

**Testimony of U.S. Marine Corps Veteran Josh Smith
CEO and Co-Founder of Veteran Benefits Guide
Before House Veterans' Affairs Committee
Subcommittee on Disability Assistance and Memorial Affairs**

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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% 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% 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 three 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% 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 cancelled 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% of hearings were cancelled, 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% 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% 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.