

**STATEMENT OF  
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OF THE  
DISABLED AMERICAN VETERANS  
BEFORE THE  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
HOUSE VETERANS' AFFAIRS COMMITTEE  
JULY 19, 2006**

Mr. Chairman and Members of the Subcommittee:

On behalf of the more than 1.3 million members of the Disabled American Veterans (DAV), I am honored to appear before you today to discuss the role of DAV's National Service Officers in our efforts to assist veterans and their families in filing claims for benefits from the Department of Veterans Affairs (VA).

DAV has several classifications/titles of our accredited representatives: Department Service Officers (DSOs), Transition Service Officers (TSOs), National Service Officers (NSOs), National Appeals Officers (NAOs) (responsible for representation before the Board of Veterans' Appeals (BVA)) and Appellate Counsels (responsible for representation before the U.S. Court of Appeals for Veterans Claims and U.S. Court of Appeals for the Federal Circuit).

Before I discuss what we do to assist veterans and their dependents and survivors, I would like to discuss DAV efforts to ensure that our NSOs are highly trained in order for them to provide the best quality services available to our nation's heroes. As the members of this Subcommittee may know, all of our services are provided free of charge to any veteran or veteran's dependent or survivor.

I will focus my discussion on training programs for DAV NSOs since they represent the vast majority of our accredited representatives and are the only DAV accredited representatives who may represent, counsel, develop and prosecute claims, conduct hearings and perfect appeals at all levels within the Department of Veterans Affairs.

DAV hires only wartime service-connected disabled veterans for the position of DAV NSO trainees. These men and women have had personal experience with the VA claims process and the vocational rehabilitation program. The DAV NSO On-the-Job Training Program is conducted in accordance with VA's M28-1, Part 1, Appendix 2D.

The training program generally does not exceed 25 months, of which 16 months is on-job training. Depending upon the needs of the individual, all required academic courses should be completed within the 16 month on-job training period. If course scheduling conflicts or other extenuating circumstances exist, the individual may have additional time, generally not exceeding 25 months to complete all required courses.

The National Service Officer On-Job Training Program includes:

<b>Subject Areas of Concentration</b>	<b>Estimated hours</b>
<b>I Orientation in VA Regional Office</b> Office Procedure -- Layout – Personnel, etc.	40
<b>II Work in Compensation Areas</b> Claims -- Service-connection -- Rates, etc.	290
<b>III Work in Pension Areas</b> Applications -- Old and New Pension Law -- Aid and Attendance. Medication -- Income, etc.	400
<b>IV Special Service-connected Benefits</b> Automobile -- Housing -- Prosthetics -- Hospital Rating -- Veterans' Preference -- Blindness, etc.	150
<b>V Medical-Hospital Care-Outpatient</b> Entitlement -- Priorities --Domiciliary -- Nursing Home – Reimbursement, etc.	200
<b>VI VR&amp;E &amp; Education</b> Vocational Rehabilitation and Employment -- Montgomery GI Bill -- Post Vietnam Era Educational Assistance -- Survivors' and Dependents' Educational Assistance	170
<b>VII Life Insurance</b> Government -- Servicemember's Group	100
<b>VIII Survivor Benefits</b> DIC -- NSC Death Pension -- Gratuity -- Burial, etc.	137
<b>IX GI Home Loans</b> Dates -- Financing -- Interest -- FHA Insured Loans. etc.	80
<b>X Chapter Work</b> Organization -- Meetings -- Drives -- Speaking, etc.	100
<b>TOTAL HOURS</b>	<b>2,667</b>

Each individual also receives academic instruction. There are four required academic courses which may be taken through an accredited college or university: Anatomy and Physiology I, Medical Terminology, Composition I or Legal Writing or equivalent, and Public Speaking or equivalent.

Successful completion of the Compensation and Pension (C&P) Service, TRIP (Training, Responsibility, Improvement, and Preparation) Certification Training is mandatory for all National Service Offices who are authorized “read only” access to VA’s various automated client records and claim files.

DAV NSOs are the catalysts in fulfilling our ongoing mission of providing service to all of America’s disabled veterans and their families. Therefore, it is essential that training reflect the ongoing changes in the laws and regulations affecting veterans’ benefits.

The DAV's Structured and Continuing Training Program is designed for use by all NSOs. Recognized by the highly regarded American Council on Education (ACE), the DAV's course of study uses the latest technology (online training modules, video-cassettes, anatomical charts, CD-Rom library and online testing) to provide 1,180 hours of updates and refresher training to enhance the NSO's base knowledge. The program incorporates extensive training in areas of anatomy, physiology, pathology, medical terminology, communications, legal research and writing, VA laws and regulations, and interpretation of precedent decisions from the U.S. Court of Appeals for Veterans Claims (CAVC). I am providing two copies of our CD-ROM library to the Subcommittee staff.

This comprehensive course was developed for the purpose of ensuring effective job-related skills, involving paralegal and paramedical principles necessary in representation of veterans before VA Regional Offices, VA Medical Centers, BVA and before the CAVC. Additionally, this training is inherent to representation of active duty military personnel before Medical Evaluation Boards and Physical Evaluation Boards.

The training is administered by DAV Supervisory NSOs with subject matter expertise. DAV National Service staff members at National Service and Legislative Headquarters in Washington, D.C. monitor the program and the instructors. It is important to mention the training takes 152-weeks for completion. The program is conducted in back-to-back cycles due to the perpetual nature of changing veterans laws, regulations and benefits. In fact, training never ends.

To accurately ascertain NSO comprehension and subject matter expertise, NSOs are required to take a pre-test and then successfully complete each of the 32 training modules before taking a final post-test. DAV administers computer-based testing through an internet service provider, and the National Service Director is provided computer-generated reports of each NSO's progress.

Mr. Chairman, for 86 years, the DAV has been dedicated to one, single purpose: building better lives for disabled veterans and their families.

In fulfilling our mandate of service to America's service-connected disabled veterans and their families and in keeping faith with the principle on which this organization was founded, which is that this nation's first duty is to care for its wartime disabled veterans, their dependents and survivors, the DAV employs a corps of 260 NSOs, located throughout the country, about half of whom are Gulf War veterans, and a number are veterans of Operations Iraqi Freedom and Enduring Freedom. Last year alone, these highly-trained men and women, all wartime service-connected disabled veterans themselves, represented—free of charge—over 250,000 veterans and their families in their claims for VA benefits, obtaining for them more than \$2.7 billion in new and retroactive benefits. Our NSOs also participated in 199,302 Rating Board appearances.

As part of their duties, NSOs advise and assist veterans or their dependents in presenting claims for:

- Disability compensation

- Death benefits
- Pension
- Education
- Rehabilitation and employment
- Other benefits to which Federal, State or local laws may entitle them.

NSOs evaluate claims by reviewing legislation and precedents and by studying veterans medical reports and service histories, obtain claimants' powers of attorney, prepare claim forms and briefs and assemble pertinent evidence. They request hearings before proper Government boards and orally present briefs. Finally, they review rating board decisions to decide whether appeals are warranted.

Of the 34,175 appeals decisions decided by BVA during 2005, 11,168 appeals were represented by DAV NAOs. During the period, the average BVA allowance rate among veterans service organizations was 21.7 percent. The allowance rate for attorneys was 21.1 percent.

Specifically, during 2005, DAV represented 2,457 appeals that were allowed by BVA, or 22.0% of our represented appeals. In another 4,382 appeals, or 39.2 %, the appeal was remanded to the agency of original jurisdiction. DAV represented appeals were higher than the overall averages for allowances—20.8%—and remands—38.6%. Average allowance rates among the veterans service organizations are again higher than allowance rates for attorneys thus far in 2006. With a 21.3 percent allowance rate as of the end of April 2006, *attorneys are below the overall average BVA allowance rate for all appeals—including those with no representation—of 21.6 percent.*

DAV's Appellate Counsels filed 374 Notices of Appeal with CAVC between May 2005 and April 2006. During this same period, CAVC disposed of 433 appeals filed by the DAV. Of the 433 appeals completed by CAVC, 291 appeals were reversed, vacated or favorably settled. There were Joint Motions for Remand in 126 appeals, and only 16 appeals were affirmed by the Court.

Mr. Chairman, the DAV continues to strive to more effectively meet veterans' needs and ensure they receive the benefits our grateful nation has authorized for them. Several years ago, DAV undertook two additional initiatives to enhance and expand benefits counseling and claims representation services to the veterans' community. The first of the two programs involves outreach to members of the Armed Forces at the location and time of their separation from active duty. The second involves services to veterans in the communities where they live.

For benefits counseling and assistance to separating servicemembers in filing initial claims, the DAV has hired and specially trained 24 Transition Service Officers (TSOs), who provide these services at military separation centers, under the direct supervision of DAV NSO Supervisors. This enhancement in assistance to those seeking veterans' benefits will contribute to the DAV's goal of maintaining its preeminent position as a provider of professional services to veterans. In 2005, our TSOs conducted 2,068 briefing presentations to groups of separating servicemembers, with 103,963 total participants. TSOs counseled 55,070 persons in individual

interviews, reviewed the service medical records of 43,500 and filed benefit applications for 28,137, again, at no charge to the separating servicemembers.

During the first six months of 2006, our TSOs conducted 835 briefing presentations to groups of separating servicemembers, with 40,605 total participants. TSOs counseled 25,295 persons in individual interviews, reviewed the service medical records of 20,020 and filed benefit applications for 10,092.

The DAV's Mobile Service Office (MSO) program is a part of the same goal of service to veterans. By putting our NSOs on the road to rural America, inner cities, and disaster areas, the DAV assists veterans where they live, which increases accessibility to the benefits our nation provides for veterans. The DAV has 10 of these specially equipped MSOs on tour to make stops in the communities across this country (two other MSOs have been sold to the DAV Departments of Florida and Missouri for their exclusive use). During 2005, our 10 MSOs interviewed 13,384 persons and filed 4,045 claims. They visited 519 sites and were available at 12 special events, such as National Air Shows, NASCAR races, military retiree conventions, and homeless veteran stand downs.

These specially equipped MSOs and disaster relief teams were deployed by DAV to the Gulf Coast regions hardest hit by Hurricanes Katrina and Rita. These mobile offices allow the DAV to provide much-needed assistance to displaced disabled veterans and their families. As many residents of the stricken areas were evacuated to other communities, the DAV NSOs nationwide assisted qualified veterans at the various evacuation sites and elsewhere. To date, in support of DAV's disaster relief efforts, nearly \$1.8 million in direct assistance was provided to disabled veterans and their families.

From January 1-June 14, 2006, DAV MSOs visited 177 sites, interviewed 4,508 persons, and filed 1,819 claims.

In closing, let me state that the VA benefits delivery system was designed to be open, informal and helpful to veterans. The goal was to ensure that veterans receive the benefits a grateful nation has provided for them rather than discourage or inhibit their claims with red tape or lengthy litigation. Pursuant to title 38, Code of Federal Regulations, § 3.103(a): "Proceedings before VA are *ex parte* in nature, and it is the *obligation* of VA to *assist* a claimant in *developing* the facts pertinent to the claim and to *render* a decision which grants every benefit that can be supported in law while protecting the interests of the Government." (Emphasis added.)

Veterans, who fought for our country, should never have to fight our government to get the benefits a grateful nation has provided as a reward for their sacrifices and service. It is intended that these benefits be provided with a minimum of difficulty for the veteran claiming them.

It is important, we believe, to remain mindful that veterans obtain their benefits through an informal, non-adversarial and benevolent claims process, not a litigation process. The fundamental distinctions between the VA process and litigation reflect the clear congressional

intent and a system deliberately designed to permit veterans to receive all the benefits they are due without any necessity to hire and pay lawyers.

In the VA process, its employees counsel veterans based on eligibility and their potential entitlement to benefits. The VA will assist a veteran in completing and filing the relatively informal application for benefits. The VA takes the initiative to advance the claim through the appropriate steps. Congress placed the duty on the VA to ensure all alternative theories of entitlement are exhausted and all laws and regulations pertinent to the case are considered and applied.

Admittedly, the VA often has fallen short of serving veterans in the manner intended. It sometimes denies veterans' claims erroneously, even arbitrarily. Veterans sometimes do have to fight an aloof bureaucracy to obtain what they are clearly due.

I would call upon this Subcommittee to focus its attention on requiring VA to concentrate its efforts on meeting the requirements of § 3.103(a). By doing so, this Subcommittee will not only benefit veterans, but will ensure that wasteful and redundant adjudication of claims will be eliminated.

I am very proud of what the DAV stands for and what we have accomplished in our 86-year history. The DAV sincerely appreciates this Subcommittee's interest in the VA claims process and our efforts to represent veterans and their families in their claims for benefits. On behalf of the 1.3 million members of DAV, I thank you for this opportunity to submit our views on this important issue. I would be happy to answer any questions you may have.