

2024-02-29 SB831 (Support).pdf

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February 29, 2024

TO: The Honorable Brian Feldman
Chair, Education, Energy, and the Environment Committee

FROM: Adam Spangler
Legislative Aide, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 831 - Veterans - Persons Providing Veterans Benefits Services
and Veterans Benefits Appeals Services - Fees and Compensation - **Support**

The Maryland Office of the Attorney General requests a favorable report on Senate Bill 831 - Veterans - Persons Providing Veterans Benefits Services and Veterans Benefits Appeals Services - Fees and Compensation. This legislation seeks to protect Maryland's Veterans from unscrupulous actors that would take advantage of Veterans seeking assistance with benefits and benefits appeals services.

A recognized Veteran Service Organization (VSO) is one that has been recognized by the Veterans Administration (VA),¹ which means that the organization has satisfied multiple requirements outlined in 38 C.F.R. §14.628. Veterans who use accredited assisters cannot be charged a penny for help in filing their initial claim. If the veteran subsequently wants to appeal the VA's decision, the VA limits how much the approved representatives can charge. Unaccredited companies face no such restrictions. Sometimes calling themselves "medical consultants" or "coaches," unaccredited businesses advertise their fee-based services to veterans, suggesting they

¹ 38 C.F.R. §14.628(d) describes the requirements that must be met for recognition.

can provide quick turnaround times on claims and higher benefit checks than if veterans choose a VA-approved representative. However, of the 280 complaints sent to the VA's Office of General Counsel from 2018 to 2022, 40% were related to unaccredited individuals and organizations.² Additionally, according to the VA, there is no statistically significant difference in the average number of days it takes any type of filer to complete a rating-related claim. In the current fiscal year, time frames have ranged from 129.7 days to 139.4 days whether veterans make a claim unassisted (which would include those who use unaccredited representatives) or use VSOs, agents, or attorneys.³

If unaccredited companies want a seat at the table, their staffs should first seek accreditation with VA as accredited agents or attorneys; and, appropriately file all required powers of attorney, contracts, and fee agreements with the VA's Office of General Counsel to ensure that they abide by professional and ethical standards. Simply put, if you want to do this work, you need to follow the rules the same way that accredited VSOs, attorneys, and agents have done for decades.

For the foregoing reasons, the Office of the Attorney General requests a favorable report on Senate Bill 831.

cc: Vice Chair Kathy Klausmeier
Education, Energy, and the Environment Committee Members

² Michelle Andrews, *Some private companies charge hefty fees to help veterans with disability claims*, WWW.CBSNEWS.COM (2023), <https://www.cbsnews.com/news/veterans-disability-claims-companies-charge-fees/>.

³ *I.d.*

SB831- MDVA SecWoods Testimony .pdf

Uploaded by: Anthony Woods

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**Maryland Department of Veterans Affairs
Office of the Secretary**

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR

ANTHONY C. WOODS
SECRETARY

TESTIMONY IN SUPPORT OF Senate Bill 831

**Veterans - Persons Providing Veterans Benefits Services and Veterans Benefits Appeals Services -
Fees and Compensation
Education, Energy, and the Environment Committee
February 29, 2024**

Thank you Chair Feldman, Vice Chair Kagan, and members of the committee.

I am Tony Woods, Secretary of the Maryland Department of Veterans Affairs.

I am honored to appear before you today and I respectfully ask the Committee for a favorable report on SB 831.

This bill seeks to penalize unaccredited actors that prey on Maryland veterans and I'm grateful to Senator Klausmeier and Delegate Allen for their leadership on this.

Since my department's creation, in partnership with the legislature, we've invested Maryland taxpayer dollars into creating a benefits program that accredits veteran benefits specialists and assists veterans with filing their initial claim. We do this at no cost to a veteran.

Last year, my department made 153,000 contacts with veterans, and submitted nearly 4,500 claims resulting in nearly \$40 million in compensation benefits for veterans.

Claim sharks operate by promising a veteran guaranteed disability rating in exchange for a cut of their earned benefits. If documentation is thin, claim sharks have been known to work with unscrupulous medical professionals to produce fraudulent documentation, opening veterans up to penalties and even criminal prosecution.

Fines collected from claim sharks who violate this law are deposited into the Maryland Veterans Trust Fund, which provides vital assistance to veterans and their families that have fallen on hard times.

While we wait for federal legislation to reinstate criminal penalties at the Federal level, we must pass SB 831 to fill the gap and protect Maryland veterans and their families from bad actors who seek to profit from their service benefits.

For this, I respectfully ask the Committee for a favorable report on SB 831.

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Maryland Military Coalition SB0831 Written Testimo

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Position: FAV



MARYLAND MILITARY COALITION

Serving Veterans through Legislative Advocacy

February 29, 2024

The Honorable Brian J. Feldman
Chair, Education, Energy, and the Environment Committee
2 West
Miller Senate Office Building
Annapolis, MD 21401

Subject: **Request for FAVORABLE Report** – SB0831 – Veterans – Persons Providing Veterans Services and Veterans Benefits Appeals Services – Fees and Compensation

Dear Chair Feldman and members of the Education, Energy, and the Environment Committee:

On behalf of the members of the Maryland Military Coalition (MMC) and as its Legislative Director, I write to recommend a FAVORABLE report by the Committee on SB0831 – *Veterans – Persons Providing Veterans Services and Veterans Benefits Appeals Services – Fees and Compensation* sponsored by Senator Katherine Klausmeier. This critical legislation would ban so-called “claims sharks” from preying on veterans by charging veterans to process a claim or to appeal a denial of benefits. SB0831 incorporates federal law into Maryland law by providing that no one may charge fees for claims assistance who is not accredited by the U.S. Department of Veterans Affairs (VA). The bill creates fines for violations and any collected fines are tendered to the Maryland Veterans Trust Fund.

Federal law provides that claims assistance can only be provided by **accredited agents** who are trained, tested, overseen, and, when appropriate, disciplined and punished by the U.S. Department of Veterans Affairs Office of General Counsel. Traditionally, the U.S. Department of Veterans Affairs only accredits **three types of claims representatives**:

- Claims agents
- Attorneys
- Veterans Services Organizations (VSOs), e.g., the Veterans of Foreign Wars and the American Legion

Attorneys and claims agents may charge fees but on a tightly regulated scale set by the U.S. Government. VSOs provide their services for free, as does the Maryland Department of Veterans Affairs, which employs claims agents.¹

Unaccredited claims representatives are explicitly banned from “preparing, presenting or prosecuting” claims, but all penalties for violating the law were repealed in 2006. As a result,

¹ <https://www.benefits.va.gov/vso/>

Subject: **Request for FAVORABLE Report** – SB0831 – Veterans – Persons Providing Veterans Services and Veterans Benefits Appeals Services – Fees and Compensation

unaccredited claims sharks who illegally charge veterans for claims services entered the market. A bipartisan coalition of 44 state attorneys general, including Attorney General Anthony Brown, sent a letter to the U.S. Congress asking for reinstatement of penalties against those who illegally charge veterans for claims services.

Unscrupulous unaccredited claims sharks have engaged in a multitude of improprieties that exploit vulnerable veterans. These abuses include:

- Offering claims assistance without being accredited, in violation of federal law
- Failing to disclose that they are not accredited by the VA
- Charging fees beyond those permitted to be charged by accredited agents
- Misleadingly stating that they are only offering “consulting” services when they are in fact preparing and processing the claim
- Requiring the veterans to disclose their VA user ID and password so the claims shark can track the progress of the claim
- Requiring the veteran to disclose their online banking user ID and password so they can withdraw their fees from the veteran’s account as soon as the claim is paid

These improprieties facilitate the commission of fraud against our veterans. **Veterans reported \$350 million in total fraud losses to the Federal Trade Commission in 2023.**² Maryland ranked fifth nationally in reported fraud and other reports per 100,000 of population, and ranked 11th in identity theft reports. In Maryland, identity fraud was tied with credit bureaus, information furnishers and report users for the most prevalent form of fraud in 2023.³

We note that banning unaccredited claims sharks from providing services to veterans does not violate the First Amendment rights of claims sharks. The United States Supreme Court has repeatedly held that states may reasonably regulate commercial speech, and the Government may regulate the provision of legal advice to ensure that those who provide it meet minimum levels of competency and are sworn to uphold the system of fair administration of justice. Regulation of professional speech is subject to a lower level of scrutiny and should be struck down only when it is “unjustified or unduly burdensome.” *Zauderer v. Office of Disciplinary Counsel of Supreme Court*, 471 U.S. 626, 657 (1985).

States may regulate professional conduct, even though that conduct incidentally involves speech. “[I]t has never been deemed an abridgment of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written, or printed.” *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 502 (1949).

² [https://www.moaa.org/content/publications-and-media/news-articles/2024-news-articles/finance/scams-cost-veterans,-military-retirees-\\$350-million-in-2023/?utm_source=newsletter&utm_medium=email&utm_campaign=TMNsend&utm_content=MclNw4K/pUQA MHJh1eJHNA==+MD+AFHRM+1+Ret+L+CC](https://www.moaa.org/content/publications-and-media/news-articles/2024-news-articles/finance/scams-cost-veterans,-military-retirees-$350-million-in-2023/?utm_source=newsletter&utm_medium=email&utm_campaign=TMNsend&utm_content=MclNw4K/pUQA MHJh1eJHNA==+MD+AFHRM+1+Ret+L+CC)

³ https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Annual-Data-Book-2023.pdf

Subject: **Request for FAVORABLE Report** – SB0831 – Veterans – Persons Providing Veterans Services and Veterans Benefits Appeals Services – Fees and Compensation

Banning claims sharks does not limit the options that veterans have to obtain claims assistance. The simple solution would be for those currently providing services in violation of federal law to become accredited. Doing so is not a complicated or onerous process. The objection to obtaining accreditation is that federal law limits the fees that can be charged and claims sharks want to charge whatever they can get away with. Second, state law already regulates many professions and limits entry to those who demonstrate qualifications and agree to abide by ethical and other professional practices. Although regulating professions may limit consumer “choice,” regulation is universally accepted to protect the public from unscrupulous or unqualified actors.

The Maryland Military Coalition **strongly supports SB0831** and asks the Education, Energy, and the Environment Committee for a **FAVORABLE report**. It is time for our state to take steps to protect our veterans and reign in the perpetrators of the unscrupulous practices outlined above.

The Maryland Military Coalition is a registered non-profit, non-partisan advocacy organization comprised of prominent Maryland-based veteran and military groups, representing over 150,000 service-connected individuals, including those currently serving, veterans, retirees and their families, caregivers, and survivors.

We want to thank Senator Katherine Klausmeier for her commitment to our veterans and the uniformed services community in Maryland.

Respectfully,



David L. Dragics
COL USA (Ret)
Legislative Director

Member Organizations, Maryland Military Coalition

James P. Monahan
Air Force Sergeants Association

Stacy P. May
American Military Society

Elwood Raphael Gray
American Minority Veterans Research Project

W. A. A.
Association of the United States Navy

Lynda A. Dask
Commissioned Officers Association of the
US Public Health Service

Wilbur B. Fisher
Disabled American Veterans

Siddons Hedberg
Distinguished Flying Cross Association

Phyllis J. Collins
Fleet Reserve Association

Siddons Hedberg
Jewish War Veterans of the USA

Steve L. Blooden
Maryland Air National Guard Retirees'
Association

Emmett R. Robert
Maryland Veterans Chamber of Commerce

Robert J. Winton
Military Officers Association of America

Charles E. Speltz
Military Order of the Purple Heart

E.
Montford Point Marines of America

M. L. Messer
National Association for Black Veterans

Michael P. Hays
Naval Enlisted Reserve Association

Christian Andreasen
NOAA Association of Commissioned Officers

John S.
Reserve Organization of America

Catherine L. McStaw
Society of Military Widows

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National Active and Retired Federal Employees
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SB 831 - Veterans - Persons Providing Veterans Ben

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SB 831 - Veterans - Persons Providing Veterans Benefits Services and Veterans Benefits Appeals Services - Fees and Compensation
FAVORABLE
Education, Energy and the Environment Committee
February 28, 2024

Good afternoon, Chairman Feldman and members of the Education, Energy, and the Environment Committee. I am Jim Campbell, state president emeritus of AARP Maryland. On behalf of AARP Maryland and our 850,000 members across the state, I write to recommend a FAVORABLE report by the Committee on SB 831 - Veterans - Persons Providing Veterans Benefits Services and Veterans Benefits Appeals Services - Fees and Compensation. We thank Senator Katherine Klausmeier for sponsoring SB 831.

This critical legislation would ban unscrupulous actors from preying on veterans by charging them to process a claim or to appeal a denial of benefits. HB 875 incorporates federal law into Maryland law, by providing that no one may charge fees for claims assistance who is not accredited by the U.S. Department of Veterans Affairs (VA). The bill creates fines for violations and any collected fines are tendered to the Maryland Veterans Trust Fund.

According to "Scambush: Military Veterans Battle Surprise Attacks from Scams and Fraud," a 2021 AARP survey measuring the number of scams, fraud and identity theft schemes threatening veterans and active-duty service members, veterans and military adults are 40% more likely to lose money to scams and fraud than civilians. In addition, 4 out of 5 military/veteran adults were targeted by scams directly related to their military service or the benefits they receive.

Sadly, the report notes that one in three military/veteran adults reported losing money to service-related scams. Of those who lost money, 47% fell victim to benefit buyout scams, where their VA pension and/or disability benefits are turned over for a supposed lump-sum payment that never materializes and 32% fell for fraudulent records scams, where they were charged for updated personal military records.

Why target veterans and military families? Simply put, scammers follow the money — active-duty service members get a steady paycheck, while veterans are eligible for regular benefit payments. Many do not realize that such assistance is available, free of charge, from the VA.

Maryland's veterans and their families made tremendous sacrifices to protect our country. SB 831 provides us a chance to honor their service by protecting them against bad actors preying on their benefits. For these reasons, we respectfully ask for a favorable report on SB 831.

February 28, 2024

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If you have questions for follow up, please contact Tammy Bresnahan at tbresnahan@aarpp.org or by calling 410-302-8451.

Bill Taylor Testimony MD SB 831.pdf

Uploaded by: William Taylor

Position: FWA

SUBMITTED TESTIMONY OF WILLIAM C. TAYLOR, LTC (RET) US ARMY

CO-FOUNDER AND CHIEF OPERATING OFFICER,

VETERANS GUARDIAN VA CLAIM CONSULTING, LLC

BEFORE THE MARYLAND STATE SENATE

EDUCATION, ENERGY, AND ENVIRONMENT

FEBRUARY 29, 2024

OPENING STATEMENT

I. Introduction

Thank you for the opportunity to provide testimony expressing Veterans Guardian's views on an important piece of legislation, Maryland SB 831, which I think has great intentions, but if executed, would ultimately harm veterans.

My name is William Taylor and I am a co-founder of Veterans Guardian VA Claim Consulting, and a Veteran of the US Army. I am a proud graduate of the United States Military Academy at West Point and retired in 2018 as a Lieutenant Colonel after a 23-year career that included six deployments to Afghanistan, Iraq, and the Balkans, and positions from the platoon to 4-star level staff positions. I am proud to have founded one of the largest Veteran owned and operated companies assisting my fellow Veterans with their disability claims.

In 2015, as I was considering retiring from the Army, one of the questions that came up was VA disability benefits. I knew little more than that they existed and, like so many in the military, I had heard horror stories about how cumbersome and complicated the process was, but I felt healthy and assumed I probably did not qualify, which I now know was wrong. Information about claiming VA disability benefits was practically non-existent and difficult to find. Worse still, getting an appointment with a claims representative was even more difficult due to limited operating hours and limited capacity for the large military population in and around Fort Bragg, North Carolina. Despite being a senior officer, and having knowledgeable friends and colleagues, it took a significant amount of their support, advice, and my own research for me to successfully navigate the system and submit my own claim. Unfortunately, I am the exception and not the norm. That is why we founded Veterans Guardian. If I, as a senior officer, had this much trouble navigating the system, something surely was not right. Unfortunately, the VA disability process is a bureaucratic and difficult system to navigate that presents challenges to most Veterans, often resulting in deserving Veterans not receiving the benefits to which they are entitled. I am proud of the work my company has done to assist Veterans with this process.

Veterans Guardian employs a staff of more than 75% Veterans, spouses of Veterans, spouses of active-duty service members or immediate family members of veterans. We have been recognized by the Department of Labor by receiving the HIRE Vets platinum or gold award four

years in a row. We have received the BBB Torch Award for Marketplace Ethics in 2020, 2021, and 2022. We were most recently recognized for hiring veterans and spouses and named a Military Friendly Company of the year. We are the national presenting sponsor for Irreverent Warriors and support more than 60 national and local charities, including support to local chapters of many of the organizations that have also been invited to engage in this important discussion today.

II. *Veterans Guardian's Mission and Work*

Our mission is to provide the best possible service to our Veteran clients to ensure that they receive all the benefits that they are entitled to based on injuries that occurred during their time of honorable service to our nation. I am incredibly proud of the work we do every day to offer a transparent, effective, and efficient option to help Veterans navigate a complex and oftentimes failing system. Our capabilities are complementary to the other services available to Veterans. My trained and expert staff inform every Veteran that there are free options and services available to them in the form of county and state Veteran Service Officers, the Veteran Service Organizations, and their local Congressional offices, and we connect them directly to these services if they choose.

Given the difficulty that many Veterans face when trying to navigate the VA disability process, as well as the sheer volume of Veterans that need assistance, there continues to be a backlog of more than 240,000 veteran disability claims. Contrary to common belief and statements from the VA, the current systems alone do not provide enough representatives or caliber of services to meet the needs of Veterans seeking assistance. Veterans need more options for assistance, not less. To address Veterans' pressing and time sensitive needs, they should be able to pursue their claims in the manner that best serves them, with full knowledge of all available providers (including county and state employees, VSOs, lawyers, claims agents, and companies like Veterans Guardian) who can assist them at any step in the process.

Veterans make a fully informed choice to use our services for a multitude of reasons: easy access and responsiveness, our experience and knowledge developed and refined over tens of thousands of claims, our expertise utilizing a team method with team members becoming experts in all stages of the process, our ability to help develop medical and lay evidence with a network of independent external doctors, our understanding of the regulations, and our competence in developing claims for secondary conditions. Based on all of this, I am proud that we have assisted tens of thousands of Veterans with a success rate of more than 90%. The Veterans themselves have made clear that we are providing an important and necessary service, as we have thousands of positive reviews and many personal referrals from our clients. In fact, 50% of our new clients each month are referred from previous or current clients. The thousands of positive reviews and direct referrals that we receive are a direct testament to the importance we place on client care. We have also received extensive recognition for our work, including 11 awards from various organizations, including: AMVETS North Carolina, National AMVETS, Department of Labor HIREVETS – Gold and Platinum Medallion awards, the Better Business Bureau – Ethics Awards three years in a row, Military Friendly Employer, and Military Spouse Friendly Employer.

We are transparent about our process and fee structure, and up-front about who we are and who we are not. We do not aggressively solicit any Veteran, the Veteran comes to us informed and ready to receive the benefits they have earned. We do not have doctors on our payroll doing medical exams, nor do we have automated or international call centers. Our fee structure reflects our mission and is clearly communicated to Veteran clients throughout each step in the process. We do not collect any fee unless the Veteran achieves an increase in their VA benefits, and we do not have access to a Veteran's financial or e-benefits accounts. Any fee that a Veteran pays us comes from new benefits we have helped them secure, and no Veteran is financially disadvantaged from where they were before they utilized our services. Our Veterans are paying a one-time fee for assistance while receiving a lifetime of benefits. Included in our written submission for the record is a detailed description of our fee structure.

Veterans Guardian has helped approximately 2,000 veterans in Maryland generating over \$19 million in additional benefits per year for veterans in Maryland.

III. The Problem

The perversely incentivized federal system permits accredited agents and attorneys to accept compensation only *after* the agency issues an initial decision in a veteran's case. Veterans Guardian focuses on getting claims right the first time around, so no appeal is needed. Accordingly, Veterans Guardian cannot be accredited under the current system. Veterans Guardian conducts its business in a way that comports with federal law because it limits its activities to consulting services and does not act as a veteran's "agent." We are transparent with our clients that we are not accredited, and our clients acknowledge their understanding of our status as well as the free options available to them.

But we know that the system could work better. The current US Department of Veterans' Affairs (VA) disability benefits system is at best cumbersome and adversarial, and at worse broken to a point where it harms the veterans for the benefit of a small number of powerful boutique law firms. In fact, in recent US Congressional testimony, Kenneth Arnold, Acting Chairman of the Board of Veterans' Appeals testified under oath:

"The [VA] courts clerk annually approved 6,500 to 7,300 attorney fee requests each year, almost all for remanded cases. **This generates \$45 to \$50 million in attorney's fees each year, with the majority going to a small number of boutique law firms with relatively few veterans receiving any increase in their monthly compensation.**"

According to the VA's publicly available data on accredited service officers and agents, **the entire state of Maryland has only 70 VSO representatives to provide assistance to the nearly 63,322 veterans who currently reside in the state.** This equates to **one representative being responsible for handling the affairs of 905 veterans.** Even the hardest working and most efficient volunteer would be pressed to give the best possible service to that many veterans.

As our business model has shown, we are strong supporters of improving the process by which Veterans obtain their disability benefits. Our goal should be to expand good options for our Veterans, not restrict them; to improve oversight and ensure Veterans are receiving competent, timely assistance; and to provide our Veterans the freedom to make an informed decision regarding how they want to pursue their disability claims. We have continued to be strong supporters of accreditation reform on the federal level, including increasing knowledge requirements and scrutiny of applicants for accreditation.

Those efforts are underway and we expect that they will result in bi-partisan legislation that opens the tent to accreditation for companies like Veterans Guardian, which endeavor every day to help veterans secure the benefits they are owed as a result of their honorable service.

IV. SB 831

SB 831 would compromise those efforts. We expect that some individuals and entities who benefit from the broken system in which veterans are denied the benefits they are owed for years as appeals wind through the VA's backlog would argue that SB 831 forces my business to close its doors. Those actors would make that argument based on a reading of federal law that is unfaithful to its text and raises significant First Amendment concerns. But they would make it nonetheless and that alone is reason for us to seek critical change of this bill.

Therefore, we write in opposition to Senate Bill 831 as drafted, however we are committed to working with the sponsor and this Committee to make necessary changes.

Attempting to protect veterans is an honorable endeavor that we all share; unfortunately, SB 831 misses the mark: It fails to address the full spectrum of issues at hand, which are pending at the federal level, and would be weaponized by some actors intent on denying veterans their right to choose how they pursue their own claims.

There are more than 18 million veterans in America, but only 5 million have a disability rating. While actors such as VSOs and law firms also serve veterans, more options, not less, are needed to effectively meet the demand of American veterans.

Rather than handing a weapon to those who would restrict a veteran's right to choose how they pursue their claim, as SB 831 does, a better approach is to implement necessary reforms that must take place to ensure the integrity of the systems and to protect veterans from potentially bad actors. Some of these reforms include, but are not limited to:

- o Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- o Prohibiting any initial or non-refundable fees;
- o Mandating that presumptive period veterans be referred to a VSO of their choice;
- o Getting written confirmation from the veteran they have been informed of their free options;

- o Prohibiting private companies from having doctors on the payroll performing secondary medical exams;
- o Prohibiting the use of international call centers or data centers for processing veteran's personal information.
- o Prohibiting aggressive and direct solicitation;
- o Prohibiting advertising or guaranteeing a successful outcome.

These are true protections that will ensure the veteran is not taken advantage of, while still preserving their rights to seek expert claims support.

The demand for current services in this space is far too vast for the government and VSOs to handle on their own. This highlights the need for an enhanced system that provides an expanded pathway for accreditation and enhanced oversight. SB 831 does the exact opposite, and we encourage you to amend this legislation to protect veteran choices and options.

V. Conclusion

I look forward to remaining engaged and working with you and your staffs as we continue to develop solutions for this and other important issues facing our nation's Veterans. Thank you for the opportunity to submit this testimony.