

**STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

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Introduction

Chairman Van Orden, Ranking Member Levin and members of the Subcommittee on Economic Opportunity, I am pleased to appear before you today on behalf of the fifty-two member State agencies of the National Association of State Approving Agencies (NASAA). I appreciate the opportunity to provide comments to this committee pertaining to “Less is More: The Impact of Bureaucratic Red Tape on Veterans Education Benefits,” and particularly how we can work together with federal and state agencies to ensure unrestricted access to quality education and training, while continuing to protect students from substandard programs and predatory practices. I am accompanied today by NASAA President Frank Myers.

Role of the State Approving Agencies: Past and Present

State Approving Agencies (SAAs) play a critical role in the administration of GI Bill[®] benefits. Shortly after passage of the Servicemen’s Readjustment Act of 1944, or the GI Bill of Rights, Congress, recognizing it was the responsibility of the states within our federal system of government to oversee the education of its citizens, required that each state establish a “State Approving Agency.” In response, the governor of each state designated a state bureau or department as the SAA. The SAA was to be supported through reimbursement of its expenses by the US Department of Veterans Affairs (VA). Thus evolved a truly cooperative federal-state partnership that maintains the rights of the states while monitoring and protecting a federally sponsored program administered under the terms and conditions of federal law.

The original GI Bill, as enacted in 1944, relied on state agencies to establish standards for and to approve programs of education in which eligible individuals could use GI Bill benefits. Over time SAAs have evolved to become the primary means of assuring institutional accountability. Federal law is clear in that SAAs are the primary governmental body through which approval of education and training for Veterans’ educational benefits is to occur. With specialized authorization under the Code of Federal Regulations and state statutes, they exercise the state’s authority to approve, disapprove and monitor education and training programs. The SAA brings to this mission knowledge of state law and regulations as well as knowledge of the local environment and needs of the state. SAAs also assist the states and VA with exposing fraudulent and criminal activity involving the payment of Veteran’s benefits.

In 1948, SAA representatives met to form a professional organization to promote high professional standards, create a forum for the exchange of best practices, and promote uniformity of purpose and practice. For more than seventy-five years, NASAA has worked with our VA partners, VSOs, and all agencies to ensure the greatest numbers of quality programs are available to those eligible for education and training benefits. We do this through our primary mission of program approval and our related efforts- compliance, oversight, training, liaison and outreach. Indeed, with the exception of federal facilities, the State Approving Agencies are the sole authority responsible for the approval of all programs of education and training within the nation. We take this responsibility seriously and consider ourselves the “gatekeepers of quality” to protect the integrity of the GI Bill by ensuring only quality programs are approved.

Practice and Partnership

Today, fifty-two SAAs in 49 states, as well as the District of Columbia and the territory of Puerto Rico (One state has two SAAs), composed of approximately 215 professional and support personnel, are supervising over 13,000 active facilities and nearly 220,000 programs. The Subcommittee is no stranger to our fundamental role as it is the same today as when we were created by Congress. SAAs work in collaboration with the VA and our other partners, such as the National Association of Veterans Program Administrators (NAVPA), to promote and safeguard quality education and training programs for Veterans and other eligible persons *and* assist the VA in preventing fraud, waste, and abuse in the administration of the GI Bill. NASAA believes the primary responsibility and focus of the SAAs is, and should continue to be, to review, evaluate, and approve programs at schools and training facilities, utilizing state and federal criteria.

It is critical that, as Congress intended, each state has an adequately resourced SAA to protect the integrity of the GI Bill. In 2022 alone, SAAs across our nation completed over 304,000 approval actions for all of NASAA’s Core Functions: Approval, Compliance, Technical Assistance, Outreach, and Liaison. Almost 220,000 programs of education and training at universities, colleges, training institutions, vocational flight schools, and correspondence schools were approved. We do this through an approval process that allows us to carefully evaluate many factors including curriculum, instructors, policies, facilities, equipment, and advertising. At new facilities, after a careful review of the completed application, we schedule an inspection visit to the facility to ensure the institution understands federal and state requirements and has the capability to oversee and administer the program. If we find that they do, we provide training on the remainder of the approval process and the continuing expectations. After our initial approval, we continue to review the facilities on a recurring basis as schools and training providers add or change programs and policies. Also, as a part of this approval process, where applicable, we ensure that schools are in compliance with Public Law 112-249 and are not providing any “commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities.” For schools who are signatories of the “Principles of Excellence (POE),” we provide training and information to them as well. We also explain important requirements such as the 85/15 rule, notification to us if there are negative accreditation findings, and other areas of concern.

In 2011, with the implementation of Section 203 of Public Law 111-377, the Post-9/11 Veterans Educational Assistance Improvements Act, we began assisting VA with their requirement to perform compliance survey visits at SAA-approved institutions. By 2018, we were conducting over 2,000 compliance survey visits. An unintended consequence of Section 203 was the diminution of the ability of SAAs to devote adequate time to approvals and robust oversight to ensure student veterans were being provided quality education and training. P.L. 111-377, specifically Section 203, established “deemed approved” programs that do not require an in-depth review because another agency with an established process and related mission has approved them. As interpreted and implemented by VA, an unfortunate and unforeseen consequence was all programs at institutions meeting such “deemed approved” criteria did not receive the rigorous oversight required by the SAA approval process. This hindered our oversight of these approvals, in some cases to the extent that certain contracted programs, particularly flight training, became approved costing taxpayers millions and graduating Veterans who were hard pressed to find meaningful employment. Furthermore, the increased focus on compliance surveys adversely impacted the SAA’s ability to dedicate time and personnel to our critical approval and oversight functions, as codified by law. Prior to 2011, SAAs generally visited more than 80 percent of all institutions with approved programs in their states annually. Today, most SAAs visit less than 50 percent of these institutions. All of these factors, and those addressed below, called for change. Congress recognized the need for a new day in compliance and oversight.

Risk Based Surveys

The House and Senate Veterans Affairs committees watched with growing bipartisan impatience as inadequate oversight allowed some schools to prey on veterans, capture millions in taxpayer dollars, and too often close their doors with little warning. In response to this situation, in 2017, they included in the Harry W. Colmery Veterans Educational Assistance Act (also known as the Forever GI Bill) provisions that for the first time would allow SAAs to evaluate the risk of these programs: the risk of poor finances, of harming student veterans, and of leaving taxpayers holding the bag when schools consistently fail students or abruptly shut down. The Colmery Act also authorized a modest, and much needed, funding increase for SAAs and mandated the Government Accountability Office issue a report on SAA capacity and performance. That GAO report found that a focus on risk was indeed warranted. Recognizing that compliance surveys were insufficient as a tool to address low-quality education leaving students worse off or the use of misleading and deceptive practices, the Colmery Act required for the first time that SAAs begin evaluating the risk that schools approved to disburse GI Bill funds posed to veterans and their families. This was the first time such a robust requirement for risk-based reviews was passed in any higher education context. Yet in the first two years following passage, VA and the SAAs did not have either the resources or the experience required to design and create a risk-based system, and there was no publicly transparent precedent to use as a model.

In late 2020, the Colmery Act’s focus on risk-based surveys was reinforced with the passage of P.L. 116-315, the Isakson and Roe Veterans Health Care and Benefits Improvement Act of 2020 (Isakson-Roe), which was championed by veterans’ service organizations (VSOs). Isakson-Roe

further strengthened the SAAs' risk-based survey authority and required that SAAs exclusively conduct risk-based reviews beginning in October 2022. The law would further specify minimum criteria that must be examined during risk-based reviews. NASAA, aware of the intent of Congress and recognizing that compliance surveys alone could not address questions surrounding quality and risk, sought to establish a new model of oversight. We approached the Lumina Foundation in the summer of 2019 for a grant to provide funding to develop and test that model. That early effort would lead to a dedicated effort to design, build, pilot, and scale a model that could be effectively used by all SAAs, from those in small states with only one full-time employee, to large states that must oversee hundreds of GI Bill recipient institutions. This process resulted in the development and implementation of a quantitative model that evaluated programs based on risk to veterans and taxpayers and focused limited resources on those programs evincing the highest level of risk—with attendant requirements for improvement or risk of loss of GI Bill eligibility. A report produced by the American Legion in January of 2022 entitled “Lessons from a Risk-Based Oversight Model Designed to Protect Students and Taxpayers” summarized the collective efforts to design, build, and pilot these statutorily required risk-based surveys, learn from the pilot and make any needed adjustments, and in the coming year, scale to all 50 states by October 2022 consistent with the law.

With funding from Lumina Foundation and pro bono support from Nelson, Mullins, Riley, and Scarborough, a total of almost half a million dollars, NASAA and EdCounsel undertook the pilot design by convening an advisory council of 22 members representing student veterans, State Approving Agencies, schools, accreditors, states, and other experts. These advisory council members—along with many others who were consulted throughout this process—provided regular and invaluable guidance on the overall structure and principles of the model. NASAA and EdCounsel also worked closely with six pilot SAAs (in addition to the two non-pilot SAAs serving on the advisory council) to understand their capacity and perspectives on risk. Research was conducted on precedents and examples of risk-based surveys in other contexts, such as higher education oversight models from other countries and models predicting housing foreclosure risk and financial oversight of publicly traded companies; and previous work on risk-based surveys. During the design of the initial risk filter and deeper review tools and forms, the focus was intentionally on feasibility of implementation and scaling across SAAs as well as other federal contexts. The end result was a new model of oversight that looked at meaningful metrics (graduation and retention rates, advertising, financial security, increases in veteran's enrollment, etc.), was programmatic in application and oversight, and most importantly, veteran centric. In other words, the model would determine if the schools were offering quality programs which kept the promise of better jobs and opportunities.

The key to the model's success was that the risk-based survey system seeks to separate low-risk schools from high-risk schools using quantitative measures, and to then prioritize further data requests and site visits to those schools showing the highest levels of risk within a specific state. The system uses publicly available data to automate the process of ranking programs in a state from higher to lower risk. This allowed SAAs to focus their risk-based survey visits on those institutions most likely to present risk to students and taxpayers. This is why a searchable database that SAAs could access was and still is absolutely necessary for the success of the nationwide rollout. The risk-based model had received positive responses from VA, the SAAs, and lawmakers on the Congressional veterans authorizing committees. With a database to guide

them to potentially troubled institutions, SAAs could then conduct an extensive review of detailed data and documents furnished by schools prior to a site visit that looked closely at curriculum, instructors and veteran support services. In the end, schools are evaluated on the opportunities and outcomes provided for and to student veterans. The model proved that SAAs were able to better identify schools that were at risk of closure due to substandard programming, fraudulent advertising and/or improper practices.

So, what went wrong? As already stated, the absence of a database as required by law, resulted in the VA assigning schools for a risk-based survey that were not actually at risk. SAAs spent valuable resources reviewing accredited institutions that had experienced minor increases in veteran enrollment but were otherwise operating sound, quality programs. The time spent conducting unnecessary reviews created a waste of SAA, school official, and ultimately taxpayer resources. In addition, due to an inordinate interest in process and being able to perform quality assurance at some future time, VA insisted that SAAs upload almost all documents produced during a Risk Based Survey. While the intent of the model had been a focus on outcomes with a final comprehensive report to detail the findings, SAAs were instead required to direct their time towards cataloguing and uploading survey materials. Finally, the VA took several months reviewing and revising the model, which would have been better spent developing a searchable database or preparing for and providing training for SAAs and institutions. Thankfully, Director Garcia and his team are attempting to move in the direction of the original model with a more streamlined process for the coming year, and I believe they understand the critical necessity of the searchable and comprehensive database.

Red Tape and Bureaucratic Overreach

State Approving Agencies are adamant about only approving quality programs that provide good jobs, opportunities and a better future for our veterans and their families. This consists of ensuring that all veterans, including those in rural areas, have access to quality education programs and job training. Unfortunately, in recent years, VA interpretation of certain laws have resulted in requirements which led to some schools deciding to withdraw from the GI Bill program. In fact, in the last year alone, almost 500 schools have requested that their approvals be withdrawn due to SCO certification training requirements, audits performed too close together, too many requirements for reapproval, and ID.Me requirements. Sadly, the impact of these withdrawals has been more severe on small but high-quality programs, often serving rural areas or programs of specialty training that are not housed at a large school where interaction with student-veterans is more frequent. The result of this is that veterans in rural America are losing access to essential training and quality education aimed at serving those who are not attending a large college or university. With the loss of these in resident programs, there is concern that veterans from rural areas may be driven to lesser quality online education or worse, not even be able to utilize the benefits they have rightfully earned. Equally troubling are the VA plans to redefine “independent study” and “online education” in such a way that there will no longer be a regulatory barrier to offering online training at unaccredited Non College Degree (NCD) programs. While SAAs are generally welcoming of a change to approving online education and would welcome additional language in law surrounding this modality of learning, there is some concern that implementation of these changes could create a perfect storm of approving a plethora of inadequate education and training programs. As we are witnessing these

small in-residence facilities withdraw due to administrative burdens, we hesitate to open the flood gates to larger online facilities that may have more capacity but offer asynchronous instruction that is difficult to regulate or monitor for quality.

Another example of unnecessary bureaucratic red tape is requiring accredited institutions accepted by the US Department of Education to offer Title IV funding. P.L. 116-315 Section 1015 implemented this requirement, and as I recall from the drafting of the statute in this area, the intent was to create a mechanism allowing SAAs to suspend or withdraw approval from institutions that lost the ability to offer Title IV due to actions that would indicate a concern with a facility being able to continue offering high-quality education. Unfortunately, the requirement as written has resulted in numerous institutions, particularly those offering strictly religious education, medical residency, EMT, and paramedic programs, feeling forced to withdraw from the GI Bill program. These are programs and facilities that are accredited by regional accrediting bodies that oversee other colleges and universities large and small, but because these facilities do not participate in the Federal Title IV program, they are no longer eligible for GI Bill benefits. The VA's restricted reading of their waiver authority, as allowed by the law, has resulted in numerous seminary, pastoral, and other religious training programs, as well as several medical training programs being withdrawn due to a law change that creates a situation where accredited facilities are unable to participate in the program, but nonaccredited ones are.

Likewise, the VA's interpretation that all institutions, including small NCDs, Apprenticeships and OJTs, must undergo hours of certification training and provide their personal SSN information to gain access to new VA software that certifies veteran attendance participating in education programs, has resulted in quality schools requesting to be withdrawn. An example of the impact of this requirement is that today, there are NO private truck driving schools approved in the state of Illinois. Until recently, the VA offered low-bar online methodologies for small facilities to submit accurate enrollment information in a quick and efficient manner but that is no longer an option. While many of these affected programs had small (1-2) veteran enrollments, NASAA firmly believes that every veteran should have access to use their entitlement. The VA should work in partnership with the State Approving Agencies to find meaningful ways to address these areas if we are to assure continued veteran access to quality training and education, particularly in rural America.

While SAAs always believe in strong approval criteria and oversight of training programs accepting GI Bill benefits, some specialty areas of training who wish to become approved are subject to undue burdens that often duplicate the efforts of other state or federal agencies that oversee and approve their curriculum. For example, public criminal justice, fire, and rescue academy programs which lead to certification as a law enforcement officer, correctional officer, sheriff, firefighter, or first responder are subject to the same approval criteria and mechanisms as colleges, universities, and trade-schools. These criteria are often unnecessary given the type of training provided at these facilities, such as providing a financial aid shopping sheet or designating to the VA that specific employees are providing academic or career counseling. In addition, accredited medical residency and fellowship programs, and Part 141 and Part 142 pilot schools and flight training centers, are subject to approval criteria that is poorly defined in US Code and often subject to confusion by veterans, facilities, SAAs, and the VA. NASAA supports efforts to formally move these programs as being approvable under 38 USC § 3672's "deemed

approved” criteria, as another agency with an established process and related mission has accredited or approved them. It is our belief that these programs meet the spirit of the reason the deemed approved law was created, and formalizing these facilities approval criteria would continue strong oversight by SAAs while also allowing access to a wide variety of career and technical training opportunities.

Real Partnership and a Renewed Focus on Veteran Success

In the last year, largely due to the vision and leadership of Director Joseph Garcia, communications between the VA and State Approving Agencies have improved markedly. Likewise, we sense a renewed commitment to partnership in formulating policy and process. However, if we are to be successful in assuring the long term success of the GI Bill educational program, there must be a renewed commitment to this historic state and federal partnership as well as an undiminished focus on ensuring that there are limited or no negative impacts on our veterans and their families. We can begin this new partnership with the VA, as it did for many years, by sharing the funding model for SAAs with the NASAA Cooperative Agreement Committee so we can better understand what governs the distribution of funds allocated to each SAA and States can better plan how to best use resources to protect our Veterans. Likewise, regulatory and policy/process changes should not be made in a vacuum. SAAs should be at the table, early on, so as to help the VA make practical changes which avoid unpleasant and unforeseen consequences for our student veterans. Finally, enhanced communication with SAAs and particularly the educational and training institutions we serve will go far to renew trust and ensure quality service for our veterans. The recent late great unpleasantness surrounding complex and confusing 85/15 requirements, which eventually required Congressional intervention, is an example of how real partnership and meaningful communication could have avoided a painful process for all.

State Approving Agencies desire to perform robust risk-based surveys, combined with less comprehensive but equally important supervisory visits, as part of the approval and oversight function of the SAAs. SAAs are committed to protecting Veterans by identifying high risk activities at the institutions we approve through the completion of these visits in addition to our equally important focus on approval. Both of these activities will help proactively identify red flags at the institutions and entities we oversee and thus enable SAAs to properly identify systematic issues so as to prevent educational or financial harm to our veterans and loss of taxpayer funds. As such, NASAA strongly believes the VA and SAAs must remain committed to the more proactive approach provided by risk-based surveys and enhanced approval requirements. We must continue to look rigorously at accreditation issues, enrollment practices and where possible, employment data. As trained educators, we are best suited to provide this important rigorous oversight and in-depth evaluation. Though we maintain the approval of non-federal programs is properly vested in the States, we believe the VA should ensure states are adequately protecting the integrity and independence of SAAs and ensuring federal funds are properly expended. In the long term, this proactive approach will continue to protect the integrity of the GI Bill and taxpayer interests in our combined efforts to serve Veterans and their families.

Conclusion

Mr. Chairman, today, SAAs throughout this great nation as well as US territories and the District of Columbia, are committed to ensuring that our Veterans and their families have unfettered access to quality training and educational programs while utilizing their earned benefits provided to them by the GI Bill. We are extremely grateful for the opportunity to once again appear before this committee to share our positions on the important topic of protecting our veterans and the GI Bill from unnecessary red tape that restricts veteran access to the benefits they need for better lives. We remain committed to working closely with our VA partners, VSO stakeholders and educational institutions on these and other initiatives designed to protect the quality and the integrity of the various GI Bill® programs and the Veterans and family members who have sacrificed so much for this great Nation. They are truly our greatest treasure. I thank you again for this opportunity and I look forward to answering any questions that you or committee members may have.