Title 38 supersede any state law that is inconsistent with the rights established under it and is, therefore, preempted.

**H.R. 1656, Preserving Lawful Utilization of Services for Veterans Act
(PLUS)**

NOVA cannot support the PLUS Act as written. While we support that the PLUS Act would permit accredited practitioners to continue with their current practice, NOVA does not support the charging of prospective fees for initial claims as it could result in a veteran accruing debt to pay a fee that exceeds their retroactive award.

In addition, we support the portions that reinstate criminal penalties and emphasize federal preemption.

DISCUSSION DRAFT: To amend title 38, United States Code, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes

NOVA cannot support the discussion draft as written and offers comments on certain items in the bill that deserve greater attention, including, but not limited to, the following:

1. **Accreditation reform should not prevent a veteran from choosing continuous representation with one accredited attorney or agent or accredited members of a firm.** NOVA does not support legislation that sets up two different models for charging for representation on initial claims versus appeals, i.e., a separate category of representatives that only charge for initial claims. Section 3(a)(8)(A)(vi) is confusing and appears to prohibit a veteran from being represented by members of the same firm in subsequent matters. As written, this language would severely hinder a veteran's choice should they want to stay with one representative or a particular firm for all related matters. It appears to require a veteran who hired an accredited representative to file initial claims to hire a new representative if they subsequently desire to file a request for review of a decision on one of the initial claims. Example: A veteran uses a representative to file three claims: one for an orthopedic claim, one for asthma, and one for a condition related to military sexual trauma (MST). VA grants the orthopedic condition, grants the asthma claim (but assigns an improper effective date), and denies the MST-related claim. The veteran is satisfied with the outcome of the orthopedic claim, for which the representative may collect a fee, but seeks to file a higher-level review to address the improper effective date and a supplemental claim to contest the MST-related claim. This individual is now prevented from staying with same representative if they prefer to do so and could not use anyone else in the same firm. They are forced to take time that could be spent expeditiously filing those reviews to find a new representative and, once finding a new one, they essentially must start from scratch to build the relationship and trust they had with the original representative. Not only is this outcome inefficient for, and detrimental to, the veteran, it would create unnecessary bureaucracy at VA and be difficult to enforce.
2. **Considering the Supreme Court's decision in *Loper Bright*, Congress should provide clear definitions of proposed terms.** As discussed by the full committee in the 118th Congress, see House Committee on Veterans' Affairs, "Restoring Power Over VA After *Loper Bright Enterprises v. Raimondo*" (hearing held December 18, 2024), the statutory language must clearly define what is included

under the law and Congress is in the best position to determine what those definitions should be.

- a. **The terms preparation, presentation, and prosecution should be defined in statute and should include advising, assisting, educating, consulting, and coaching.** Unaccredited claims consultants assert that Title 38 does not apply to them because they do not “prepare, present, or prosecute” claims. This proposal does not adequately address the advising, consulting, assisting, educating, or coaching functions that some companies hide behind as alleged cover for their preparation of claims. Failure to clearly define the scope of an accredited advocate’s work will only enable bad actors to find new ways to skirt the law.
 - b. **The term “business” relationship as it relates to procuring private medical opinions.** As described below, some unaccredited claims consultants retain medical professionals on their payrolls or refer to the same professional as part of an employment relationship that may compromise the independence of an opinion. While we understand the intent of the proposed amendment to 38 U.S.C. § 5904(b)(1)(J) is to prevent those employment relationships with medical providers, without precise definition of a “business” relationship, this provision as written may interfere with obtaining independent medical or vocational rehabilitation reports that can be an important part of developing the record in certain claims and appeals.
3. **Provisional accreditation must be extended to anyone waiting to become accredited, just not new applicants.** NOVA is aware of applicants for VA accreditation who are waiting for VA to issue decisions on their applications. Any “provisional” accreditation must include those applicants first—and must also be based on successfully passing an examination. Veterans need and deserve effective representation. This area of law is complex, and anyone seeking accreditation by VA as an agent should be required to demonstrate, at the very least, a basic understanding of the law.
4. **Blanket amnesty is not appropriate when considering whether individuals should be accredited.** The discussion draft at Section 3(a) would amend 38 U.S.C. § 5904(a) by adding (1)(C)(i) to prohibit VA from denying accreditation of an individual as an agent or attorney solely because they charged fees for services on an initial claim prior to enactment of the law. However, VA must have the ability to consider whether other aspects of that representation violated standards of conduct so as to warrant a denial of accreditation. If an unaccredited individual’s conduct during the provision of such advice or assistance violated those standards or if other unethical or criminal conduct comes to light, VA must be able to

consider it in its decision on the application.

5. **Prospective charging in this bill would frequently cause a veteran to go into debt to pay the representative.** The discussion draft would amend 38 U.S.C. § 5904(c)(1) to allow for charging of a fee that is the lesser of \$10,000 or a fee that is “equal to the product of five and the amount of the monthly increase of benefits awarded to the claimant pursuant to the claim.” As of February 21, 2025, VA reported that the average time for completion of a non-Pact Act claim is 128.9 days, which equals slightly over 4 months. *VA PACT Act Performance Dashboard*, https://department.va.gov/pactdata/wp-content/uploads/sites/18/2025/02/VA-PACT-Act-Dashboard-Issue-46-022125_Final_508.pdf. Under this scenario, a veteran (without a spouse or dependent) who is awarded a 50-percent rating for a condition after an initial claim would receive approximately \$4,400 in a retroactive award, but would owe \$5,500 for the assistance they received. This outcome is not veteran centric, as it may result in the veteran incurring debt to pay that fee.

Furthermore, by striking the existing (c)(1), this discussion draft appears to eradicate the current system for no good reason. Congress initially recognized veterans needed choice when it created the U.S. Court of Appeals for Veterans Claims in 1988. At that time, Congress lifted the restriction on attorneys and agents accepting fees for work before the agency by allowing for a fee to “be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. *Veterans’ Judicial Review Act*, P.L. 100-687, §104, Nov. 18, 1988, 102 Stat. 4105, 4108. Not only did veterans obtain the right to challenge Board of Veterans’ Appeals’ decisions in a federal court for the first time in history, Congress recognized a place for competent, paid representation not only before the court, but before the agency. On two occasions since that time, Congress has “moved the line,” i.e., allowed for hiring representatives with specific parameters on retroactive fees. These amendments provided for veterans, survivors, and family members to hire accredited representatives to assist with review decisions offered to them and to provide complete scope of services. *See Veterans Benefits, Health Care, and Information Technology Act of 2006*, P.L. 109-461, § 101, Dec. 22, 2006, 120 Stat. 3403, 3407 (amending 38 U.S.C. § 5904 to allow for paid attorney representation at the agency level after the filing of an appeal (Notice of Disagreement)); *Veterans Appeals Improvement and Modernization Act of 2017*, P.L. 115-55, § 2, Aug. 23, 2017, 131 Stat. 1105, 1110 (amending § 5904 to allow for paid attorney representation at the agency level after VA issues notice of an initial decision). Congress has **never** contemplated paid representation on an **initial** claim for VA benefits, recognizing that this would destroy the non-adversarial, claimant-friendly nature of the VA benefits scheme.

If, after considering the overall impact to a system intended to be nonadversarial to veterans at the initial claims stage, Congress decides that veterans should be able to hire an accredited advocate at the initial claims stage, it should proceed as it has in the past and simply move the line. Amending § 5904 to allow for paid representation at the initial claims stage is the most veteran friendly and manageable way to accommodate that desire for choice.

Conclusion

NOVA is committed to working with Congress, VA, and fellow accredited stakeholders to ensure veterans receive the quality representation they deserve. Thank you again for allowing NOVA to provide our views, and I would be happy to answer any questions the Subcommittee members might have.

For more information:

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

EXH. 1

History of Attorney/Agent Representation

Historically, Congress permitted attorneys and agents to represent veterans before the Veterans' Administration, but they could not charge more than \$10.00 for such representation. *See, e.g.*, Pub. L. 85-857, § 3404, Sept. 2, 1958, 72 Stat. 1238 (“[t]he Administrator shall determine and pay fees to agents or attorneys recognized under this section in allowed claims for monetary benefits under laws administered by the Veterans' Administration. Such fees – (1) shall be determined and paid as prescribed by the Administrator; (2) shall not exceed \$10 with respect to any one claim; and (3) shall be deducted from monetary benefits claimed and allowed”). When Congress created the U.S. Court of Appeals for Veterans Claims in 1988, which for the first time allowed veterans to seek judicial review of disability claims denied by VA, attorneys and agents were permitted to charge more than \$10.00 for representation. *Veterans' Judicial Review Act*, Pub. L. 100-687, § 104, Nov. 18, 1988, 102 Stat. 4108 (fee permitted when attorney or agent retained within one year of date when Board of Veterans' Appeals made a final decision). In 2006, Congress updated the statute to allow an attorney or agent to charge a fee for representation after filing a notice of disagreement to the Board of Veterans' Appeals. Pub. L. 109-461, title 1, § 101(c)(1), Dec. 22, 2006, 120 Stat. 3407.

With the passage of the Veterans Appeals Improvement and Modernization Act of 2017 (AMA), Congress again amended the statute to allow attorneys and agents to charge a fee for representation earlier in the process, *i.e.*, when the claimant “is provided notice of the agency of original jurisdiction’s initial decision.” Pub. L. 115-55, § 2(n), August 23, 2017, 131 Stat. 1110. This amendment reflects the new choices permitted under the AMA for a claimant when faced with an adverse decision, *i.e.*, filing a higher-level review, supplemental claim, or appeal to the Board of Veterans' Appeals. In other words, after an initial denial by the Regional Office, a claimant can hire an agent or attorney to represent them and determine the best course of action to contest the denial. VA recognized the importance of this change when it issued the final rules implementing the AMA “to allow paid representation with respect to the claimant’s expanded options for seeking review of an initial decision on a claim.” Department of Veterans Affairs, *VA Claims and Appeals Modernization, Final Rule*, 84 FR 138, 150 (Jan. 18, 2019).

As the result of statutory changes in 2006 and 2017, as interpreted by the Federal Circuit, currently the **only time** an accredited advocate **cannot** enter into a fee agreement with a veteran is for assistance with filing an **initial claim** for benefits. *Military-Veterans Advocacy v. Secretary of Veterans Affairs*, 7 F.4th 1110, 1135-1141 (Fed. Cir. 2021) (Federal Circuit invalidated 38 C.F.R. § 14.636(c)(1)(i) and determined fees can be sought for work on all supplemental claims, whether filed within a year of a decision or after a

year has passed). This policy reflects Congress’s recognition of the initial claims process as nonadversarial, as affirmed in the bipartisan AMA. After President Trump signed the bill in 2017, VA emphasized that it “must have an opportunity to decide a matter **before** paid representation is available.” Department of Veterans Affairs, *VA Claims and Appeals Modernization, Final Rule*, 84 FR 138, 150 (Jan. 18, 2019) (citing 73 FR 29852, 29868 (May 22, 2008) (emphasis added)). NOVA has long supported this view, as VA is bound by the statutory duty to assist the veteran in gathering the information necessary to support a claim. 38 U.S.C. § 5103A.

This policy also reflects the long-standing recognition of the role of VSOs, at the national, state, and county level, who are available in large numbers to assist veterans with an initial claim at no cost to the veteran. In addition, attorneys also provide free assistance with filing initial claims through legal services and legal aid organizations, as well as law school veterans clinics. Many NOVA members also provide assistance on a pro bono basis.

How Attorneys and Agents are Accredited and Regulated

Congress has long recognized that, to prepare, present, and prosecute claims on behalf of veterans, VA can require a demonstration of competence. *See, e.g.*, Pub. L. 85-857, 72 Stat. 1238, Sept. 2, 1958 (“[t]he Administrator may require that individuals, before being recognized under this section, show that they are of good moral character and in good repute, are qualified to render claimants valuable service, and are otherwise competent to assist claimants in presenting claims”). Likewise, Congress empowered VA to discipline those who fail to meet these standards. *Id.* at 72 Stat. 1238-1239 (“[t]he Administrator . . . may suspend or exclude from further practice . . . any agent or attorney recognized under this section if he finds that such agent or attorney – (1) has engaged in any unlawful, unprofessional, or dishonest practice; (2) has been guilty of disreputable conduct; (3) is incompetent; (4) has violated or refused to comply with any of the laws administered by the Veterans’ Administration, or with any of the regulations governing practice before the Veterans’ Administration; or (5) has in any manner deceived, misled, or threatened any actual or prospective claimant”).

As amended and expanded, these standards currently reside in 38 U.S.C. § 5904, and VA has promulgated regulations at 38 C.F.R. § 14.632 governing the conduct of accredited attorneys and agents. *See also VA Accreditation Program: Standards of Conduct for VA-Accredited Attorneys, Claims Agents, and VSO Representatives*, <https://www.va.gov/OGC/docs/Accred/StandardsofConduct.pdf>. Upon a determination that an accredited representative violates the standard of conduct, VA “may suspend or cancel your accreditation. VA is authorized to report the suspension or cancellation to any bar association, court, or agency to which you are admitted. In addition, VA may collaborate with State and Federal enforcement authorities if it is suspected that your

actions may have implications under State or other Federal laws.” *Id.*; *see also* 38 C.F.R. § 14.633.

Attorneys and agents (unless employed by a Congressionally-chartered VSO) are accredited on an individual basis, not through their firm or organization. An attorney seeking accreditation must complete the VA Form 21a and provide a recently dated certificate of good standing from any state bars, courts, or agencies to which he or she is admitted to practice. Within the first year of accreditation, the attorney must complete three hours of qualifying CLEs and an additional three hours no later than three years after initial accreditation and every two years thereafter. *VA Accreditation Program: How to Apply for VA Accreditation as an Attorney or Claims Agent*, <https://www.va.gov/OGC/docs/Accred/HowtoApplyforAccreditation.pdf>.

Similarly, agent candidates must submit the VA Form 21a, complete the CLE requirements, and submit any certificates of good standing if available. Prior to granting accreditation, however, VA conducts a background check and requires the applicant to pass a test demonstrating knowledge of relevant VA statutes and regulations. *Claims Agent Examination*, <https://www.va.gov/ogc/accreditation.asp>.

Recently, VA proposed regulations that would make some changes to the process of accrediting agents and attorneys. Specifically, VA plans to require prospective agents and attorneys to complete the initial CLE requirements before applying and to have agents sit for the examination before conducting the background check. *See Department of Veterans Affairs, Improving Accreditation Process and Strengthening Legal Education Requirements for Accredited Agents and Attorneys*, 89 FR 82546 (Oct. 11, 2024). NOVA filed comments in support of these proposed regulations and recommended a fourth hour of initial CLE be dedicated to the standards of conduct and ethics required in this practice. *See National Organization of Veterans’ Advocates, RIN 2900-AR94, Improving Accreditation Process and Strengthening Legal Education Requirements for Accredited Agents and Attorneys* (filed Dec. 6, 2024).

How Fees Are Charged and Regulated

Congress has also provided a statutory scheme for how fees are charged and VA has promulgated regulations and policies that govern the process. *See* 38 U.S.C. § 5904; 38 C.F.R. § 14.636. While VA may find a fixed fee or hourly rate reasonable, the statutory scheme generally favors a contingency model, consistent with legal practice in many other areas of disability or personal injury law. Under this model, an attorney or agent will only recover if he or she prevails for his or her client and accepts payment from past-due benefits, not out of future, recurring disability payments.

Attorneys and agents can enter into a “withholding” contract with a client and VA will

hold back 20 percent (a presumed reasonable fee) from the past-due benefits recovered. 38 C.F.R. § 14.636(h). The attorney or agent must submit the fee agreement to the Regional Office within 30 days of its execution. *Id.* at (h)(4). In the alternative, attorneys and agents can enter into a “nonwithholding” contract with a client and be paid directly from the client. These contracts must be filed with VA’s Office of General Counsel. Under 38 C.F.R. § 14.636(f)(1), fees that exceed 33 1/3 percent of past-due benefits awarded under a nonwithholding agreement are presumed unreasonable.

VA regulations provide multiple safeguards to ensure fees are reasonable and claimants have due process if they believe they have been unfairly charged. *See, e.g.*, 38 C.F.R. § 14.636(i) (OGC may review a fee agreement between a claimant or appellant and an agent or attorney upon its own motion or upon the motion of the claimant or appellant and order a reduction); *How to Challenge a Fee*, <https://www.va.gov/OGC/docs/Accred/HowtoChallengeaFee.pdf>.

Proliferation of Unaccredited Representatives

Over the past several years, there has been a proliferation of companies offering “consulting” services for veterans seeking disability compensation benefits. While the terms of the contracts vary from company to company, there are common elements among many of them. These companies consist of employees who are not accredited by VA, who work with veterans to gather information (including medical opinions frequently prepared by affiliate companies) in support of a claim (typically a initial claim for an increased rating). The veteran is “coached” to submit the claim or, in some circumstances, the claim is submitted by an employee using the veteran’s own private eBenefits log-in information on VA’s website. Sometimes, veterans are advised to drop existing appeals in favor of a “faster” decision on a new claim for an increased rating. (While this action may, indeed, result in a faster decision, the veteran is unknowingly forfeiting months or years’ worth of retroactive benefits because the effective date of any award of benefits is the date VA receives the “claim.”) Other companies regularly advise veterans to decline to attend disability examinations ordered by VA. When a veteran does not show for a scheduled contract examination, the medical examination contractor is still paid, wasting taxpayer dollars. The VA states it has no ability to oversee these individuals and veterans have no due process rights when working with these companies.

Unaccredited employees of these firms prepare claims. While many of these companies claim that they do not prepare, present, or prosecute claims, their activities indeed rise to, at the very least, preparation of claims. Merriam-Webster defines “prepare” as “to make ready beforehand for some purpose, use, or activity,” clearly encompassing the activity described above.

VA agrees with this analysis, stating in its FAQ guidance for applicants: “You must be

accredited to aid in the preparation, presentation, or prosecution of a VA benefit claim. **Advising a claimant on a specific benefit claim or directing the claimant on how to fill out their application, even if you never put pen to paper, is considered claims preparation.”** *VA Accreditation Program: How to Apply for VA Accreditation as an Attorney or Claims Agent*, <https://www.va.gov/OGC/docs/Accred/HowtoApplyforAccreditation.pdf> (emphasis added).

These companies charge fees outside the framework established by Congress and implemented by VA. Contracts executed by these companies charge out of future benefits, which is clearly not contemplated under 38 C.F.R. § 14.636. Specifically, fees may be lawfully based on a “fixed fee, hourly rate, a percentage of benefits recovered, or a combination of such bases,” and past-due benefits are “non-recurring payments.” Contracts charging five or six months of the veteran’s future increase, yet to be received, violate the regulations and may also violate 38 U.S.C. § 5301(a)(3)(a) as a prohibition against assignment of benefits.

Without executing a power of attorney with a claimant, unaccredited representatives cannot provide competent assistance. Accredited representatives sign a power of attorney with the claimant. This relationship allows the representative to request necessary records on behalf of the veteran, obtain access to the veteran’s electronic claims file and relevant VA databases, and present themselves to VA employees as the accredited representative to access information and advocate on behalf of the claimant. Accredited attorneys, agents, and VSOs have the “big picture” of the claimant’s history, claims, and appeals. Veterans understand who is representing them and has someone to rely on for ongoing advice. Able to review the entire claims file and relevant records, accredited representatives can find pending claims, unadjudicated claims, identify potential claims for clear and unmistakable error, and provide a coordinated plan for representation before the agency, the Board of Veterans’ Appeals, and federal courts as needed.

VA also understands who the veteran’s accredited representative is—and is required to provide this representative with notice of decisions and of any VA action on the veteran’s pending claims and appeals. This “notice” requirement is especially beneficial for homeless veterans, or those with unstable housing, as the representative can comply with VA requests for information in a timely manner and ensure that deadlines are met.

By contrast, unaccredited employees of these consulting companies are unable to represent the veteran fully and frequently abandon the veteran once the increased rating is achieved or denied. Because these unaccredited claims “consultants” cannot represent veterans in appeals before VA or the courts, veterans often turn to accredited attorneys, agents, or VSOs to step in and resolve pending matters.

Obtaining a veteran's eBenefits log-in information to assist the veteran or bank information to obtain funds for payment violates the veteran's privacy and violates VA policy. NOVA has been made aware that some of these companies require a veteran to provide log-in information to VA's eBenefits site and access to the veteran's bank information. VA rightfully is concerned with protecting a veteran's privacy and identifying information. Accredited individuals do not use a veteran's log-in credentials or require bank account access; accredited individuals are able to access the veteran's electronic VA records and files as the representative lawfully recognized by VA. Regarding eBenefits: "Unauthorized attempts or acts to either (1) access, upload, change, or delete information on this system, (2) modify this system, (3) deny access to this system, or (4) accrue resources for unauthorized use on this system, are strictly prohibited. Such unauthorized attempts or acts may be considered violations subject to criminal, civil, or administrative penalties." *eBenefits: My Gateway to Benefit Information*, <https://www.ebenefits.va.gov/ebenefits/about/policies>.

Some consulting companies have employment relationships with medical providers that compromise the use of private medical opinions. VA is required to consider all the evidence of record, including private medical evidence. Private medical treating evidence and private medical opinions can be a powerful tool in a veteran's claim or appeal when ethically obtained. These opinions, however, must be obtained by independent medical professionals who are not part of a company's staff or part of an owned subsidiary.

Prepared Statement of Patrick Murray

Chairman Luttrell, Ranking Member McGarvey, 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 testimony with regard to this pending legislation.

The VFW continues to lead the charge against unaccredited, unscrupulous actors we call Claim Sharks who charge service members, veterans, and survivors illegal fees. Our resolutions urge Congress to pass legislation that protects Department of Veterans Affairs (VA) beneficiaries from predatory companies and individuals attempting to bypass the VA accreditation system and monetize the disability or death benefits of veterans and surviving families.

Due to the stalemate in Washington DC., our members have worked to pass state-level legislation that installs consumer protection to enforce the Federal statute. Currently, nine states have laws that prohibit charging fees that are not allowed by Federal law and have various degrees of penalties for violating its State law. Washington, Iowa, Michigan, New York, Illinois, Nevada, New Jersey, Maine, and Massachusetts have laws that require anyone who charges fees to do so adhering to Federal law and regulation. Conversely, only one State, Louisiana, allows charging up to \$12,500 for an initial claim.

The VFW has expressed to the committee our redlines regarding any comprehensive bill put forth seeking our support. Veterans should not have to pay future benefits, active duty service members should not have to pay for claims assistance prior to transition, and no one who prepares claims should have any financial affiliation with medical examiners that could possibly affect the outcome of the claim. These are commonsense concerns that we insist be in any bill advanced by this committee.

Discussion Draft, To amend title 38, United States Code, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

The VFW does not support this legislation as written. We appreciate the committee's attempt to provide a compromise, but this bill is still slightly off target. There are portions of this draft bill that we do support and believe could provide necessary protections for veterans. However, the major redline we cannot support is the fee of five times future benefits for claims preparation.

We support the provision in this draft to ensure veterans are fully informed of their options when filing a claim. Notifying veterans of all the choices they have to assist them in filing a VA claim would hopefully result in more veterans accessing the care and benefits they have earned. Additionally, requiring VA to maintain a system through which a claimant may report unaccredited entities charging illegal fees is positive. Currently, the staff at the VA Office of General Counsel (OGC) is inept at dealing with this issue and needs assistance to perform this basic task. We urge this committee to provide that office with additional resources so it can be adequately staffed with competent employees who have 21st century tools to accomplish their day-to-day tasks.

We also support VA providing warnings to veterans in order to make them aware of unaccredited entities who are in violation of the law. The VA OGC has sent numerous cease and desist letters to individuals and companies, including two of the witnesses at this hearing, but never bothered to follow up with any further actions. That office and the staff who work there abdicated responsibility for the past decade concerning this issue. The OGC has been unhelpful and unresponsive about this aspect of accreditation. We believe the responsibility for overseeing and maintaining accreditation should be removed from OGC, and instead placed under the authority of the Veterans Benefits Administration and tasked to an appropriate office that can competently carry out this mission.

We support individuals seeking accreditation to be allowed a conditional and temporary status that may be extended if necessary. The inefficient staff at OGC cannot process accreditation applications for agents in a timely manner. Providing flexibility would allow upstanding individuals seeking to become accredited agents the ability to still work with claimants under the law while they await the process to be completed.

We support extending accreditation to employees of non-profit organizations who are seeking to assist veterans, caregivers, and survivors but do not primarily work with VA claims. The VFW has worked with other organizations to provide accreditation under our authority so they can also assist people filing claims. The VFW extended accreditation to case workers from Wounded Warrior Project before they

were able to do so on their own. We have also offered a similar dynamic to our partners from Student Veterans of America and the Tragedy Assistance Program for Survivors. There are numerous organizations that could benefit from having accredited staff on board to help with claims assistance for the beneficiaries they represent. This proposal would be a step in the right direction.

We fully support the portion of this draft bill that would prohibit charging service members for claims through the Benefits Delivery at Discharge (BDD) process. BDD claims are processed separately and faster than other VA claims. Additionally, the claimants are still on active duty, so the conditions applied for are mostly incident to service and would automatically be service connected.

We support protecting veterans' legal option to terminate the representation agreement prior to a decision being rendered to the claimant. This is similar to the protection afforded to veterans who work with accredited agents and attorneys, and this is important to maintain. The VFW has worked with too many veterans who had severed relationships with Claim Sharks only to have them reappear years later seeking fees for work they did not perform. Additionally, we support prohibiting charges for existing claims and work that was not directly performed by said individuals.

What we do not support in this draft bill is the prospective fees of 5 months of future benefits. Charging fees from future benefits is illegal and predatory, and has the potential of putting veterans in debt. We will never support a paradigm that could put veterans in debt simply for accessing their earned benefits, and neither should this committee.

Charging future benefits is called "Assignment of Benefits" and it is prohibited by VA and the Social Security Administration. It is also prohibited in civil court case claims such as tort, workers' compensation, mesothelioma, and asbestos. According to VA, under Title 38 of the United States Code (U.S.C), Section 5301(a), a contract with a claimant generally may not obligate that claimant to pay fees from their VA benefit payments. The only legal option for charging fees in these cases is from payments for retroactive benefits.

The reason for allowing fees only from retroactive benefits is because it is guaranteed the claimant has the money in hand to pay the bill. Every VA claim comes with a retroactive payment based on how long it took to process the claim. The current processing time for a claim is 146 days, which means a veteran would receive an average of 146 days' worth of benefits. If a claimant is charged a future amount of benefits, that individual might not have enough money to cover that cost when they are billed.

Veterans Guardian states that its average time to complete a claim is approximately three months. That means a veteran who works with Veterans Guardian would receive retroactive payment for 3 months of benefits from VA, but then get charged a fee of 5 months of benefits by Veterans Guardian. Consequently, veterans could be in debt for 2 months of benefits to companies such as this, in addition to late fees and penalties for not paying the full amount that some of them charge. This prospective fee structure is illegal, predatory, and could lead to veterans being in debt.

A percentage of fees charged out of the retroactive payment is the only guaranteed method to ensure the veteran has enough money to cover whatever fees may be assessed for services. Accredited agents and attorneys are allowed to charge 20 percent of a retroactive payment if VA processes the payment, and 33 percent of the retroactive payment if the client is billed directly by the accredited agent or attorney. This is the fee structure the VFW has been amenable to with other accredited individuals, and this is what we believe would be reasonable for initial claims as well. Putting veterans in debt is the last thing this committee should propose, and the VFW and our allies would oppose any bill that financially harms veterans.

The VFW questions how this discussion draft arrived at 5 months of future benefits and \$10,000 as a *reasonable fee*. VA regulation—Title 38 Code of Federal Regulations 14.636—currently outlines nine specific factors that determine whether a fee is reasonable, including factors of the complexity of the case; the level of skill and competence required of the representative in giving the services; the amount of time the representative spent on the case; the level of review to which the claim was taken and the level of the review at which the representative was retained; or the rates charged by other representatives for similar services.

To be frank, when considering factors like skill and complexity coupled with VA's statutory duty to assist, we cannot ascertain how this fee structure could ever be considered reasonable. Instead, we see this as just a rehash of what the Claim Sharks have lobbied for in states around the country. This is what these companies want to charge, so this is all they will accept.

To the VFW, this has never been about the money. Accredited agents and attorneys can make a healthy living operating within the ethical confines of the established, non-predatory fee structure. When payment comes from retroactive benefits, it is hard to consider it predatory since the veteran is guaranteed to be able to settle the debt.

H.R. XXX, Governing Unaccredited Representatives Defrauding (GUARD) VA Benefits Act

The VFW strongly supports this legislation that seeks to reinstate penalties against unaccredited representatives who charge unauthorized fees for aiding veterans filing for VA disability compensation claims.

Prior to the enactment of Public Law 109-461 on December 22, 2006, Title 38 U.S.C. included criminal penalties against the involvement of unaccredited representatives in the claims process. Unfortunately, the elimination of these criminal penalties so that accredited attorneys and agents could charge fees for appeals provided a loophole through which unaccredited representatives could illegally charge for claims preparation without penalty. This problem was exacerbated following the increase in claims attributable to the passage of the *Honoring our PACT Act of 2022*.

The VFW asserts that this legislation, which adds only one sentence to Title 38 U.S.C. is a sound policy proposal that simply institutes a penalty for breaking current law. It would signify a substantial step toward holding these unaccredited representatives accountable to the intent of the law and to ethical practices.

H.R. XXX, Preserving Lawful Utilization of Services (PLUS) for Veterans Act of 2025

The VFW does not support this legislation that seeks to implement a fee structure for providing initial claims assistance under the guise of veteran choice.

Chairman Luttrell and Ranking Member McGarvey, this concludes my testimony. I am happy to answer any questions you 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 2025, 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.

STATEMENTS FOR THE RECORD

Prepared Statement of Disabled American Veterans

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

DAV (Disabled American Veterans) is grateful to provide testimony for the record for this legislative hearing concerning different pieces of legislation pertaining to Department of Veterans Affairs (VA) accreditation. DAV is a congressionally chartered and VA-accredited veterans service organization (VSO). We provide meaningful claims support free of charge to more than 1 million veterans, family members, caregivers and survivors.

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 VA regional office (VARO) as well as other VA facilities throughout the Nation, including the Board of Veterans' Appeals (Board).

First, we draw attention to the unique, veteran-centric relationship between the VA and veterans of all generations. As promised by VA Secretary Doug Collins, the veteran is at the center of all VA programs. In order to qualify for compensation benefits, and a majority of other VA programs, such as health care and employment assistance, veterans must apply for and be found eligible for service connection for one or more service-related illness or injury. During the process of deciding service connection, the VA is bound by law to assist the veteran in application completion, evidence gathering, and medical examinations. VA is also bound by law to resolve all reasonable doubt in all instances in favor of the veteran.

For the VA to ensure veterans receive responsible, qualified representation and assistance when applying for VA benefits, Federal laws were created requiring anyone who assists them in preparing, presenting, or prosecuting those claims to be properly accredited through the VA Office of General Counsel (OGC). Those same laws govern whether, when, and how much veterans can be charged for that assistance.

In 2006, the criminal penalties for violating those laws were removed, leaving the VA OGC virtually powerless to enforce the law against anyone except those who voluntarily followed those laws and became accredited. That left the door open for unaccredited, often unscrupulous, actors to target veterans and illegally charge them for claims assistance.

A warning from the Consumer Financial Protection Bureau, dated February 15, 2023, states: "Unfortunately, there has been an influx of predatory advertisements, which purport to help veterans often through the guise of 'medical consulting' or 'benefits coaching' submit their initial claims to the [VA] for a fee. But unauthorized assistance in claim preparation is illegal." We have been advised and in fact have seen that they have contracts the veteran signs showing they are going to take six times the amount of a veteran's increased benefits.

As these predatory companies operate outside of accreditation, they do not fall under the OGC's oversight. Additionally, these entities are not required to have employed individuals take VA training, follow VA's required code of conduct, nor undergo background checks. We are concerned that the OGC's purpose to protect veterans and their families has been intentionally circumnavigated, thus placing veterans at risk of financial exploitation.

The Veterans Appeals Improvement and Modernization Act of 2017 was signed into law (Public Law No. 115-55) on August 23, 2017, which allows VA-accredited attorneys or claims agents to charge fees for representation in the case of; a supplemental claim and higher level of review or after a notice of disagreement has been filed after an initial final decision on a specific claimed issue.

There is already a clear path for these individuals to become VA accredited and provide assistance. If these companies are solely concerned with assisting veterans, they would already be accredited; however, this path does not allow them to charge exorbitant fees for merely filling out paperwork. We must hold all of these predatory companies accountable for their knowingly illegal actions and take appropriate ac-

tion to ensure they are not allowed to further exploit our Nation's ill and injured veterans.

The Governing Unaccredited Representatives Defrauding VA Benefits Act or GUARD VA Benefits Act

By amending 38 U.S.C. § 5904 (2023), the GUARD VA Benefits Act would reinstate criminal penalties on individuals for soliciting, contracting for, charging, or receiving any unauthorized fee or compensation with respect to the preparation, presentation, or prosecution of any claim for VA benefits.

In August 2023, the National Association of Attorneys General sent congressional leadership a letter of support for The Guard VA Benefits Act. They point out that these unaccredited claims predators are financially exploiting veterans and their families. This letter was signed by 44 State Attorneys General.

In accordance with DAV Resolution No. 324, DAV strongly supports, the GUARD VA Benefits Act, which will help ensure disabled veterans receive VA-accredited representation while deterring predatory practices that seek to pick the pockets of our Nation's heroes of their earned benefits. DAV vehemently believes that no one should be charged to file a claim in a non-adversarial process.

For many of our Nation's disabled veterans, VA disability compensation can be the difference between making ends meet and more severe outcomes such as homelessness. That's why it is so vitally important that veterans are properly represented by accredited individuals and institutions when applying for VA benefits.

Some opponents of the GUARD VA Benefits Act argue that it impinges upon a veteran's right to choose their own representative. We believe the GUARD VA Benefits Act simply removes unaccredited, unregulated, and often unscrupulous actors who target veterans from entering the process. Unfortunately, veterans who do not understand the veteran-centric promise made by VA Secretary Collins fall victim to constant advertisements, primarily on social media, making unrealistic and baited promises. The passage of the GUARD VA Benefits Act holds bad actors accountable to the law and allows for redress when veterans find themselves victims of those bad actors.

In the 118th Congress, this legislation had over 220 bipartisan co-sponsors. We urge members of the House to again protect veterans and their families and focus on Secretary Collins' vision of placing veterans in the center of all things VA.

Preserving Lawful Utilization of Services for Veterans ACT of 2025 or the PLUS Act

This legislation alleges that the administration of medical examinations and the writing of related reports do not constitute the preparation, presentation, or prosecution of claims.

DAV takes great exception to the deliberate blurring of the definition of what constitutes preparation, presentation, and prosecution of claims by those who claim to be completing a report. The deliberate blurring of the definitions clearly displays that those who are unwilling to be accredited in accordance with the current law, are knowingly, willingly, and consistently breaking the law, should not be allowed into any current or future accreditation model, and should be held accountable once the GUARD VA Benefits Act, or similar legislation, is passed.

Additionally, the bill introduces a 90-day deadline for the Secretary of Veterans Affairs to recognize agents or attorneys applying for VA accreditation with automatic recognition if qualifications cannot be verified within this period.

The VA has no obligation to provide manpower, resources, or funds to assist those seeking accreditation especially when they are knowingly breaking current law. An arbitrary 90-day waiting period is of no advantage to veterans seeking benefits they have earned as free assistance is available.

The PLUS for Veterans Act would revise fee structures for representation, capping fees at \$12,500, adjustable annually based on the Consumer Price Index, and would stipulate that fees are contingent on favorable claim outcomes. It would reinstate penalties for charging unauthorized fees, with fines or imprisonment for violations, effective 1-year post-enactment.

DAV strongly supports current law, which clearly outlines what steps are necessary to become accredited and when it is appropriate to charge fees. We find it egregious to charge any amount for assistance in filing claims, but a charge contingent on favorable outcomes is particularly degenerate. This practice means that those veterans who fell prey to predatory practices, and who are ultimately found ill or injured in service to our Nation, are not only paying the salaries of predatory claims employees, but they are also paying for the examinations and claims preparation of those veterans who use the predatory service but do not ultimately meet

the criteria for service connection. What a veteran has earned through blood and sacrifice to our Nation belongs to them; any redistribution is unacceptable. Based on DAV Resolution 324, we oppose this legislation. No veteran should be charged any amount for filing a claim, especially unjustified fees of thousands of dollars.

Discussion Draft, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs

This discussion draft attempts to be a compromise but in reality, it favors these predatory claims companies being allowed into the VA system to further exploit veterans. For example, it would introduce a 180-day deadline for the VA Secretary to recognize agents or attorneys applying for VA accreditation with automatic recognition. If qualifications cannot be verified within this period; it would grant them temporary conditional recognition for a year.

Regardless of a 90-day or 180-day deadline, the VA should have no obligation to provide manpower, resources, or funds to assist those seeking accreditation, especially when they are knowingly breaking current law. An arbitrary 90-or 180-day waiting period is of no advantage to veterans seeking benefits they have earned as free assistance is available.

This proposed legislation would allow the VA Secretary to charge an assessment for accreditation and impose \$50,000 fines and banish an individual for a year. However, many of these predatory companies are taking millions of dollars from veterans and a \$50,000 fine is not much of a deterrence.

Additionally, we take umbrage with this proposed legislation's requirement that VA cannot hold against these claim companies, the fact they are/were illegally charging fees prior to the potential enactment of said legislation. If they are/were knowingly breaking the law, they should not be rewarded by allowing them in the VA system.

These companies have broken current law, exploited disabled veterans, and received hundreds of millions of dollars as a reward. It is abundantly clear that the current law means nothing to the companies who seek to gain from veterans' sacrifice and any change in law to accredit them will last only as long as these bad actors can generously profit. Once the process is no longer lucrative enough, we can surmise they will again break the law and then seek to legitimize their new business model as they have done here.

DAV opposes this discussion draft in accordance with DAV Resolution 324, as it would reward companies that have been breaking the law and taking millions out of the pockets of veterans and their families.

In closing, Mr. Chairman, we thank you for the opportunity to submit a statement for the record addressing our concerns on the bills being considered by the Subcommittee.

Prepared Statement of Iraq and Afghanistan Veterans of America



February 28, 2025

The Honorable Morgan Luttrell, Chairman
House Veterans' Affairs Committee
Subcommittee on Disability Assistance and Memorial Affairs
364 Cannon House Office Building
Washington, D.C. 20003

The Honorable Morgan McGarvey, Ranking Member
House Veterans' Affairs Committee
Subcommittee on Disability Assistance and Memorial Affairs
364 Cannon House Office Building
Washington, D.C. 20003

Dear Chairman Luttrell, Ranking Member McGarvey and Members of the Committee:

I am writing to you on behalf of Iraq and Afghanistan Veterans of America's (IAVA) and our more than 425,000 members nationwide to offer perspective as the debate around veterans' hiring private services to access their earned benefits continues in Congress.

IAVA is the leading voice of the post-9/11 generation of America's veterans - a generation of veterans that's endured multiple deployments fighting in endless wars, just to have to come home and fight to get the Department of Veterans Affairs (VA) care and benefits they've earned. Do I wish that wasn't the case? Of course. But that fact is that many of our members are simply trying to live their lives and raise their families, and they're doing so with the added burden of headaches at the hands of the VA.

We all know that the VA health system has incredible care with cultural competency that's near impossible to find elsewhere, and that our nation has prioritized investing in its newest generation of war veterans in order to ensure they're adequately thanked for their volunteer service in defense of our country. But if the process of accessing the care and benefits that they've earned is too much of a headache, then what is it all for?

Our members are also strong advocates of modernizing the VA to help make the claims and benefits process more efficient, effective and in line with the times. But as we wait for long overdue improvements at the VA, if a veteran finds it in their interest to pay someone who is better at navigating VA's bureaucracy than they are to help connect them to their earned care and benefits, why should we stand in their way?

To be clear, we should also definitely not stand idly by if bad actors are taking advantage of veterans who are overwhelmed by complicated and often lengthy claims process at the VA, but that doesn't mean that all companies that receive compensation to help connect veterans to their benefits fall in such a category. In fact, some are veteran-owned themselves and are just looking to help their fellow veterans.

The debate in Washington, D.C. over the last several years has largely centered on proposals to reinstate criminal penalties on unaccredited entities who charge veterans fees for help with their disability claims. Rather than legislating protections against specific predatory practices, these proposals have taken an "all or nothing" approach, with an attempt to make it illegal to charge *any* fee to veterans for claims

assistance, regardless of whether a valuable service is being provided and that a veteran deems it's in their interest to pay for.

This all or nothing approach has not been successful. It has resulted in a legislative stalemate that has left many veterans confused about who they can enlist to help them navigate the VA's bureaucracy, while at the same time allowing predatory practices to persist. Efforts in the states have complicated things further, and it's time for the Congress to step up to the plate and find a reasonable solution for a way forward for veterans on this front.

IAVA is not endorsing any specific bill before this Committee, however, we insist that you and your colleagues in Congress work together and find common ground that puts veterans first, which includes cracking down on predatory practice while also giving those veterans who want them, more options to help them access the care and benefits they need.

Sincerely,

A handwritten signature in black ink, appearing to read "Allison Jaslow". The signature is fluid and cursive, with the first name "Allison" written in a larger, more prominent script than the last name "Jaslow".

Allison Jaslow
IAVA CEO
Iraq War Veteran

cc. The Honorable Mike Bost, Chairman
The Honorable Mark Takano, Ranking Member

Prepared Statement of The American Legion



**STATEMENT FOR THE RECORD
OF
MR. COLE T. LYLE
DIRECTOR
NATIONAL VETERANS' AFFAIRS AND REHABILITATION DIVISION
THE AMERICAN LEGION**

TO THE

**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

"PENDING AND DRAFT LEGISLATION"

MARCH 5, 2025

EXECUTIVE SUMMARY

LEGISLATION	POSITION
H.R. 1732 - Governing Unaccredited Representatives Defrauding VA Benefits Act	Support
H.R. 1656 - Preserving Lawful Utilization of Services for Veterans Act of 2025	Oppose
Discussion Draft: To amend title 38, United States Code, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes	No position pending amendments to the bill text

**STATEMENT FOR THE RECORD OF
MR. COLE T. LYLE
DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION DIVISION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
PENDING AND DRAFT BILLS**

MARCH 5, 2025

Chairman Luttrell, Ranking Member Pappas and distinguished members of the Subcommittee on Disability Assistance and Memorial Affairs; on behalf of National Commander James LaCoursiere Jr. and The American Legion, we thank you for the opportunity to offer this statement for the record on pending and draft legislation.

With approximately 3,000 representatives accredited by the Department of Veterans Affairs, we offer services to America's veteran community in the filing of VA benefits claims. In Fiscal Year 2024 alone, we helped secure \$21 billion in disability claims, \$27 million in appeals, and an additional \$12 million in debt waivers for veterans.¹ We did this with VA-accredited representatives, attorneys and claims agents, who are required by law to abide by VA Standards of Conduct to ensure veterans and their families receive quality representation throughout the claims process.²

The American Legion strongly encourages veterans to utilize free services to apply for and receive their benefits. Accredited representatives and attorneys work within the VA's legal framework and advocate for a veterans' best interest without financial incentives to provide long-term support with initial claims, appeals, and updates.

¹ Veterans Benefits Administration, POA Awards Summary, October 2024.

² "38 CFR § 14.629 - Requirements for Accreditation of Service Organization Representatives; Agents; and Attorneys.," Legal Information Institute, accessed February 6, 2025, <https://www.law.cornell.edu/cfr/text/38/14.629>.

Current Law & Protections Against Predatory Practices

Congress has long recognized that veterans are a special/protected class. This is why the VA benefits system was set up as a paternalistic, non-adversarial, pro-veteran system. Under current law, VA-accredited attorneys and agents may charge fees for their services, but only under specific conditions:³

- Fees may not be charged for filing claims.
- Fees may only be deducted from past-due benefits after successful representation (no prospective fees (from future benefits) are allowed).
- Attorneys or agents may elect to have the VA withhold and directly pay them a fee not exceeding 20% of past-due benefits. Attorneys or agents may elect to waive VA withholding and receive their fees directly from the veteran. Under no circumstances may accredited attorneys or agents charge fees exceeding 33 1/3% of past-due benefits. Taken together, this establishes a presumption of reasonable fees and is a key protection for veterans and their families
- The VA has the authority to investigate and suspend or remove accreditation from individuals who violate the VA's standards of conduct. Veterans and their families may report misconduct to VA's Office of the Inspector General, VA's Office of General Counsel, the Federal Trade Commission, or their State Attorney General.⁴

These safeguards ensure ethical assistance from accredited individuals and provide a measure of accountability for veterans and their families to ensure they receive the best assistance possible motivated by their long-term well-being.

The Rise of Predatory For-Profit Claims Companies

The 2020 COVID-19 pandemic forced many VA regional offices (VAROs) and co-located Veterans Service Organization (VSO) offices to close. During this time, some for-profit claims companies exploited gaps in Title 38 to charge exorbitant and unlawful fees without VA accreditation. Often these companies used aggressive and misleading online ad campaigns, trapped veterans in complicated contracts, and harassed veterans with collection agents for additional payments, even charging for future disability rating increases.

Because the VA lacks criminal enforcement authority, its only recourse has been issuing non-enforceable cease-and-desist letters. Without stronger enforcement mechanisms, the likelihood of

³ "38 CFR § 14.636 - Payment of Fees for Representation by Agents and Attorneys in Proceedings before Agencies of Original Jurisdiction and before the Board of Veterans' Appeals.," Legal Information Institute, accessed February 6, 2025, <https://www.law.cornell.edu/cfr/text/38/14.636>.

⁴ "Accreditation Program Enforcement Authority," VA Accreditation Program Enforcement Authority (Department of Veteran Affairs Office of General Counsel), accessed February 6, 2025 <https://www.va.gov/OGC/docs/Accred/EnforcementAuthority.pdf>.

veterans seeking assistance from unaccredited for-profit organizations will continue to rise, even as The American Legion successfully processes record numbers of claims.

If The American Legion charged fees at the same rate as these for-profit companies, veterans would have lost hundreds of millions of dollars last year alone. However, our mission is guided by how to best serve veterans and their families – not by profit. While we respect a veteran’s individual right to determine their own path for claims assistance based on their personal circumstances, Congress must act to strengthen VA’s enforcement authority to hold accountable, bad actors who seek to illegally collect fees from veterans.

Although The American Legion supports the GUARD Act and opposes the PLUS Act, we remain open to continued dialogue on the discussion draft with additional guard rails. However, the GUARD Act remains the most viable option as we will not support legitimizing predatory actors taking advantage of veterans.

Over the past few years, Congress has been stuck in a legislative stalemate while veterans have continued to pay the price, literally and figuratively. Predatory practices persist, and confusion permeates the veteran community on which for-profit actors are working in good faith versus the predators they want to avoid. These issues have only been exacerbated by individual state actions. Without Congressional action, the unacceptable status quo will see unethical for-profit companies continue to take advantage of veterans. We appreciate Congress’ continued efforts to come to a compromise and end the logjam.

Legislation: H.R. 1732

Governing Unaccredited Representatives Defrauding VA Benefits Act (GUARD)

To amend title 38, United States Code, to reinstate penalties for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

Sec. 2

Amends Section 5905 of title 38, United States Code (U.S.C.) to restore criminal penalties for whoever “solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation with respect to the preparation, presentation, or prosecution of any claim for benefits under the laws administered by the Secretary shall be fined as provided in title 18.”

The American Legion supports this legislation.

Resolution No. 1: Oppose Claims Filing by Unaccredited Parties

Legislation: H.R. 1652**Preserving Lawful Utilization of Services for Veterans Act of 2025 (PLUS)**

To amend title 38, United States Code, to permit certain fee agreements between claimants and agents or attorneys for the preparation, presentation, or prosecution of initial claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

The PLUS for Veterans Act of 2025 would authorize fee agreements between claimants and attorneys/agents for initial claims under Title 38 of the U.S. Code. The bill contains provisions for fee agreements, the VA recognition process, penalties and fee increases based on the Consumer Price Index.

Sec. 3

Calls for a process requiring the Secretary of VA to recognize a claims agent or attorney “on a conditional and temporary basis for a one-year period,” if the VA cannot verify whether an individual meets the qualifications in the application within a 90-day window after the application was received. Such conditional approval would be extended for additional one-year periods “until the date on which the Secretary can verify” whether the applicant satisfies VA requirements.

This section also seeks to implement a “fee agreement” allowing claims agents to collect a fee capped at the lesser of \$12,500, OR the amount “equal to the product of five and the amount of the monthly increase of benefits awarded.” Other than the profit motive, there is no justification for charging such exorbitant and unreasonable fees.

Finally, Section 3(a) proposes that any fee amounts charged by claims agents be increased yearly as indicated by the Consumer Price Index (CPI). In this way, the fees being charged would keep up with inflation or, as the Bureau of Labor Statistics puts it, the rising cost “for a representative basket of goods and services.”

The American Legion finds this proposal unreasonable. Charging veterans with fees for claims assistance is not the same as shopping at the supermarket, filling a gas tank or making a monthly mortgage payment. These for-profit companies should not be rewarded with additional price hikes based on the CPI.

Sec. 4

This section calls for the reinstatement of penalties for charging veterans unauthorized fees, except those provided in sections 5904 or 1984 of title 38, for any person or organizations that, “directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation with respect to the preparation, presentation, or prosecution

of any claim for benefits under the laws administered by the Secretary shall be fined as provided in title 18, or imprisoned not more than one year, or both.”

It further includes a fine for bad actors who violate the law during conditional and temporary recognition by assessing a fine of \$50,000 and barring them from future recognition for a period of one year from the notice of a first violation and ten years for each subsequent violation.

Sec. 5

States that the proposed legislation will “supersede any State law that is inconsistent with the statutory right established by this Act...” In other words, claims agents recognized under the PLUS Act could not be prosecuted by state attorneys general or other state enforcement agencies.

The American Legion sees this provision as an unjustifiable attempt to shield claims agents from state prosecution for previous violations of the law as unaccredited representatives.

The American Legion opposes this draft legislation as currently written.

Resolution No. 1: Oppose Claims Filing by Unaccredited Parties

Discussion Draft: H.R. XXX

To amend title 38, United States Code, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

Sec. 2

Promotes veterans being fully informed about their options when filing a claim, which would encourage veterans to apply for and access the care and benefits they have earned.

Specifically, this section requires VA to provide a veteran notice upon filing a claim that, “an accredited person may be available to the claimant for the preparation, presentation, or prosecution of such claim or supplemental claim,” and “an organization recognized under section 5902 of this title is available to the claimant for the preparation, presentation, or prosecution of such claim or supplemental claim at no cost to the claimant.” It also requires the VA to maintain a system, updated quarterly, through which a claimant may report unaccredited entities that are charging illegal fees and publish warnings with respect to fees an agent or attorney may charge.

The American Legion fully supports this provision.

Sec. 3

Section 3 calls for a new process that would require the VA Secretary to recognize a claims agent or attorney “on a conditional and temporary basis for a one-year period,” if the VA cannot verify whether an individual meets the qualifications in the application within a 180-day window after the application was received. Such conditional approval would be extended for additional one-year periods “until the date on which the Secretary can verify” whether the applicant satisfies VA requirements.

This section would also prevent the VA Secretary from refusing to recognize individuals who had previously “... charged a claimant a fee for services rendered in the preparation, presentation, or prosecution of an initial claim.”

Further, Section 3 prohibits charging fees for claims through the Benefits Delivery at Discharge (BDD) process. BDD claims are processed faster than other VA claims and conditions applied for are mostly related to active service. The American Legion fully supports this provision.

This section would also allow a veteran to terminate a claims agent prior to a decision being rendered by the VA to the claimant, which is like the protection veterans have with accredited claims agents and attorneys. This would prohibit bad for-profit actors from seeking fees for work they did not perform. The American Legion fully supports this provision.

This section would also give OGC the authority to audit agents or attorneys recognized in this bill to ensure the privacy of a veteran’s personally identifiable data and restrict claims companies from paying medical groups for appointments when the companies have a “business relationship.” The American Legion supports these provisions but believes the definition of “business relationship” needs to be more lucid to prevent circumvention of congressional intent during the regulatory process.

This section also calls for fees charged to claimants that “does not exceed the lesser of” \$10,000 or the equivalent of five times the amount of any monthly benefit increase. While the reduction of the proposed cap indicates progress from the PLUS Act, The American Legion still finds these prospective fees exorbitant and unreasonable.

For-profit companies publicly advertise the average time it takes to successfully complete a claim is three months, which means in addition to the first three months of back pay that would be paid to a claim company, the veteran would need to pay an additional two months of future benefits. If the company assesses the fee upon completion of the claim, the claimant may not have enough money to cover the cost and will likely resort to a high-interest credit card or pay-day loan, putting the veteran and their family in financial risk.

Finally, this section provides for the linking of fees charged by claims agents to the CPI, so they may be adjusted upward to compensate for inflation.

As articulated above, The American Legion does not support such a provision.

Sec. 4

This section is noteworthy in that it includes an enforcement clause for anyone who “violates any law or regulation administered by the Secretary” while under a period of conditional and temporary recognition. Should Congress decide to adopt the proposed system of temporary/conditional recognition for claims agents, The American Legion strongly recommends adoption of the enforcement measures included in this discussion draft.

While this bill addresses many concerns raised by The American Legion in previous discussions with this committee, we maintain opposition without further changes.

Because this draft text is for discussion and contains individual provisions we would support and others we would oppose, The American Legion has no official position but proposes several changes.

Resolution No. 1: Oppose Claims Filing by Unaccredited Parties

Conclusion

The American Legion’s 3,000 accredited service officers will continue to work tirelessly to assist veterans access to their earned benefits free of charge as we have done for a century. Claims assistance should not be about money—it should be about veterans and their families receiving disability benefits they have earned from VA – a government agency created to care for and protect the veteran, widow and child. The American Legion remains committed to working with Congress to find a way forward on this important issue.

Chairman Luttrell, Ranking Member Pappas, and distinguished members of this subcommittee, we thank you for your leadership and dedication to our veterans. For additional information regarding this testimony, please contact Ms. Julia Mathis, Director of The American Legion’s Legislative Division, at (202) 735-2207 or jmathis@legion.org.

Prepared Statement of Trajector Medical

March 12, 2025

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

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

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

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

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

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

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

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

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

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

Introduction

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

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

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

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

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

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

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

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

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

Medical Evidence: Establishing Clinical Facts

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

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

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

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

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

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

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

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

Advocacy: Applying Medical Evidence to VA's Adjudication Process

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

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

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

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

Medical Evidence and Legal Advocacy Working Together

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

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

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

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

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

What Trajector Medical Does

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

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

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

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

What Trajector Medical's Medical Evidence Services Include

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

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

What Trajector Medical Does NOT Do

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

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

The Veteran's Legal Right to Medical Evidence

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

VA Accreditation Requirements Do Not Apply to Medical Evidence Services

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

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



Jim Hill
CEO, Trajector Medical
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⁵ 20 C.F.R. § 404.1512

Prepared Statement of U.S. Department of Veterans Affairs

**STATEMENT OF
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ON
VARIOUS LEGISLATIVE HEARING BILLS**

March 5, 2025

Chairman Luttrell, Ranking Member McGarvey, and other Members of the Subcommittee, thank you for allowing VA to provide testimony on three draft bills that would affect VA programs and services.

H.R. XXX, Governing Unaccredited Representatives Defrauding VA Benefits Act (GUARD): This draft bill would amend 38 U.S.C. § 5905 to reinstate a penalty for soliciting; contracting for; charging; or receiving or attempting to solicit, contract for, charge, or receive any fee or compensation with respect to the preparation, presentation, or prosecution of claims for VA benefits except as provided in 38 U.S.C. §§ 5904 and 1984.

The Department is still examining the bill and is unable to provide comprehensive views at this time.

H.R. XXX Preserving Lawful Utilization of Services for Veterans Act of 2025 (PLUS for Veterans Act of 2025) (PLUS): Section 2 of PLUS would amend 38 U.S.C. § 5901 to exclude from preparation, presentation, or prosecution of a claim which requires recognition by VA for an individual to act as a claimant's agent or attorney, "the administration of a medical examination, or the completion of a report with respect to such medical examination, as described in [38 U.S.C. § 5125]."

Section 3 would amend 38 U.S.C. § 5904(a)(1) to require VA to determine whether to recognize an individual as an agent or attorney not later than 90 days after VA received the individual's application for recognition. If VA were unable to do so, VA would be required to recognize the applicant on a conditional and temporary basis for a 1-year period. Then, VA must continue to recognize the applicant for another year if at the end of the 1-year period VA still has not decided on the applicant's character and fitness.

Section 3 would prohibit VA from taking adverse action, including suspending or excluding from further practice; fining under 38 U.S.C. § 5905 (which would be amended by PLUS); or refusing to recognize an individual as an agent or attorney, on the basis that before enactment of PLUS, the applicant charged a claimant a fee for services rendered in the preparation, presentation, or prosecution of an initial claim or charged a claimant a fee for such services while such individual was not recognized by VA as an attorney or agent.

Section 3 would allow VA to charge and collect an assessment from an individual who: 1) seeks recognition as an agent or attorney for the preparation, presentation, and prosecution of an initial benefits claim; and 2) charges or collects fees from a claimant for services rendered in such preparation, presentation, and prosecution. VA would determine the appropriate amount – not to exceed \$500 – of the assessment and prescribe such amount in regulations. The amounts collected would be deposited in a revolving fund in the Treasury of the United States and would be available to VA for the administration of 38 U.S.C. § 5904.

Section 3 would permit the Secretary to, after notice and opportunity for a hearing, suspend or exclude from further practice before VA any agent or attorney, recognized under section 5904, if the Secretary finds that the agent or attorney has failed to keep client data and personally identifiable information in accordance with the applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191; 42 U.S.C. §§ 1301 et seq.), including the data security requirements and implementing regulations of that Act.

Section 3 would require VA to submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, within 1 year after the date of enactment of PLUS, and annually thereafter, regarding the number of individuals suspended or excluded for no longer meeting the requirements for VA recognition and those suspended or excluded for cause; the number of and reason why applicants were denied recognition; and whether the individuals were or were not applying to be representatives of VA-recognized Veterans Service Organizations (VSO) representatives, agents, or attorneys.

Most significantly, section 3 would amend 38 U.S.C. § 5904(c) to remove the prohibition in 38 U.S.C. § 5904(c)(1) on attorneys and agents charging fees for services provided before VA issues an initial decision on a claim. In place of the prohibition, PLUS would create a new 38 U.S.C. § 5904(c)(1) which would provide parameters for fee agreements between a claimant and an agent or attorney – in connection with a proceeding before VA for benefits – for the preparation, presentation, or prosecution of an initial claim for benefits. The fee agreement could not require payment from the claimant to the agent or attorney before the date on which the claimant is provided the notice of the decision of the agency of original jurisdiction under 38 U.S.C. § 5104 with respect to the initial claim. Under the fee agreement, the total fee amount payable by the claimant to the agent or attorney with respect to the initial claim may not exceed the lesser of five times the amount of the monthly increase of benefits awarded to the claimant pursuant to the claim or \$12,500 (a figure that VA must increase annually each fiscal year in direct correlation with any increase in the Consumer Price Index for all urban consumers (U.S. city average)) and must be contingent on whether the claim is resolved in a manner favorable to the claimant, meaning that all or any part of the relief sought pursuant to the claim is granted. The fee agreement must contain an attestation by the claimant that the agent or attorney provided to the claimant a standard form (which VA must develop for use in such fee agreements) that includes a notice to the

claimant that: 1) VA-recognized VSOs furnish services with respect to initial VA benefits claims at no cost to claimants; 2) the claimant may select a private physician for a medical examination described in 38 U.S.C. § 5125 regarding the initial claim; and 3) the agent or attorney with whom the claimant is entering the fee agreement may not refer the claimant to a private physician described in section 5125 with whom the agent or attorney has a business relationship.

Relatedly, section 3 would amend 38 U.S.C. § 5904(c)(2) to specify that an agent or attorney would only need to file with VA a copy of a fee agreement with a claimant if the agent or attorney represents the claimant after VA has provided notice to the claimant of VA's initial decision with respect to the case. Section 3 would amend 38 U.S.C. § 5904(c)(3)(A) so that VA would be able to review filed fee agreements on its own motion or at the request of the claimant and order a reduction in the fee called for in the fee agreement if the fee were found to be excessive or unreasonable.

Finally, section 3 would require VA to prescribe regulations to carry out the amendments made by section 3 within 180 days after the date of enactment of PLUS.

Section 4 would amend 38 U.S.C. § 5905 to add penalties – fine, imprisonment, or both – under title 18 of the United States Code for anyone who, apart from 38 U.S.C. §§ 1984 or 5904, solicits; contracts for; charges; or receives, or attempts to solicit, contract for, charge, or receive any fee or compensation with respect to the preparation, presentation, or prosecution of any claim for VA benefits. Section 4 would add different penalties for violations of laws and regulations administered by VA under 38 U.S.C. Ch. 59 (currently 38 U.S.C. §§ 590 – 5906) committed by individuals who have been conditionally and temporarily recognized as an agent or attorney under section 5904. The penalties would be revocation by VA, after notice, of conditional and temporary recognition; after notice and opportunity for a hearing a fine of \$50,000 and a bar on recognition under section 5904 – 1 year for a first violation and 10 years for each subsequent violation (the period of the bar beginning on the date of the respective violations). The amounts of any of the newly created fines received as penalties would be deposited in the fund established by section 5904 (and, as explained above, available to VA for the administration of section 5904). Section 4's amendments would take effect 90 days after that date VA prescribes regulations to carry out the amendments made by Section 3.

Section 5 would provide that (if enacted) PLUS and the amendments made by it supersede any state law that is inconsistent with the statutory rights established by PLUS, or the amendments made by PLUS; and preclude the implementation of such a law, whether statutory, common law, or otherwise, and whether adopted before or after the date of enactment of PLUS.

In short, PLUS includes similar provisions as in GUARD that would add criminal penalties for charging fees for unauthorized claims assistance. However, PLUS would also greatly expand when fees could be charged and who could become accredited by VA.

The Department is still examining the bill and is unable to provide comprehensive views at this time.

Discussion Draft: To amend title 38, United States Code, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes (DD):

Section 2 of DD would amend 38 U.S.C. § 5103A to require VA to provide notice to unrepresented claimants upon receipt of a claim or supplemental claim that an accredited person may be available to the claimant for the preparation, presentation, or prosecution of such claim or supplemental claim, and that a VA-recognized VSO is available to the claimant for the preparation, presentation, or prosecution of such claim or supplemental claim at no cost to the claimant. The notice must include the web addresses of publicly available VA websites that contain the following: 1) a list of accredited persons (meaning a VA-recognized VSO, an attorney, agent, or other person recognized under 38 U.S.C. § 5904) available to the claimant for the preparation, presentation, or prosecution of an initial claim or supplemental claim; and 2) a website linking to a system through which a claimant may report an unaccredited person who prepared, presented, or prosecuted a claim or supplemental claim on behalf of the claimant; and any fee charged by the person associated with such preparation, presentation, or prosecution. VA must update the list of accredited persons not less than quarterly and ensure that the list is easily accessible to a claimant.

Section 2 would require VA to include, in all VA web portals through which an individual may file a claim for benefits, a warning with respect to fees associated with the preparation, presentation, or prosecution of such claim that an agent or attorney recognized under 38 U.S.C. § 5904 may charge such individual. The warning would be required to include the web addresses of the aforementioned VA websites.

Section 2 would require VA to complete, within 180 days after the date of enactment of the bill, a review of VA regulations, processes, and procedures with respect to the recognition of agents and attorneys under 38 U.S.C. § 5904; develop recommendations for legislative or administrative action to improve such regulations, processes, and procedures; and submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives that includes the findings of the review and the recommendations developed.

Section 3 would amend 38 U.S.C. § 5904(a) by requiring that an individual desiring recognition under 38 U.S.C. § 5904 must submit to VA an application in such form, at such time, and containing such information and assurances as the Secretary has determined appropriate to recognize the individual under section 5904. VA would then be required to determine whether to recognize an individual as an agent or attorney not later than 180 days after VA received the individual's application for recognition. If VA were unable to verify whether the individual met the qualifications and standards prescribed within that time limit, VA would be required to recognize the applicant as an

agent or attorney on a conditional and temporary basis for a 1-year period. At the end of the 1-year period, VA must continue to recognize the applicant on a conditional and temporary 180-day basis if VA still had not made a decision on the applicant's character and fitness.

Section 3 would prohibit VA from refusing to recognize an individual under section 5904 as an agent or attorney solely on the basis that: 1) the individual is an employee of a nonprofit organization (meaning an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (IRC) and exempt from taxation under IRC section 501(a)) and seeks recognition under section 5904 in the official capacity of such individual; or 2) that the individual, before the date of enactment, either charged a claimant a fee for services rendered in the preparation, presentation, or prosecution of an initial claim or charged a claimant a fee for such services while such individual was not recognized under section 5904.

Section 3 would require VA to prescribe regulations to recognize an individual as an agent or attorney to render services in the preparation, presentation, and prosecution of initial claims, or a supplemental claim presented after a final decision with respect to that claim. VA would be permitted to charge and collect an assessment from an individual who: 1) seeks recognition as an agent or attorney for the preparation, presentation, and prosecution of an initial claim or a supplemental claim presented after a final decision with respect to that claim; and 2) charges or collects fees from a claimant for services rendered in such preparation, presentation, and prosecution. VA would determine the appropriate amount of the assessment and prescribe such amount in regulations. The amounts collected would be deposited in a revolving fund in the Treasury of the United States and would be available to VA for the administration of 38 U.S.C. § 5904.

Section 3 would prohibit an individual recognized as agent or attorney under 38 U.S.C. § 5904 for the preparation, presentation, or prosecution of an initial claim or a supplemental claim presented after a final decision with respect to that claim from the following: 1) charging any fee for services rendered in such preparation, presentation, or prosecution if VA determined the disability associated with such initial claim or supplemental claim is presumed to be service-connected; 2) charging any fee for services rendered in such preparation, presentation, or prosecution if the initial claim or supplemental claim is filed while the claimant is a member of the Armed Forces, including any reserve component thereof; 3) prohibiting a claimant from terminating the representation agreement between the claimant and the agent or attorney prior to the date on which the agency of jurisdiction renders a decision on such initial claim or supplemental claim; 4) charging or collecting any fee for services rendered in such preparation, presentation, and prosecution prior to the date on which the agency of jurisdiction renders a decision on such initial claim or supplemental claim; 5) charging or collecting any fee for such services if either the agent or attorney or the claimant terminates the fee agreement between the claimant and the agent or attorney prior to the date on which the agency of jurisdiction renders a decision on such initial claim or supplemental claim; 6) charging any fee for services rendered in the preparation,

presentation, and prosecution of a supplemental claim that could have been filed in continuous pursuit of a claim within 1 year of the previous decision on that claim but was filed after such previous decision became final due to delay on the part of the agent or attorney; or 7) charging any fee for services rendered in the preparation, presentation, or prosecution of a supplemental claim, a request for higher-level review by the agency of original jurisdiction under 38 U.S.C. § 5104B, or a notice of disagreement pursuant to 38 U.S.C. § 5104C(a), where another individual employed by the same organization as the agent or attorney, or employed by a subsidiary of the such organization, previously charged the claimant a fee for such services with respect to the same supplemental claim, request for higher-level review, or notice of disagreement. VA's OGC would be permitted to audit agents or attorneys recognized for the preparation, presentation, or prosecution of an initial claim, or a supplemental claim presented after a final decision with respect to that claim, to ensure compliance with the new requirements.

Section 3 would amend 38 U.S.C. § 5904(b) to permit the Secretary to, after notice and opportunity for a hearing, suspend or exclude from further practice before VA any agent or attorney recognized under section 5904 if the Secretary finds that the agent or attorney has: 1) failed to keep client data and personally identifiable information in accordance with applicable provisions of HIPAA, including the data security requirements and implementing regulations of that Act; 2) sold, or otherwise received consideration for the referral of, any personally identifiable information or other data and information relating to an individual for whom the agent or attorney provided services with respect to the preparation, presentation, or prosecution of a VA claim; 3) entered into a fee agreement with a claimant, or otherwise received consideration from a claimant, for the preparation, presentation, or prosecution of an initial VA claim, or a supplemental claim presented after a final decision with respect to that claim, and referred such claimant to a private medical professional who would receive any fee or other consideration for the provision of any service related to such initial claim or supplemental claim and with whom the agent or attorney has a business relationship; 4) has used an overseas call center to assist with marketing, initiation, or assistance with, the preparation, presentation, or prosecution of a VA claim.

Section 3 would require VA to submit, within 1 year after the date of enactment of DD and annually thereafter, a report to the Committees on Veterans' Affairs of the Senate and House of Representatives that includes, with respect to the period covered by the report: 1) the number of individuals denied recognition under 38 U.S.C. § 5904(a); 2) for each individual denied recognition, a statement of the reasons for such denial; 3) the number of individuals suspended or excluded from further practice pursuant to 38 U.S.C. § 5904(b); 4) for each individual so suspended or excluded, a statement of the reasons for such suspension or exclusion; 5) the number of individuals who were granted temporary and conditional recognition pursuant to 38 U.S.C. § 5904(a)(1)(B)(ii) or (iii) and penalized under 38 U.S.C. § 5905; and 6) for each individual so penalized, a statement of the reasons for such penalty.

Most significantly, as with PLUS, section 3 of DD would amend 38 U.S.C. § 5904(c) to remove the prohibition in 38 U.S.C. § 5904(c)(1) on attorneys and agents charging fees for services provided before VA issues an initial decision on a claim. In place of the prohibition, DD would create a new 38 U.S.C. § 5904(c)(1), which would provide parameters for fee agreements between a claimant and an agent or attorney—in connection with a proceeding before VA for VA benefits—for the preparation, presentation, or prosecution of an initial claim for such benefits or a supplemental claim presented after a final decision. The fee agreement could not require payment from the claimant to the agent or attorney before the date on which the claimant is provided notice of the decision of the agency of original jurisdiction with respect to the initial claim or the supplemental claim, respectively. Under the fee agreement, the total fee amount payable by the claimant to the agent or attorney with respect to the initial claim or supplemental claim may not exceed the lesser of five times the amount of the monthly increase of benefits awarded to the claimant pursuant to the claim or \$10,000 (a figure that VA must increase annually each fiscal year in direct correlation with any increase in the Consumer Price Index for all urban consumers (U.S. city average)) and must be contingent on whether the claim is resolved in a manner favorable to the claimant, meaning that all or any part of the relief sought pursuant to the claim is granted. The fee agreement must contain an attestation by the claimant that the agent or attorney provided to the claimant a standard form (which VA must develop for use in such fee agreements) that includes a notice to the claimant that a VA-recognized VSO furnish services with respect to initial claims under laws administered by the Secretary and supplemental claims for such benefits at no cost to claimants. Section 3 would also amend section 5904(c) so that VA would be able to review these fee agreements, if filed with VA, on its own motion or at the request of the claimant and order a reduction in the fee called for in the fee agreement if the fee were found to be excessive or unreasonable. Relatedly, section 3 would amend section 5904(c) to specify that an agent or attorney would only need to file with VA a copy of a fee agreement with a claimant if the agent or attorney represents the claimant after VA has provided notice to the claimant of VA's initial decision with respect to the case.

Finally, as with PLUS, section 3 would require VA to prescribe regulations to carry out the amendments made by section 3 within 180 days after the date of enactment of DD.

Section 4 would amend 38 U.S.C. § 5905 to add penalties that are nearly identical to those in PLUS. The only significant differences are that section 4 of DD would: 1) provide that the penalties under title 18, United States Code, would not apply to the provision of a medical opinion by a third party that does not have a business relationship with an individual recognized under section 5904 for the preparation, presentation, or prosecution of a claim for VA benefits; 2) provide that the new section 5905 penalties would apply to actions taken after VA promulgates final rules to carry out the new subsections; and 3) require VA, acting through VA's OGC, to prescribe regulations to define the phrase "preparation, presentation, or prosecution" for purposes of 38 U.S.C. § 5905(b) within 90 days after the date of enactment of DD.

Section 5 would require, no later than 1 year after the date of the enactment of DD, the Comptroller General of the United States to: 1) complete a review of the process by which VA, under 38 U.S.C. § 5904, as amended by DD, recognizes agents and attorneys for the preparation, presentation, and prosecution of VA benefits claims; and 2) submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report that includes an identification of deficiencies in the administration of section 5904 and the Comptroller General's recommendations for legislative or administrative action to improve the administration of section 5904.

Section 6 would require VA to, within 180 days after the date of enactment of DD, publish, on a publicly-available VA website and on an on-demand basis, the necessary knowledge test to satisfy the requirements for recognition under 38 U.S.C. § 5904 as amended by DD. Section 6 would also require VA to, within 1 year after the date of enactment of DD, issue regulations that: 1) update the continuing legal education (CLE) requirements for continued recognition as an agent or attorney under 38 U.S.C. § 5904 as amended by DD; and 2) increase the amount of required CLE to an amount that is greater than required on the date of enactment. VA would be required to conduct a review of the CLE requirements within 2 years after the date the regulations are issued and not less frequently than biennially thereafter.

Section 7 would provide a Federal preemption provision that is substantively identical to section 5 of PLUS.

The Department is still examining the bill and is unable to provide comprehensive views at this time.

VA's Accreditation, Discipline, and Fees Program

The Accreditation, Discipline, and Fees Program oversees individuals who prepare, present, and prosecute claims for Veterans' benefits before VA. Such representation is provided by VA-accredited representatives of VSOs, attorneys, and agents. OGC administers the program, to ensure responsible, qualified representation for claimants in the preparation, presentation, and prosecution of claims for VA benefits. The functions of the Accreditation, Discipline, and Fees Program are similar to those of a Federal or state bar association or licensing authority and include making determinations on initial accreditation applications; monitoring the conduct of VA-accredited individuals; reviewing complaints; deciding fee dispute matters (only for agents and attorneys); and removing accreditation, when necessary. These primary functions pertain in large part to individuals who, once accredited as attorneys or agents, are lawfully permitted to charge certain fees for legal assistance on Veterans' benefits claims.

The Accreditation Application Process

VSO representatives, attorneys, and agents may not lawfully represent claimants without completing and maintaining compliance with accreditation requirements. To become accredited, an applicant must demonstrate his or her good character and reputation as well as competence to represent Veterans. For VSO representative applicants, the VSO itself must first be recognized by VA. VA recognizes organizations as VSOs for the limited purpose of ensuring competent preparation, presentation, and prosecution of Veterans in claims for benefits administered by VA. An organization must, among other requirements, demonstrate that it has a primary purpose of serving Veterans; a substantial service commitment to Veterans; the financial funding to perform Veterans claims services; the capability to providing complete claims service to each claimant requesting representation before VA; and the ability to provide training and supervise representatives. See 38 C.F.R. § 14.628(d). In addition, the organization must certify that no fees will be charged to VA claimants for their services.

OGC generally processes applications for VSO representatives and attorneys within 60 days of their receipt. VA is able to maintain relatively swift processing times for these types of applications because VA relies on OGC, with their robust training and certification programs, to certify that character and fitness criteria are met for VSO representative applicants and presumes the character and fitness criteria are met for attorney applicants based on their admittance to practice as an attorney and being in good standing with a state bar. In fiscal year (FY) 2024, VA accredited 1,814 VSO representatives and 731 attorneys.

For agents, VA receives approximately 70 to 100 new applications each month and has approximately 2,000 applications that are pending review at various stages of the process. For claims agents, the review of applications for accreditation requires a greater amount of time and resources than the other types of accreditation because OGC must be its own investigative body, conducting its own investigation into the applicant's character and fitness. OGC conducts basic background checks on all claims agent applicants; ask follow-up questions; and contacts character references provided by the applicants.

OGC also administers an online examination to claims agent applicants for purposes of determining competency. The current claims agent knowledge test is offered online three times per year and consists of both prior questions from past examinations and entirely new questions on a 3 to 1 ratio, respectively. The mix of questions is necessary because prior tests have been compromised. These examinations are proctored by OGC staff to ensure that the applicants are demonstrating their own knowledge and not the knowledge of others. Claims agent applicants who pass the examination; whose character references are satisfactory; who have established their good character and reputation; and who, otherwise, demonstrate that they are competent to prepare, present, and prosecute VA claims are issued a letter notifying them that they are authorized to represent claimants. In FY 2024,

OGC approved 126 claims agent applicants to sit for the examination and accredited 42 applicants as claims agents.

There are currently 95 VA-recognized VSOs and 8,220 accredited VSO representatives who collectively hold 18,001 VA accreditations, 5,105 accredited attorneys, and 554 accredited claims agents.

Monitoring Qualifications

Accredited attorneys and agents must annually recertify to OGC that they are in good standing in every court, bar, or Federal or state agency to which they are admitted to practice or otherwise authorized to appear. Additionally, attorneys and agents must certify that during the first 12-month period following initial accreditation, and every 2 years thereafter, they completed 3 hours of state bar-approved CLE training covering Veterans benefits law and procedure. Such certifications must include the title of the CLE; date and time of the CLE; and identification of the CLE provider. OGC uses a system (govdelivery) to notify attorneys and claims agents through email when their annual certifications and CLEs are about to become due. In conjunction with this, OGC conducts compliance reviews of attorneys and claims agents who are delinquent in CLE requirements. OGC notifies them of their delinquency; provides them an opportunity to make it right; and, if not, suspends their accreditation. In FY 2024, OGC sent claims agents and attorneys a total of 2,162 intent-to-suspend letters and removed the accreditation of approximately 1,511 individuals.

Similarly, VA-recognized VSOs are required to recertify their representatives every 5 years. Each year, OGC reaches out to the VSO-certifying officials to ensure that the certifications for the VSO representatives are up-to-date. For instance, at the beginning of FY 2024, OGC recertified 1,849 accreditations for representatives and cancelled 2,571 accreditations.

Processing Complaints and Fee Reasonableness Challenges

The OGC disciplinary process is a safeguard designed to address complaints about VA-accredited individuals. If VA determines that an accredited attorney, agent, or VSO representative has engaged in misconduct, demonstrated incompetence, or improperly charged a fee for preparing, presenting, or prosecuting a claim prior to the issuance of an initial VA decision, VA may suspend or cancel the individual's accreditation. Disciplinary proceedings to suspend or cancel an individual's accreditation follow the procedures set out in VA regulations. When OGC receives credible written information from any source indicating improper conduct or incompetence, OGC will open an informal inquiry by informing the accredited individual of the allegations and the source of the complaint and providing the individual with an opportunity to respond. OGC may subsequently initiate a formal inquiry and provide the individual with an opportunity to request a hearing. A decision by the General Counsel is a final decision by VA and may be appealed to the Board of Veterans' Appeals. If the individual's accreditation is cancelled through this disciplinary process, in addition to

providing the appropriate VA-internal notifications, OGC also notifies all agencies, courts, and bars to which the individual is admitted to practice. In FY 2024, OGC initiated 45 complaints for VA-accredited individuals. VA provided two disciplinary hearings to VA-accredited individuals.

Another important safeguard tied to accreditation is the opportunity for claimants to request, or for OGC to initiate, review of a fee agreement. Generally, this involves reviewing the agreement to determine whether the fee being charged in the particular case is reasonable. VA is statutorily authorized to order reduction of an unreasonable fee charged by an accredited individual. In fact, in FY 2024, OGC processed 268 waivers and settlements and issued 139 fee reasonableness decisions. Through these action, OGC directed the return of nearly 1.7 million dollars in benefit payments initially withheld for the payment of fees back to Veterans.

In the case of unaccredited individuals or organizations that may be charging improper fees for the preparation, presentation, or prosecution of VA benefits claims, VA notifies them to cease their unlawful practices. Sometimes, a letter explaining how their practices are likely in violation of the law is sufficient to convince them to cease their unlawful conduct. But, more often than not, we receive no response to our letter, or a response indicating that they do not intend to cease their practices. In these instances, VA often reports the matter to VA's Office of Inspector General or Federal and state agencies that enforce laws against unauthorized legal practices, unfair business practices, or consumer fraud. For the past several years, the Accreditation, Discipline, and Fees Program has directed those complaints alleging pension poaching and misconduct of unaccredited persons and entities be submitted directly to the Federal Trade Commission's Consumer Sentinel (Sentinel) database through a link on the OGC webpage. This is because complaints submitted into the Consumer Sentinel database are accessible not only by OGC but also by other Federal and state law enforcement authorities. VA received 41 complaints against unaccredited companies and individuals in FY 2024.

Education and Outreach

We are pleased to report that VA has already expended, and continues to expend, considerable resources ensuring Veterans are informed that only VA-accredited individuals may assist them with their claims; of the risks involved when they use someone who is not accredited; and when fees may be charged to them. For disability compensation claims, information regarding representation and a link to VA's online tool allowing claimants to search a list of accredited representatives is already provided to Veterans on the VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, and on VA Form 20-0995, Decision Review Request: Supplemental Claim. A "Find a Rep" feature was launched in March 2024 on VA.gov. Importantly, the information for the "Find a Rep" tool pulls from the same data system as the longstanding web search tool on OGC's webpage. The database supporting VA's current search tools is continuously updated based on requests for changes in accreditation information and through annual compliance

checks relating to accreditation. Currently, based on changes in the data, OGC's search tool is updated every 72 hours, and the "Find a Rep" tool is updated weekly. System improvements scheduled for FY 2025 include the online digital submission of both forms that claimants use to appoint representation. The link for the OGC website is included on both forms. VA's webpage on accredited representatives currently provides information for claimants on how to challenge a fee; how to file a complaint if a claimant believes their VA-accredited representative acted unethically or violated the law; and a note indicating that claimants may file a complaint regarding individuals not accredited by VA who try to help prepare, present, or prosecute a VA benefits claim.

Conclusion

We thank you for your interest in protecting Veterans and ensuring they have assistance with their claims for VA benefits. We look forward to a continued partnership to achieve these goals and welcome any questions you have.

