FROM THE INSIDE OUT: A LOOK AT CLAIMS REPRESENTATIVES' ROLE IN THE DISABILITY CLAIMS PROCESS

HEARING

BEFORE THE

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FROM THE INSIDE OUT: A LOOK AT CLAIMS REPRESENTATIVES' ROLE IN THE DISABILITY CLAIMS PROCESS

Wednesday, April 18, 2012

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 334, Cannon House Office Building, Hon. Jeff Miller [Chairman of the Committee] presiding.

Present: Representatives Miller, Johnson, Runyan, Benishek, Reyes, Michaud, Braley, McNerney, Donnelly, Carnahan.

OPENING STATEMENT OF CHAIRMAN JEFF MILLER

The CHAIRMAN. Good morning, everybody. Welcome to this morning's hearing, a timely topic I am sure. We are here today to review the veterans service organizations' roles in the disability claims process. Initially I want to thank The American Legion, who are here today, for bringing this topic to the Committee's attention. This topic was noted in a letter that was sent to me by your commander and the veterans service officers on what the VSO's role is in the claims processing system. I know it is integral in the claims process. I want to begin today on a positive note in discussing some of the tremendous parts that VSOs do play on behalf of our Nation's veterans.

VSOs fulfill an invaluable service to our veterans by aiding them in navigating a complex and confusing system to receive the benefits that they have earned. As I have mentioned numerous times in the past, and other Members of this Committee have as well, our veterans put their life on the line to defend our liberties and our freedom. Just as our servicemen and women fulfilled their duty to serve and defend our country we have an equal duty to ensure that they receive what they have earned. VSOs are helping to fulfill this commitment everyday by helping veterans navigate the claims process, very often enabling veterans to obtain earned benefits. And they provide this service free of charge. In addition, being represented throughout the claims process is effective. Study after study shows that veterans with representation do in fact have a greater chance at recovering their earned benefits than if they are not represented by a VSO, an agent, or an attorney.

I would also like to recognize a positive change in recent years which has involved a move towards increased cooperation and partnership between the VA and the veterans service organizations. Placing the veteran and his or her needs at the center of the objective facilitates the spirit of cooperation that we are here today to

examine and hopefully to improve. I hope to see continued progress in this direction going forward.

However, part of this Committee's function is oversight, ensuring that everything is done to assist our veterans to the full extent that our resources can realistically permit. To this end, and in the spirit of cooperation, it is my hope that we can explore what can be done to improve VSO representation throughout all stages of the disability claims process, as well as surveying some of VBA's weaknesses in this regard. For example, there are enormous challenges with the evolving structure of the Veterans Benefits Administration. Most of these changes have originated in the process of bringing VBA into the 21st Century. These adjustments present increasing challenges for VSOs and VBA. We have a duty to explore the limitations of VSO resources when presented with an increased workload resulting from these transitions, as well as the result of sacrificing quality in working a claim due to the sheer volume and increased complexity of the claims that they are receiving.

I also intend to investigate some of the weaknesses in the claims process itself with respect to the Veterans Benefits Administration. The track record over several decades of VBA in implementing sweeping improvements to its claims process has been substandard. Now with two wars winding down, and an increasingly aging veteran population, it is imperative that the much touted technological and training improvements are set up correctly and are used efficiently.

I have vowed that this Committee will continue vigorous oversight to see these goals are accomplished and I reaffirm that promise today before each of you here. And to this end I would like to thank all of our witnesses for their attendance at this morning's hearing as well as for their ongoing service to our Nation's veterans.

I now turn to the Ranking Member for his opening statement. And as you know Mr. Reyes your full statement can be entered into the record if you choose to use a synopsis. You are recognized.

[THE PREPARED STATEMENT OF CHAIRMAN MILLER APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. SILVESTRE REYES, ACTING RANKING DEMOCRATIC MEMBER

Mr. REYES. Thank you, Mr. Chairman. Let me add my welcome and thanks for all your work on behalf of our veterans. Mr. Chairman, I also want to thank you for holding this very important hearing. Today we have many well informed stakeholders in this room with us. I thank the VSO witnesses for being here and I also want to thank you for your tireless effort on behalf of our Nation's veterans.

I see today's hearing as a timely opportunity to focus on bringing more solutions to the table about how to improve the disability claims processing system to produce better outcomes for our veterans. I think, Mr. Chairman, we all know what the problem is. Over 1.3 million claims and appeals jammed in a flawed processing system in an organization with a current management culture that often overemphasizes production over quality.

Well quantity over quality will not work when it comes to our veterans. We need to get claims done right the first time, as if a do over was not an option. There is no shortcut of getting around the basics of having well trained employees who are empowered with the right tools and the right systems to get the job done right the first time. That is why I still remain concerned that the work credit system may not keep the focus on the veterans but on turning out work.

VA's claims backlog problems are not new and many of VA's current "new solutions" have already been done in different iterations. What is different is that we have veterans returning home from, as you mentioned Mr. Chairman, two wars that we hope are winding down and have serious signature injuries like PTSD and Traumatic Brain Disorder.

At last 26 percent of our returning veterans will suffer from one of these injuries which require a huge commitment. We have veterans committing suicide in shameful numbers, the most recent figure being 18 veterans every single day. That is one veteran every 80 minutes, over 6,500 a year. That means that before this hearing is over a veteran will have taken his or her life. That has to break our hearts.

Having any system take the current claims processing system where over 65 percent of claims are in backlog should also break our heart. We need to get this right so that no claims are languishing and that veterans, their families, and survivors get the benefits that they have earned and deserve without delay.

Like many of you I agree with Ranking Member Filner that VA should remember that VA should stand for Veteran Advocate and not Veteran Adversary. To that end I am glad that we now have a secretary who understands that part of VA's mission is advocacy. I understand that since passage of Public Law 110–389, the Veterans Benefits Improvement Act of 2008, the Secretary has been much more receptive and inclusive of our VSO partners. He has done this by including them in meetings on critical issues, including larger initiatives like Veterans Benefits Management System and eBenefits. I understand that there is even a stakeholder enterprise portal well underway which may allow the thousands of service officers, including our state, local, and county service officers, to have needed access to veterans claims information.

These are all great initiatives. But simply put, much more needs to be done. Today we have received a number of well thought out and informed comments in the testimony that has been submitted. I am confident that VA will take them under serious advisement. It is up to us, Mr. Chairman, to make sure that that happens. I warn that in order for these recommendations to receive serious consideration it will require a culture change at our VA. One where veterans receive the benefit of the doubt. The VSOs along with many other stakeholders are the veterans' advocates and VA needs to continue to do outreach to make their voices a part of the transformation process.

We must continue on a path to making the claims system provided to our veterans first rate, world class, and uncompromising. Where it has to simply be done right the first time.

And before yielding back time, Mr. Chairman, I hope we still include a hearing where we bring Secretary Shinseki and Secretary Panetta together to start working on a single system that will provide much better service both for active duty and veterans in the whole scheme of things.

So with that thank you again for holding this hearing and I yield back my time.

[THE PREPARED STATEMENT OF HON. REYES APPEARS IN THE APPENDIX]

The CHAIRMAN. And thank you very much for your comments regarding Secretaries Panetta and Shinseki. We are working both through HASC and our Committee to set the schedule. As you well know we are working on the Defense Authorization Bill.

Mr. REYES. Yes.

The CHAIRMAN. As soon as that is over Chairman McKeon has said that we will schedule some times.

Mr. REYES. Great.

The CHAIRMAN. So thank you very much. Thank you and welcome to our first panel. We are glad to have you here today.

Our first panel consists of Jeff Hall, the Assistant National Legislative Director for the Disabled American Veterans.

Next we will hear from Mr. James Wear, the Assistant Director for Veterans Benefits Policy for the Veterans of Foreign Wars.

And finally we will hear from Mr. Randall Fisher, the Department Service Officer of Kentucky for the American Legion.

I thank you all for being here today. We appreciate the testimony that you will be providing to us and Mr. Hall, we will begin with you. And you are recognized for five minutes.

STATEMENTS OF MR. JEFFREY HALL, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; MR. JAMES WEAR, ASSISTANT DIRECTOR FOR VETERANS BENEFITS POLICY, VETERANS OF FOREIGN WARS; AND MR. RANDALL FISHER, DEPARTMENT SERVICE OFFICER OF KENTUCKY, THE AMERICAN LEGION

STATEMENT OF MR. JEFFREY HALL

Mr. HALL. Thank you. Chairman Miller, Mr. Reyes, and Members of the Committee, it is an honor to be here today on behalf of DAV's 1.2 million members, all of whom are wartime disabled veterans, to share some insights into the role of service officers and our views about the ongoing transformation of the VA's claims processing system.

Mr. Chairman, as you well know VSOs play an integral part in the disability claims process. VSOs assist VA by reducing its workload, ensuring claims decisions are more accurate, and helping to improve and redesign VA's claims processing system. Since 1920 DAV has provided free representation to all veterans and their dependents who are seeking entitlement to VA and other government benefits. DAV has the largest service program with 100 national offices and approximately 240 national service officers and 30 transition service officers who helped file almost 250,000 claims last year alone.

DAV NSOs focus on educating disabled veterans about their benefits and the claims process, assisting them with filing claims for benefits, and advocating on their behalf to ensure that they receive all of their earned benefits. One of the key reasons for our success at DAV, and an essential element we believe for VA to be successful, is our unwavering commitment to our training program. To create and maintain the culture at DAV to uphold our core values of service, quality, integrity, and leadership every DAV service officer is required to participate in a comprehensive training program that lasts throughout their career. New NSOs must successfully complete a rigorous 16-month on the job training program which includes mandatory college courses. And new trainees are regularly tested throughout their training to ensure the mastery of the subject matters and operating procedures, and must also pass a comprehensive test at the completion of their training.

After completing the initial 16 months of their training period all of our NSOs participate in DAV's comprehensive 32-month structured and continued training program which is designed to provide an in depth knowledge and understanding of VA's adjudication process as well as the VA's schedule for rating disabilities, and the most recent changes to statutes, regulations, policies and case law affecting veterans benefits.

By comparison, Mr. Chairman, VBA's training is much shorter, less rigorous, and has fewer testing requirements. As such we continue to recommend that VBA significantly increase the hours devoted to annual training and like DAV require all employees, coaches, and managers to undergo regular testing that measures their job skills and knowledge as well as the effectiveness of their annual training.

Mr. Chairman, DAV NSOs and TSOs place a strong emphasis on the vital role claimants can play in the process by encouraging them to be proactive in gathering as much evidence as possible, particularly private medical records using the new disability benefits questionnaires. We have worked with VBA to ensure the new DBQs ensure an accurate and efficient template to capture the relevant medical information needed to substantiate a claim.

However, we are concerned that a longstanding cultural bias within VBA against private medical evidence could limit the effectiveness of the DBQs. Although the law does allow the use of private medical evidence it does not require that it be given equal weight the same as VA medical evidence. To address this problem we recommend the Committee approve legislation requiring VA give due deference to private medical evidence that is competent, credible, probative, and otherwise adequate for rating purposes.

DAV has also worked closely with VBA in the development of the fully developed claims process, the new rating calculators, evaluation builders, and simplified notification letters. We also have regular interaction with the new IT development, especially eBenefits, the VBMS, and the stakeholder enterprise portal.

Overall, there is a significant change in VBA's openness to partnering with VSOs. And Under Secretary Hickey is setting a positive tone that will pay dividends for VBA, VSOs, and most importantly for veterans. We have also worked very closely with the compensation service in development their new operating model

thanks to the same commitment to partner with VSOs by Director Tom Murphy.

Mr. Chairman, we are all aware of the significant problems and challenges faces by VA as it seeks to reform the claims processing system. While Congress has increased resources, funding, and personnel over the past several years there has also been a major increase in the number of claims filed, the number of contentions per claim, as well as the complexity of the rating decisions.

In closing, Mr. Chairman, the backlog of claims that are pending is too high and the accuracy of claims decisions remains too low. However, we must all remember that eliminating the backlog is not necessarily the same goal as reforming the claims processing system, nor does it guarantee that veterans are better served. The backlog is a symptom; not the root cause of a broken system. VBA is now in the third year of its major transformation of the claims processing system, one that we believe can and must be successful. We urge this Committee to continue providing strong oversight to ensure that enormous pressure on VBA to show quick progress towards eliminating or reducing the claims backlog does not result in short term gains at the expense of true long term reform.

With that this concludes my statement and I will be happy to answer any questions you or the Committee may have.

[THE PREPARED STATEMENT OF JEFFREY HALL APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you very much. Mr. Wear, you are recognized.

STATEMENT OF JAMES WEAR

Mr. WEAR. Good morning. On behalf of more than two million men and women of the Veterans of Foreign Wars of the United States and our auxiliaries I would like to thank you for the opportunity to testify today regarding veterans service organizations' role in the disability claims process.

In 2011 the Veterans of Foreign Wars helped more than 97,000 veterans and survivors receive over $2 billion in compensation and pension benefits. In addition, in fiscal year 2011, the VFW represented more than 3,700 appellants at the Board of Veterans Appeals. Our grant rate was 30.7 percent. This is higher than the rate achieved by attorneys and it was 8 percent higher than that attained by veterans with no representation. These show that representation by our service officers and appellant consultants clearly helps veterans and their claimants submit complete claims or appeals and obtain the benefits to which they are entitled under the law.

We provide all these services to veterans for free. We do not take a dollar in grants or payments from the Federal government to provide these services. We do these things because we recognize that the laws and regulations dealing with veterans benefits are complex, the claims process is often difficult to navigate. We do these things because veterans have already sacrificed for our country and whatever assistance they receive from our government should not require additional struggle and lengthy uncertainty.

New VFW service officers are given a 40-hour classroom "boot camp" where they receive intensive training on all VA benefit programs with special emphasis on compensation and pension. Also all 245 veterans service officers who work in VA regional offices attend training each year. This training is very technical in nature with heavy emphasis on topics regarding the rating schedule. Our goal is to ensure our service officers know VA laws and regulations as well as or better than the employees with whom they deal daily.

Once a problem with a decision has been identified we expect our services officers to use the facts, laws, and regulations to convince VA to change the decision in favor of the claimant. In all we provide approximately 80 hours of classroom training each year for each VFW service officer, which is almost 20,000 hours of classroom training every year at a cost of nearly $14.5 million.

Between training conferences, our national staff is constantly monitoring various sources of change to identify changes that might affect veterans. We analyze these changes, discern how they might impact veterans benefit programs, and then notify our service officers of the change and what it means to them. These Updates are distributed several times each month.

It is important to understand that veterans service organizations are advocates for veterans and partners or stakeholders with VA. Our relationship with Secretary Shinseki and VBA leaders has steadily improved. We have tried to demonstrate to VA that while we are advocates for veterans and will hold VA accountable for doing its many and varied jobs, we are also willing to work with VA to help ensure that change when it occurs is at least neutral in its effect on veterans. More importantly, we seek to identify win-win opportunities, initiatives for improvement which will help both VA and veterans.

The VFW and representatives from the largest veterans service organization have been meeting with VBA on numbers of initiatives, including eBenefits, Veterans Benefits Management System, better known as VBMS. We recognize and support VBA's plans on expanding customer and service organization interaction with VA. VA plans to allow claimants and service officers to submit information and claims electronically. VA indicates that it embraces the idea of permitting veterans to electronically change their contact information, such as address, or report changes in income for pension, or report changes in their dependents. Any initiative which allows claimants and their representatives to submit data electronically, or to affect minor changes to awards based on user input port-ends enhanced service to veterans and great savings in time and money to VA.

We recognize and support VBA's plans on expanding customer and service organization interaction with VA.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you or any Member may have.

[THE PREPARED STATEMENT OF JAMES WEAR APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you very much for your testimony. Mr. Fisher you are recognized for five minutes.

STATEMENT OF RANDALL FISHER

Mr. FISHER. Thank you. Good morning Chairman Miller, Ranking Member Reyes, and distinguished Members of this Committee. Thank you for the opportunity to come before you today to discuss the role of the service officer in the disability claims process. I am honored to represent over 2,000 accredited service officers of the American Legion. We are the front line soldiers in the fight to get veterans the benefits they have earned through their service and sacrifice. In many ways we are uniquely qualified to talk about the struggle of these veterans because we see them face to face on a daily basis.

As an American Legion department service officer there are several things we focus on to make sure that we do the best possible job for our veterans. As this Committee is surely aware the disability claims process is pretty confusing for the layman. Even for the people who work with this system on a daily basis it can be pretty confusing sometimes. In the American Legion we are veteran focused and put veterans first. Most of our service officer veterans are closely connected to the veterans community through spouses, sons, and daughters. This is important because we speak the language of veterans. We know at a glance what all the information on a DD–214 means. We can picture exactly what is happening in a report of action because we have been there. We also can speak to the veterans in a language they understand.

The VA can learn from this model and hire more veterans to work on disability claims. Too many times we talk to VA employees who would never understand basic military concepts like a noise involved on a flight line or an artillery range, or that a support position like a combat engineer might be attached to a regular infantry unit for operations in the field. Understanding things like this is as basic as breathing to a veteran but non-veterans miss these things routinely. VA can do better in putting veterans in a position to help interpret these things in files.

Secondly we put a premium on training. We do two lengthy schools for our service officers every year in Washington, D.C. and Indianapolis. These are multi-day conferences and the training is intensive. We continue to train outside of that throughout the year. I personally do school in Kentucky three times a year for my post service officers. This is one two-day training and two one-day trainings.

Training cannot be something that gets in the way of work. Or if you look at it that way, you are going to be behind the curve understanding how the claim works. Training has to be a part of the work. You would not want a surgeon to examine your knee if they had not been properly trained. Why would you want anyone to examine your claim if they had not been committed to training? There are so many topics that require constant training. You frequently pass new laws that help the process and we have to learn how these laws will work. VA changes regulations and we have to learn those. The courts also rule on cases and that changes how the system works. We get regular training on what the courts are doing and how it changes things because it matters.

Finally when it comes to counting our work, sure, we have to deal with the backlog just as much as the VA does. But we believe

we can get this backlog down by doing the claim right the first time. That means putting a little extra work on the front-end to find the details. Sure it takes a little extra effort but you cannot put a price on getting it right for the veteran in front of you.

I think service officers have a lot to say because we see these veterans everyday. We see them hurting. We see them struggling to make ends meet. We know how this impacts the veterans. I think it is important to remember there is a human face on every single one of those claims. When you see it just as one million claims you lose that personal impact.

I would like to thank you again for taking the time to hear from us. I would be happy to answer any questions you might have, Chairman.

[THE PREPARED STATEMENT OF RANDALL FISHER APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you very much, Mr. Fisher. The Committee appreciates all of your testimony this morning.

And Mr. Wear, I would like to start with you first if I can.

In your testimony you said that your trainers provide instruction as good or better than that received by the employees in VA and that your goal is to ensure that all of your service officers know VA laws and regulations as well or better than VA employees. What I would like to hear from you is, and your opinion if you would, what specific suggestions based on your extensive training that the VFW utilizes on how VA could improve their training process?

Mr. WEAR. First, we spend a lot of time training our people on 38 CFR. That is the rules that the VA runs by. And we find that when talking to some people in the regional offices are not familiar with different aspects of the 38 CFR. I would suggest that we need to have those people be more familiar with the various aspects of Part 3, general regulations, and Part 4, the rating schedule. One of the things we think is important is that if we see something that the rating schedule provides for that the rater might not have included we like to be able to go up and suggest to them, "Part 4, you know, diagnostic code for diabetes provides such and such if you are on medication. Would you reconsider giving him 20 percent instead of just 10 or zero?" We would like to be able to say, "This is what the rating schedule shows." I do not think it is fair for us to walk up to a rater and say, "Well we think the veteran deserves an increase in his diabetes." It is important to us to be able to say what the facts show in the file, what the medical report says, and how that relates to the rating schedule.

The CHAIRMAN. Why do you think they are not familiar? Is it just interpretation? They do not know?

Mr. WEAR. I think they have——

The CHAIRMAN. And any of you if you do not mind, if you would comment on that as well?

Mr. WEAR. I do think there is a lot they have to learn when they first start working for the VA. I know I started with the VA many years ago and it took me a long time to learn everything. There is a huge body of information they have to learn. What I think is important is to make sure that they have not just gotten training on it, but somebody sat down and gave them a test or something to

see how well they learned it. Because just because you read it does not mean you understand it. So I think that part of this is training and then making sure they understand it. That they have, they have grasped it so to speak.

The CHAIRMAN. Mr. Hall?

Mr. HALL. As my colleague says, training, testing, and accountability are the cornerstones of any organization, and especially with an organization like VBA and the complexities involved in the rating process. I can tell you with DAV's training program in comparison it is 32 months, again they start with 16 months of on the job training. And their career begins with a couple of medical courses in college, such as medical terminology and anatomy and physiology. That is also continued through the structured and continued training program that we have that is 32 months long. Each month you have a new particular subject or module that they must not only train on weekly, and plus do a lot of things on their own time, but also the testing that goes long with it. They must pass the test to be able to move on to the next module. And then at the end of that 16 months, because it is divided in half, at the end of that 16-month SCT program they have to take a 170-question comprehensive test and then again with different subject matter in the second phase of that.

Even once they complete it and they are provided the college credits in various subjects that they are awarded that, because of the comprehensive nature of our program the fact is that they have to return to the training program and it is consistently cyclic throughout their career over and again. So in addition to the laws, regulations that James is talking about, we also provide that in depth knowledge of anatomy and physiology which is crucial to a rating specialist who is looking at medical records.

The CHAIRMAN. Mr. Fisher, do you have any comments?

Mr. FISHER. I retired from the VA as a nurse manager/nurse practitioner. So I have got some of the medical background and when I do my schools I invite people from the hospital and the regional office to go over claims and explain the proper physiology of the muscles and different things. But I think a lot of the new employees at the regional office, to give you an example I had a veteran who had peripheral neuropathy. The diabetic specialist at the VA had said he had peripheral neuropathy in all extremities. That is a complication from diabetes, so you get numbness, tingling, burning in the extremities. And when I talked to this young lady about it she said it does not say hands or feet. And after a while of arguing with her I said, "Look, it is peripheral neuropathy in all extremities. That is anything that sticks out from the body." You know? He could have gotten sexual harassment thing. But you know turned around and scheduled the veteran for another C&P, an exam that delayed his claim another six months. But I think they need go to the hospitals and incorporate training even more for these new people coming in. Because a lot of times you have got people who are straight out of college or are straight out of high school, they come into the VA, and they have no idea what a veteran is, and then they have no idea about the medical terminology involved in these claims.

The CHAIRMAN. Thank you. Mr. Reyes?

Mr. REYES. Thank you, Mr. Chairman. And before I ask questions I just, in full disclosure I belong to all three of your organizations and am proud to be a member. So thank you.

The CHAIRMAN. Not just a member, a life member.

Mr. REYES. A life member, yes. Correct. Thank you, Mr. Chairman. But you know just last Saturday I was at a breakfast for the Vietnam Veterans of America. And in my district I hold a monthly meeting about veterans issues, and bring in the VA, as well as every veteran advocate that lives and resides in El Paso. All are welcome. And part of the continued frustration that I hear is the issue of backlogs. And why there does not seem to be a strategy that is able to address what now repeatedly becomes the most frustrating part of a veteran's effort to try to get service from the VA. I am wondering if I can ask all three of you to comment. The VA STAR quality reviews, are they adequate to ensure the accuracy, consistency, and timeliness that is needed for us to get 65 percent of the claims out of a backlog status? How can the VA, through its quality assurance measures, in your opinion, in terms specifically as it relates to the number one frustrating issue for veterans, and that is having to wait in those backlogs?

Mr. HALL. I believe as equally important to STAR, if I may, is the newly implemented quality review teams that VBA has. While we do not have a lot of statistics on it, because it is relatively new, being implemented across the country, these individuals are going to be dedicated inside each VA regional office as we understand it for, I think the ratio is approximately one quality review team member for every 35 VSRs and one for every 25 RVSRs, who provide an independent review as the decisions are being made at the local level, versus STAR which may be, you know, in a centralized location. So we are anxious to see how quality review teams are going to fare in the process and how they are received by VBA employees at those local stations. So there is a lot to learn about the quality review teams but I think it is going to be as important as STAR.

Mr. WEAR. The quality review is critical at the regional office. You need to have the local staff looking at those cases as early as possible, preferably as a mentor second reviewer, to make sure that when somebody is learning the process, whether they are a rater or a developer, that they understand that process and they can ask somebody questions. When I first started with the VA, I mean, I had somebody I could go and ask questions of. And that helped reinforce it more quickly so that I could move through and do increasingly more difficult cases. When I became a rater we had some person to person training but no real formal like three or four of us sitting down.

As Mr. Hall said, I had myself used up my G.I. Bill to go to school to take a course in pharmacology, anatomy, and physiology. So I think that the better trained the people who are raters are on what the body does, its body systems, what do they do, how do they interact, I think is critical. I think that you will see a little bit of loss in productivity but you have got to train people first. Get them up to speed and then give them the work. I think, you know, if you just give everybody cases then they do not know what to do with them. They spend a lot more time wondering what to do, or who

do they ask, they ask the person they are working with, as opposed to a mentor or trainer.

Mr. FISHER. I agree with Mr. Wear. I know the VA says it is one VA but they are really not one VA. Being a former VA employee, the hospital is totally separate from the regional office and the claims area. I think they ought to have some kind of integration of the staff from the VA hospital with the regional office to help train these employees, especially the new ones coming in, about the medical terminology and how to adjudicate the issues involved. But I think it is very important that they get this medical background included in their training for the claims process at the regional office.

Mr. REYES. Thank you. Thank you, Mr. Chairman.

Mr. HALL. Mr. Reyes, if I may?

Mr. REYES. Sure.

Mr. HALL. Just quickly, as far as quality review I would also like to say that, you know, with DAV when we, for those claimants that we represent we go down to VA everyday, sometimes more than one time, to review those rating decisions as they are made. At that moment is when we can provide, before the time they issue the decision to the veteran, because it is our claimant that we represent we are allowed the opportunity to review that case. That is when the first moment of quality review really can happen. And we are able to provide that with each and every decision that we represent.

Mr. REYES. Great. Thank you.

Mr. WEAR. In fact that is something, I think is, cannot be highlighted enough about our service organizations having the opportunity to look at that unpromulgated, just written rating. We find, we find that we need to look at that. And if we catch mistakes, and we take it back to the rater when allowed to. Sometimes there is a lot of supervision that does not want you to talk to the rater. But we find if we, they will say, "Thank you. Oh, I missed that. Oh, I did not see that." And then they make a correction. And it helps our customer because their veteran and our veteran gets a better rating.

Mr. REYES. That is encouraging. Thank you all, and thank you Mr. Chairman.

The CHAIRMAN. Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman. I would first like to commend all of you for your efforts to assist our veterans with disability claims. Your hard work and understanding of the claims process make invaluable differences in the lives of our veterans and help ensure that they are receiving the benefits and services that they have earned. I appreciate your testimony. Thank you for being here today.

I wanted to give you an opportunity, are there any specific challenges that your organizations are facing when assisting veterans with disability claims that you would like to highlight for us?

Mr. HALL. One thing that has always, I think been present, now for the last couple of years I have been working in my present position, but the first 17 or 18 years of my career with DAV was spent in the field at different regional offices working for DAV, either as a service officer or a supervisor, an area supervisor. And I can tell

you that throughout the career, one of the things that seems to recur is a cultural difference in VA. Now while it may be much better now today than what it was when I first started many years ago, the fact is, is that to truly embrace veterans service organizations and partner with them in the truest sense, while they may be here in Washington, D.C. at VA's central office, and we do see a lot of that and we are very positive about a lot of the changes that we are seeing, a lot of times that does not trickle down to the VA regional office. And one VA regional office might get it, one other might not. And it is no mystery or no rarity for an NSO to say, "Well you cannot get a claim like that through this regional office. You are going to have to make sure that gets sent to XYZ office."

Mr. JOHNSON. So there seems to be a we/they culture?

Mr. HALL. A lot of times, sure. Yeah. I believe so. And I think that is one of the biggest things.

Mr. JOHNSON. Well how can Congress and this Committee assist you and also the VA with the claims process?

Mr. HALL. Well I think with the claims process it begins with, we have to allow VA, with all these parts and initiatives that are in motion right now there is no way to know exactly what the end result is going to be, how successful something is going to be towards whether it is reducing the backlog or the transformation of the claims process, or modernizing the IT system. There is just too many things in motion. And we are anxiously awaiting to see how a lot of these things work out. However, we believe that Congress must continue with the aggressive oversight to ensure the enhanced training, testing, and accountability is present throughout VA. Without it the success is going to be very limited.

Mr. JOHNSON. I appreciate your comments. I have expressed continuing concern to the VA about their information technology infrastructure, their architecture. And we are continuing to work on those issues.

Some of you noted in your written testimony that Secretary Shinseki has set a goal for claims to be completed with a 98 percent accuracy standard. Now, while some regional offices may be close to reaching that standard, others are still lagging far behind. What suggestions do you have for ensuring that all claims are held to at least that 98 percent accuracy standard?

Mr. WEAR. Another thing that I think Congress should continue to have oversight of is the VA needs to get the word out to people while they are still in the service as to what we can do for you. Veterans, servicemen after they leave service say, "Well, I did not know I could get help from you folks." We have a lot of people spread throughout the country who work in that benefit delivery discharge to try and help these servicemen get, find out what claims they need to do before they get out.

You have what is called Quick Start, which it is not. It is running many days, in some places, you know, it is running over 300 days to do a Quick Start claim. Part of this is making sure that when the VA gets the word out to people that they have people that can do those claims when they get them. Because the staffing out in Salt Lake City, they do not, they do it better than in San Diego, but San Diego's Quick Start, they need more people. They

recently added another 30 people to do cases out there, to do the ratings. I think we will have to say, again like Mr. Hall says, how that pans out.

Mr. JOHNSON. Okay. Well, thank you for your testimony. Mr. Chairman, I yield back.

The CHAIRMAN. Mr. Michaud?

Mr. MICHAUD. Thank you very much, Mr. Chairman. I would like to thank our three panelists this morning for coming forward. My first question is for Mr. Hall. You had mentioned you had 30 service officers that help assist and 250,000 claims. What has, what is the accuracy rate of those claims? Do you keep a record of that?

Mr. HALL. I do not know the record of that particular aspect of it. But we have 240 national service officers that work inside VA regional offices and some colocated in VA medical centers; 30 transition service officers that are dedicated to providing transition, outprocessing, claims assistance as they are leaving the military service. I do not know what the answer to that is. I would be happy to look into that with our service department and get back to you on that.

Mr. MICHAUD. Mm-hmm. Thank you. With the wide disparity between claims processing centers, and you heard earlier from the previous member, that has the VSOs, you know, claims reps noticed a difference in policies that might speak to why some of the claims centers are more accurate than others? And we will start with Mr. Fisher.

Mr. FISHER. I work out of the regional office in Louisville, Kentucky. I have noticed increased accuracy there, but that is mainly due to the training. You can get back to what Mr. Wear was talking about, how important, and Mr. Hall, how important the training is for these new employees. A lot of the employees feel like you are taking them away from their work to go to this training. But it is so important to improve the accuracy, that training, improve that claim and make it right the first time. That you do not have, but I have a good relationship, I can go to the raters, I can go to the trainers, the coaches, and talk to them about a particular claim and catch something before the final decision is made.

Mr. MICHAUD. Mr. Wear?

Mr. WEAR. It is critical that our service organizations have people in the regional offices, but also at the points where people are getting out of service. Because we find that a lot of servicemen, we help them go through the claim and we look through their service medical records. And a lot of them are just amazed, "Well, I would not have ever thought to put that down." So a lot of this is knowing what you need to do, to look at, to put it down to help that veteran file a complete claim. It is so important that when that servicemember leaves, that all his service medical records go with him.

Now everybody thinks that that is a fairly easy process. But now there is numbers of military hospitals that have electronic records. We have taken to reminding our servicemembers you have to get your printed records and get them to print your electronic records so that we will have a complete set. So when it comes out the VA can go ahead and rate on all your medical records.

Mr. MICHAUD. Yeah, but the question was have you noticed a difference in the policy that might reflect the different centers?

Mr. WEAR. I think you can ascribe that to the various supervisors that go from office to office. I can tell you when I worked in the VA there were certain supervisors that cared about the quality. There were other ones that were more interested in making numbers.

Mr. MICHAUD. Mr. Hall? Have you noticed a difference in policies that might speak to the difference in accuracy?

Mr. HALL. I do not know that the difference in policies, I will say I think it kind of comes back to cultural differences. It depends on who the employees are at each regional office and the, you know, from the leadership. I have worked in different regional offices, some that were not led well. I was in Chicago back at the time when the IG investigation took place back in 2004. And they launched a study to do the, you know, the top high six, I think, regional offices versus the low six, and represented versus unrepresented claimants. And I can tell you that we could absolutely get nothing done in that regional office at that particular time. I am glad they fared okay in the end, but what the problem came down to it starts at the leadership and it was a culture that went down. I think that also then has to translate to the present time of there are still folks out there that just do not get it. They just simply do not understand who is applying, what the claimant is representing as a claimant, what a VSO is as a claimant's representative, and who they are in part of the process. And finally erasing all of the, "This is the way we have always done it here," you know, it is a slow process.

But I think that might be a lot of the reason why you are seeing increases, along with other things like initiatives and things that they are doing, but it starts with the leadership at those regional offices.

Mr. MICHAUD. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Runyan?

Mr. RUNYAN. Thank you, Mr. Chairman. And again gentlemen, thank you for all you do for our veterans. I want to bring up one thing. Not only the Subcommittee I chair but also this Full Committee and the House has passed a four-year pilot program doing exactly what you are talking about, and it is sitting over in the Senate. I know having conversations with Secretary Shinseki all the time, accountability is at the top of his list. And that program is, I think, a first step in doing exactly what all three of you were talking about, is hold the people that are doing these ratings accountable for what they are doing and getting them the proper training to make sure it does not happen again. And I just wanted to put that out there because it truly has been addressed by this Committee.

Mr. Fisher, I asked a question of the Secretary in a budget hearing about a month and a half ago about hiring veterans and I have not heard a response. But the difference between the hiring and retention also, do you have any insight into that?

Mr. FISHER. I know we talked to Mr. Shinseki several times about hiring veterans and he made an active promise here a couple of years ago that he was going to try and get the VA up to the 50

percent level of veterans. The veterans are out there. They are trained. They go to the VA hospitals. I know for the first year or so they could actually go back to personnel. They did not have to do it online, they could actually go to the office and fill out an application. And now that has kind of went by the wayside, everything has gone back to the online, where you have to go to usajobs.gov to apply. Except for the nursing positions, and then you can go to the hospital directly and talk to a nurse recruiter.

I think having that personnel office open expedited hiring veterans and made it easier for them because the usajobs is very difficult to navigate on the computer and stuff for applications, what you are eligible for and what jobs are open at that particular facility.

Mr. RUNYAN. Is there any sense into when we do hire them do they stay in that position? Or do they——

Mr. FISHER. Yes. I have seen, I have had several people that I have recommended for the VA that stayed on, and been hired in as engineering, and electricians, computers, nursing people. But I have seen them stay on. You know, anybody that comes in like through the CMT, the workman therapy program, those people have difficulties because their TBIs are severely disabled and they will have trouble with attention deficit problems and staying in a position. So a lot of those guys are increased disability or sent for other training. So you do have a difficulty retraining those that are severely injured.

Mr. WEAR. What you just said is one of the primary problems the VA has. That is when they hire somebody they will spend the time training them, then they leave. I think that part of the process of hiring somebody is trying to find somebody who matches whatever job you are looking for. The difficult part is to find somebody who would make a good veterans claims examiner or rater. You know, anywhere in that looking at claims. That is a very difficult job and it is not one that everybody who walks off the street, even all our veterans, might be best suited for. So I think it is important that the VA look at how they go about hiring people to make sure they try to match that person's skills and abilities to the requirements of the position.

Mr. RUNYAN. Thank you for that. Mr. Hall, you brought up an interesting point dealing with the private medical evidence versus VA medical evidence. A majority of the time is it a private medical evidence that gets the ball rolling on a rate adjustment?

Mr. HALL. I do not know if it is the majority of the time, but it is a great deal of the time. And I can speak too what we do in DAV and that is when the claim is initiated it is one of the first things that we encourage them to do. Are you being treated by a private doctor? Sure, we ask if they are being treated at the VA. But when we know that they are being treated by a private doctor we zero in on the fact that they need to make sure that they get that medical evidence. Do everything that they can to do it, sign release forms, whatever it is, so that they can get that medical evidence. It would be best if they did it before, you know which we try to encourage, before they submit the claim so we can submit it as complete as possible. However, that is not always the case. But the key is to get that medical evidence. The hardship in that is once

the evidence is received by the VA if you have a rater that simply says, "Well, I see this private medical evidence but I think we need to set up an examination." That is unnecessary to do so. If it speaks to the disability that is being claimed, it is credible, it is competent and, you know, provides an adequate reason for a decision, then that is where the end of it should be. That alone, that alone would speed up the time process in the claim.

Mr. RUNYAN. Thank you. Chairman, I yield back.

Mr. WEAR. If I would also jump in and add, we have talked about DBQs, disability benefit questionnaires. The VA has structured those so that whatever requirements out of the rating schedule are put in there, and then a private physician can fill it out. I think part of the reason for that is the VA has realized that a lot of raters do not accept a private medical statement. So to help that rater feel more comfortable if you can have the VA doctor fill this out, or you can have a private physician fill it out. It is the same form but it gives them the information so that the rater cannot say, "I think I am going to have to order an exam." No, you have got the same thing you are going to get from a VA physician if he fills out a cardiovascular DBQ. You are going to get it from the private physician, the same information, that you are going to get from a VA doctor. So hopefully that prevents the unnecessary VA exam and speeds the exam process up. Or pardon me, the claims process, not the exam.

Mr. RUNYAN. Thank you. Chairman——

Mr. FISHER. Mr. Runyan? I would like to say something on that issue, too. There was with the disability claims I know if a veteran is going to the VA hospital and he is seeing a specialty doctor, or he is seeing his primary care doctor, they will refuse to write any statements regarding his disability. They will make that veteran get scheduled for a C&P exam and that delays the process even longer, too.

Mr. RUNYAN. Thank you for that.

The CHAIRMAN. Mr. McNerney?

Mr. MCNERNEY. Thank you, Mr. Chairman. I want to thank all the witnesses for your testimony. It is very thoughtful. It is clear that you are interested in helping find ways forward to improving the backlog. And I just wanted to follow up a little bit on Mr. Runyan's question. Mr. Hall, you had mentioned that there was VBA bias against private medical evidence. And Mr. Wear, you said one of the things that could help is just having the same form that was used by private medical practice to, for a veteran. Is that something that you think would help? I mean, getting a private physician to fill out a form is going to be a challenge in itself.

Mr. WEAR. The DBQ, disability benefits questionnaire, was constructed by the VA. What they tried to do was take the requirements out of the rating schedule, put it in a form that either the VA medical doctor could do or a private medical. I think that speaks somewhat to Mr. Hall's point about the reluctance to accept private medical statements. So that if you have got that same form, you know for whatever the condition is, if that same form is filled out by a private physician then that rater cannot simply say, "Well I am not sure if it covers everything." The form has been designed and approved by VA to cover all the aspects of cardiovascular, or

whatever the condition is. So yes, I do think that will help speed up the process. Because we can then give it to the veteran. He can have it filled out. We can submit that with his claim so that would have a complete claim because you have got something that talks to the condition right away.

Mr. MCNERNEY. Is that form available to the VSOs?

Mr. WEAR. Yes, sir.

Mr. HALL. It is. But again, we are still at the beginning stage of that. And to just carry over what Mr. Wear is saying, again, due deference to the private medical evidence versus the VA medical evidence is going to be essential. The law requires VA to accept the private medical evidence but it does not require them to give it equal weight as VA medical evidence. A lot of raters know this. They could simply stand there and say, "Well I am looking at it, but you know what? I feel that an examination is necessary." Or, "I have this VA medical evidence over here that really kind of does not say the same thing." Well from a rating, you know, from a service officer's perspective if you have a positive balance, a balance between positive and negative evidence in the process that places the claim in relative equipoise and reasonable doubt must be resolved in favor of the claimant. That is a long way of saying simply VA needs, we need to get past the fact that they simply accept it and actually require them to give it the proper weight that they give VA medical evidence.

Mr. MCNERNEY. Well my constituents are served by the Oakland Regional Office which has one of the world backlog, the second worst backlog record in the country. Just to illustrate how this impacts life on the veterans, could you Mr. Hall give me just a run down of how that additional backlog of 20 days or 60 days impacts the life of a veteran?

Mr. HALL. If they have been given a life expectancy, it could affect that individual terribly. Now that might be an extreme case of if the person files a claim, and even though the VA has mechanisms in place to expedite a claim, still there is a backlog in the expedited claims. So, but in general terms with the claims process they should not have to wait, period. We can all agree on that simple thing. We are hopeful that the VA can get to their 125 days. To us more importantly than the 125 days is the accuracy in getting it done right the first time.

There are so many things that have to take place for VA to be successful in that, but how does it affect a claimant? Well if it takes, an individual gets out of service and they file a claim, they do not have a job yet, they are disabled. They are not able to get that job. They file a claim and it is going to take them a year, more than a year to get a decision in it? It could mean the difference between surviving and living on the street.

Mr. MCNERNEY. Yeah. Okay, Mr. Wear?

Mr. WEAR. I think you would find if the VA took private medical, whether on a DBQ or just a statement on a doctor's letterhead, and used that I would suggest they could, if it takes 30 days to 60 days to get a VA exam, you could save that 30 days to 60 days on quite a few claims.

Mr. MCNERNEY. Is that a regional effect as well? I mean, is this likely to be taking place, this problem of bias against private med-

ical, is that likely to be part of the problem at Oakland if it is not part of the problem at one of the more efficient centers?

Mr. WEAR. I would suggest that the private medical evidence is an issue across the system. But some places there are other efficiencies based upon the leadership at that other office that may be a difference at the Oakland office.

Mr. MCNERNEY. Okay, thank you. Mr. Chairman?

The CHAIRMAN. Dr. Benishek?

Mr. BENISHEK. Thank you, Mr. Chairman. Thank you, gentlemen. I have a couple of specific questions I would like to ask just to get started. You know, I just toured a facility in Butler, Pennsylvania that the VSO guys, where they file a power of attorney when they start the claim, and then they try to follow up with the status of the claim, and then the VA says that we need a power of attorney. And I do not know if it is a common thing, or if it is a isolated incident. But I mean, it ended up delaying, you know, there are all these little individual things that seem to delay the process. And there seems to be a process problem rather than, you know, an intent problem. And I seem to run into that sort of thing all the time when investigating this thing. So is that a common, do you see that all the time?

Mr. HALL. Absolutely. And I personally thank you for that question. Because it does speak about something that we have struggled with I am going to say throughout the course of time, but I know at least for the 20 years or so I have been with DAV. That getting VA to input the power of attorney into the system so that we can provide effective representation, which as a byproduct will help the VA do a better job, seems to be just a longstanding issue.

Now we are hopeful, we are hopeful that some of these systems, and ideally like the stakeholder enterprise portal, where we can go in, the veteran can, we can select that power of attorney. It is automatically going to be in the system. That will then be interconnected with VBMS and a lot of other things. And when a veteran goes in and they file a claim through eBenefits, as an example, they might be able to select a representative. However, it still has to come to the representative. The stakeholder enterprise portal in allowing the power of attorney to be there, and then us to be able to access the full claim from that point forward is going to be essential.

Mr. BENISHEK. I appreciate that. Mr. Wear, let me ask you another question. I think you are going to copy what Mr. Hall——

Mr. WEAR. Yes and no.

Mr. BENISHEK. Well go ahead, go ahead.

Mr. WEAR. The difference is when you put a power of attorney in at the medical center the regional office also has to put it in many different IT systems. So that if you have somebody that puts it in at the medical center and they have to send it over to the regional office, keep in mind if you are in Butler it has got to get to Pittsburgh. When Pittsburgh gets it they have got to sit down and put it into many different benefits systems. If you miss one sometimes we will go in and try to access it and they will say, "Uh-uh, I am sorry, you do not have power of attorney yet." So part of this is how can we do it electronically? And how can we do it electronically to all the systems?

Mr. BENISHEK. Right. One of the other questions I had was the fact that, you know, the communication between the VSO, you know, the representative for the claimant and the rater, do they ever speak as the rating is going on? I mean, do they schedule the rating at a certain time so that you can go over them, you may be in one place and they may be in another. Well is there some kind of a coordination to say well we have, you know, you have explained to the rater that you are processing the claim, we think we have the right documentation, and this is where it is, so we can go through the claim with the rater at the same time via the phone maybe? To try to clear these things up so he just does not rate it no and then, you know, it takes 30 days for you to find out about he rated it no. And then you have got to call him and say, "Well on page 37 is the thing you were looking for." Do you understand me? To coordinate that so it is better done? I mean, does that happen?

Mr. WEAR. We are finding that the people who do development are coming to VSOs much more often and saying, "You know, we need this." A doctor's statement, or some piece of evidence. They will come to us and ask us to get it before it goes to the rater so the rater will have everything.

Mr. BENISHEK. You mentioned that sometimes the rater and the VSO sometimes are blocked from talking to each other by a supervisor? I mean, how does that occur?

Mr. WEAR. The people who run the service center can say to VSOs, if you have a question they can designate a particular person you have to go talk to, which may not be a rater. It could be a coach, it could be a supervisor. The supervisor of the rating team. That is not true across the country. It varies. So there is more than one regional office where if I have a question on a rating I can walk back to the rater and we can talk about it right there.

Mr. BENISHEK. So that occurs on a regular basis then when they are doing their rating? The VSO officer is talking to them and walking them through the application?

Mr. WEAR. By depending on which office you are in. Some you have to go talk to the supervisor, some you can talk to the rater.

Mr. BENISHEK. But that does not make much sense. I was hoping they would do it in realtime.

Mr. HALL. I would just tell you through, with DAV, and some of the other service organizations at the regional office, interaction with the VA, whether it is the VSR, whether it is somebody at the front desk, a VSR throughout the process, an RVSR, we have constant interaction to them unless there is some kind of prohibition which may be the case. Hopefully not anymore, but the fact is that we have constant interaction with the rater.

They may call me and ask, "Listen, I am looking at Mr. Jones' case. You know, he needs this particular type of evidence. Can you talk to him?" And so we will make the call on their behalf. Or, we may get the evidence and go down and talk to them and say, "Listen, you know this is the kind of the evidence that you are looking for." And so we do have that. That is why beyond educating the claimant and assisting the claimant with the claims filing part of it, where we begin our advocacy is throughout the process in interacting.

Mr. BENISHEK. Well that is what is so frustrating to me, is the process seems to be full of these little small delays that cumulatively really make it, you know, lengthy. I guess I am out of time, but I will yield back. Thank you. Thank you, gentlemen.

The CHAIRMAN. Mr. Braley?

Mr. BRALEY. Thank you, Mr. Chairman. Mr. Wear, I want to start with a comment you made which really upset me. I have a long history of being involved in processing and evaluation of impairment ratings and disability claims. And I find it appalling that we are expecting disabled veterans to be responsible for getting copies of their paper medical records. And I want to make sure the Committee understands the distinction I am talking about. We have made great strides in moving toward electronic medical records, which are original copies. Or they are original medical copies in an electronic format. But there has been available for over a decade the ability to reproduce in a digital format paper medical records. And services have been available in the private sector for years to provide those electronic copies instantaneously of a paper medical record. So I cannot understand why we still pass the burden to a disabled veteran to transmit paper records of their medical charts to anyone, especially if they originate from DoD or they originate from VA. Can you explain to me why we still have that expectation with the technology that is available to us?

Mr. WEAR. There is a bit of a difference. If a veteran has been treated at a VA medical facility, the rater or the VSR can electronically go into that veteran's record, VA record, and download that medical record and in fact put it right in the rating. The difference though is that getting the electronic record from DoD to the VA is not an easy path at this point.

Mr. BRALEY. And why is that? Because we have been talking about that, Mr. Chairman, for months on this Committee, and for years before I came onto the Committee. Why have we not addressed that interoperability issue in a meaningful way?

Mr. WEAR. Well I do not know that I am the best person to answer why that has not happened. But we try to do is when we are trying to help that servicemember, is that if it is not going to get from that Fort Sam Houston to the VA we think it is more important to get a paper copy so we can give the VA all his complete records at that point.

Mr. BRALEY. But here is my point. Most of the locations where you would be getting a paper copy come through a printer that has scanning capabilities now that can convert that to a PDF file and send it instantaneously to anybody who is requesting it. And what you are saying is we should put the burden on the wounded warrior to make sure they get a printed copy that they get in their hand, and then they are responsible to delivering to the person who is evaluating their impairment claim. I do not understand why we do that.

Mr. WEAR. I mean, we do have the option of doing VONAPP where the veteran or the serviceman can file online electronically. But I am not sure how they would go ahead and have all their records, if they are electronic records perhaps they can transit that through VONAPP directly to the VA. But if they have been in service any length of time those service records, to my knowledge DoD

does not offer the scanning feature to a servicemember that would allow that to be electronically transmitted to the VA.

Mr. BRALEY. Well I can tell you it takes the exact same amount of time to scan a paper medical record into an electronic format as it does to copy into a paper format and hand it to somebody. And to me a system will not be working properly until you can sign an electronic consent form in any location and instantaneously have those records transmitted in whatever their original form is to the person evaluating that claim. That is when we are going to have a much more efficient system that takes the burden off of the applicant.

And the other point I want to make is one of the biggest problems we have is people who are involved in this process have very limited training and understanding of how the impairment evaluation system works. And I just helped a young Marine that I met on a trip to Iwo Jima who had a difficult time understanding why his individual impairment ratings that added up to a cumulative rating did not match his whole body impairment. And the fact that I got a copy of his records and it was mentioned briefly in one of the lengthy overview documents about the process was proof to me that we have a long way to go in making people have a deeper understanding of what to expect when they get into the system. And we also have to educate the people doing the evaluations so they have a much more sophisticated knowledge base to get these claims processed uniformly, consistently, and fairly. And with that I will yield back.

The CHAIRMAN. Thank you very much. I appreciate you being here. We appreciate you being here today, and you are dismissed.

Our next panel consists of one. Mr. Sullivan, it is great to have you here with us today. He is the Managing Director for Public Affairs and Veteran Outreach for Bergmann and Moore, LLC. We appreciate you being here to testify. You are recognized for five minutes.

STATEMENT OF MR. PAUL SULLIVAN, MANAGING DIRECTOR FOR PUBLIC AFFAIRS AND VETERAN OUTREACH, BERGMANN AND MOORE, LLC

STATEMENT OF MR. PAUL SULLIVAN

Mr. SULLIVAN. Good morning, and thank you Chairman Miller and Ranking Member Michaud for being here today. NOVA is a nonprofit organization representing more than 500 attorneys and agents assisting tens of thousands of our veterans obtain VA disability benefits. I am testifying here today as an employee of Bergmann and Moore, a law firm in Bethesda, Maryland representing veterans whose disability claims were denied before VA and the U.S. Court of Appeals for Veterans Claims. Partners Glenn Bergmann and Joe Moore are both NOVA members and Joe Moore also serves on the NOVA Board of Directors.

First I would like to start by saying that NOVA truly appreciates the recent increases in appropriations for VA and your oversight of VA. While VA is improving in many areas, and this should be noted, there are several other areas urgently needing your attention.

VA's overwhelmed disability claims processing system appears to be grinding to a halt. Last Sunday the New York Times reported the Oakland VA Regional Office takes a unconscionable 313 days, that is more than 10 months, to process a new claim. A few years ago VA averaged five months nationwide. Right now more than 1.1 million claims and appeals await decisions at VA.

Our oral comments this morning focus on five specific recommendations for Congress and VA to improve VA's claims process for private practitioners and VSOs. First, NOVA urges Congress to mandate that VA provide veteran advocates full access to claimants' records via a secure system. Social security already has such a system that permits viewing of the electronic folder, uploading medical and other evidence, a seamless transition of initial claims and appeals, and even online responses about claim status.

Second, NOVA urges Congress to provide a point of contact, a person that VA can name where accredited representatives can speak to that person, the same level of access granted to the veterans service organizations that were seated at the table a few minutes ago. Right now VA deliberately restricts access to representatives who are not physically located in VA regional offices. As a consequence, non-VSO representatives have no access to individuals within VA who can provide a status on a claim. Attorney fee coordinators have historically attempted to fill this void by giving information to private attorneys and agents. However, some regional offices, such as Detroit, have specifically instructed their attorney fee coordinators not to respond to attorney inquiries unless the inquiry deals with a fee issue.

Third, NOVA urges Congress to mandate that VA promptly and accurately file time sensitive documents. These documents include those initiating and perfecting claims and appeals, as well as forms identifying the appointment of a veteran advocate. Delays often result in resubmitting information. Electronic filing would eliminate this issue altogether, as documents would be filed in realtime. It would also eliminate the persistent problem of misfiling or losing paper documents.

Fourth, NOVA urges Congress to mandate that VA improve the accuracy of information provided to claimants via its toll free 1–800 number. VA's inspector general has repeatedly reported a high incidence of response inaccuracy, further frustrating claimants and advocates. Additional training and realtime access is necessary to improve VA's claim information sharing.

Fifth, NOVA urges Congress to hire additional decision review officers, DROs. Currently, regional offices only have two or three DROs working on appeals that number well into the thousands and continue to grow. In some cases the wait time for a decision following an initial appeal is at least 1,100 days. That is more than three years. We believe hiring additional DROs would improve the appeal process time and reduce VA's claim backlog.

In conclusion, Mr. Chairman, NOVA supports funding for VA initiatives to computerize VA's obsolete claims processing systems. NOVA believes our reasonable and practical recommendations to VA's initiatives will result in veterans receiving more timely and accurate decisions from VA. NOVA offers to work with this Com-

mittee and VA to implement our recommendations. Thank you. This concludes my testimony.

[THE PREPARED STATEMENT OF PAUL SULLIVAN APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you very much. Mr. Sullivan, in the beginning of your testimony you talked about the Veteran's Choice of Representation Act that was part of the Veterans Benefit, Health Care, and Information Technology Act of '06, and that it works as intended. And what I would like you to do if you would is to elaborate a little on the overall effects of the law with respect to efficiency and helpfulness to the veteran population?

Mr. SULLIVAN. Thank you, Mr. Chairman, for asking that question. And thank you for pushing through that legislation. I probably would not be sitting here today representing a law firm that helps veterans if you had not done that.

What VA faces right now is a surge in demand. There is a tidal wave of claims flooding into VA. Secretary Shinseki has stated that the number of claims coming in has steadily risen from 800,000, 900,000, and they expect it to eclipse one million and beyond. That means that there is plenty of work to go around for everyone, veterans service organizations and the attorneys who represent veterans and other claimants on appeals. Therefore, the ability to have attorneys assist veterans and other claimants after there has been a denial by VA has probably assisted with the overall health of the VA claims process. Just imagine, if you would Mr. Chairman, what it would be like if they were not there?

In the specific details the attorneys representing veterans, and I am not an attorney, they have been able to act as litigators and they act to set case law and other important standards that VA must follow with their aggressive follow up and representation of veterans on appeals.

The CHAIRMAN. Mr. Michaud?

Mr. MICHAUD. Thank you very much, Mr. Chairman. And thank you, Mr. Sullivan, for coming here today to testify before our Committee. You used to work at the VA. And you mentioned about accuracy, which I think everyone on this Committee agrees with. If you get it accurate the first time you do not have to worry about appeals. But there is and has been a wide disparity between the claims processing centers in the different regions. In your opinion, why is that? What makes some centers better? Is it because of the turnover rate? Or for instance in Maine, I know VA is an employer of choice. People really enjoy going to work everyday. In other facilities, actually during the BRAC process when we dealt with the DFAS facilities, where those facilities did not have an accuracy rate as high as they were in Maine, in those areas they were not an employer of choice. What do you think is some of the problems within the VA system as far as the accuracy? And I know we heard from the first panel training being an issue. But beyond that, what are some of the problems? And do you feel it is different policies in different regions?

Mr. SULLIVAN. Congressman, thank you for your question. The first and most important issue is demand. The tidal wave of claims coming into VA is placing an unprecedented demand on VA. And

frankly in my opinion VA does not have the resources to adequately meet that demand. While working at VA I personally briefed VA leaders starting in 2003 about the surge in demand. And VA at that time chose to, shall we say, not pay attention to the train coming down the tracks. And that was to the great detriment of our veterans.

The next issue is the backlog itself. Now that there is a backlog, in other words 1.1 million veterans and other claimants waiting for benefits, what effect does that have on an office? Well the policy from Washington is to often say this. Production, production, production. Get the claims out as fast as possible. Well what that then causes is VA employees to take the easiest route to process a claim. That may not always be the best route to process the claim. So when there is this tidal wave of demand if we do not have adequate staffing the rushing of the claims causes problems.

I can speak from one point of expertise, and I say this as an individual who worked at VA. We actually reviewed Gulf War claims in the early 2000s. And we found that veterans claims were more likely to be granted under these two conditions. If it was a low backlog at the office, and the VA employees were trained on how to process claims.

The reverse was also true. Veterans were most likely to be denied, like 90 percent or more denied, if there was a large backlog at that office and there was no training on how to process Gulf War claims. So training is very important.

And the last is streamlined regulations. VA issued a report recently, I do not have it in front of me and this is going to be close for a description, when VA changed the regulation on PTSD in 2010 the error rate before that was about 25 percent or higher. After VA promulgated the new PTSD regulation the error rate decreased to about 10 percent. That shows that streamlining the policies to reflect science actually improves VA's accuracy rate.

Mr. MICHAUD. Thank you. And I also appreciate the fact that you are focusing on accuracy. Because actually it is detrimental to your agency because your attorneys actually deal with the appeals, so there will be hopefully fewer appeals if they are more accurate. So I appreciate you are still focusing on the accuracy issues.

Dealing with, I mean, there are two issues here. One is the accuracy, getting claims done on time. And I see the other issue as dealing with the backlog that is currently out there. How would you feel about, if you look at the VSOs, the great work they do in helping with the claims, if the VA would have to accept some of the claims as submitted by the VSO and we do an audit? Because I assume from what I heard in the past that some of the VSOs' claims are pretty accurate as they go through the system.

Mr. SULLIVAN. There is that new project of the ready to rate claims, and that moves the whole discussion in that direction. Now NOVA does not have a position on that per se. However, in the past when I was here testifying before with Ms. Bilmes at Harvard University she actually suggested that as a way for VA to overcome this huge bubble, this tidal wave of claims that have poured in. VA does need to take a very good look at streamlining how it does the claims process. Because what they are doing right now, Congressman, is not working.

The CHAIRMAN. Mr. McNerney?

Mr. MCNERNEY. Thank you, Mr. Chairman. Mr. Sullivan, one of the very first things that you said in your spoken testimony was the, you referred to the Oakland Regional Office. And that is the office that serves my veterans, so it is a problem for me personally. You mentioned also something about using science based criteria for evaluating claims and that having a positive impact in terms of reducing the error rate. Could you elaborate on that a little bit? I sort of perked up a little bit since I have a science background.

Mr. SULLIVAN. Yes, Congressman. In three areas, Agent Orange, Gulf War Illness, and mental health the acts of Congress that mandated the Institute of Medicine to do a scientific review of the literature to see, for example, does the defoliant poison Agent Orange, is it associated with the medical condition? Once the IOM found an association, then VA promulgated regulations that then streamlined the claim process for veterans suffering from medical conditions such as prostate cancer associated with exposure to Agent Orange during service in the Vietnam War.

Similarly science found that deployment to a war zone is associated with the development of Post-Traumatic Stress Disorder. VA then, at the request of Veterans for Common Sense, promulgated regulations that followed science.

With Gulf War Illness, Congress mandated that the Institute of Medicine review toxic exposures and conditions related to the War. And now VA, based on reviews by the Institute of Medicine, has begun to list medical conditions where there is a presumptive basis for the service-connection. That has streamlined VA's ability to process claims.

Mr. MCNERNEY. So would you say that there is room for additional research at the VA that would help make our claims results more accurate?

Mr. SULLIVAN. Yes, Congressman. In the area of Traumatic Brain Injury, for example, there is now new and strong medical evidence about it. And I believe the Institute of Medicine has issued a report on that. And we are waiting for VA to issue more regulations on TBI that reflect the long term disabilities associated with veterans who survive bomb blasts in war.

Mr. MCNERNEY. Thank you that is, the TBI bill is my bill. So you are giving a little plug for it. You mentioned in your testimony that you considered, what you consider to be key components of the VBA information technology infrastructure that may harm veterans who are represented by lawyers. Could you elaborate on that a little bit? How is being represented by a lawyer harming their case?

Mr. SULLIVAN. Congressman, in our testimony we list that veterans service organizations who are colocated at a VA regional office enjoy the type of direct, face to face interaction with VA rating employees. That is very good. It is very helpful. The veterans service organizations are doing very great work in that area. However, there is a disconnect. In the testimony this morning that Mr. Murphy is about to give, he talks about great relationships with the VSOs but does not mention that VA should also have relationships with practitioners, attorneys and non-attorney agents accredited by VA to provide assistance. In other words, non-VSO claims rep-

resentatives. Those representatives are forced to call the attorney fee coordinator at the regional office for a status on the claim. In some cases the attorney fee coordinator provides help. In other cases the attorney fee coordinator does not provide help. Or the attorney fee coordinator refers the attorney to call the 1–800 number. And the 1–800 number, as we know from VA OIG reports, is broken. So there is a difference in the level of access by attorneys and agents to the records. And that is why our first recommendation is to make sure that attorneys and agents representing veterans have full and immediate access to veterans' records. This must be a part of VA's new computer system.

Mr. MCNERNEY. Okay, thank you. That is all.

The CHAIRMAN. Thank you very much. Mr. Michaud, any other questions? Thank you, Mr. Sullivan. We appreciate your testimony.

Mr. SULLIVAN. Thank you, Mr. Chairman.

The CHAIRMAN. Now our third panel, Mr. Murphy. Tom Murphy, Director of Compensation Service, Veterans Benefits Administration for the U.S. Department of Veterans Affairs. And Mr. Murphy, we appreciate you patiently waiting and look forward to your testimony, sir. And you are recognized for five minutes.

STATEMENT OF MR. TOM MURPHY, DIRECTOR OF COMPENSATION SERVICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF MR. TOM MURPHY

Mr. MURPHY. Thank you, Mr. Chairman. Chairman Miller, Ranking Member Michaud, and the Committee, thank you for the opportunity today to talk with you on the important partnership between the Department of Veterans Affairs and the national, state, and county veterans service organizations.

As VA moves into the 21st Century, this collaboration establishes the foundation for providing veterans with the benefits they have earned in a timely and equitable manner. This partnership focuses on assisting veterans with filing disability claims and receiving appropriate compensation for service-connected diseases and injuries. Trained claims representatives from VA recognized VSOs provide invaluable guidance to veterans filing claims and work with employees of the VBA to ensure that complete and accurate information is available to facilitate correct disability and compensation decisions. Office space is provided for these claims representatives in all VA regional offices where they assist with evidence development, view decisions made by VBA employees, and counsel veterans regarding claims and appeals.

To further the collaborative effort with VSOs claim representatives, VBA established a training program and certification process. In 2008 the Training, Responsibility, Involvement, and Preparation of claims program was introduced. This TRIP program was designed to improve overall service to veterans by instructing the representatives on the requirements for successful claims processing and familiarizing them with VBA computer systems. This Web-based course offers multiple video lessons, presentations, followed by review questions. The course helps participants learn the information needed to pass a multiple choice final examination.

Participants have 45 days from the starting date to complete the course, which is accessible at any time. Successful completion of the program allows claims representatives to be certified and have read only access to a number of claims processing related electronic applications that follow the development and adjudication of veterans' claims. To date, over 4,100 service organization representatives have registered for the course, and since 2008 3,385 representatives have completed the course by passing the final exam. TRIP training is a critical part of VBA's goals to improve access and transparency to the disability claims process and thereby improve efficiency.

In addition, under VA's accreditation regulations VSOs are required to certify every five years that each of their accredited claims representatives continues to be of good character and reputation and has demonstrated an ability to represent claimants before VA. The VSOs must also certify that each accredited representative is either a member in good standing or a paid employee; is accredited and functioning as a representative in another recognized VSO; or in the case of a county veteran service officer is a paid county employee; has successfully completed an approved course of training and examination; and will receive regular supervision or annual training to ensure continued qualification as a representative in the claims process.

As the Committee is aware VBA has developed and is now implementing its transformation plan, a series of tightly integrated people, process, and technology initiatives designed to improve veterans access, eliminate the claims backlog, and achieve our goal of processing all claims within 125 days with 98 percent accuracy in 2015. We are confident that we are on the right path to deliver more timely and accurate benefits decisions to our Nation's veterans.

VSO involvement in our transformation plan is extremely important, especially as we shift from a paper-based to a paperless electronic processing system. VBA is committed to providing service organization representatives with the tools to assist with this transformation. VBA is developing an electronic stakeholder entry portal. This portal will enhance stakeholder involvement in the claims process in a secure environment with identity access tools. VSOs will be able to access the SEP which will facilitate the ability to assist veterans with online completion of VA Form 21–22 as well as the VONAPP direct connect form.

Additionally, VBA is working with service organization representatives to implement the fully developed claim initiative. Under Public Law 110–389, VA was directed to carry out a one-year pilot program to assess the feasibility of processing fully developed claims within 90 days of receipt. Based on the favorable results of this pilot, VA expanded the fully implemented the program across all regional offices. The claims representatives are critical to the FDC initiative as they assist in gathering supportive evidence for a disability claim and helping the veteran to certify that no additional evidence is necessary to make a decision on a claim.

Service organization representatives are an integral part of VBA's transformation plan because of their close personal contact with veterans. VBA constantly seeks to improve the claims process

and service organization representatives serve an important role in that effort.

This concludes my testimony and I look forward to your questions.

[THE PREPARED STATEMENT OF TOM MURPHY APPEARS IN THE APPENDIX]

The CHAIRMAN. Thank you, Mr. Murphy. I applaud the attempt to get to 98 percent accuracy within 125 days. I am somewhat skeptical that it can be accomplished in a three-year period especially when we hear stories like the ones from Mr. McNerney's area where we are talking 300-plus days, a year. Why is there such a disparity between some of these processing offices?

Mr. MURPHY. The work does not flow in as simple as, it does not come into a single location. Each office has an assigned territory that comes with it. So the work that flows through that office does not necessarily change or stay constant across the country. For example, considering Oakland, the rate of work there may be different from the rate that comes into Togus, Maine, or St. Petersburg, Florida. One of the effects is, how do you keep up with the change in the rate of workflow into that office while you are dealing with a full-time workforce that essentially you would have to realign back and forth across the country. The rate of claims that we receive is moving faster than we can realign those resources. That is one of the reasons.

The other reason is, it comes down to quality and rework in an office. It takes longer to work a case two times, or a third time as you are having quality issues than it does to get the case right the first time. Which ties back to the Secretary's initiative of 98 percent. And one of the major contributors to decreasing that processing time is handling a case once, having it right, and moving it out the door. That is certainly the case that we are seeing in Oakland, for example.

The CHAIRMAN. So Oakland just gets a ton of claims and they are all complicated? I cannot imagine St. Petersburg would not be in the same boat, with the number of veterans that are in that region.

Mr. MURPHY. I am glad you mentioned complicated claims. Because the complexity of the case has changed drastically in the last ten years. If you go back and look at the history of VA as we received a claim for a World War II veteran, for example, it had approximately 3, 3.25 contentions. The current veteran, a GWOT veteran, is at somewhere around 5.5 contentions. And then the difference is——

The CHAIRMAN. And why would that be?

Mr. MURPHY. The nature of war today. And not only, and we have a much better educated veteran population for one. And then the nature of war today is bringing in complexity and it is not as simple more contentions. It is the types of contentions that are claimed. And the point being that Traumatic Brain Injury and Post-Traumatic Stress Disorder, although they count as a single contention, each, they are significantly more complex and take significantly more time than a relatively straightforward evaluation for a knee injury. So the point is the number of contentions that we are receiving on each case is climbing, and the complexity, the

amount of time it takes to accurately rate each of those contentions is taking significantly more time.

The CHAIRMAN. Do you broker the claims that come in to Oakland out to other facilities?

Mr. MURPHY. I cannot speak specifically for Oakland.

The CHAIRMAN. Any facility. I mean, your explanation a minute ago was we cannot move people around.

Mr. MURPHY. Yes.

The CHAIRMAN. But you can move cases around.

Mr. MURPHY. We do broker cases around the country, that is correct. We have 13 what we call D1BCs, Day 1 Brokering Centers. However I have a caveat with those. Those 13 Day 1 Brokering Centers for 14 out of the last 16 months have been dedicated to working the three new presumptive conditions that were granted a year ago to clear up the Agent Orange presumptives. So those facilities are now returning back into the regular production. So we will be able to take advantage of some of that brokering around the country.

The CHAIRMAN. Did VA take into account the extra work that was going to be associated with the presumptives on Agent Orange? I mean it appears that you are trying to say that the backlog problem is Agent Orange and the cases that are coming in for that. Is that what is gumming up the system?

Mr. MURPHY. To say that that is the sole reason, no. To say that it is a contributing factor, yes. And I was a moment ago talking about complexity of the claim. And I have to go back to the 250,000 approximately cases that were just readjudicated. It takes three times as much time for a rater to work one of those cases as it does for one of the cases that is coming through the traditional routing method. And to put some other numbers around that, first so the production is .8 cases per day as opposed to approximately 2.5 cases per day, working on an Agent Orange Nehmer claim versus working on a traditional claim that is coming through. And then the other part of it is, to go back and talk about the productivity, those Day 1 Brokering Centers that I was just talking about, plus others that were in the offices, it consumed 37 percent of our workforce that was working claims in general. 37 percent of those were dedicated to rating those Agent Orange claims.

The CHAIRMAN. Was VA prepared for that?

Mr. MURPHY. I do not know that it is necessarily a question of was VA prepared for it. The law requires it, therefore we dealt with the law as it was required and laid in front of us.

The CHAIRMAN. What did VA do to prepare for it?

Mr. MURPHY. I can speak from the standpoint of how we handled the cases that were laid in front of us in terms of the training that we put to it, and the people that we assigned to it. And in that one I can tell that we went back in and completely redid the entire process, starting with all of the people that were working those cases and putting them through an intense training program that taught them all of the particulars around these three conditions and the requirements that we deal with when we are working on cases that are subject to the Nehmer court case.

The CHAIRMAN. Did the fact that you put so much emphasis on that cause a lack of emphasis on the myriad of other things that the raters should have been focused on?

Mr. MURPHY. I would not say that it is a lack of emphasis, because there is not a single veteran that comes through the door that is not important to us. And the question is more a case of how can I take care of all the veterans I have coming into the door and not focus solely on one particular population of veterans? And to focus on one population is not an acceptable answer. So yes, we dedicated some people to working on those Agent Orange claims. And then the other 67 percent of the population worked the remaining balance of claims coming in the door.

The CHAIRMAN. Thank you. Mr. Michaud?

Mr. MICHAUD. Thank you very much, Mr. Chairman. Thank you, Mr. Murphy, for coming. You heard the previous panel talk about, NOVA actually recommending that they have full access to the claim records by their attorneys. Do you support that?

Mr. MURPHY. Absolutely. Let me take a moment and tell you what we are doing to make sure that that happens. We talked and several of you mentioned earlier about the stakeholder entry portal. The stakeholder entry portal at this point is planned to be live before the beginning of the next fiscal year. And with that comes access for the veterans service organizations and attorneys that are registered with us to access the veteran's file.

Now it is not going to roll out all in a single phase. The first one comes out with what we call VONAPP direct connect, which is the electronic completion of the VA Form 526——

Mr. MICHAUD. Well I just wanted to know if you support their recommendations.

Mr. MURPHY. Oh, I am sorry.

Mr. MICHAUD. So if you do, that is fine.

Mr. MURPHY. Yes, absolutely. And we are putting the steps in place to do that very thing.

Mr. MICHAUD. Okay. You had mentioned earlier in response to the work load in Congressman McNerney's compared with Togus VA, they do shift work load so if it is backlogged in Mr. McNerney's district they shift it to Togus to help deal with that backlog. So as far as the work load they are able to shift that around. The concern is accuracy. And here again when you look at the accuracy rates for those at Togus is pretty high, has been consistently high.

Mr. MURPHY. Yes.

Mr. MICHAUD. And the reason that I maintain is whether it is in the VA system or Department of Defense system when you are dealing with claims, it makes a difference about whether or not the employees working there view that as a choice job versus a holdover and they are moving on to somewhere else. And so my question is, when you look at those areas that are underperforming on accuracy, how has the turnover rate been in those particular areas? Is it a high turnover rate in those areas? Or do you even track that?

Mr. MURPHY. I do not have the details in front of me to tie one versus the other, and I do not know if we have done that kind of analysis. But that is certainly one that we need to take a look at.

As you know, we have talked about it for years, it takes us two years to grow a new rater. So if you are trying to replace a significant percentage of your workforce every year or every two years, I cannot get enough journeymen in there to really function at that high performing level. So that is a consideration and we need to take a long hard look at our regional offices and see if there is a correlation between those two percentages.

Mr. MICHAUD. Yeah. I would be interested in seeing that because it could have a big impact. Particularly in rural areas where they are employers of choice they tend to do an extremely good job because they intend to stay there versus some urban area where it is only a holdover for maybe a couple of years and then they move on, and that does I think reflect in the quality of the work that is currently out there.

You had mentioned, you know, streamlining the process and I have heard concerns actually from veterans in Maine that in the effort to streamline the claims process more of the evaluations will be done automatically, or automated. One example that was given to me was that a nurse will check a box on a form that is then read electronically. But additional notes by that nurse may have not been used when you look at, you know, in determining the evaluation. How can VA ensure that the additional input from the evaluator is not considered secondary to that checklist? And the second part of that question is how should the VA be balancing the timeliness and uniformity with accuracy?

Mr. MURPHY. It is a great question on automation and looking at a recommended rating decision. And I am saying it that way because it is just that. It is not an automated rating decision, it is a recommended rating decision based on the evidence that is input into the system electronically. And the key there, and this is where I have to give credit to the veterans service organizations because we have had many conversations on this very thing, is in the process when you get to the end stages of it you have to have a human involved to sit down and do the common sense test. Is this really taking me where it needs to be? Is it really, just like you described a moment ago, the blocks say this but the text in the bottom is the extenuating circumstances that need to be taken into account?

So an automated system is not going to be able to allow us to crank through hundreds of thousands of these claims because they are all automated coming out the other end. They have to just get to a rater, where a rater sits and looks at the whole case, considers the whole impact on a veteran, and then a person makes the final decision and a rating determination. And like I said, I have to give the credit for that one to the veterans service organizations to make sure that we stay veteran focused on this issue.

Mr. MICHAUD. Thank you. Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. McNerney?

Mr. MCNERNEY. Thank you, Mr. Chairman. Mr. Murphy, you know I am going to ask about Oakland.

Mr. MURPHY. Yes, sir. I do.

Mr. MCNERNEY. All right. Thank you. Your office recently provided my office with some statistics about the Oakland Regional Office's performance. As of last Monday the facility had 34,756 disability claims pending, and approximate average of 313 days. More

than 80 percent of these claims sit without rating for more than 125 days. That is the second worst region in the Nation.

Some of this may be explainable by Mr. Sullivan's testimony, the wave of new claims that are coming in, the complexity of the claims. Could you give me an idea of what the accuracy statistics might look like from the Oakland office?

Mr. MURPHY. They are at 74 percent currently, in a rolling 12-month number.

Mr. MCNERNEY. And how does that compare nationally?

Mr. MURPHY. The national average is at 87 percent.

Mr. MCNERNEY. So not only are they taking longer times, but their accuracy is suffering.

Mr. MURPHY. Let me make one additional comment on there. In the last 90 days their quality has gone from 71 percent to 74 percent. At the same time in the last four months the national average has gone from 84 percent to 87 percent. And the point is that we are at a very rapid pace of increasing quality to include that office.

Mr. MCNERNEY. So what are you doing at that office specifically then?

Mr. MURPHY. I have to tie it back to what we have done in terms of training, challenge training which I will talk about in just a second, and what we have done with the quality review teams. The challenge training, we have introduced an eight-week, intensive, total immersion program. And out of that program, of which there are approximately 950 new raters out in the field, those raters are producing work at the time they complete the training, which has all been in the last six months, every one of these has completed 1.2 cases a day at better than 95 percent quality out of those individuals.

Mr. MCNERNEY. Well I can tell you, I have been confronted by veteran constituents who are experiencing long delays. And I tell them, "Hey, the VA is improving." And they are suffering significant personal hardship. So that is not what I want to say, "Well, our statistics are getting better." I want to say, "We are going to fix your case and we are going to fix it right now." So I want to see more done sooner.

The VA plans on implementing its transformational system in 12 offices around the country and yet Oakland is not included on that. Could you explain, is there a reason why Oakland was not included on that list?

Mr. MURPHY. I cannot explain that to you. I can get you an answer for that, but I cannot explain that to you. Can I take this in one slight different direction?

Mr. MCNERNEY. Sure.

Mr. MURPHY. And I completely understand. It is very hard to look a veteran in the eye and tell him that you have been waiting 330 days but you need to wait more. That is not the message we want to give and that is certainly not the message the veteran wants to hear. So let me take this in a slight different direction and it is not where we are but what are we going to do about it? And the answer is we are going to completely retrain that office, every single person in the service center in the month of June. We are going to run every single one of them through an intense focused challenge training, which yields the results of just what I

was talking about a few moments ago out of the other challenge courses. So that performance is not acceptable to us either and we are taking some drastic measures to ensure that it stops.

Mr. MCNERNEY. There is no doubt in my mind that that is your intention. And I am going to do everything I can to make sure I keep on top of this with you. And one of the things I want you to let me know as soon as possible, within the next week, why Oakland was not chosen for that transformational list?

Mr. MURPHY. Yes, sir.

Mr. MCNERNEY. If that is something that is going to improve performance, Oakland is one of the worse performing offices in the country, it should be considered. Have you look at the five recommendations that Mr. Sullivan proposed for improving performance?

Mr. MURPHY. I cannot say that I have read them specifically in what he has here, but Mr. Sullivan and I have talked in my office on multiple occasions.

Mr. MCNERNEY. Okay. Well I would like to see if that is, if those recommendations are something that you are interested in. And if so do they give us legislative ground? Do we need to do something here to make sure that that is something that you can move forward with?

Mr. MURPHY. Okay.

Mr. MCNERNEY. Now going back to the Oakland performance issue, at what point does the VA, at what point does your office take steps when you start seeing performance drop? What is a trigger for you to start taking drastic steps to improve a region's performance?

Mr. MURPHY. I do not want to sound like I am completely ducking the question here, because that is absolutely not the intent. But I run the policy and procedures side of this business. The Deputy Under Secretary for Operations runs that particular side of the business. So I can talk in a very general sense of what it is they are looking at and what they are doing, but I cannot provide you the great level of detail that you require for this. So I will take a shot at what we are looking at.

There are national performance standards that each RO has, that each RO director has. And through the area directors up to the Deputy Under Secretary level each one of those numbers of monitored and reported out each month, and you are looking for regional offices that are underperforming as opposed to the rest of the slate across the country. And then the area directors then concentrate their efforts talking to that particular regional office and addressing why their performance is outside the norm compared to others.

Mr. MCNERNEY. Well I would like to see some way for the department to evaluate when a regional center is underperforming and when steps need to start being taken to improve performance. Mr. Chairman, I yield back.

The CHAIRMAN. Thank you very much. Mr. Murphy, with the stakeholder entry port will caseworkers from Members of Congress be able to access that port? We have asked time and time again that our caseworkers be allowed to access a veteran's case, eyes only, just to have an opportunity to see what is in there, what is

not in there, so that they do not have to languish in somebody's file box until they make a determination and, in Pensacola our office is probably running a hundred cases at any given time. It would be a great asset for us and I would think an asset for the VA to have 435 free caseworkers looking at the case.

Mr. MURPHY. That is a question I need to go back and have a discussion with general counsel about. If it is legally allowable to do that then we can go down a different avenue. But I can tell you honestly that we have not really considered that in it because we have been looking primarily at the power of attorney, meaning NOVA and their attorneys and the veterans service organizations that are appointed on a POA by the veteran.

The CHAIRMAN. All of us use case work authorization forms and they can be modified in any way to meet whatever legal needs that VA would require. But I would appreciate if you would look at that. Because, you know, again, usually when a veteran comes to us they have been through the ringer for a long time. And we want to help them solve their problem. Not that everybody prior to us does not want to do the same thing. But I think it would be a great opportunity for collaboration between our branch and the executive branch to help solve some problems, certainly not all.

Mr. MURPHY. Well it certainly makes sense from the standpoint of if one of your staff is sitting there having a conversation with the veteran, they log in, they press a few buttons, and rather than you send it to me and I go look at it and come back to you two weeks later, you can give the veteran an instant answer on the phone. So I completely understand the value with that. And I do need, like I said, I need to discuss with general counsel to find out what the legal restrictions or limits may be there for us.

The CHAIRMAN. I wish you would and thank you very much. Are there any other questions? Thank you for your testimony, Mr. Murphy. We appreciate you being with us today. To all of the folks that were here to testify before the Committee, we appreciate it. I would like to ask that all Members would have five legislative days to revise and extend or submit remarks, and without objection so ordered. And with that being said, this hearing is adjourned.

[THE PREPARED STATEMENT OF CARL BLAKE APPEARS IN THE APPENDIX]

[Whereupon, at 12:02 p.m., the Committee was adjourned.]

A P P E N D I X

Prepared Statement of Chairman Jeff Miller

Good morning everyone. welcome to this morning's hearing. We are here today to review the veterans service organizations' roles in the disability claims process.

Initially, I would like to thank the American Legion, who are here today, for bringing this topic to the Committee's attention. as was noted in a letter sent to me by their National Commander, Fang Wong, Veterans Service Officers or VSO's, play an integral role in the disability claims process.

I would like to begin today on a positive note in discussing some of the tremendous parts VSO's play on behalf of our Nation's veterans.

VSOs fulfill an invaluable service to our veterans by aiding them in navigating a complex and confusing system to receive their earned benefits.

As I have mentioned numerous times in the past, our veterans put their life on the line to defend our liberties and freedoms.

Just as our servicemen and women fulfilled their duty to serve us and our country, we have an equal duty to ensure they receive what they have earned.

VSO's help fulfill this commitment every day by helping veterans navigate the disability claims process; very often enabling veterans to obtain earned benefits.

They provide this service free of charge.

In addition, being represented throughout the disability claims process is effective—study after study shows that veterans with representation have a greater chance at recovering their earned benefits than if they are not represented by a VSO, agent, or attorney.

I would also like to recognize a positive change in recent years which has involved a move towards increased cooperation and partnership between VA and the VSOs.

Placing the veteran and his or her needs at the center of our objectives facilitates the spirit of cooperation that we are here today to examine and improve.

I hope to see continued progress in this direction going forward.

However, part of the oversight function of this Committee is ensuring everything is being done to assist our veterans to the extent that our resources can realistically permit.

To this end, in and the spirit of the cooperative mentality I just mentioned, it is my hope that we can explore what can be done to improve VSO representation throughout all stages of the disability claims process, as well as surveying some of VBA's weaknesses in this regard. For example, there are enormous challenges with the evolving structure of the Veterans Benefits Administration.

Most of these changes have originated in the process of bringing VBA into the 21st century.

These adjustments present increasing challenges for VSOs and VBA.

We have a duty to explore the limitation of VSO resources when presented with an increased workload resulting from these transitions, as well as the result of sacrificing quality in working a claim due to the sheer volume and increased complexity of claims received.

I also intend to investigate some of the weaknesses in the claims process itself with respect to the veterans benefits administration.

The track record over several decades of VBA in implementing sweeping improvements to its claims system has been substandard.

Now, with two wars winding down and an increasingly aging veteran population, it is imperative that the much-touted technological and training improvements are set up correctly and used efficiently.

I have vowed that this Committee will continue vigorous oversight to see these goals accomplished, and I reaffirm this promise today. to this end, I would like to thank all of our witnesses for their attendance this morning, as well as for their ongoing service to our Nation's veterans.

I now turn to our Acting Ranking Member for his opening statement.

Prepared Statement of Hon. Silvestre Reyes,
Acting Ranking Democratic Member

Mr. Chairman, thank you so much for holding this important hearing.

Today we have many well-informed stakeholders in this room with us. I thank the VSO witnesses for being here and for their tireless efforts on behalf of our Nation's Veterans.

I see today's hearing as a timely opportunity to focus on bringing more solutions to the table about how to improve the disability claims processing system to produce better outcomes for our Veterans.

We all know the problem.

Over 1.3 million claims and appeals jammed in a flawed processing system—in an organization with a current management culture that often over-emphasizes production over quality.

Well, quantity over quality will not work when it comes to our Veterans.

We need to get claims done right the first time—as if a do-over was not an option.

There's no shortcut of getting around the basics—of having well-trained employees who are empowered with the right tools and the right systems to get the job done right the first time.

That is why I still remain concerned that the work credit system may not keep the focus on the Veterans but on churning work.

VA's claims backlog problems are not new and many of VA's current "new solutions" have already been done in different iterations.

What is different is that we have Veterans returning home from two wars with serious signature injuries like PTSD and Traumatic Brain Injury.

At least 26% of our returning Veterans will suffer from one of these injuries which require a huge commitment.

We have Veterans committing suicide in shameful numbers—the most recent figure being 18 Veterans every day. That's one Veteran every 80 minutes—over 6500 a year.

That means that before this hearing is over a Veteran will take his or her life. That breaks my heart.

Having any system like the current claims processing system where over 65% of claims are in the backlog also breaks my heart.

We need to get this right so that no claims are languishing and Veterans, their families and survivors get the benefits that they have earned and deserve without delay.

Like many of you, I agree with Ranking Member Filner that VA should remember that "VA" should stand for "Veteran Advocate" and not "Veteran Adversary".

To that end, I am glad that we now have a Secretary who understands that part of VA's mission is "ADVOCACY."

I understand that since passage of P.L. 110–389, the Veterans Benefits Improvement Act of 2008, the Secretary has been a lot more receptive and inclusive of our VSO partners.

He's done this by including them in meetings on critical issues including larger initiatives like VBMS (Veterans Benefits Management System) and e-Benefits.

I understand that there is even a Stakeholder Enterprise Portal well underway which may allow the thousands of service officers, including our state, local and county service officers to have needed access to Veterans' claims information.

These are all great initiatives but more needs to be done.

Today, we have received a number of well-thought out and informed comments in the testimonies.

I am confident that VA will take them under serious advisement. I warn that in order for these recommendations to receive serious consideration, it will require a culture change at VA—one where our Veterans receive the benefit of the doubt.

The VSOs, along with many other stakeholders, are the veterans' advocates and VA needs to continue its outreach to make their voices a part of its transformation efforts.

We must continue on a path to making the claims system provided to our Veterans first-rate, world-class and uncompromised.

Where it is done right the first time.

Thank you. I yield back.

Prepared Statement of Jeffrey C. Hall

Chairman Miller, Ranking Member Filner and Members of the Committee:

On behalf of the Disabled American Veterans (DAV) and our 1.2 million members, all of whom are wartime disabled veterans, I am pleased to present our views regarding the vital role that claimant's representatives, particularly service officers from accredited veterans service organizations (VSOs), play in the VA disability claims process. Having spent the first seventeen years of my career with DAV in the field working as a National Service Officer (NSO), a National Appeals Officer, an NSO Supervisor and finally a National Area Supervisor, I look forward to providing this Committee some perspectives learned firsthand while assisting thousands of disabled veterans and their dependents in obtaining the benefits to which they are entitled.

Mr. Chairman, we are all aware of the significant problems and challenges facing the Veterans Benefits Administration (VBA) as it seeks to make the benefits claims processing system modern, timely and accurate. The backlog of claims pending is too high and the accuracy of claims decisions remains too low. While Congress has significantly increased resources, funding and personnel over the past several years, there have also been major increases in the number of claims filed, the number of contentions per claim, and the complexity of rating decisions.

VBA remains focused on the goal set by Secretary Shinseki of having zero claims pending more than 125 days and all claims completed to a 98 percent accuracy standard. And while the elimination of the backlog will be a welcome milestone, we must remember that eliminating the backlog is not necessarily the same goal as reforming the claims processing system, nor does it guarantee that veterans are better served. The backlog is a symptom, not the root cause. Just as someone with the flu can take aspirin to reduce their high temperature, that will not cure them of their illness, nor prevent it from returning in the future. For example, VBA could quickly eliminate the backlog of claims by denying all of them, or for that matter granting all of them. However, neither option would be of benefit to veterans in the long run. In order to achieve real and lasting success, VBA must instead remain focused on creating a claims processing system that is carefully designed to get each claim done right the first time.

One of the more positive developments in recent years has been the open and candid attitude of VBA's leadership towards developing a true partnership with DAV and other VSOs who assist veterans in filing claims. VSOs have vast experience and expertise in claims processing, with local and national service officers holding power of attorney (POA) for hundreds of thousands of veterans and their families. In this capacity, VSOs are an integral component of the VA claims process, operating behind the firewall. Today's hearing is an opportunity to review our role, examine ways we might further assist VBA in its work, and offer recommendations to improve the claims process based on our experience.

Since 1920 DAV has offered free representation to veterans, their dependents and survivors seeking benefits and services from the Department of Veterans Affairs (VA) and other government agencies. In this capacity, DAV NSOs focus on educating disabled veterans about their benefits and the claims process, assisting them with filing claims for benefits and then by advocating on their behalf to ensure they receive all the benefits and services they have earned through their service. DAV and other VSOs also assist VA by reducing their workload, ensuring more accurate claims decisions and helping to improve and redesign VA's claims processing system.

DAV has the nation's largest service program with 100 offices located throughout the United States and in Puerto Rico. Relying on a corps of approximately 240 NSOs and 30 Transition Service Officers (TSO), we provide free representation to veterans and their families with claims for benefits from the VA, the Department of Defense and other government agencies. In fact, DAV represents more veterans than all other accredited VSOs combined. In 2011, DAV NSOs and TSOs assisted nearly a quarter million veterans and their families with their claims, obtaining approximately $6.5 billion in new and retroactive benefits.

Mr. Chairman, we firmly believe that the key to our success, and ultimately the key to VA's success, is the steadfast commitment to quality and accuracy in our work, and that begins with an unwavering commitment to the education and training of our NSOs.

The primary responsibility of DAV NSOs is to function as attorneys-in-fact, assisting veterans and their families with claims for VA disability compensation and pension; vocational rehabilitation and employment; education; home loan guaranty; life

insurance; death benefits; health care and much more. NSOs also represent veterans and active duty military personnel before Discharge Review Boards, Boards for Correction of Military Records, Physical Evaluation Boards and other official panels. In addition, DAV NSOs conduct free informational seminars and community outreach programs.

To develop the high level of expertise this job requires, new NSOs begin with a rigorous 16-month on-the-job training program, conducted by tenured supervisory NSOs with subject matter expertise. Throughout their training, DAV closely monitors the progress and knowledge retention of NSOs through web-based testing and monthly evaluations. In addition to the training provided directly by DAV, NSO trainees must also successfully complete academic instruction in Anatomy & Physiology, Medical Terminology, Composition and/or Legal Research & Writing, and Public Speaking, from an accredited college or university. DAV's National Service staff is responsible for developing, administering and monitoring the entire training program, as well as the instructor's performance and the progress of each NSO trainee.

NSOs trainees who have successfully completed the first four months of training, and passed the requisite tests and other evaluations, will begin performing supervised claims work in their fifth month. They will continue working on their individual caseload, while continuing to receive training and instruction, and must pass a comprehensive web-based examination every four months on the topics covered for that given period. At the conclusion of their 16th month on the job, they will be required to pass a comprehensive web-based examination covering all of the topics from the entire training period.

However, DAV training is not only provided to new NSOs as they first learn the job, rather DAV training programs are a lifelong commitment to achieving excellence throughout an NSO's career. Beyond their initial 16 month training, all NSOs must participate in a comprehensive Structured and Continuing Training (SCT) program designed to keep them up-to-date on changes to the laws and regulations affecting veterans' benefits. This training includes not just all NSOs, but also all Supervisors and Area Supervisors.

DAV's SCT program provides in-depth review of laws, regulations, VA M–21 and similar manuals, VA Fast Letters, Board of Veterans' Appeals practices, as well as opinions of the VA Office of the General Council and holdings from the US Court of Appeals for Veterans Claims. Moreover, the DAV SCT program delves deeply into the VA Schedule for Rating Disabilities (VASRD) by providing a meticulous breakdown of each anatomical system and correlating diagnostic codes and ratings. When dealing with the complexities of the VASRD, the SCTs accompanying CD–ROM collection, Special Monthly Compensation "slide rule" and case studies prove to be extremely useful throughout the NSO's career. In fact, there are many outside DAV who have benefited from our SCT program; this includes other VSOs and VA employees, as well as DoD Physical Evaluation Board members, who have utilized our SCT materials to enhance their knowledge.

All NSOs are required to take pre-tests and then successfully complete 32 monthly training modules with post-testing requirements for each module. At the end of each month, NSOs must successfully pass web-based testing in order to move forward in their training. At the end of each 16-month period, a comprehensive 160-question web-based test must be passed in order to move forward to the second 16-month training period, which is delivered in the same manner as the first 16-month period. Once an individual successfully completes the entire 32 months of SCT training, NSOs have gained a wealth of knowledge and become more proficient in their duties. In addition, DAV is the only VSO whose training program has been certified for college credit by the American Council on Education (ACE), which awards 12 college credits to our NSOs upon successful completion of the first 32 months of SCT training.

However, DAV SCT does not end there, but will continue throughout an NSO's career at DAV. When an NSO completes the entire 32-month SCT program, they then start the entire training cycle again from the beginning, but with the changes, updates and new information that is provided by DAV's national training staff who constantly monitor and update the course materials. By the time an NSO has 15 years of service, they will have completed the SCT training regimen four times. We are certain that the high quality of the services we offer are directly related to the emphasis we place on lifelong learning for all of our service officers.

By comparison, the VBA training program for its employees, particularly Veterans Service Representatives (VSRs) and Rating Veterans Service Representatives (RVSRs) is shorter, less rigorous and has fewer testing requirements. It begins with an initial orientation phase at Regional Offices where new employees will undergo eight weeks of "Challenge" training providing them a basic introduction to their job

responsibilities. Although "Challenge" training had been four weeks long, a couple of years ago it was expanded into a more intensive eight-week course conducted at a central training academy near Baltimore, Maryland. Recently, however, VBA stopped sending new employees to the training academy due to budget constraints on travel, and instead is now conducting the training locally, relying on a cadre of trainers to conduct and/or oversee the training at each RO. While there is certainly merit in a "train the trainer" approach, centralized training of new employees has unique benefits suited to the current transformation taking place at VBA. In addition to providing a more focused environment for new trainees to learn their roles and responsibilities, it allows a more consistent transmission of new cultural values to trainees, particularly the paramount importance of quality and accuracy. We have concerns that this change was made strictly for short term financial considerations rather than to achieve the long-term goal of reforming the claims processing system.

Since expanding the "Challenge" training to eight weeks, VBA's policy is to have new VSRs and RVSRs immediately begin working on claims after they complete their initial training, although they will continue receiving both on-the-job training and mentoring from more senior employees in their RO. They also continue with a required course of online learning through VBA's Training and Performance Support System (TPSS) on subjects such as how to utilize VBAs computer-based programs, medical terminology, how to review and interpret medical evidence, as well as understanding and applying the law and regulations when evaluating evidence and rendering decisions. After they have completed all of the TPSS modules for new employees, they will then have the same continuing training requirements as all VSRs and RVSRs, which consists of 85 hours of annual training. While there are tests conducted during the initial training, and there is also a one-time certification examination required for all VBA employees, there is no regular testing performed to measure the effectiveness of annual training, nor is there any other regular testing of employees to ensure that they have the knowledge and skills required to successfully perform their jobs, or to identify individual or systemic deficiencies in the claims processing system.

Considering the complexity of their jobs, and in order to build a culture of accuracy and quality, VBA must ensure that employees complete all of their training requirements, and must take steps to ensure that they have adequate time to do so. DAV continues to recommend that VA significantly increase the hours devoted to annual training for all VSRs, RVSRs and Decision Review Officers (DROs). In addition, we believe it is essential that all VBA employees, coaches, and managers undergo regular testing to measure job skills and knowledge, as well as the effectiveness of the training. At the same time, VBA must ensure that certification examinations as well as any other tests that are developed accurately measure the skills and knowledge needed to perform the work of VSRs, RVSRs, DROs, coaches, and other managers.

Due to DAV's training program, our NSOs fully understand VA benefits and the disability claims process. Possessing in-depth knowledge of pertinent laws, regulations and specific holdings brought forth by the United States Court of Appeals for Veterans Claims, DAV NSOs educate, assist and advocate for veterans, their families and survivors in seeking earned VA benefits. Whether an individual claimant visits a DAV National Service Office, Transition Service Office or a Mobile Service Office, or corresponds by telephone, mail or e-mail, our first interaction with claimants is meant to educate them about their rights, their benefits and the process of filing claims. We begin by educating a claimant about the benefits to which they are entitled, the disability claims process, and most importantly, the evidence needed for a successful claim. DAV NSOs and TSOs place a strong emphasis on the vital role claimants can play in this process by encouraging them to be proactive in gathering as much of the evidence as possible. In particular, DAV has worked closely with VBA to promote the Fully Developed Claims (FDC) process to our clients, where appropriate. Although earlier in the rollout of the FDC program DAV and other VSOs had concerns about informal FDC claims, VBA worked with us to develop and issue clear guidance on how to establish informal claims under the FDC program.

DAV also encourages all of our claimants, if possible, to seek private medical evidence to bolster their claims through the use of new Disability Benefits Questionnaires (DBQs), rather than waiting for a VA examination to be scheduled and performed. This is another area where VBA has been highly responsive to VSOs, allowing us to review and make recommendations to improve the format and content of DBQs. However a cultural bias within VBA against private medical evidence could limit the effectiveness of DBQs. Although the law allows the use of private medical evidence, it does not require that it be given equal weight to VA medical evidence.

As such, we continue to hear reliable reports that many VSRs and RVSRs continue to discount medical evidence or properly completed DBQs from private doctors, instead ordering unnecessary VA examinations, further delaying the process and adding to VBA's burden.

In order to encourage the use of private medical evidence, Congress should amend title 38, United States Code, § 5103A(d)(1) to provide that, when a claimant submits private medical evidence that is competent, credible, probative, and otherwise adequate for rating purposes, including a private medical opinion submitted on a DBQ, the Secretary shall not request a VA medical examination. With this new language, VA would not have to accept private medical evidence if, for example, VA finds that the evidence is not credible and therefore not adequate for rating purposes.

DAV NSOs directly assist claimants for whom we hold power-of-attorney (POA) in completing all the necessary forms for a successful claim. We work with claimants to protect the date of their claim, gather and assemble the evidence required to be awarded benefits, complete all of the required filing forms, and submit memoranda or written argument to accompany and support their claims application. In fulfilling these duties, our NSOs improve the quality of the claims filed, thereby reducing the workload on VBA. We also reduce the burden on VBA's contact offices by interacting with veterans seeking routine information or updates on the status of their claims.

DAV NSOs will continue to advocate for our claimants with VBA throughout the claims process. Working directly in VBA Regional Offices, NSOs are given 48 hours to review all rating decisions of our clients prior to their issuance, which allows us an opportunity to interact with the decision makers (RVSRs, DROs and/or RO management) in order to advocate for accurate rating decisions. In this role, we act as a comprehensive quality control check for VBA, reviewing every rating decision affecting veterans for whom we hold power-of-attorney. This will be even more important as VBA becomes fully engaged in their streamlined rating decisions and notification process known as the Simplified Notification Letter or SNL. By catching errors at the RO, where they can more easily and quickly be corrected, we not only serve our clients, we also save VBA the time and resources they would otherwise have expended on lengthy and burdensome appeals.

There is substantial evidence demonstrating that represented veterans receive better and more accurate outcomes than those without representation. For example, veterans represented at the Board of Veterans' Appeals in FY 2011 were awarded benefits 29 percent of the time compared to unrepresented veterans who succeeded less than 23 percent of the time. Studies have also shown that the average award is higher for represented veterans than those without someone to advocate on their behalf. In May 2005, VA's Office of Inspector General (VAOIG) issued a report (05–00765–137) examining variances in disability compensation payments amongst the fifty states. The VAOIG report found that the average compensation for represented veterans was $10,631 compared to an average of only $4,406 for unrepresented veterans. As stated in the OIG findings:

> "Qualified POA representatives provide a valuable service to applicants by explaining VA benefits, assisting in completion of forms and collection of evidence, monitoring the progress of the claim, and representing them in hearings and appeals. The majority of veterans receiving compensation have appointed POA representatives."

In addition to directly helping improve the quality of claims decisions, DAV and other VSOs have been able to help VBA improve and redesign their claims process. Over the past few years, we have worked increasingly close with VBA on a number of their transformation initiatives. We have offered our expert advice to improve DBQs, the Veterans Benefits Management System (VBMS), the Stakeholder Enterprise Portal (SEP), e-Benefits, the FDC program, and many other pilots taking place at ROs across the country. We have and will continue to work with VBA as they complete the redesign of the new operating model so that claims are accurately processed and adjudicated the first time.

VBA faces a daunting challenge of comprehensively transforming the way it processes claims for benefits in the future, while simultaneously reducing the backlog of claims pending within its existing infrastructure. While there have been many positive and hopeful signs that the VBA is on the right path, there will be critical choices made over the next year that will determine whether this effort will ultimately succeed. It is essential that Congress provide careful and continuing oversight of this transformation to help ensure that the VBA achieves true reform and not just arithmetic milestones, such as lowered backlogs or decreased cycle times.

In order to drive and sustain its transformation strategies throughout such a massive organization, VBA must change how it measures and rewards performance. Un-

fortunately, most of the measures that VBA employs today are based primarily on production goals, rather than quality. This bias for speed over accuracy has long been VBA's cultural norm, and it is not surprising that management and employees today continue to feel a tremendous pressure to meet production goals first and foremost. While accuracy has been and remains one of the performance standards that must be met by all employees, new performance standards adopted over the past two years appear to have done little to create sufficient incentives to elevate quality above production.

After two years of development, VBA's new VBMS IT system is planned to begin rolling out nationally in the next couple of months. The VBMS is designed to provide a comprehensive, paperless, and rules-based method of processing and awarding claims for VA benefits, particularly disability compensation and pension. As VBA turns the corner on VBMS development leading to deployment, it is imperative that Congress provide full funding to complete this essential IT initiative. In today's difficult fiscal environment, there are concerns that efforts to balance the federal budget and reduce the national debt could result in reductions to VA programs, including IT programs. Over the next year Congress must ensure that the funding required and designated for the VBMS is protected from cuts or reprogramming, and spent as Congress intended.

One area of concern that remains unresolved is how VBA plans to handle legacy paper claims in the new VBMS work environment. While VBA is committed to moving forward with a paperless system for new claims, it has yet to finally determine how to handle reopened paper claims; specifically, whether, when, or how they would be converted to digital files. Because a majority of claims processed each year are for reopened or appealed claims and because files can remain active for decades, until all legacy claims are converted to digital data files, VBA could be forced to continue paper processing for decades. Requiring VBA employees to learn and master two different claims processing systems—one that is paper-based and the other digital—would add unnecessary complexity and could negatively affect quality, accuracy, and consistency.

While there are very difficult technical questions to be answered about the most efficient manner of transitioning to all-digital processing, particular involving legacy paper files, we believe the VBA should do all it can to shorten the length of time this transition takes to complete, and should provide a clear roadmap for eliminating paper files, one that includes clear timelines and resource requirements. While this transition may require significant upfront investment, it will pay dividends for the VBA and veterans in the future.

Mr. Chairman, this will be the third year of the VBA's current effort to transform an outdated, inefficient, and inadequate claims-processing system into a modern, automated, rules-based and paperless system. VBA has struggled for decades to provide timely and accurate decisions on claims for veterans benefits, especially veterans disability compensation, however despite repeated prior attempts to reform the system, VBA has never been able to reach the goals it has set for itself. Critical to VBA's success will be the choices made this year, and it is absolutely essential that Congress continue to provide strong oversight to ensure that the enormous pressures on VBA to show progress toward eliminating or reducing the claims backlog does not result in short-term gains at the expense of long-term reform.

That concludes my statement and I would be happy to answer any questions from you or other members of the Committee.

Executive Summary

- Veterans service organizations (VSOs) play an integral part in the disability claims process, with local and national service officers holding power of attorney for hundreds of thousands of veterans and their families. VSOs assist VA by reducing its workload, ensuring claims decisions are accurate, and helping to improve and redesign VA's claims processing system.
- DAV offers free representation to all veterans, their dependents and survivors seeking VA and other government benefits. DAV has the largest service program with 100 national offices, and a corps of approximately 240 National Service Officers (NSOs) and 30 Transition Service Officers who helped file almost 250,000 claims last year.
- DAV NSOs focus on educating disabled veterans about their benefits and the claims process, assisting them with filing claims for benefits and advocating on their behalf to ensure they receive all their earned benefits. Evidence shows that represented veterans receive more accurate outcomes with higher average awards than unrepresented ones.

- The key to DAV's success, and ultimately the key to VA's success, is a steadfast commitment to quality and accuracy of our work, which begins with an unwavering commitment to the education and training of our NSOs.
- The Veterans Benefits Administration should significantly increase the hours devoted to annual training and require all employees, coaches, and managers to undergo regular testing that measures their job skills and knowledge, as well as the effectiveness of the training itself.
- In order to encourage the use of Disability Benefit Questionnaires, Congress should amend title 38, United States Code, § 5103A(d)(1) to provide that due deference is provided to private medical evidence that is competent, credible, and adequate for rating purposes.
- In order to drive and sustain its transformation strategies, VBA must change how it measures and rewards performance to emphasize accuracy and quality over production.
- Congress must ensure that the funding required and designated for the Veterans Benefits Management System is protected from cuts or reprogramming, and spent as Congress intended.
- VBA must transition as quickly as feasible to a fully digital processing system, which may require significant upfront investment, but will pay long term dividends for veterans.

Prepared Statement of James D. Wear

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the more than 2 million men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify today regarding the Veterans Service Organizations' role in the disability claims process.

In 2011, the Veterans of Foreign Wars (VFW) helped more than 97,000 veterans and survivors receive over $2 billion in compensation and pension benefits. In addition, in FY 2011 the VFW represented more than 3,700 appellants at the Board of Veterans Appeals. Our allowed rate (one or more issues granted on appeal) of 30.7 percent was second highest among the major veteran service organizations. Our allowed rate was higher than that achieved by attorneys. It was fully eight percentage points higher than veterans who had no representation.

We are proud of these achievements. They show that representation by our service officers and appeals consultants [1] clearly helps veterans and other claimants perfect their claims and obtain the benefits to which they are entitled under the law.

However, we are not alone in this work. The American Legion, Disabled American Veterans and the Veterans of Foreign Wars represent nearly 1.6 million veterans and survivors already receiving compensation, pension or DIC from VA. Together, we represent tens of thousands more with claims and appeals awaiting decisions from VA.

As part of this process, we answer millions of telephone calls and emails a year. We interview hundreds of thousands of individuals annually, explaining what benefits they may or may not be entitled to, help them complete forms, assist in developing claims, review VA decisions, identify errors, and work with VA to get them corrected.

We provide all these services to veterans and the VA for free. We do not take a dollar in grants or payment from the Federal government to provide these services. We do these things because we recognize that the laws and regulations dealing with veterans benefits are often complex; the claims process is often treacherous to navigate. We do these things because veterans have already sacrificed for our country and whatever assistance they receive from our government should not require additional struggle and turmoil.

We readily acknowledge that nearly all VA employees are dedicated to doing the very best they can for veterans, we also realize that they are, at present, overwhelmed with over 1.5 million pending compensation, pension and education claims,

[1] Accredited VFW employees are called "service officers" and "claims consultants". In practice, the only distinction is that a "service officer" is a veteran who is also a member of the VFW; a "claims consultant" is an individual who is not eligible for membership in the VFW. Their representational duties are the same. For simplicity sake, "service officer" in this testimony refers to both positions.

and over a quarter of a million pending appeals.[2] They are people working within an extraordinarily complicated and frequently archaic claims processing system. Since there are few automated quality controls, they are dependent on both how much they know and how well they apply it to their work. In short, VA decision makers are human; they make mistakes.

Quality of decision-making is problematic. A review of the latest quality data for ratings indicates that the best regional office (Lincoln, NB) has a four percent error rate. The national average has remained nearly stationary at 16 percent for months. Recent changes in the Baltimore regional office, still the worst in the nation, have resulted in significant improvement (for it); errors occur in "only" 29 percent of its rating decisions, down from a 33 percent error rate just a few months ago.

The VFW has nearly 1,300 accredited individuals. Most of these are county and state employees who provide assistance to veterans and survivors who have given the VFW their power of attorney (POA). Service officers employed by the VFW and work within VA regional offices number 245. This is the group that receives specialized training and routine information dissemination from our national office in Washington concerning changes in law, regulations, VA procedures or court decisions.

New VFW service officers are given a 40 hour classroom "boot camp" where they receive intense training in all VA benefit programs, with a special emphasis on compensation and pension. They are also taught representational skills; they learn about the appeal process. We give them the basic knowledge they need to intelligently discuss disability and survivor benefit programs with claimants, help them fill out appropriate forms, tell them what evidence is needed to complete their claim, outline the claims process within VA and other things.

Training does not stop there. Every VFW service officer who works within a VA regional office is required to attend training each year. This training is very technical in nature, with a heavy emphasis on topics related to the rating schedule. Most of our trainers are recently retired VA subject matter experts who provide instruction as good as or better than that received by VA employees. Our goal is to ensure our service officers know VA laws and regulations as well as or better than the VA employees with whom they deal with in their offices. Once a problem with a decision has been identified, we expect our service officers to use the facts, laws and regulations to convince VA to change the decision in favor of the claimant.

In all, we provide approximately 80 hours of classroom training each year to VFW service officers who work within VA regional offices.[3]

Change does not stop between training conferences. The Veterans Benefits Administration (VBA) frequently adds or modifies regulations and policies dealing with its benefit programs. The VA Office of General Counsel, the Court of Appeals for Veteran Claims, the Court of Appeals for the Federal Circuit and others publish decisions which change how VA works. Our national staff is constantly monitoring the various sources of change to identify those things which may affect veterans. We analyze these changes, discern how they might impact veterans benefit programs and then notify our service officers of the change and what it means to them. These Updates are distributed several times each month. This is how we keep our service officers up to date.

Veteran service officers offer a host of services to veterans, dependents and survivors. While each claimant is different and has different needs, the veteran service officer performs the following roles:

- Information dissemination—Generally, the first contact a service officer has with a claimant is either in person or on the telephone. The veteran has questions, concerns or problems. The service officer must identify each issue and provide the most accurate information available. Veteran service officers often perform outreach, meeting groups wherever they might gather. This typically involves talking about the things which are likely to interest the group, then taking specific questions after the conclusion of his remarks.
- Claims intake and preparation—This can be done either in person or on the phone. It is most effective when the claimant can sit down with the service officer. This allows the service officer to review available records as the application for benefits is being completed. The service officer asks questions and helps the claimant focus the issues. It is also an opportunity to begin to discussing what evidence is needed to perfect the veterans claim.

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[2] Monday Morning Workload Report, April 9, 2012, *http://www.vba.va.gov/reports/mmwr/*

[3] In VA Fast Letter 11–04, VBA mandated 85 hours of continuing education for their claims processers. Unlike our training, only a portion of VBA's mandatory training is classroom training.

- Facilitator/aid in development—A well trained service officer will usually know what evidence the VA needs to favorably consider the claim. He/she should tell the veteran what that evidence is and explore with him just how that evidence can be obtained. This is also an opportunity to begin to manage expectations of the claimant.
- Problem resolution—informal intermediary to clarify issues, obtain evidence—VA employees know who the good service officers are, and they use them to help expedite claims. It is not unusual for a VA employee to alert a service officer of the need for a particular piece of evidence in order to make a decision (e.g., "If you obtain this piece of evidence, I think I can grant the claim.") This type of communication acts as an incentive for both the service officer and the veteran to obtain that evidence and submit it quickly. This type of informal interaction becomes a win-win for VA and veterans.
- Final quality control of VA decisions—Long established VBA policy requires that proposed rating decisions be provided to service officers holding veterans power of attorney for at least two business days. During that period service officers have an opportunity to review not just the rating, but also the record on which the rating was based. Any errors identified during this review are brought to the attention of either the rater who made the decision or a designated supervisor. This process is designed so that errors can be corrected before the rating is sent to the veteran. While some local VA managers occasionally try to reduce or eliminate this review period, VBA leadership has always recognized the importance of this step and have taken corrective action when necessary.
- Counselor/interpreter of VA decisions—Not every decision made by VA is favorable to veterans. There are times when the evidence and the law do not allow VA to grant the benefit sought. One of the jobs of a service officer is to explain decisions to claimants in ways that they will understand. They discuss the problem which forced VA to deny the benefit sought and explain what evidence is necessary to obtain a different decision in the future.
- Appellate counselor—Sometimes the VA just makes a wrong decision. When that happens the service officer discusses appellate options with the claimant and helps him/her file a notice of disagreement when appropriate. During the appeal process the service officer may discuss the case with a Decision Review Officer, represent the veteran on appeal and write an argument on behalf of the claimant to the Board of Veterans Appeals.
- Representation at the BVA—The national Veterans of Foreign Wars maintains a staff of highly trained appeals consultants at the Board of Veterans Appeals. Their job is to review the case when it comes to the Board, formulate the best possible argument on behalf of the appellant. They also represent appellants in personal hearings before Veteran Law Judges at the Board. As mentioned above, we helped appellants obtain reversals by the Board in 31.7 percent of the appeals considered in 2011.

VA is in the midst of tremendous change. Historically, technological advances in VA have been done in fits and starts. Three phase plans often failed to move beyond the second phase. Even when new programs were rolled out in the last two decades, they were often deployed long before adequate testing was completed, leaving users in the field with programs which required thousands of man-hours to fix.

However, VBA appears to be moving forward today with IT programs which promise to speed processing while finally introducing tools which promise to improve quality. We welcome this progress. We hope that VA has learned lessons from its past and from private industry which will allow it to implement change with minimal negative impact on its employees, service officers and veterans.

It is important to understand that veteran service organizations are both advocates for veterans and partners, or stakeholders, with VA. In order for us to do our job effectively, we must have access to VA computer systems, records, facilities and personnel. Without this access, we might as well stand on the curb and shout at regional office buildings.

Our relationship with Secretary Shinseki and VBA leaders has steadily improved over the last four years. VA has shown progressively greater transparency in many of the things it does. We have tried to demonstrate to VA that while we are advocates for veterans and will hold VA accountable for doing its many and varied jobs, we are also willing to work with VA to help ensure that change, when it occurs, is at least neutral in its effect on veterans. More importantly, we seek to identify win-win opportunities: opportunities for improvement which help both VA and veterans. A recent development within VBA illustrates both the difficulties and benefits of working closely together to achieve win-win situations.

Last summer VBA deployed elements of what has now become known as the Simplified Notification Letter. In its earliest manifestation, VA rolled back the clock to 1945 and began issuing rating decisions which looked remarkably like those written at the end of WWII. Decisions did not contain a discussion of the evidence considered or an explanation of the reasons for the decision made – commonly referred to as "reasons and bases." Decisions granting an evaluation did not contain a summary of the rating criteria used to assign the evaluation nor an explanation of what was needed to obtain the next higher evaluation. These elements are required by VA regulations and court decisions. The explanation for these changes was that it allowed raters to increase production by 30–40 percent.

National service organizations were not consulted on these changes. When we became aware of them, the VFW went to the VA regional office in Atlanta to review both the ratings and notification letters to veterans. We discussed our findings with project managers who made a few changes to the program which provided additional, but very generic, explanations to veterans.

These changes did not, in our view, meet regulatory and court mandated requirements for explaining VA decisions to veterans. In order for a veteran to understand a decision and determine whether it was correct or not the law requires that he/she be provided certain information. We believed this program failed to provide veterans with the information required by law. We continued to press VA on this program.

To their credit, VA made additional modifications and information was added. Both the VFW and DAV continued to object to this program because notice remained inadequate. It was only in the last few months that we were all able to arrive at a point where the notice provided by VA, when properly done, was adequate to satisfy our concerns, while allowing VA to achieve increased production without further degradation of quality.

We work with VBA at the national level almost daily. The VFW and representatives from the largest veteran service organizations have been meeting with VBA on a number of initiatives, including eBenefits (working on ways to improve functionality and customer satisfaction for veterans) and the Veterans Benefits Management System (VBMS) (to ensure the needs of veterans representatives are addressed in VA's next generation claims processing system).

We recognize and support VBA's plans on expanding customer and service organization interaction with VA. VA has plans to allow claimants and service officers to submit information and claims electronically. VA indicates that it embraces the idea of permitting veterans to change their contact information, such as an address or to report changes in income (for pension) and add or subtract dependents by computer. Any initiatives which allow claimants and their representatives to submit data electronically or to effect minor changes to awards based on user input, portends great savings in time and money to VA, while offering enhanced service to veterans. The VFW looks forward to continuing and improving our working relationship with VA to find common sense solutions to reducing the claims backlog, while improving rating decision outcomes.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions that you or the members of the Committee may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2012, nor has it received any federal grants in the two previous Fiscal Years.

Prepared Statement of Randall Fisher

Chairman Miller, Ranking Member Filner and distinguished Members of the Committee:

Thank you for this opportunity to come before you today to discuss the critical role of Veterans' Service Officers in the Department of Veterans Affairs (VA) Disability Claims Process. Service Officers are an often overlooked component of the claims process, yet we are the front line soldiers in the battle for ensuring veterans receive the benefits they deserve. On behalf of over 2,000 accredited service officers of The American Legion, I am honored to be able to relate to you the lessons learned through our struggles to get benefits for those who have become disabled or have earned other benefits in their service to this great nation.

This committee has dedicated a great amount of focus to how VA operates in coping with a growing backlog of veterans' claims. As service officers who daily see the massive scale of the challenges facing VA, we are sympathetic to those men and women who work hard to deliver these earned benefits to the veterans of America, and we believe there are lessons VA could learn from our own experiences. In part because of the dedication of this committee in giving voice to the concerns of service organizations such as The American Legion, the VA is now engaging in greater dialogue with the overall veterans' community to solve our mutual challenges.

The problem is staggering. As of March 31, 2012 according to VA's own figures, there are 897,556 claims currently pending for benefits. Of that figure, more than 65 percent, a total of 589,483 of those claims have been pending for over 125 days. For the past several years VA has received over a million claims for benefits each year. In order to tame this rising backlog we recognize we will all have to work together.

The service officers of The American Legion believe there is a path to success, and that path is dependent on being veteran-centric, placing a high priority on training and understanding the operation of the claims benefits system, and examining the work credit system to ensure it helps foster an environment suited to getting the claims processed properly the first time. We believe if VA makes a commitment to adopting these principles in working with the veterans' community, they will remain ahead of the fight in the battle to tame the backlog.

Veteran-Centric Approach:

American Legion service officers are made up almost entirely of veterans. We understand the plight of veterans because we are veterans. Perhaps the greatest role a service officer plays in the process a veteran goes through in order to receive disability benefits is as a translator. We are not only able to translate the military experience of the veteran to VA employees, many of whom are not veterans themselves, we are able to translate the bureaucratic language of the VA back to veterans often confused by arcane complexities within the legal process of the claims system.

As a veteran, you have instant understanding and recognition of the language spoken by military veterans and utilized in military documents. Whether we are understanding abbreviations used on a DD–214 discharge document or understanding the nature of noise exposure suffered by a lance corporal assigned to an artillery unit, we know how to read a veteran's file because the language of the military subculture is our native language.

On a more personal level, when a veteran enters our office to speak to us about their claim, they know they are talking to a brother or sister service member. For lack of better terminology, we establish trust with the veterans because they know we "get" them. The shared sacrifice of shared service is a strong bond. For many veterans, dealing with VA can be dealing with a faceless bureaucracy, no different from interacting with the Department of Motor Vehicles. Sitting down with a service officer to talk about your claim is sitting down with a real person who has seen the same military you served in. Trust goes a long way.

The American Legion has continually advocated for a greater role of veterans within VA. This is helpful on many levels. As a trust issue, it enables veterans to know they are dealing with someone who comes from their background and is instantly perceptible as an ally in their fight for benefits. From a technical perspective it is immeasurably beneficial to be able to sight read military records, to know at a glance what all the parts of a discharge examination should look like and to be able to tell, not only what's present in a military file, but what's missing. Finally, veterans have served their country once by standing up and reciting the oath that inducted them into military service. Working in the claims benefits system, whether for VA or for a service organization such as The American Legion, gives them a continued opportunity in their life to provide service to their country and fellow service members. In the end it represents more jobs for veterans of all ages and eras, critically important when veterans of all ages are suffering from disproportionally high unemployment.

As service officers we also act as translators back to the veterans when they receive contact from the VA. While VA is making strides in contacting veterans to explain such notoriously complicated documents like routine VCAA letters, the task of "interpreting" this language often falls to the service officer. This is our job, to understand what the VA is asking for, even if the legal dialect makes it less than clear. Because, day in and day out, we must analyze claims before the VA, we are sometimes the best person to read through that letter and tell the veteran what is really missing with their claim.

This ultimately can save work for VA as well. With an unrepresented veteran, the confusing nature of the letters often leads to veterans submitting redundant or unnecessary information, adding further clutter and confusion to the claims file. For example, in a case where VA acknowledges a veteran's present condition of diabetes, but requires further proof that the veteran was "on the ground" in Vietnam, it is not uncommon for an unrepresented and uninformed veteran to become confused and send VA more current medical information about the level of disability presented by their diabetes, missing the crucial request from VA for clarification on their service in Vietnam. A trained service officer can better communicate that need to the veteran, reassuring them that VA recognizes the extent the diabetes is affecting their daily life, and directing the veteran's research to proving their ship docked in the harbor which would grant the point of service connection still under contention.

The process works both ways. We are not only impassioned advocates on behalf of a veteran's claim; we are also facilitators for the VA in delivering understanding to the veterans of the claims process and where the work needs to be best directed. We accomplish this so effectively because we speak the language of veterans. We accomplish this because we are veterans.

Training:

Being a veterans' advocate is like being a doctor and lawyer all rolled into one. This is a technical and sometimes confusing and complicated business. The veterans' disability system is unlike any other system of disability and requires specialized knowledge. You have to understand how to read doctors' examination notes and how to piece together fragments in incomplete military records. Moreover you have to understand not only a convoluted section of the United States Code, but also remain up-to-date on current precedential decisions being handed down by the Court of Appeals for Veterans Claims (CAVC).

Maintaining a level of expertise in all of these areas and more requires a dedication to training. The American Legion provides national schools for its service officers twice a year, in Washington, DC and in Indianapolis. These multiday schools are intensive and a great resource. By coming together we not only get targeted training based on evaluation of emerging concerns and changes, but we also interact regularly with our fellow service officers to share best practices and relate patterns we are witnessing in the VA system overall. The training is not limited to those schools either; it is an ongoing process, facilitated with regular updates and it has a high priority in proportion to work.

Too often in speaking to VA employees we hear of training as an afterthought, something that gets in the way of working. We are encouraged to work in a culture that respects the training as a toll essential to getting our work done, rather than an obstacle to getting that work done. We hear VA employees at the Regional Offices dismiss cases by the CAVC as "something the Board [of Veterans Appeals] deals with, not the RO" when unfortunately that is far from the truth. If Regional Offices better implemented the precedential decisions from the CAVC at the local level, claims wouldn't have to go to the Board. They could be settled right there at home for the veteran. We could cut a lot of the backlog down with some better training for VA at the Regional Office level.

Our training is often based on the common problems we see coming up again and again in the claims process. We train on understanding VA examinations because of the number of times we see exams come back improperly, with the wrong forms filled out or the wrong conditions examined. We train on areas of the rating schedule where there appear to be inequities, such as mental health disorders where ratings can be uneven and even seemingly random. We train how to understand what to look for so we can best advocate and explain to VA why the veteran deserves the rating we believe the evidence supports.

VA could learn from this and use this as a model to construct their training. If an outside organization can base training off of common errors and recent court decisions, VA should be able to manage a training program that is targeted to common errors found in STAR evaluations and in trends discovered through overturned appeals. Especially as they convert to their electronic Veterans Benefits Management System (VBMS) they should have even more tools to track where training is needed and make it the priority it needs to be. VA needs to examine the mindset service organizations have taken, which is that taking the time necessary to train does not detract from the ability to work, but rather enhances the ability to get the work done right.

Work Credit System:

Much of the inherent culture at VA revolves around the number of claims completed. Unfortunately it is somewhat lacking in the critical accuracy component of getting the claim done right. We work in the same Regional Offices as the VA employees. We hear their complaints all the time too. Accuracy and training just don't merit the same consideration as meeting the quotas and getting the right number of claims done each week.

As service officers, we are sympathetic to the case loads. We have to look at every case file for every veteran we see as well. The difference is we know that if we miss something we're letting a fellow veteran down. Yes, it might take a little bit longer to go over that claims file and make sure everything is in order and we got the claim done right. However, we also know if we got it done right, that claims file is not coming back to our desk again. When you take the time to get a claim right the first time, you are actually saving yourself work down the road.

The VA employees deserve a tracking system for claims that will reflect that mentality. We can see the numbers VA posts proudly on their national website every Monday morning. Those numbers track the number of claims they complete. VA needs to show their employees they are just as committed to quality by making a system that tracks more than just raw claims. There must be some way to factor in accuracy and to account for the needed training.

Recommendations:

These categories represent a broad overview of the mentality and work environment when a service officer tackles the task of representing veterans for their deserved disability benefits. There are a couple of simple lessons VA can learn from how we do business that will hopefully help them achieve their stated goals of 98 percent accuracy and no claim pending more than 125 days:

- Hire more veterans. Veterans bring immeasurable useful experience to the job and they present a face for a veteran accessing the system that tells them this is someone who understands their suffering and is there to help them.
- Make training a priority. You can't do the job if you don't know how to use the tools.
  - VA training planners need to adopt the models used by VSOs and develop training targeted to weaknesses and that is current to the changes in law, regulation and decisions by the higher courts.
  - Training also needs to have the same priority as the other activities of work. Taking time away from working on a claim is okay if you need that time to make sure you process that claim properly.
- Reevaluate the Work Credit System.
  - Accuracy needs to have the same priority as raw numbers.
  - Training needs to be better integrated into the time management system.

Summary

None of these challenges is insurmountable. We are all in this together, whether we're a VA employee, a service officer or a veteran seeking a benefit. We have to work together.

Service officers are passionate about our veterans because we see them and speak to them on a daily basis. In many ways we are the public face of the disability process for veterans, or at least the human face. When you field a call from a veteran every week hoping for an update on their claim, it can be heart rending, knowing how close to the edge some of these veterans are, knowing how much a difference resolving their claim can make for them. For a service officer, a claims file can never become just a number in front of you because you can always see the human face of who is being affected.

That is why it is important for us to express our experience from years in the trenches. On behalf of the service officers accredited by The American Legion and on behalf of The American Legion itself, I thank you for taking the time today to listen to our testimony and consider our input into the puzzle of solving the claims backlog.

Executive Summary

Service officers are the front line of defense in many ways for veterans trying to navigate the disability claims system. They are the human face who interacts on a daily basis with veterans to translate the demands of VA to the veteran and to translate the military experiences and sacrifices of the veteran to the VA. Due to this unique position as go-between for veterans and VA, service officers have some insight to offer in terms of improving VA's performance in dealing with veterans' benefits.

- Be more veteran-centric. Hire more veterans who can not only easily speak and understand the language of veterans, but also present a friendly and familiar veteran face to the community of veterans seeking aid from VA.
- Overhaul VA training.
  - Ensure the training is targeted to common errors identified by STAR and other methods.
  - Ensure training reflects ongoing developments in the CAVC and with law and regulation changes.
- Reexamine the Work Credit System.
  - Place Accuracy on a level with Raw Output.
  - Make sure the work credit system accounts for training time necessary to the schedule.

Prepared Statement of Paul Sullivan

The National Organization of Veterans' Advocates (NOVA) thanks Chairman Jeff Miller and Ranking Member Bob Filner for the opportunity to testify about the disability claim process at the Department of Veterans Affairs (VA). NOVA is honored to share our views for this hearing, "From the Inside Out: A Look at Claims Representatives' Role in the Disability Claims Process."

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents more than 500 attorneys and agents assisting tens of thousands of our nation's military Veterans, their widows, and their families obtain VA benefits. This statement was reviewed and approved by NOVA's Board of Directors. I testify today as an employee of Bergmann & Moore, LLC, a Bethesda, Maryland law firm representing Veterans' whose disability claims were denied before VA and the U. S. Court of Appeals for Veterans Claims (CAVC). Partners Glenn Bergmann and Joe Moore are both NOVA members, and Joe Moore also serves on NOVA's Board of Directors. Glenn Bergmann, Joe Moore, and I all previously worked for VA.

NOVA members represent Veterans before all levels of VA's disability claim process. This includes the Veterans Benefits Administration (VBA), the Board of Veterans' Appeals (BVA, or "Board"), the CAVC, and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). In 2000, the CAVC recognized NOVA's work on behalf of Veterans when the CAVC awarded the Hart T. Mankin Distinguished Service Award to NOVA in 2000.

Our main goal for this hearing is to continue our strong working relationship with Congress and VA so our Veterans receive timely and accurate disability compensation claim decisions from VA. Receipt of timely benefits remains vital for the Veteran's economic security as well as opening the door to free VA medical care. NOVA believes the "Veterans' Choice of Representation Act," part of the "Veterans Benefits, Health Care, and Information Technology Act of 2006" (Public Law 109–461) works as intended. The 2006 law eliminated the prohibition on the charging of fees for services of an attorney or agent provided before the Board of Veterans' Appeals makes its first final decision in a Veteran's case.

NOVA's Training Seminars for Attorneys and Non-Attorney Agents

At NOVA, our primary purpose is providing quality training to attorneys and non-attorney practitioners who represent Veterans, surviving spouses, and dependents. NOVA offers four types of training.

Our primary type of training is our seminars held twice each year. These events are attended by hundreds of attorneys and non-attorney agents. Our seminars include presentations by leading practitioners and experts about VA's disability claim process. Guest speakers at NOVA training seminars often include academics as well as top VA and CAVC leaders. Our seminars provide Continuing Legal Education (CLE) credits for attorneys. NOVA membership requires completion of our seminars every two years.

A second type of training is NOVA's "Beginner's Guide to Veterans Law." These DVDs are essential for those just beginning a Veteran disability claim law practice. Last year, NOVA began offering our third type of training feature, NOVA webinars, where attorneys and agents can learn about Veteran law via the internet and receive CLE. And, finally, NOVA members are able to access a heavily used private on line bulletin board to ask questions of more experienced attorneys, share practice tips, and keep updated on new case law and VA regulations.

NOVA Interaction with Veterans

When Veterans contact NOVA for assistance, NOVA's interaction remains limited to providing referrals to our NOVA members listed on our web site. Each of our NOVA members operates independently, so there are different procedures regarding intake, screening, and acceptance of cases. Because of their legal training, experience, and focus on Veteran law, after a review of the Veterans' claim file, NOVA attorneys know when Veterans' claims have merit.

As trained litigators, NOVA members assist Veterans by obtaining vital military service records, military medical records, and independent medical opinions regarding Veterans' medical conditions. In cases where veterans have significant impairment, such as mental health conditions and brain injury, these attorney-provided services are essential in order to win the Veteran's claim. In many instances, NOVA members' representation of Veterans results in significant changes in the case law which improves the likelihood future veterans will receive appropriate, prompt, and full disability compensation.

The Current System's Challenges

NOVA appreciates the significant, recent, and bi-partisan increases in appropriations for VA as well as consistent Congressional oversight of VA activities. While VA continues improving in many areas, several other areas urgently need the attention of Congress. The area in most need of immediate improvement is VA's overwhelmed and beleaguered disability claim processing system.

The areas of greatest concern for NOVA are VBA's inability to provide prompt and full access to records and VBA's unconscionably long delays in claim processing. Our testimony provides several recommendations to overcome these obstacles interfering with our ability to properly represent Veterans.

VBA's delays are legendary and worsening. At the Regional Office level, Veterans wait an average of more than seven months for a decision. As of April 16, 2012, more than 903,000 Veterans' and beneficiaries' claims languish at VBA. At the Board of Veterans' Appeals, more than 256,000 disability claims remain mired, waiting an average of an additional four more years for a decision. In total, VA's disability claim backlog exceeds 1.1 million. In addition, more than four thousand cases remain on the U.S. Court of Appeals for Veterans Claims docket. When VA focuses attention on expediting new claims, VA exacerbates the already bad situation by increasing the error rate, leading to even more appeals and even longer delays. VBA appears to be grinding to a halt.

Last Sunday, *The New York Times* reported the Oakland VA Regional Office takes an unconscionable 313 days to process a new claim ("Paperwork Buries Veterans' Disability Claims," Aaron Glantz, April 15, 2012). That's more than ten months. A few years ago, VA was averaging five months. These significant VA delays seriously harm our Veterans who need access to VA healthcare and who need disability benefits to pay rent, put food on the table, and pay other important expenses.

During testimony before the Senate Veterans' Affairs Committee on February 29, 2012, VA Secretary Eric Shinseki stated VA has seen a 48 percent increase in claims filed since 2008. He expects the claim volume to increase by another 4 percent in 2013 to 1.25 million claims. This means an already bad situation continues deteriorating. This is unacceptable for our Veterans.

In response to these disturbing statistics, and the significant impact delays and errors have on our Veterans' health and economic stability, VA sought out, and Congress wisely funded information technology (IT) programs to handle the tidal wave of more than one million claims flooding into VBA each year. NOVA applauds these moves to bring VBA into the 21st Century.

First Set of NOVA Recommendations: Access to Information

NOVA urges Congress to enact legislation to improve and expedite the access by attorneys and agents accredited by VA to information about their Veteran clients. This is absolutely vital in order to protect the Constitutional rights of our Veterans.

1. Access to Veterans' Electronic VA Records by Private Practitioners

VBA's proposed e-Benefits system, also known as the Veterans Benefits Management System (VBMS), does not contain a component absolutely vital to our nation's Veterans and beneficiaries: full and immediate access to Veteran's claim records by their attorney or agent. This is the top complaint of NOVA members who work with Veterans every day. The lack of access undermines our Veterans' due process rights and property rights. See *Cushman v. Shinseki,* 576 F.3d 1290 (Fed. Cir. 2009) (ruling that applicants for VBA benefits have a constitutionally protected property interest in their entitlement to those benefits).

NOVA urges Congress to mandate that VA promptly provide advocates full access to paper and electronic claim records. What NOVA seeks is a "read only" secure access to Veterans' records via the internet. Such a system is already in place at the Social Security Administration (SSA). SSA uses the "Appointed Representative Suite of Services" (ARSS) computer system. Information about legal representation is promptly entered into a beneficiary's records, and attorneys are provided with full and immediate access to SSA records on-line. SSA's ARSS system should serve as a model for VA to adopt in its new IT system that also preserves and protects Veterans' rights. In simple terms, if ARSS meets the standards for Health Insurance Portability and Accountability Act of 1996 (HIPAA; Public Law 104–191, 1996), then Congress should mandate a similar system for VA.

2. Improving Access to VBA Points of Contact for Private Practitioners

Under current VA rules (M21–1MR, Part I, Chapter 3, Section C, 14, "General Information on Fees"), VA's Attorney Fee Coordinators (AFC) at VBA Regional Offices serve as liaisons with attorneys and agents, many of whom are NOVA members. In most cases, AFCs are cooperative and helpful to NOVA members, providing prompt and accurate status updates on Veterans' claims. This is important because NOVA members representing Veterans are not co-located inside the VA Regional Office and do not have physical access to VBA staff, VBA computer systems, or VBA paper records. Our contact is limited to e-mails, FAX, and telephone, which is severely restricted by VA. Private practitioners currently have no assured access to VA claims processers, and long delays often result in cases where VA communicates with veteran advocates only via the U.S. Postal Service.

However, there are harmful exceptions, where some AFCs are directed by their supervisors to refuse to provide attorneys and agents with critical information. The lack of accurate and timely information about the status of a Veteran's case significantly interferes with the ability of NOVA members to properly represent their clients. In many instances, AFCs provided inaccurate information or referred NOVA members to VBA's 1–800 phone number. NOVA understands AFCs often have several other job functions and lack the time and training to properly and promptly assist attorneys and agents. However, when an AFC does not provide information or provides incorrect or incomplete information, VA's actions further delay veterans' claims.

NOVA urges Congress and VA to make it clear, through law or regulation, that AFCs are to assist accredited attorneys and agents by providing accurate and prompt status information on Veterans' claims. We believe the duties of AFCs should be limited to the role of assisting accredited attorneys and agents in all but the smallest Regional Offices.

3. Entering Information Sent to VA in a Correct and Timely Manner

Most large Veteran Service Organizations (VSO) staff are co-located inside VA Regional Offices. They often hand-deliver critical and time sensitive documents such as notices of disagreement and substantive appeals, and thus are able to ensure VA's databases are correctly updated and documents are associated with the Veterans' paper claims folder.

In contrast, NOVA members are not co-located at VA Regional Offices. Therefore, NOVA members usually fax or mail POA and NOD forms to VA Regional Offices.

Unfortunately, it is the widespread experience of NOVA members that, depending on the individual Regional Office, documents need to be resent because VA lost them – or did not update the system correctly when they were received so no one knows they are in the claims folder – anywhere from 25 to 75 percent of the time. This is especially critical since the mishandling of timely documents such as an appeal can potentially cause further delay of a Veteran's case.

NOVA urges Congress to mandate that VA upgrade the training provided to mailroom employees, including offering incentives encouraging VA's mailroom staff to complete their jobs correctly the first time.

4. Decreasing Blocked Calls and Incorrect Information Given by VA

Calling VA's Toll-Free "Inquiry Routing and Information System" (IRIS), 800–827–1000, too often results in incomplete or incorrect information. As described above, many AFCs refer attorneys and agents to IRIS. The results are dismal, and in need of urgent correction. According to VA's Office of the Inspector General (OIG):

> In [Fiscal Year] 2009, individuals reached an agent 76 percent of the time. Of those reaching an agent, agents answered 72 percent of their questions correctly. When we combined VBA's reported data on access and accuracy, we con-

cluded that any one call placed by a unique caller had a 49 percent chance of reaching an agent and getting the correct information.

Even worse, VA employees appear hesitant to answer indirect questions, defined by OIG as questions "that are not asked directly but are relevant to providing a **complete answer**" (emphasis added). In those cases, VA staff only answered 60 percent of indirect questions accurately. This issue remains a chronic challenge for VA. For eight years, Veterans and their advocates remain unable to obtain correct answers from VA.

Knight Ridder Newspapers reported on an internal VA report from 2004 ("VA Help Lines Found to Regularly Provide Wrong Information," Chris Adams, December 30, 2005):

> According to an internal VA memo on the mystery-caller program that's buried deep in the department's Web site, 22 percent of the answers the callers got were "completely incorrect," 23 percent were "minimally correct" and 20 percent were "partially correct." Nineteen percent of the answers were "completely correct," and 16 percent were "mostly correct."

Veterans, attorneys, and agents deserve correct and complete answers. NOVA recommends that VA improve training and oversight with two goals in mind. First, VA needs to end the 24 percent of calls from Veterans to VA that are blocked. VA needs to increase the accuracy of both direct and indirect answers provided to veterans to well above 90 percent.

Second Set of NOVA Recommendations: End Delays in Adjudicating Appeals

In order to please Congress, VA has previously placed an emphasis on adjudicating original claims as quickly as possible. Although we applaud Congressional attention to this matter and the noticeable results in claim processing, these numbers have come at a steep cost. That cost is in the area of Veterans' appeals. Just to give an example of the chronic understaffing in this area, our firm heard from multiple Regional Offices that its appeals consist of more than 3,000 cases and are growing by the day. However, the ROs have only two or three Decision Review Officers (DRO) working on appeals. At those offices, we were told the wait for a Statement of the Case (SOC) to be issued following the submission of a Notice of Disagreement is "at least 1100 days."

Although a wait of more than three years is, by itself, inexcusable, what makes this wait worse is that Veterans' claims do not even get in line for a BVA decision until an SOC has been issued and the Veteran has filed a Substantive Appeal. BVA is currently working on cases with 2010 docket numbers. In practical terms, this means a Veteran who already waited three years for VA to issue a SOC, who then submits a Substantive Appeal, must wait an additional two years before BVA reviews the case.

The final insult in all of this is that BVA is forced to remand many cases back to Regional Offices. (If the Veteran is not represented by a private practitioner, the Veteran's case is sent to the Appeals Management Center.) In theory, a Regional Office is supposed to provide "expedited" treatment to the Veteran's case. However, in practice, the Veteran's claim goes to the back of the line and waits once again with the rest of the appeals. Chronic VA delay in processing Veterans' appeals harms our Veterans by denying them access to medical care and economic security. NOVA supports VBA's goals and intents of hiring more DROs, as they remain the most efficient way to fix the multiple errors found in the majority of rating decision issues.

NOVA supports hiring more DROs to meet the increasing number of appeals handled at VA's Regional Offices. DROs should also be used for their intended purpose. However, DROs were recently tasked with handling hundreds of thousands of Vietnam War Veterans' disability claims for medical conditions associated with exposure to Agent Orange (*Nehmer v. U.S. Department of Veterans Affairs,* No. CV–86–6160). We understand nearly all Nehmer cases are resolved, and this should allow DROs to return to their original function. Unfortunately, most DROs are returning to enormous backlogs and heightened pressure to adjudicate cases quickly, without regard to accuracy.

Conclusion

NOVA supports funding for VA initiatives to computerize VA's obsolete claims processing systems. NOVA believes our reasonable and practical recommendations to VA's initiatives, especially greater and faster access to Veterans' records and an end to VA's systemic delays, will result in our Veterans receiving more timely and

accurate decisions from VA. NOVA offers to work with the Committee and VA to implement our recommendations.

Prepared Statement of Thomas J. Murphy

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today on the important partnership between the Department of Veterans Affairs (VA) and the various national, state, and county Veterans Service Organizations (VSOs).

As VA moves into the 21st Century, this collaboration establishes the foundation for providing Veterans with the benefits they have earned in a timely and equitable manner. This partnership focuses on assisting Veterans with filing disability claims and receiving appropriate compensation for service-connected diseases and injuries. Trained claims representatives from VA-recognized VSOs provide invaluable guidance to Veterans filing claims and work with employees of the Veterans Benefits Administration (VBA) to ensure that complete and accurate information is available to facilitate correct disability and compensation decisions. Office space is provided for these claims representatives in all VA regional office service centers, where they assist with evidence development, view decisions made by VBA employees , and counsel Veterans regarding claims and appeals.

Training

To further the collaborative effort with VSO claims representatives, VBA established a training program and certification process for them. In 2008, the Training, Responsibility, Involvement, and Preparation of Claims (TRIP) program was introduced. The TRIP program was designed to improve overall service to Veterans, as well as improve claims processing timeliness, by instructing the representatives on the requirements for successful claim processing and familiarizing them with VBA computer systems. This web-based course offers multiple video lesson presentations followed by review questions. The course helps participants learn the information needed to pass a multiple-choice final examination. Participants have 45 days from the starting date to complete the course, which is accessible at any time. Successful completion of the program allows claims representatives to be certified and have read-only access to a number of claim processing-related electronic applications that follow the development and adjudication of Veterans' claims. To date, over 4,100 service organization representatives have registered for the online course, and since 2008, 3,385 representatives have completed the course by passing the final exam. TRIP training is a critical part of VBA's goals to improve access and transparency to the disability claims process and thereby improve efficiency.

In addition, under VA's accreditation regulations, VSOs are required to certify every five years that each of their accredited claims representatives continues to be of good character and reputation and has demonstrated an ability to represent claimants before VA. The VSOs must also certify that each accredited representative is either a member in good standing or a paid employee; is accredited and functioning as a representative of another recognized VSO; or, in the case of a county Veteran's service officer, is a paid county employee, has successfully completed an approved course of training and an examination, and will receive regular supervision or annual training to ensure continued qualification as a representative in the claim process.

Transformation

As the Committee is aware, VBA has developed and is now implementing its Transformation Plan, a series of tightly integrated people, process, and technology initiatives designed to improve Veterans' access, eliminate the claims backlog, and achieve our goal of processing all claims within 125 days with 98 percent accuracy in 2015. We are confident that we are on the right path to deliver more timely and accurate benefits decisions to our Nation's Veterans. VSO involvement in our Transformation Plan is extremely important, especially as we shift from a paper-based to a paperless electronic process system. VBA is committed to providing service organization representatives with the tools to assist with this transformation.

VBA is developing an electronic Stakeholder Enterprise Portal (SEP). This portal will enhance stakeholder involvement in the claims process in a secure environment with identity access tools. VSOs will be able to access SEP, which will facilitate the ability to assist Veterans with online completion of VA form 21–22, *Appointment of Veterans Service Organization as Claimant's Representative* and the Veteran's online application for compensation, known as *VONAPP Direct Connect (VDC).*

Additionally, VBA is working with service organization representatives to implement the fully developed claims (FDC) initiative. The Veterans' Benefits Improvement Act of 2008, Public Law 110–389, section 221(a), directed VA to carry out a one-year pilot program to assess the feasibility and advisability of expeditiously processing fully developed compensation and pension claims within 90 days after receipt of the claim. Based on the favorable results from the pilot, VA expanded and fully implemented the program across all regional offices under existing authority of 38 U.S.C. § 501(a)(4), which provides the Secretary's authority to prescribe rules and regulations to include establishing the manner in which claims are adjudicated. Claims representatives are critical to the FDC initiative as they assist in gathering supporting evidence for a disability claim and helping the Veteran to certify that no additional evidence is necessary to make a decision on the claim.

Service organization representatives are an integral part of VBA's Transformation Plan because of their close personal contact with Veterans. VBA constantly seeks to improve the claims process, and service organization representatives serve an important role in that effort.

This concludes my testimony, and I look forward to answering your questions.

Materials Submitted For The Record

PARALYZED VETERANS OF AMERICA

Chairman Miller, Ranking Member Filner, and members of the Committee, Paralyzed Veterans of America (PVA) is pleased to present information regarding how PVA claims representatives work to assist our nation's veterans to obtain the benefits that they have earned and deserve for their sacrifices for America. PVA takes great pride in the competence, professionalism and dedication of these individuals who spend countless hours training and working to ensure they can accurately represent a veteran and his or her family.

Since 1971, PVA's National Service Program has distinguished itself by readying service officers for the more complex aspects of VA claims work. This includes an in-depth understanding of Special Monthly Compensation, which often entails assessment of co-existing disabilities and overlapping conditions against the VA combined rating table in order to arrive at an accurate disability rating.

PVA's intensive training program indoctrinates every service officer into the organization with a comprehensive lesson on the history, evolution, and current state of the VA spinal cord injury system of care. The more traditional aspects of our National Service Officer (NSO) Candidate Training curriculum begin with teaching the fundamentals of VA claims adjudication: eligibility and application for compensation, pension, education, insurance, survivor, burial, and ancillary benefits. The program then covers health care benefits and eligibility, including clinical appeals, beneficiary travel, and prosthetics equipment. At present, to even better improve the quality and competence of our NSOs, the program is undergoing a transition from an 18-month distance-learning curriculum to a paperless 12-month on-line platform that offers instant feedback and real-time content updates, which ensure the student is being tested on the most current and relevant information possible in an ever-transforming VA environment.

During the process, all candidates are mentored by an office supervisor, Area Manager, or Region Director, and given on-the-job training objectives that demonstrate readiness for the next phase of learning. Forthcoming training initiatives include the addition of a capstone module where NSO Candidates must demonstrate proficiency in case review and oral/written presentation, based on real case studies, before graduating from the program and working independently. Additionally, we have added a requirement that all candidates who are being considered for promotion to the rank of Senior National Service Officer must successfully complete a one-week residency at the PVA National Appeals Office. The main goal of PVA's in-depth training and evaluation process is to ensure the greatest accuracy of claims processing, a function critical to the reduction of the significant claims backlog currently facing VA.

While the initial training and requirements build a strong foundation for a successful process, to maintain their expertise, all field staff, regardless of rank, must undergo continuing education in order to remain accredited. One technique that satisfies this requirement is PVA's annual Continuing Education Seminar. During this training event, PVA instructs NSOs in legislation/regulatory changes, provides refresher training, and hear from VA leadership who are invited to speak directly to PVA NSOs. PVA also conducts quarterly regional training via teleconference. These

programs ensure NSOs have the most up-to-date information and benefit tremendously from the interaction between the NSOs who share their own stories of successes and challenges they have faced.

The PVA program's emphasis on spinal cord injury and its effects, which can prove esoteric even to some in the health care profession, conditions PVA NSOs to confront the complexities involved in resolving the ambiguities and uncertainties that typify catastrophic disability claims. For this reason, our sister Veteran Service Organizations have been known to defer to PVA for cases presenting complex disability pictures, where Special Monthly Compensation and entitlement to ancillary benefits (e.g. Specially Adapted Housing, Adaptive Auto Equipment, annual clothing allowance, etc.) are at issue.

This time-tested approach to training has created an excellence-driven culture within PVA's Veterans Benefits Department: one that prides itself on unrivaled quality in the development of disability claims. Senior Benefits Advocates and hospital-based National Service Officers receive an intense, week-long indoctrination into medical monitoring and health care advocacy during AMAT (Advance Medical Advocacy Training) in addition to the initial NSO Candidate Program and annual Continuing Education Program attended by all accredited representatives.

To date, our National Service Program has secured over $1.5 billion in annual and retroactive awards for clients. This fiscal year alone, our field staff has filed over 14,000 issues and attained over $135 million in awards thus far. Also, our staff has claimed over 580 victories on behalf of clients resulting in significant retroactive awards totaling $25,000 or more this year. Finally, our Appeals Office currently outpaces the Board average allowance rate by nearly 5 percent, and has seen fewer denials by a rate of nearly 7 percent.

In sum, we do not view these successes as the product of mere good fortune or solid reputation. We achieve results by planting the seeds of higher expectation in our candidates early and reinforcing that standard at every stage of the service officer's development.

PVA appreciates the interest and effort that has been given to updating and modernizing the VA disability system in recent years. However, it is important to note that success in reforming the VA claims processing system will require the VBA to institutionalize the ongoing transformation process at all levels to develop a work culture that values, measures, reports and rewards quality and accuracy over speed and production. This has been the approach used by PVA in training NSOs.

The VBA is entering its third year of its most recent effort to transform an outdated, inefficient, and inadequate claims-processing system into a modern, automated, rules-based and paperless system. VBA has struggled for decades to provide timely and accurate decisions on claims for veterans' benefits, especially disability compensation. However, despite repeated prior attempts to reform the system, VBA has never been able to reach the goals it has set for itself. Whether VBA can be successful this time depends to a large extent on whether it can complete a cultural shift away from focusing on speed and production to a business culture of quality and accuracy.

There have been some encouraging steps towards such a cultural shift over the past two years; however, this early progress must be institutionalized in order to create the long term stability needed to eliminate the current backlog of claims, and more importantly, prevent such a backlog from returning in the future. VBA must change the way it measures and reports the work it performs as well as the way in which employees are rewarded, in order to reflect the principle that quality and accuracy are at least as important as speed and production. Ensuring that decisions are correct the first time will, over time, increase public confidence in the VA and decrease appeals.

One of the more positive steps that has occurred as a part of VBA's transformation has been the open and candid attitude of VBA's leadership over the past several years, particularly progress towards developing a new partnership between VBA and VSOs who assist veterans in filing claims. PVA applauds these efforts and this hearing is an example of greater encouragement of these efforts. VSOs have vast experience and expertise in claims processing, with local and national service officers holding power of attorney for hundreds of thousands of veterans and their families. As indicated by PVA's testimony, VSOs can make VBA's job easier by helping veterans prepare and submit better claims, thereby requiring less time and resources to develop and adjudicate them. Veterans Service Organizations have been increasingly consulted on a number of the new initiatives underway at VBA, including Disability Benefit Questionnaires (DBQs), Veterans Benefit Management System (VBMS), and many, but not all business process pilots, including the I–LAB at the Indianapolis VARO. Building upon these efforts, VBA must continue to reach

out to its VSO partners, not just at central office, but also at each of the 57 Regional Offices.

Ultimately, PVA remains hopeful that the VA may finally be making real progress towards meaningful reform to the claims process that will ensure veterans receive accurate decisions the first time. VA must be more consistent in the application of its own regulations and it is up to VA's senior leaders in the field to ensure training standards are enforced and to eliminate variability in the claims adjudication process to the greatest extent possible. A rater in San Diego should not have a different standard for assessing "loss of use" than a rater in Boston and conflicting medical opinions should not disproportionately warrant denial of a claim, particularly when reasonable doubt provisions compel the rater to find in favor of the claimant. Predictability in the process is the key to fixing this. It will be incumbent upon the Committee to conduct substantive oversight on VBA's activities to ensure that the primary objective—accurate decisions the first time—is being achieved.

PVA appreciates the opportunity to outline the process PVA uses to ensure our veterans seeking claims with VA present the most accurate information the first time. We cannot emphasize enough that the close integration and cooperation between VA and VSO veterans' representatives is critical to providing the best services for our veterans. PVA looks forward to working with the Committee to ensure that veterans receive the best possible determination for benefits in the most efficient manner possible. Thank you.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2012

No federal grants or contracts received.

Fiscal Year 2011

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program— $262,787.

Fiscal Year 2010

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program— $287,992.

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