

The Importance of Veterans' Choice

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According to the Bureau of Labor Statistics (2023) as of August 2022, 4.9 million U.S. Military Veterans, which equates to 27% of Veterans overall, have a service-connected disability. To have a service-connected disability means that the Veteran experienced an event during their time in service that has caused them to leave the military differently than they joined – whether physically or mentally. It also means that the Veteran has gone through the VA claims process through the Veteran Benefits Administration (VBA) and was able to provide evidence that their medical condition is tied to their service. When a Veteran chooses to undergo the VA Claims process, they have multiple resources and choices for assistance through the process, or they can undertake their claim themselves. Some of the resources or services offered to Veterans going through the claims process are Veteran Service Officers (VSOs) who are funded by the state that they operate out of, Disabled American Veterans (DAV) is a group funded solely by donations from the public, lawyers can assist, and private companies are also able to assist. The problem begins here: In August of 2022, the Promise to Address Comprehensive Toxins (PACT) Act was legalized, which in turn allowed more than 1 million Veterans or their surviving dependents to file claims for conditions derived from toxin exposure within one year (Marszalek, 2023). This, in itself, is not a problem as now millions of Veterans are receiving the benefits they deserve – but at what cost? With the staggering number of claims needing to be filed and Veterans needing to be assisted, private VA claim assistance companies have been on the rise. These companies charge a fee (which can range from hundreds to tens of thousands of dollars) to Veterans that they assist, and are also operating as VA-unaccredited organizations, meaning that they have no tie to the VBA, nor are there any laws that they must abide by regarding fees, training, or code of ethics. On the contrary, the DAV and VSOs operate free of charge to Veterans and go through a rigorous accreditation program, and being accredited comes with

many rules and regulations. This paper will discuss the Governing Unaccredited Representatives Defrauding VA Benefits Act of 2023 (GUARD VA Act) – a bill backed by dozens of Congresspeople (“All Information,” 2023) that proposes the illegality of non-accredited private VA claims companies charging Veterans for services and assistance. This paper will aim to show why the GUARD Act may not be the answer, and **Both Accredited & Non-Accredited VA claim organizations should be able to operate within ethical and legal boundaries with the sole mission of helping Veterans through the claims process to improve Veterans’ overall quality of life.**

One of the most important questions that needs to be asked is, ‘Why do these non-accredited VA claims companies exist in the first place?’ One would assume, that if you can receive a service or assistance with something for free, you would take the free route – no questions asked. In the world of VA claims, though, questions do need to be asked. There have been reports about VBA employees leaving (Chan, 2023) and the VA has even published articles about how they have planned to overcome some of the obstacles they have dealt with before the influx of claims from the PACT Act (Lett, 2021) which shows that there must be some internal issues going on at the VBA to include both staffing and education problems, which I will discuss in more depth. I am close friends with someone who recently left her job as a VSO due to the VA’s quotas and the inability to assist Veterans the way that she had ‘signed up to do’. This individual went through the accreditation process and worked as a VSO for two years, including the time right after the PACT Act was passed – so she was in the thick of it. She expressed to me almost weekly that her job was slowly killing her because she was so stressed out about meeting the quotas and requirements for claims filed that she couldn’t sit there to spend time and assist her Veteran clients all the way through the process. Not only was her case-load unmanageable,

but she expressed that she would have to speak with Veterans on a daily basis about some of the worst days of their lives, in detail, and that could wear on anyone mentally. Since 2020, over 2,000 accredited employees have either resigned or retired from their employment with the VBA (Chan, 2023) which presents an all-new issue: training and keeping up with caseloads. A VBA employee expressed that she would see 25 new claims enter her queue every day, and this was on top of the claims she was unable to process the day before – and it just builds from there each day (Chan, 2023). This is similar to the conversations I would have with my friend who was employed with the VBA – not only would things stack up, but there is no time to really sit there and provide the additional customer service or ear to speak to that a Veteran needs, especially when entering into this process. Not only can these quotas and demands affect the overall stress of the employees, but so does the subject matter, which explains the mass exodus of VBA employees over recent years. I currently work with another former VSO who was employed for four years, and she has mimicked all of the same sentiments, with the main one being the ethical toll it took on her to have to abide by a quota to keep her job when all she wanted to do was help Veterans and keep her family fed. This was mirrored by a Navy Veteran who also worked with the VBA and ended up retiring in 2020 due to the “stress on internal ethics”. She also mentioned that “she was worried she would lose her job if she spent too much time on a case. It was easier and quicker to look for something to discredit a claim and close it out, rather than find ways to improve it.” (Chan, 2023) That is no way to operate when the entire premise of the Veteran Benefits Administration is to administer the benefits to Veterans that they deserve – not look for ways to deny claims so that their quotas are met. The internal issues going on with the VBA directly affect the processing time and accuracy of claims filed, which in turn affects how long it takes for Veterans to receive the benefits that they deserve. These issues have been going on long

before the PACT Act came to fruition, “the disability compensation program has had longstanding challenges in managing large workloads and making timely decisions” and points out the important fact that, “every time Congress changes the contracts for Veterans, they are more complex for the claims processors to understand.” (Chan, 2023) This means that both the claims’ processors and the VSOs or DAV employees must learn all new terminology, processing guidelines, and new manuals to study and reference. When mentioning timely decisions from the VBA, although there is no way to get a claim to process faster through the system (unless the Veteran is determined in ill health, over 65, or at risk of homelessness), a well-put-together claim with substantiating evidence showing service connection to the Veteran’s conditions can affect the timing and processing of their claim, meaning that the Veteran is awarded their benefits in a timelier manner. If the DAV and VSOs were able to put more time into putting together a Veteran’s claim on the front end and supporting them throughout the process, there would be much less work on the back end of the claim with appeals and anything else that may need to file down the line if it wasn’t caught the first time. This is where the private, non-accredited companies are coming in and offering a ‘convenience fee’ for assisting Veterans through the claims process.

Non-accredited companies that assist with VA claims are doing it for either of two reasons (or both): for financial gain and genuinely to help Veterans. Some may find that charging Veterans for a service that the Veteran could also get for free is unethical – but is it always the same service? These private companies claim to be able to provide more hands-on assistance to each Veteran to help them gain the full entitlement to their disability benefits – but how far is too far? Some of these companies have their own doctors on staff so that the doctor can write a ‘nexus letter’ which tells the VA that the Veteran has been seen by a doctor, and in the doctor’s

medical opinion, the disability or condition at hand was more likely than not related to the Veteran's time in service. Is it moral or ethical to be able to pay off a doctor so that the Veteran can receive a higher rating? These medical professionals are willing to put their medical licenses on the line for these nexus letters because each letter can be worth anywhere from \$500-\$10,000 to a Veteran and the Veteran is willing to pay because they know that they will be receiving monthly compensation for the rest of their life, which would be far over the amount of that letter. There have been multiple lawsuits against these non-accredited companies and in the lawsuits, one of the main contentions is that the companies use false advertising to lure Veterans in and take advantage of a Veteran's confusion while facing the claims process. (Rizzi, 2023). The major contentions in this lawsuit are that the non-accredited company did not provide the services that were promised and made false statements about the VA approving of their operation. The class-action lawsuit alleges that the company is operating illegally due to its non-accredited status. It is also not hard to find articles about 'predatory' or 'claim shark' companies, such as the one penned by Steve Walsh. His article goes into depth with the experience of a Navy Veteran who chose to go through a non-accredited claim company after multiple attempts at filing her own claim and dealing with multiple appeals. The Veteran agreed to the terms of the company and their contract and went through the claims process with their guidance and assistance. In the end, the Veteran was awarded the disability that she deserved but had to pay a hefty fee of \$10,000 when she was only awarded \$11,000 in back pay. (Walsh, 2023). To some, this may sound unethical and could be considered taking advantage of the Veteran when the system is so convoluted, but in the eyes of the claim company, they were able to assist this Veteran, in particular, with receiving benefits that she was unable to attain when going through the claims process on her own or through an accredited source. Ethically wrong or morally right,

the company did make a significant difference in the Veteran's life, which is why these companies can be very important and useful to Veterans and the VBA claims processing system.

The existence of these non-accredited claim companies is primarily important because it gives Veterans a choice. Each Veteran rose their right hand to fight for the freedom of this country, and with that, comes the freedom of choice. Who are we to take away a viable option for Veterans to receive the benefits they deserve? As mentioned previously in the article by Steve Walsh, the Veteran did have to pay \$10,000 to the company as the fee for their assistance; what I didn't mention previously, is that this Veteran will now be getting those benefits every month for the rest of their life, and even their dependents are now eligible for benefits – something that was unobtainable previously because the assistance wasn't there. In my own experience, I went through the claim process three separate times. The first two times I sat down with a VSO, told them my ailments, put them on paper, and was told I would be contacted by the VA in a month or so to schedule my compensation & pension exams (a key part of the claims process where you are assessed by physicians in the community and their assessments are sent back to the VA for the raters to review) and that was that. I went into the exams without knowing how to express what I experience for pain daily, and when asked about my Post Traumatic Stress Disorder (PTSD) claim, I shut down. This happened the first two times I filed my claim. The third time was the charm. The difference? My friend was a VSO and she was eager to help. Not only did we deploy together, but we are also part of the same non-profit organization, so we see each other regularly, especially during the time that I was going through my third claims process. She would take time outside of work to meet with me and discuss what I was going through and would ask me questions that made me realize there were some conditions that I had that I hadn't even thought about being from service, or I just forgot about. She took the time to walk me

through what the exams would be like and how to express my pain or trauma. She did this on her own time because, during the day at her job as a VSO, she didn't have time to sit with me and ask questions, or sit with me to answer questions. When this claim finally processed 9 months later, I reached the maximum disability rating and knew that all of the conditions listed under my disability were truly connected to my service and I deserved the rating I received. I mention my experience for a few reasons: 1) my friend's willingness to take the time and provide the extra service and care to know and understand what I go through as well as prepare me for what to expect through the claim process assisted in my final disability rating in a very large way and, 2) if I had her time and assistance from the beginning when I filed my original claim, I would have had the rating that I deserved, years earlier which meant thousands of dollars were missed out on, as well as all of the additional benefits including free education. The importance of taking the time to get to know the Veteran and better understand what they are going through mentally or deal with physically makes a huge impact on the outcome of the claim. Not only that, but it also keeps the Veteran from having to go through the process multiple times; the claims process can be incredibly triggering to Veterans and is usually very stressful. This brings up the point that Veterans need support while going through the claims process. This doesn't mean that the person assisting with the claim needs to become a therapist, but it does mean that the organization or company handling the claim needs to be sure that they can answer questions that will help to reassure the Veteran or provide them guidance. The Veteran's mental and physical health should be the number one priority for anyone involved in the process, and that begins with supporting the Veteran. These non-accredited companies are able to assist Veterans because Veterans are choosing to use them as their VA claim assistant – whatever that may look like - and sometimes with a choice comes a convenience fee or service charge. Implementing the GUARD VA Act

would make it illegal for these companies to charge any sort of fee to any Veteran (“All Information,” 2023), effectively destroying these companies that have proven to help thousands of Veterans.

The GUARD VA Act is a step in the right direction, but it doesn't solve the problem. If the option for Veterans to use these non-accredited VA claim companies, then Veterans lose the opportunity to work with companies that employ past VBA employees with a wealth of knowledge and eagerness to assist Veteran's with their claims while actually having the time to respond to the Veteran as needed, or be there to reassure the Veteran throughout the claims process. These non-accredited companies would have to jump through extreme hurdles to become accredited, and some of the requirements of accreditation severely limit how the Veteran is able to be helped (for example: a non-accredited company can suggest that other ailments may be bothering the Veteran based off of the conditions that the Veteran has already shared, while accredited organizations are very limited on what suggestions or recommendations they can make. Imagine going to the doctor and telling them something is wrong with you, and the doctor not being able to ask what that has led to, or maybe suggest something that may spark a memory or light a bulb that you hadn't realized the two conditions were tied together). The extensive regulations and rules for becoming an accredited Veteran representative are available for anyone to look at on the VA's website, but even then it can be hard for one to even figure out where to start. (*Accreditation* 2007) If the option for Veterans to use these non-accredited VA claim companies, then Veterans lose the opportunity to work with companies that employ past VBA employees with a wealth of knowledge and eagerness to assist Veteran's with their claims while actually having the time to respond to the Veteran as needed, or be there to reassure the Veteran throughout the claims process. As it stands right now, these are not customer service tasks that

accredited agencies are able to handle due to the high demand and quotas they must meet.

Congressman Chris Pappas has been outspoken about his support for the GUARD VA Act and how, “unaccredited, for-profit companies are ripping off our Veterans under the guise of helping them access their benefits” (Pappas, 2022) but the piece about ripping off Veterans is more of an opinion. There have been tens of thousands of Veterans who have used non-accredited companies and have found them to be more successful, supportive, and helpful than the accredited resources that they had used prior. The way the GUARD VA Act is written right now doesn't help the root of the problem, which starts with how the accredited companies operate. If the GUARD VA Act were to be revised and allow non-accredited companies to continue to operate and charge a fee to Veterans while being held to a high ethical code of conduct, and capping the fees they are able to charge Veterans, then the companies should be able to operate, and Veterans should be able to make a choice. The non-accredited companies should face repercussions for operating outside of the code of ethics and should have to be audited to ensure that their operations are moral and ethical. This is important to maintain a standard across the board of VA claims assistance in any capacity and should provide Veterans with more relief that their well-being and peace of mind is truly of the utmost importance throughout the VA claim process.

The internal issues that the VBA has been experiencing with its ability to retain employees, paired with the extremely high number of claims that have been filed recently, directly impacts Veterans and has effectively created a huge crisis internally at the VBA and with non-accredited VA Claims groups. This has in turn pushed Veterans to look for alternate resources and assistance through the claims process, which is where they find the non-accredited companies. These non-accredited companies effectively have no code of ethics that they must

adhere to, nor are there any laws about what they can charge Veterans for – the possibilities can be endless. Some of these companies are having Veterans pay doctors to write letters for them, or in situations where the companies have not lived up to what they had advertised, are still charging Veterans astronomical amounts for their assistance – money that the Veteran could very well have used to benefit their life in many ways. Having said that, there are non-accredited companies out there that operate on their own code of ethics and are in business purely to help Veterans receive the benefits that they deserve, and the fee helps keep the lights on so that Veterans continue to be assisted. These companies have a proven track record of positive results for Veterans' disability ratings, especially when the Veteran had used the accredited resources previously. The GUARD Act, as I mentioned before, is a great idea in theory, but will not actually fix the root of the issue and could cause more harm than good. If the GUARD VA Act was revised in ways that could protect the Veteran while still allowing these non-accredited companies to assist Veterans, that would be true progress. Both Accredited & Non-Accredited VA claim organizations should be able to operate within ethical and legal boundaries with the sole mission of helping Veterans through the claims process to improve Veterans' overall quality of life.

References

- Chan, M. (2023, September 30). *Thousands of workers leave the VA amid a flood of new cases and quota demands* [Review of *Thousands of workers leave the VA amid a flood of new cases and quota demands*]. NBCNEWS.com; NBC News. <https://www.nbcnews.com/news/us-news/thousands-workers-leave-va-flood-new-cases-quota-demands-rcna103013>
- Lett, B. (2021, October 13). *More than 2,000 new hires to assist with reducing VA claims backlog* [Review of *More than 2,000 new hires to assist with reducing VA claims backlog*]. VA.gov; US Department of Veteran Affairs. <https://news.va.gov/96047/more-than-2000-new-hires-to-assist-with-reducing-va-claims-backlog/>
- Marszalek, J. (2023, November 16). *Navigating the Complex world of PACT Act claims* [Review of *Navigating the Complex world of PACT Act claims*]. Dav.org; Department of American Veterans. <https://www.dav.org/learn-more/news/2023/navigating-the-complex-world-of-pact-act-claims/#:~:text=Since%20the%20PACT%20Act%20became,ailments%20stemming%20from%20toxic%20exposure.>
- Rizzi, C. (2023, December 5). *VA Claims Insider Lawsuit Alleges Group Is Not Accredited to Help Veterans Prep Disability Compensation Claims* [Review of *VA Claims Insider Lawsuit Alleges Group Is Not Accredited to Help Veterans Prep Disability Compensation Claims*]. ClassAction.org; Class Action.org. <https://www.classaction.org/news/va-claims-insider-lawsuit-alleges-group-is-not-accredited-to-help-veterans-prep-disability-compensation-claims>
- Pappas, C. (2022, September 19). *Pappas, Ellzey Introduce Bipartisan Legislation to Reign In Predatory Claim Sharks Targeting Veterans' Benefits*. PappasHouse.gov. Retrieved February 16, 2024, from <https://pappas.house.gov/media/press-releases/pappas-ellzey->

[introduce-bipartisan-legislation-to-reign-in-predatory-claim-sharks-targeting-veterans-benefits](#)

Veterans Affairs. (2007b, May 8). *Accreditation - Office of General Council*. VA.gov.

<https://www.va.gov/ogc/accreditation.asp>

Walsh, S. (2023, November 16). VA attempts to crack down on predatory fees related to filing veterans' claims [Review of VA attempts to crack down on predatory fees related to filing veterans' claims]. Whro.org; WHRO Public Media. <https://whro.org/news/local-news/42887-va-attempts-to-crack-down-on-predatory-fees>

(2023, March 9). *All Infomation (except Text) for S.740 GUARD VA Benefits Act of 2023* [Review of *All Infomation (except Text) for S.740 GUARD VA Benefits Act of 2023*]. Congress.gov; Library of Congress. <https://www.congress.gov/bill/118th-congress/senate-bill/740/all-info#:~:text=This%20bill%20imposes%20criminal%20penalties,Department%20of%20Veterans%20Affairs%20benefits>.

(2023, March 21). *Employment Situation of Veterans - 2022* [Review of *Employment Situation of Veterans - 2022*]. Bureau of Labor Statistics; Department of Labor. <https://www.bls.gov/news.release/pdf/vet.pdf>