

NATIONAL ORGANIZATION OF VETERANS' ADVOCATES, INC.



Statement of

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Executive Director**

Before the

**House Committee on Veterans' Affairs
Subcommittee on Disability Assistance and Memorial Affairs**

on

Pending Legislation

March 26, 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 pending legislation.

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. 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*, 604 U.S. ____ (2025) (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.

NOVA is happy to provide feedback on the following bills.

H.R. 1039, Clear Communication for Veterans Claims Act

NOVA supports the Clear Communication for Veterans Claims Act. We incorporate by reference our prior testimony before this Subcommittee that addressed the notice letters VA sends to veterans, family members, survivors, and caregivers. 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 Oversight Hearing, "Lost in Translation: How VA's Disability Claims and Appeals Letters Should Be Simplified"* (March 20, 2024) (hereinafter NOVA Letters Testimony). In our testimony, we highlighted the lack of readable, understandable, and organized notice letters sent to claimants and appellants and made suggestions for improvements. Last year, we participated in discussion sessions with other stakeholders, VA leaders, and this Subcommittee on potential improvements to VA letters. We understand that, given the vast number of letters VA must draft, this work needs to be ongoing. With the assistance of a center to assess current letters and provide solutions for improvement—that considers the input of experts and advocates—VA can gain valuable assistance with this process.

H.R. 1286, Simplifying Forms for Veterans Claims Act

NOVA supports the intent of the Simplifying Forms for Veterans Claims Act, with suggested changes. First, like the letters that are the subject of the Clear Communications for Veterans Act discussed above, VA forms need to be readable, understandable, and organized. In addition, there needs to be fewer forms. We recommend expanding the term "covered entities" to mirror what is contained in the Clear Communications for Veterans Act. Subsection (e)(2)(D) should be broken into (D) "an entity that advocates for veterans" and (E) "an entity that advocates for the survivors of veterans," to allow for participation by more entities.

Furthermore, while we support this legislation, we maintain Congress should do more regarding VA forms. Last Congress, NOVA and other veterans organizations testified to the serious problem of VA rejecting a "wrong" form submitted by a veteran and asking for a different form even when it can be determined from the original form what benefit the veteran is seeking. Sometimes VA sends confusing instructions, resulting in the claimant being required to resend forms previously sent. *See, e.g., NOVA Letters Testimony at 9.* This loop of submissions, rejections, and additional requests confuses and frustrates veterans and wastes valuable time for claimants and VA, contributing to unnecessary delays and backlogs.

Last Congress, this Subcommittee considered the Veterans Appeals Options Expansion

Act of 2024. That bill contained a provision requiring VA to accept an incorrect form as an intent to file under 38 C.F.R. § 3.155. We urge the Subcommittee to again consider this measure. In addition, to make the process more veteran friendly, that provision should include an option for VA to accept the form as a claim for the specific benefit if it can be determined from the submission. If VA cannot determine what benefit is being sought, it can then accept the form as an intent to file and let the claimant know of the requirement to complete the application within the year.

H.R. 1578, Veterans Claims Education Act of 2025

NOVA supports the Veterans Claims Education Act. This bill would provide information to veterans, family members, survivors, and caregivers to help them understand and select accredited representation if they seek assistance with their claims. Given the ongoing problem of unaccredited claims consultants, this information can save claimants from receiving potentially incorrect and costly assistance from unaccredited actors.

H.R. 1741, Veterans Appeals Transparency Act of 2025

NOVA supports the Veterans Appeals Transparency Act of 2025. As noted above, NOVA participated in stakeholder discussions that led to the passage of the AMA. This legislation expanded the review options available to claimants after VA denies a claim. One of the options is to appeal to the Board of Veterans' Appeals (Board). When a claimant selects that option, they must choose to file on one of three dockets: direct review, evidence, or hearing.

Although it has taken longer than we had expected when the AMA was passed, the Board appears to have turned a corner, greatly reducing the remaining legacy docket and finally reaching AMA cases in greater number. According to the Board's website, "It took 5 years to change the decision output ratio from 99% Legacy appeals versus 1% AMA appeals to a 50/50 ratio in February 2024. However, it has taken only 7 months to reverse the trend with roughly 87% AMA appeals versus 13% Legacy cases adjudicated." Board of Veterans' Appeals, *More Board Personnel Address Pending AMA Appeals & Wait Times*, <https://www.bva.va.gov/more-board-personnel-address-pending-ama-appeals-wait-times.asp>. We appreciate this progress and the funds Congress provided to allow the Board to hire more decision-writing attorneys and Veterans Law Judges for this purpose.

Requiring the Board to provide a notice of the docket dates being assigned each week will provide greater transparency to veterans, family members, survivors, and caregivers as to where their case is in the process. It will also help veterans and their accredited advocates make informed decisions about how to proceed with current and future cases.

H.R. 2137, Review Every Veterans Claim Act of 2025

NOVA supports the Review Every Veterans Claim Act of 2025 and we thank Chairman Luttrell for reintroducing this bill. This bill would amend current 38 U.S.C. § 5103A to provide that, “[i]f a veteran fails to appear for a medical examination provided by the Secretary in conjunction with a claim for a benefit under a law administered by the Secretary, the Secretary may not deny such claim on the sole basis that such veteran failed to appear for such medical examination.”

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

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

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

H.R. 2201, Improving Training for Military Sexual Trauma Claims Act

NOVA supports the Improving Training for Military Sexual Trauma Claims Act that builds on prior bipartisan efforts to ensure an accurate and sensitive adjudication of all claims that involve conditions related to military sexual trauma (MST). *See Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, P.L. 116-315, Jan. 5, 2021, § 5501, 134 Stat. 4932; *An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide for peer support specialists for claimants who are survivors of military sexual trauma, and for other purposes*, P.L. 117-272, Dec. 27, 2022, § 1, 136 Stat. 4179. This bill will (1) require VA to conduct annual sensitivity training for each VA employee who processes a claim for an MST-related condition, communicates with a claimant regarding evidence, or decides a claim; (2) expand the duty to assist to require the Secretary to obtain the service personnel and service medical records of a claimant if there is no supporting evidence of an MST in the evidence of record; and (3) develop sensitivity training for health care professionals and those individuals who communicate with veterans to schedule examinations to ensure a veteran is not retraumatized during an examination.

As an initial matter, NOVA maintains that VA should always be obtaining the service personnel record and service medical record of every veteran seeking benefits as part of its regular duty to assist. *See* 38 U.S.C. § 5103A(c)(1).

NOVA supports all efforts to ensure that veterans who make a claim for a condition based on military sexual trauma are not retraumatized. *See NOVA Statement for the Record Before the House Committee on Veterans’ Affairs Subcommittee on Disability Assistance and Memorial Affairs, “Supporting Survivors: Assessing VA’s Military Sexual Trauma Programs,”* 5 (Nov. 17, 2021) (emphasizing the need for VA and contract examiners to receive trauma-informed training on an ongoing basis).

Some of the legislative strides already made and those being considered as part of this bill are an outgrowth of a March 2021 bipartisan letter sent from House members to VA. *See* Letter from Reps. Elaine Luria, Troy Nehls, Mark Takano, Mike Bost, Julia Brownley, Mike Levin, and Chris Pappas to Secretary Denis McDonough, March 29, 2021, https://veterans.house.gov/uploadedfiles/2021_3_29_hvac_dama_ltr_to_secva_re_vba_ms

[t_policy_changes.pdf](#). In our November 2021 statement referenced above, we noted favorably other recommendations made by those members that should be considered here if they have not been implemented, e.g., ensuring that VA respects the veteran-appointed representative and informs them of all scheduled communication between VA employees and the veteran and that the Board is using protocols to conduct hearings in a trauma-sensitive manner.

H.R. xxxx, Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act

NOVA supports the draft bill entitled Board of Veterans' Appeals Attorney Retention and Backlog Reduction Act. This bill would allow for non-supervisory attorneys employed by the Board to be promoted to a grade GS-15. NOVA maintains that individuals with appeals pending at the Board are best served by attorneys who are experienced and knowledgeable about the ever-changing field of veterans benefits law. Someone who has stayed at the Board and produced the quality work to be eligible for this grade, but chooses not to become a supervisor, should not be penalized.

Conclusion

Thank you again for allowing NOVA to provide our views on these bills, 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.