



**Statement of Andy Blevins  
Policy Counsel, Minority Veterans of America**

Submitted for the Record of a Joint Oversight Hearing  
*At What Cost? – Ensuring Quality Representation in the Veteran Benefit Claims Process*

by the Subcommittees on Disability Assistance & Memorial Affairs and Oversight & Investigations,  
Committee on Veterans' Affairs, 117<sup>th</sup> United States House of Representatives

**Wednesday, April 27, 2022**

Chairpersons Luria and Pappas, Ranking Members Nehls and Mann, and Distinguished Members:

My name is Andy Blevins. I am proud to serve as Policy Counsel for the Minority Veterans of America (MVA).<sup>1</sup> Our organization works to create belonging and to advance equity and justice for the minority veteran community—namely those that identify as women, LGBTQ+, persons of color, and (non)religious minorities. MVA is at the front lines of the effort to improve the lives of our nation's most underserved and marginalized veteran communities.

This position affords me the privilege and honor of representing millions of minority-identifying veterans<sup>2</sup> and directly serving thousands of veteran-members across 49 states, three territories, and four countries. Prior to this post, I served as the Chief Executive Officer of OutServe-SLDN (now known as the Modern Military Association of America), a non-profit civil-rights organization dedicated to fighting inequality and injustice against military personnel and veterans based on their actual or perceived sexual orientation, gender identity, or HIV status. Additionally, I serve or have served in various capacities with Policy Vets, Pine Tree Legal Assistance's Veterans Legal Services Initiative, and the Oregon State Bar's Military and Veterans Law Section.

Over years of advising and assisting service members and veterans with direct legal services and advocacy, to include accessing their due benefits, I have witnessed the many ways in which discrimination and ill-informed third-party actors continues to affect veterans' ability to access VA programs and services. Resolving these easily identifiable and documented issues that have consistently been brought forward to this Committee is not a partisan issue. These

---

<sup>1</sup> You can learn more about our organization at [www.MinorityVets.org](http://www.MinorityVets.org).

<sup>2</sup> Blevins, K.R., & Blevins, A.L. (2020). Advocating for minority veterans in the United States: Principles for equity and public policy. *Journal of Military, Veteran and Family Health*. 7(Supp.1). doi: 10.3138/jmvfh-2021-0024.

concerns are not restricted to a specific identity group or physical locations. These issues are universal and affect constituencies in every district. I therefore appreciate the platform these Subcommittee are affording me, and the Minority Veterans of America, to discuss these issues. I am grateful for the opportunity to contribute to the work you are doing to address the crucial matters that will be raised during and following this Hearing.

\* \* \*

## A. Background Information

The Department was first promoted to a federal agency in the 1930s, with the charge of supporting those who served in uniform.<sup>3</sup> Since its inception, the VA has seen millions of veterans<sup>4</sup> as they returned home from more than 50 armed conflicts.<sup>5</sup> The veteran population has changed drastically since the Department's inception and will continue to do so. Racial and ethnic minorities are projected to rise to 36.2% of the veteran population by 2045<sup>6</sup> and that white women veterans are projected to rise to 10.6% of the veteran population by 2043,<sup>7</sup> if

---

<sup>3</sup> As we have consistently testified on in the past, the Department's existing motto fosters a sexist environment. The current Department motto is disclusionary, as it does not reflect the diversity of our veteran community, nor our country. With nearly 25% of the nation's veteran community identifying as other than a white, cisgender, heterosexual man, it is time the Department's motto makes clear that they serve all who have served. We would insist that this Committee and the VA continue to champion H.R. 2806, introduced by Congresswoman Rice (NY-4). Lee, T; Aponte, M; Bickel, A; Dillard, S; et al. (2020). 2017 Minority veterans report: Military service history and VA benefits utilization statistics. *National Center for Veterans Analysis and Statistics*. Office of Data Governance and Analytics, U.S. Department of Veterans Affairs. Accessed on Apr 19, 2022, at [www.va.gov/vetdata/docs/SpecialReports/Minority\\_Veterans\\_Report\\_Final.pdf](http://www.va.gov/vetdata/docs/SpecialReports/Minority_Veterans_Report_Final.pdf). See also <https://www.congress.gov/bill/117th-congress/house-bill/2806>.

<sup>4</sup> See generally <https://www.census.gov/newsroom/press-releases/2020/veterans-report.html>.

<sup>5</sup> This number is not meant to be all-encompassing and is inclusive of both domestic and international conflicts.

<sup>6</sup> Lee, T; Aponte, M; Bickel, A; Dillard, S; et al. (2020). 2017 Minority veterans report: Military service history and VA benefits utilization statistics. *National Center for Veterans Analysis and Statistics*. Office of Data Governance and Analytics, U.S. Department of Veterans Affairs. Accessed on Feb. 28, 2021, at [www.va.gov/vetdata/docs/SpecialReports/Minority\\_Veterans\\_Report\\_Final.pdf](http://www.va.gov/vetdata/docs/SpecialReports/Minority_Veterans_Report_Final.pdf)

<sup>7</sup> According to Department statistics in 2017, racial and ethnic minorities made up 23.2% of the Veteran population (see [a] below). However, white women make up an additional 6.2% of the Veteran population (see [b] below), and we estimate that approximately 3.8% of the veteran population is lesbian or gay (see [c] below) while 0.8% is transgender (see [d] below).

a. See Lee, Aponte, Bickel, Dillard, et al. (2020).

b. National Center for Veterans Analysis and Statistics. (2017). *The Past, Present and Future of Women Veterans*. Washington, DC: US Department of Veterans Affairs. Accessed on Feb. 28, 2021, at [www.va.gov/vetdata/docs/SpecialReports/Women\\_Veterans\\_2015\\_Final.pdf](http://www.va.gov/vetdata/docs/SpecialReports/Women_Veterans_2015_Final.pdf).

c. Gates, GJ. (2003). *Gay veterans top one million*. Washington, DC: Urban Institute. Accessed on Feb. 28, 2021, at [www.urban.org/sites/default/files/publication/59711/900642-gay-veterans-top-one-million.pdf](http://www.urban.org/sites/default/files/publication/59711/900642-gay-veterans-top-one-million.pdf).

current demographic trends continue. While we do not yet have statistics on sexual orientation and transgender status among US veterans, we believe it is reasonable to project that approximately 50% of the veteran population will be minorities by 2045.

In response to these forecasted changes, thus far, the Department has instituted a piecemeal strategy in changing to meet the needs of this demographical shift, which has resulted in minority veterans universally being forced to assimilate to existing framework structures. Without an institutional change in the Department's approach, entire populations of veterans will continue to experience structural exclusion that will result in continued and aggravated disparities.

We consistently see alarming backlogs of veteran applications, appeals, and required examinations.<sup>8</sup> Many of our honorably discharged veterans have incorrectly been denied their earned benefits due to ill-informed guidance and advocates/agents,<sup>9</sup> and even more less than honorably discharged veterans<sup>10</sup> have been denied solely due to the ramifications of seeking self-help while navigating broken administrative and medical frameworks that should have been intentionally designed to support them.<sup>11</sup>

We do want to acknowledge that recent administrations have taken great strides to address these raised issues and have made significant progress in better supporting all those that have served. We would particularly like to applaud Secretary McDonough and his senior leadership for their deliberate actions in supporting our most marginalized and underserved communities. Many of our members have felt more comfortable interacting with VA services and their accredited agents and have had great experiences in accessing the benefits and services that had previously been impeded, whether actually or constructively.

---

d. Gates, GJ; Herman, JL. (2014). Transgender military service in the United States. Williams Institute. Accessed on Feb. 15, 2021, at [www.williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Military-Service-US-May-2014.pdf](http://www.williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Military-Service-US-May-2014.pdf).

<sup>8</sup> Korb, L.J., & Toofan, K. (2021). *The challenges facing the Department of Veterans Affairs in 2021*. Center for American Progress. Accessed on April 19, 2022, at <https://www.americanprogress.org/article/challenges-facing-department-veterans-affairs-2021/>.

<sup>9</sup> *Id.*

<sup>10</sup> More than 500,000 veterans across all branches have received an Other Than Honorable (OTH) discharge characterization. See Alaigh, P. 2017. "Access to Mental Health Services for Other Than Honorable Discharged Servicemembers." Undersecretary for Health Memorandum. Washington, DC: Department of Veterans Affairs. [www.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=5350](http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=5350).

<sup>11</sup> *Id.*

Unfortunately, however, these experiences are not universal. I am a member of several virtually-based groups that provide community-based assistance to veterans seeking claim support for filing and appealing VA-related claims. An overwhelming majority of veterans utilizing these forums for assistance have voluntarily shared that they are seeking this type of support and assistance because of their negative experiences with past veteran service officers and organizations. In aggregate, more than 782,300 veterans make up the three most active groups.<sup>12</sup> Below are just a handful of the stories that have been shared, with permission:<sup>13</sup>

- A.P.B. is a queer male that was medically discharged from service in 2011, while stationed overseas. He immediately received a 10% disability rating through the VA. This veteran engaged with two veteran service organizations and a state Department of Veterans Affairs to necessarily increase his rating. With all three, he was discriminated against for his sexual orientation. Claims were not filed in a timely manner and appointments to complete necessary paperwork that were scheduled months in advance were consistently cancelled with less than three hours' notice. Despite his honorably-characterized service, this veteran spent the next ten years believing that he did not qualify for the compensation and services that he was owed due to his impeccable service record and service-connected disabilities. He has been paired with a competent attorney and is finally undergoing the necessary filing and appeal processes.
- D.A.J. is a 50-year-old, white male that received a bad paper discharge.<sup>14</sup> His discharge was a result of self-medicinal practices that he necessarily undertook after receiving no assistance for his post-traumatic stress and trauma-induced schizoaffective disorder. Three veteran service organizations refused to assist him in upgrading his discharge and applying for needed benefits and services despite existing guidance that would have provided necessary relief. He remains disenfranchised with the system and presently refuses to re-engage with claims and appeals processes, stating that it will likely just be a waste of time and "being judged for nothing just isn't worth it anymore."

---

<sup>12</sup> Membership to these groups is restricted to veterans that have personally filed a claim through the VA.

<sup>13</sup> Additional testimonials are available upon request.

<sup>14</sup> Historically, aggravating factors like illicit drug and alcohol abuse, failure to report for duty, and other socially abnormal behaviors have been cause for a reduced discharge characterization or have otherwise been identified on a veteran's discharge paperwork through the narrative reasonings for discharge or separation program designator (SPD) codes. Actions and behaviors considered to be misconduct or criminal in nature are often categorized without consideration of the impact that mental health issues and military sexual trauma (MST) have on service members. The prevalence of post-traumatic stress (PTS) and traumatic brain injuries (TBIs) among service members has been noted in relation to "bad paper discharges."

- C.D.B. is a non-binary veteran honorably discharged from service within the past decade, after a career as an enlisted service member, a service academy student, and a member of the Reserves. They sustained several injuries due to negligent medical care provided during their service, blunt-force trauma directly related to their occupational specialty, and post-traumatic stress. They had attempted to engage with two veteran service organizations, an independently accredited attorney, and a state Department of Veterans Affairs, and faced discrimination because the name on their identity paperwork and their discharge paperwork did not match after their gender transition. They have spent six years believing that they were unable to access their benefits because of their name change. After learning that was not the case, they spent two additional years fearing any discriminatory and potentially re-traumatizing interactions if they chose to reengage with a veteran service organization.

As these Subcommittees know, veterans' benefits are vastly underutilized by qualifying veterans, with only 15-47% accessing their earned programs.<sup>15</sup> Despite their honorable service and qualifying status, minority veterans are disproportionately being turned away from the VA, unable to even *apply for*,<sup>16</sup> let alone access, their benefits. This deprivation is particularly insidious in the lives of our community given the pervasive bias and structural discrimination they experience regularly based on their identity and status in society. Even when minority veterans have been discharged under other than dishonorable conditions, they have been ostracized from the veteran community, turned away from the VA, been prevented from using their hard-earned benefits, and made to feel as if their service was underappreciated and undervalued by the very people with whom and for whom they served. These actions and attitudes compound the already unjust and inequitable social and structural conditions which categorically disadvantage minority veterans. Taken together, these various barriers explain the higher rates of homelessness, substance abuse, incarceration, and death by suicide among minority veterans. They are, unfortunately and regularly, a matter of life and death.

---

<sup>15</sup> The percentage range reflected above is inclusive of major veterans' benefits, including education, medical, housing loan, etc. See [www.va.gov/vetdata/docs/Quickfacts/Stats\\_at\\_a\\_glance\\_12\\_31\\_20.PDF](http://www.va.gov/vetdata/docs/Quickfacts/Stats_at_a_glance_12_31_20.PDF).

<sup>16</sup> It is widely known that some accredited agents and attorneys intentionally provide subpar service or botch initial claims because they are unable to charge the client (See 38 USC 5902(b)(1)(A) and 5903(a)(1)). In instances where this is discovered, or otherwise reported, their accreditation should be permanently suspended under 5904(b).

## B. Minority-Focused Veteran Service Organizations

There is clear and evident documentation, conducted through peer-reviewed research, that highlights the difference that harnessing the power of a VSO can have.<sup>17</sup> When developed and implemented in an inclusive manner, veteran service organization models can foster the needed community, provide examples of strong leadership and VA benefit potential, and instill the confidence a veteran may need to advocate for themselves, whether they choose to do so through an accredited agent or not.<sup>18</sup> The majority of VSO members tend to be older, Caucasian, and retired. This is particularly important because an individual's likelihood of joining a veteran service organization is directly tied to their veteran identity, which can be defined as a self-concept that "derives from [their] military experience within a sociohistorical context" and "may vary by race/ethnicity because the sociohistorical context of the military experience varies by race."<sup>19</sup> As a result, many minority veterans do not identify as veterans, and minority veterans' historical experiences of marginalization in veteran-centric spaces continue to foster environments in which that denial of self-identification will persist.

Experts believe that by increasing diversity of members within a VSO, especially representative of identities and orientations that do not traditionally join their ranks, their membership will surge.<sup>20</sup> This theory is in line with the logic of symbolic representation, which postulates that "the mere existence" of representation will encourage the veteran to develop a sense of psychological satisfaction and help to change their attitudes and behaviors.<sup>21</sup> We would argue, however, that this logic not be used to nominally increase representation within traditional VSO spaces, which would continue the trend of bastardizing existing frameworks to meet the needs of the minority, but instead to extend opportunities to organizations that are already reflective of the demographic in most need of assistance.

---

<sup>17</sup> Mosack, K., Wendorf, A., Brouwer, A.M., Patterson, L., et. al. (2012). Veterans service organization engagement in 'POWER,' a peer-led hypertension intervention. *Chronic Illness*, 8(4). doi: 10.1177/1742395312437878.

<sup>18</sup> Harada, N.D., & Pourat, N. (2004). Does membership in veterans' service organizations influence use of the Department of Veterans Affairs as the usual source of care? *Military Medicine*, 169(9), 173-40. doi: 10.7205/MILMED.169.9.735. See also Rabiner D, Branch L, & Sullivan R. (1998). The receipt of prevention services by veterans using VA versus non-VA facilities. *Preventative Medicine*. 5:690– 6.

<sup>19</sup> Harada & Pourat (2004).

<sup>20</sup> Rabiner, Branch, & Sullivan (1998).

<sup>21</sup> Gade, D.M., & Wilkins, V.M. (2012). Where did you serve? Veteran identity, representative bureaucracy, and vocational rehabilitation. *Journal of Public Administration and Research Theory*. 23(2):267-288. doi: 10.1093/jopart/mus030.

The Minority Veterans of America has consistently assisted our members in accessing state and federal benefits for our veteran-members and their families, either directly or through close community partnerships. It has been disheartening to see our efforts diminished by continued organization-Department partnerships with entities that are silent on the need to equitably provide outreach to subjugated populations. As innate Departmental endorsements lead to continued and sustained resource aggregation of these larger organizations, our competitive reach and impact can be sustained solely through the gratuitous redirection of staff and volunteer resources.

Minority-focused, veteran-serving organizations exist not gratuitously, but out of necessity. The larger organizations that many of our members pledged to following their discharge from active service were ill-prepared to provide needed support or to advocate for their interests. Our own organization was created nearly five years ago after our co-founders experienced malicious racist and sex-based discrimination even where they served in leadership capacities. Unfortunately, the impact of this fallout was not contained to these organizations—rather, these veterans lost faith in the entire veteran support community, and the collective consequence has resulted in a systemic repudiation of even supportive Departmental and conventional veteran community programs.

Many veterans that have become disenfranchised with the major veteran service organizations and the Department are reaching out to and joining organizations like ours because we are able to provide the information, support, community, and advocacy that they so desperately need. Groups like the Minority Veterans of America have successfully built an enduring relationship with these former servicemembers and their loved ones and have been able to help our members gain access to life-saving or life-changing services and information. If the intended changes and novel ideas discussed and developed through these Hearings are to have any impact on our most marginalized and underserved veteran populations, the Department must begin utilizing the reach that organizations like our own can provide through targeted partnerships.<sup>22</sup>

Such partnerships would do more than allow for our organization to relay relevant information to our members in a more streamlined fashion. It will also indicate to our members that reinvigorated Departmental leadership has recognized and now understands the harm

---

<sup>22</sup> See Blevins & Blevins, Principle 4.

caused by their actual and/or apparent rejection from veteran-centric spaces and programs. It would signal to our communities and external stakeholders that the Department is finally prioritizing them and that they can allow themselves enough vulnerability to heal from the harm they have experienced and to accept the due and necessary assistance that their selfless service demands.

### **C. Continued Learning Requirements**

Ill-informed and prejudiced veteran service organizations and officers have served to both establish and preserve the notion of estrangement felt by many of our members. After working with established yet obstructive Departmental personnel or VSOs, often recommended to them by community organizations or the Department itself, we have found that minority-identifying veterans are less likely to approach a second employee or VSO for further assistance, directly causing their benefits to be “left on the table.”

As an organization, we have long advocated for the mandate of continuous and culturally-informed trainings. Minority veterans have a long history of experiencing both discrimination and stigmatization in veteran-centric spaces. It is crucial that ignorance and misinformation about minority veteran populations be addressed through education initiatives not just within the Department’s employees and contractors, but within accredited VSOs as well. Such initiatives should be developed and provided to all Department points of entry to ensure that no veteran is erroneously or discriminatorily prevented from accessing Departmental services or benefits.

Presently, the Department requires accredited representatives to complete three credit-hours<sup>23</sup> of continuing education within their first year, specifically on representation before the VA and basic eligibility for VA benefits.<sup>24</sup> The representatives are required to accrue an additional three hours of qualifying credits on benefits law and procedure within their first three years and then every two years.<sup>25</sup> These requirements amount to a total of six hours of training over a six-year period and do not directly address many of the concerns brought forward today.<sup>26</sup> Given many instances of inadequate or unethical representation, especially within the minority veteran community, we would argue that this is an insufficient requirement and would

---

<sup>23</sup> It is unclear what the VA’s definition of a credit-hour is. Notably, ten state bar associations operate on a 50-minute credit-hour.

<sup>24</sup> See generally <https://www.va.gov/ogc/accreditation.asp>.

<sup>25</sup> *Id.*

<sup>26</sup> The majority of state bar associations require twelve hours of continuing education requirements annually.



recommend that continuing education requirements be modeled off of the American Bar Association's requirements, in line with the VA's adoption of the ABA's standards of professional conduct (further discussed in a subsequent section).

This would include the following suggested requirements: one-hour of ethics and professionalism annually, one-hour of diversity and inclusion every three years, and one hour of mental health and substance use disorders every three years. We would also recommend the encouragement of credits being obtained on "bad paper discharges," post-traumatic stress,<sup>27</sup> trauma-informed care (similarly utilized in Veterans Treatment Courts)<sup>28</sup>, minority stress models,<sup>29</sup> social determinants of health,<sup>30</sup> among others.

---

<sup>27</sup> that more than 20% of veterans with PTSD also have SUD and nearly 33% of veterans seeking treatment for a substance use disorder also have posttraumatic stress disorder. The VA's online database for SUDs among veterans mention demographics only once in their summary of one study on illicit substance use among HIV-positive men: "The researchers do note that demographic factors—such as age, race, and education—seem to impact mortality risk more than alcohol, cannabis, or stimulus use." Office of Research & Development. (n.d.). VA research on substance use disorders. US Department of Veterans Affairs. Accessed on February 28, 2021, at [www.research.va.gov/topics/sud.cfm](http://www.research.va.gov/topics/sud.cfm). See also National Center for PTSD. (n.d.). PTSD and Substance Abuse in Veterans. US Department of Veterans Affairs. Accessed on February 28, 2021, at [www.ptsd.va.gov/understand/related/substance\\_abuse\\_vet.asp](http://www.ptsd.va.gov/understand/related/substance_abuse_vet.asp).

<sup>28</sup> Gallagher, J.M. (2016). Procedural justice, veteran identity and legal legitimacy in veteran treatment courts. *Thesis for PhD in Social Work*. University of Arkansas. Available at [https://www.researchgate.net/publication/308933812\\_Procedural\\_Justice\\_Veteran\\_Identity\\_and\\_Legal\\_Legitimacy\\_in\\_Veteran\\_Treatment\\_Courts](https://www.researchgate.net/publication/308933812_Procedural_Justice_Veteran_Identity_and_Legal_Legitimacy_in_Veteran_Treatment_Courts).

<sup>29</sup> Frost, DM; LeBlanc, AJ; de Vries, B; Alston-Stepnitz, E; Stephenson, R; Woodyatt, C. (2017). Couple-level minority stress: An examination of same-sex couples' unique experiences. *Journal of Health and Social Behavior*, 58(4), 455–472. doi.org/10.1177%2F0022146517736754. See also Meyer, IH. (1995). Minority stress and mental health in gay men. *Journal of Health and Social Behavior*, 36(1), 38–56. doi.org/10.2307/2137286. See also Livingston, NA; Berke, DS; Ruben, MA; Matza, AR; Shipherd, JC. (2019). Experiences of trauma, discrimination, microaggressions, and minority stress among trauma-exposed LGBT veterans: Unexpected findings and unresolved service gaps. *Psychological Trauma*, 11(7), 695–703. doi.org/10.1037/tra0000464. See also Tucker, RP; Testa, RJ; Reger, MA; Simpson, TL; Shipherd, JC; Lehavot, K. (2019). Current and military-specific gender minority stress factors and their relationship with suicide ideation in transgender veterans. *Suicide and Life-Threatening Behavior*, 49(1), 155–166. doi.org/10.1111/sltb.12432.

<sup>29</sup> Breland, JY; Chee, CP; Zulman, DM. (2015). Racial differences in chronic conditions and sociodemographic characteristics among high-utilizing veterans. *Journal of Racial and Ethnic Health Disparities*, 2, 167–175. doi.org/10.1007/s40615-014-0060-0.

<sup>30</sup> While the SDOH framework provides useful functional categories through which to analyze contextualized factors impacting health and through which to design policy mechanisms, it must be understood that these five domains are not mutually exclusive but highly interrelated. For example, within health care contexts, racism is often understood as an individual prejudice that manifests in interpersonal interactions, bringing it into the domain of health care access and quality and/or social and community context. However, racism is a salient feature of all five domains in both interpersonal and structural ways. It has, for example, been literally materialized in neighborhoods and built environments through gentrification, redlining policies, and environmental hazards. The interpersonal and the structural are co-constitutive and mutually informing levels of analysis of racism and other forms of marginalization that must be included in an SDOH framework

## **D. Submitting Reports against Accredited Attorneys and Agents**

### **a. Locating Reporting Information**

It has been brought to our attention, by several in our community, that the existing guidance to file reports on incompetent or unethical representation by accredited agents and attorneys is overly cumbersome and obscure. We would recommend that the information be boiled down into a simple flow chart, where possible, and clearly highlight what steps need to be taken, what information needs to be provided, and any other relevant, additional information.

A member of our own policy team, with no personal knowledge of accessing or managing Departmental systems, as would be the case for many veterans that are using accredited attorneys and agents for their filed claims and appeals, spent twenty minutes performing basic searches through the Department's website and through the Google search engine before he was able to find relevant information. Importantly, though the first option that appeared in his search was located on a "va.gov" website, its branding and aesthetic<sup>31</sup> caused him to feel as if it were incorrect guidance. The information was then found through a third-party website and required several pass-through sites, to the Department then to the FTC.

Especially in the age of COVID, where communication of resources and requirements have moved largely online, it seems unconscionable for such information to not be readily accessible or comprehensible. Not only does this cause unnecessary hardship on our veteran communities, but it also significantly decreases the faith and trust that these individuals have in the knowledge that the Department is adequately prepared to assist and support them when they need it most.

### **b. Options for Reporting**

There are two ways in which a veteran can report their accredited agent or attorney: by filing a report with the Federal Trade Commission (FTC) or by filing VA Form 3288. We have concerns with the current presentation of both existing avenues.

Federal Trade Commission. There currently exists a Memorandum of Agreement that allows the Department to include a link to the Federal Trade Commission's reporting guidance and complaint page on the webpage for the VA's Office of General Counsel (OGC).<sup>32</sup> While such an agreement and arrangement is intended to reduce the burden on the veteran or caregiver seeking

---

<sup>31</sup> See <https://www.va.gov/OGC/docs/Accred/HowtoFileaComplaint.pdf#:~:text=If%20you%20believe%20that%20an%20attorney%2C%20claims%20agent%2C,and%20Federal%20law%20enforcement%20authorities%20for%20possible%20inquiry.>

<sup>32</sup> The Memorandum of Agreement (Nov 2018) can be found at FTC, Memorandum of Agreement Between the Federal Trade Commission and the Department of Veterans Affairs, at [https://www.ftc.gov/system/files/documents/cooperation\\_agreements/ftc-va\\_memorandum\\_of\\_agreement\\_2018\\_1.pdf](https://www.ftc.gov/system/files/documents/cooperation_agreements/ftc-va_memorandum_of_agreement_2018_1.pdf).

to file a report, we do not believe that type of relief is realized. Presently, the link appears halfway down the OGC's webpage and there are no font styles, graphics, or other indicators that would help the link to stand out from the sea of text surrounding it. We would recommend that the link be placed more prominently on the OGC's webpage, or otherwise have an indicator which would help concerned veterans and their care teams quickly find the information.

VA Form 3288. The alternative avenue for reporting, and notably the only avenue which would not also report the accredited attorney or agent to other authorities, requires submission of a form entitled "Request for and Consent to Release of Information from Individual's Records,"<sup>33</sup> a form which is used for multiple purposes and provides no additional guidance on how to properly fill out or file the form for reporting instances. Notably, filing of the form also requires the Department to immediately disclose the name of the filing veteran to the accredited agent or attorney, which can produce a chilling effect in those that fear retribution or ostracization from future processes, as is often the case with the minority veteran community. We would recommend the production of an entirely new form or reporting mechanism which would provide prudent information for the veterans' consideration and walk them through specific questions to ensure all necessary information is provided. We also encourage that significant thought be given to specific outreach and direct referral options to veterans that have submitted complaints.

## **E. Standards of Professional Conduct**

The VA Accreditation Program's Standards of Guidance<sup>34</sup> are modeled off the American Bar Association's (ABA) own Model Rules of Professional Conduct.<sup>35,36</sup> These Standards establish the appropriate behavior for VA-accredited attorneys, agents, and other qualified representatives. To ensure veterans are ethically represented, we would recommend the inclusion of additional standards modeled off of the following ABA Standards, which we feel are not already covered in the VA Accreditation Program's Standards.

---

<sup>33</sup> The form is available at: <https://www.va.gov/vaforms/va/pdf/VA3288.pdf>

<sup>34</sup> 38 C.F.R. § 14.632. See also <https://www.va.gov/OGC/docs/Accred/StandardsofConduct.pdf>.

<sup>35</sup> National Veterans Legal Service Project. (2019). *Ethical Duties of a VSO & How to Navigate Common Ethical Dilemmas*. VSO Webinar. Available at <https://www.tn.gov/content/dam/tn/veteranservices/learning/powerpoints/quarterly-training-2019/2019%20Ethics%20-%20VSO%20.pdf>.

<sup>36</sup> The American Bar Association's Model Rules of Professional Conduct are available at: [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/).

- Reporting Professional Misconduct. An accredited representative or agent who knows that another representative or agent has committed a violation of the VA Accreditation Program's Standards of Guidance that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a representative or agent in other respects, shall inform the appropriate professional authority.<sup>37,38</sup>
- Misconduct. It is professional misconduct for an accredited representative or agent to engage in conduct that the representative or agent knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to their representation.<sup>39</sup>

\* \* \*

A little over two years ago, the VA announced that satisfaction rates, as reported in-house, among veterans that receive services through the Department are at an all-time high.<sup>40</sup> The Veterans of Foreign Wars (VFW) came to a similar conclusion a year prior in their own annual survey.<sup>41</sup> This improvement should be celebrated and is a testament to the incredible progress the Department has been able to make in partnership with this Committee. However, the work is not yet over. We must continue to push towards equitable and intentional inclusion of our most underserved communities. Our organization's own membership has consistently expressed reservations in engaging with traditional VSOs and accessing Departmental services and spaces for fear of their safety or for feeling unwelcome. These veterans are then faced with the reality of accessing spaces that actively harm them as they seek due and necessary support, or to forego those earned benefits and services entirely.

---

<sup>37</sup> This proposed standard is modeled off standard 8.3 in the ABA's model. Available at: [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_8\\_3\\_reporting\\_professional\\_misconduct/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_8_3_reporting_professional_misconduct/).

<sup>38</sup> See also Note 16.

<sup>39</sup> This proposed standard is modeled off standard 8.4(g) in the ABA's model. Available at: [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_8\\_4\\_misconduct/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_8_4_misconduct/).

<sup>40</sup> Department of Veterans Affairs. (2020). Veteran trust in VA reaches all-time high. Press release. Available at: [www.va.gov/opa/pressrel/includes/viewPDF.cfm?id=5464](http://www.va.gov/opa/pressrel/includes/viewPDF.cfm?id=5464).

<sup>41</sup> Veterans of Foreign Wars. (2019). Our care 2019: A report evaluating veterans health care. Available at: [www.vfworg-cdn.azureedge.net/-/media/VFWSite/Files/Advocacy/VFW-Our-Care-2019.pdf?&la=en&v=1&d=20190927T135726Z](http://www.vfworg-cdn.azureedge.net/-/media/VFWSite/Files/Advocacy/VFW-Our-Care-2019.pdf?&la=en&v=1&d=20190927T135726Z).

This Committee and the Secretary have both accepted the notion that when we build an equitable system with the most marginalized at the forefront, it will inherently support those with more privilege. Under Secretary McDonough's leadership, the Department has begun to repair the broken trust and confidence in our disenfranchised communities. We are confident those relationships will continue to be repaired in the coming years with the bipartisan support of this Committee. One again, I thank you for the opportunity to submit this statement for the record. My team and I look forward to continuing to work with you and your offices, and to support your efforts in better serving our minority veteran populations. If we can be of further assistance, please feel free to contact me directly through the information provided below.

Very Respectfully,

/s/

Andy Blevins, JD, MBA

*Policy Counsel*

e: [ablevins@minorityvets.org](mailto:ablevins@minorityvets.org)