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**“VETERANS CONSUMER PROTECTION: PREVENTING FINANCIAL
EXPLOITATION OF VETERANS AND THEIR BENEFITS”
COMMITTEE ON VETERANS’ AFFAIRS
UNITED STATES SENATE**

WEDNESDAY, APRIL 19, 2023

Good afternoon, Chairman Tester, Ranking Member Moran, and distinguished Members of the Committee. Thank you for the opportunity to testify on the Department of Veterans Affairs’ (VA) efforts to protect Veterans from fraud, scams, and predatory practices. I am representing VA today along with John Boerstler, Chief Veterans Experience Officer, who leads VA’s Veterans Experience Office (VEO) and the Department’s Veteran Scam and Fraud Evasion (VSAFE) Initiative.

As you likely already know, too many of the Nation’s heroes are being financially exploited through predatory practices and fraudulent schemes. They are often viewed as attractive targets for criminals and unscrupulous actors because of their potential eligibility to receive Federal benefits related to their military service. According to the Federal Trade Commission (FTC), the military population reported a collective financial loss amounting to over \$267M in 2021 alone; and it logically stands that the actual amount is likely significantly higher given that suspected fraud often goes unreported due to shame, self-blame, and not knowing where to go to report or seek help. The predatory practices and the fraudulent schemes that are being used to target Veterans and their VA benefits are wide-ranging and continuously evolving. VA, however, refuses to sit idle and watch these injustices happen. Thus, VA is working across the Department and with external partners to better detect and disrupt what appear to be many different types of predatory practices and fraudulent schemes that are being used to target Veterans.

Veterans Benefits Administration’s (VBA) Efforts in Combatting Fraud

In fiscal year (FY) 2022, VBA successfully developed and executed five fraud prevention and protection communication campaigns focused on: Cyber Security, Elderly Veterans and Pension Poaching, LGBTQ+ Veterans, Predatory Companies, and the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act. Through these campaigns, VBA conducted 87 engagements (such as social media, news outlets, interviews, and presentations) and successfully reached over 8.5 million Veterans and dependents.

VBA is aware that one of the most prevalent predatory schemes targeting Veterans is the redirection of a Veteran's monthly VA disability compensation or pension benefits. Through identity theft, the scammers use the Veteran's compromised personal information and redirect their VA benefit payment into fraudulent accounts. To address this, VBA monitors all direct deposit changes against historical fraud data to watch for suspicious changes, emails Veterans within 24 hours of a change being made to their banking information, and provides information on what to do if they did not make the change. The sooner a Veteran can be alerted of an unauthorized change, the better the chances are of preventing the funds from being paid to an unauthorized account. VBA also provides one-on-one remediation support to Veterans if their benefit payments are stolen, places additional approval requirements for bank account changes within VA's systems to stop future unauthorized changes, and reports those responsible for perpetrating fraud to the VA Office of Inspector General's (OIG) Criminal Investigation Division.

Another prevalent predatory scheme that VBA has identified is pension poaching, which includes a variety of financial scams that target Veterans, survivors, and their families who are potentially eligible for VA pension benefits. In these scams, unethical advisors profit by artificially qualifying claimants for VA pension benefits. Another popular scam occurs when a prohibited fee for the preparation of an initial claim is charged to a claimant under the guise of a "pre-filing consultation" fee. To help address this, VA's Pension and Fiduciary Service has fraud coordinators at each Pension Management Center to help identify potentially fraudulent practices during claims processing. The fraud coordinators also refer complaints they receive from claimants, who believe that they have been financially exploited through offers to assist with their pension claims, to either the Office of the Inspector General (OIG) or to the Office of General Counsel (OGC). Moreover, to further help protect claimants from these pension poaching scams, VA has added language to the application forms for both pension and dependency and indemnity compensation benefits that clarifies that only an accredited attorney or claims agent may charge fees to claimants and at which stage of the adjudication process such fees may be charged.

VBA's Education Service uses several oversight tools for early identification of fraud risk activities. Compliance Surveys are statutorily mandated program reviews that ensure that schools with 20 or more GI Bill students comply with statutory and regulatory approval, record keeping and reporting requirements. VBA also conducts unannounced on-site compliance reviews triggered by research, data triangulation, complaints, legal actions, or information provided by trusted partners indicating serious violations of GI Bill requirements known as Target Risk Based Reviews. Finally, VBA employs risk-based surveys to review schools with a number of risk factors, such as rapid increase in GI Bill beneficiaries, rapid increase in average payments per beneficiary and/or actions by trusted Federal or State partners. These reviews help to ensure VBA properly monitors education programs that enroll student Veterans.

VBA's Loan Guaranty Service routinely conducts audits to ensure that lenders comply with relevant Federal statutes, regulations and VA policies, including those

relating to loan advertising materials. When VA learns of a lender who violates VA's advertising standards, VA can take action against such lender, e.g., withdraw the lender's ability to automatically close VA-guaranteed loans. VA can also refer the case to the Consumer Financial Protection Bureau (CFPB) or OIG for further investigation and potential prosecution.

VBA's Insurance Service uses several preventative measures and oversight tools for early identification of fraud activities. Insurance Service (INS) requires a written request if updating both an address and direct deposit information within 30 days. All policy loan requests must be in writing or online, and cannot use the online instant loan application if changing address or direct deposit concurrently. VBA takes administrative actions immediately if any risk activity is identified. These actions include contacting the Veteran to verify if they are making the requested changes, placing restrictive access to accounts identified with fraud activity, and alerting the Customer Call Center with identified scammer information. Insurance Service also uses a formal bank reclamation process through the US Department of Treasury to recover improper payments when fraud is confirmed. VBA's Insurance contract partner, Prudential Insurance Company of America, who administers the Servicemembers' Group Life Insurance programs, has an internal Corporate Investigation Division (CID) that investigates fraud activities within Office of Servicemembers' Group Life Insurance programs. They have additional controls in place to identify fraud. Prudential reports any suspected fraud activity to VBA for review of VBA systems of any other potential fraud.

Emphasizing the Role of OGC's Accreditation, Discipline, & Fees (ADF) Program

OGC's ADF program also plays a vital role in VA's efforts to combat predatory practices that target Veterans, particularly through offers of assistance in applying for VA benefit claims. Below, I will explain the purpose of the ADF program, identify some of the safeguards and protections that are built into the accreditation process, and clarify why it is of the utmost importance that VA claimants only select individuals and organizations that are recognized by VA to prepare, present, and prosecute their VA benefits claims.

Before going into how the ADF program works, I must stress that, under current law, no one may lawfully assist claimants in the preparation, presentation, and prosecution of claims before VA without being recognized by VA to do so. OGC's ADF program accredits, and oversees, representatives of VSOs, attorneys, and claims agents for this purpose. There are currently 91 VA-recognized VSOs and 8,142 accredited VSO representatives, 5,445 accredited attorneys and 482 accredited claims agents.

OGC's goal is to ensure that claimants for VA benefits have responsible, qualified representation in the preparation, presentation, and prosecution of their claims. The functions of the ADF program are somewhat similar to those of a state bar or licensing authority and include making determinations on initial accreditation

applications, monitoring conduct of VA-accredited individuals, investigating complaints, deciding fee dispute matters, and removing accreditation when necessary.

OGC has established by regulation a disciplinary process to address complaints about VA-accredited individuals. If VA determines that an accredited attorney, claims agent, or VSO representative has engaged in misconduct or demonstrated incompetence, VA may suspend or cancel the individual's accreditation. Under our procedures, when OGC receives information from any source indicating improper conduct or incompetence, OGC will open an informal inquiry to inform the accredited individual of the allegations and provide an opportunity to respond. If we are not satisfied with their response, we may subsequently initiate a formal inquiry and provide the individual with an opportunity for a hearing. A decision by the General Counsel suspending or cancelling accreditation is a final decision by VA and may be appealed to the Board of Veterans' Appeals.

Another important safeguard tied to accreditation is the opportunity for claimants to request, or for OGC to initiate, review of a fee agreement. Generally, this involves reviewing the agreement to determine whether the fee being charged in the particular case is reasonable. VA is statutorily authorized to order reduction of an unreasonable fee charged by an accredited individual. In fact, in FY22, OGC directed the return of nearly 2.5 million dollars in benefit payments that were initially withheld for the payment of fees.

In the case of non-accredited individuals or organizations that may be charging improper fees for the preparation, presentation, or prosecution of VA benefits claims, VA notifies them to cease their unlawful practices. Sometimes, a letter explaining how their practices are likely in violation of the law is sufficient to convince them to cease their unlawful conduct. But, more often than not, we receive no response to our letter, or a response indicating that they do not intend to cease their practices. Because there are no criminal penalties under Federal law specific to unlawfully charging a fee for assisting a claimant with an application for VA benefits, if an unaccredited actor fails to cease the unlawful practice, VA's recourse is to report the matter to Federal, state, or local agencies that enforce rules against unauthorized legal practice, unfair business practices, or consumer fraud laws. For the past several years, the ADF program has directed those complaints alleging pension poaching and misconduct of unaccredited persons and entities be submitted directly to FTC's Consumer Sentinel (Sentinel) database through a link on the OGC webpage. This is because complaints submitted into the Sentinel database are accessible not only by the ADF program but also by other Federal and State law enforcement authorities and thus are more likely to be included in their investigations and prosecutions.

In addition to make it easier for enforcement authorities to investigate and prosecute these matters, beginning in FY18, and every year thereafter, VA has proposed legislation that would reinstate the penalties for directly or indirectly charging, or receiving any fee or compensation with respect to the preparation, presentation, and prosecution of claims for VA benefits except as provided by law. Prior to 2006, section

5905 of title 38 authorized penalties for this range of conduct related to fees and compensation for representation on claims for VA benefits. However, current section 5905 only authorizes penalties for wrongfully withholding from a claimant or beneficiary any part of a benefit due to the claimant or beneficiary, a circumstance that rarely arises. From 2018 through 2022, over 40 percent of the complaints received by the ADF program were against unaccredited individuals and organizations. The existence of a Federal criminal prohibition would provide a significant and consistent deterrent against bad actors, providing another layer of protection to Veterans. VA's legislative proposal is largely reflected in proposed bill S. 740, the GUARD Act.

Moreover, to further bolster the services of the ADF program, VA has also proposed authority to defray costs incurred by OGC in carrying out the program. This authority would be funded in part from an increased assessment when VA pays a fee from a claimant's past due benefits. OGC resources have been unable to keep pace with the dramatic increase in activities related to claims assistance, and this authority would greatly assist VA in protecting the interests of Veterans.

VEO Leads VA's VSAFE Initiatives

VEO is VA's engine to channel the insight from Veterans and their supporters into the Department's strategies and decisions. VEO captures and analyzes the voices of Veterans, their families, caregivers and survivors and turns that qualitative and quantitative data into action by designing and improving experiences based on customer needs. By translating Veteran insights into tangible action, VA seeks to earn and continue to build trust in the Department so that Veterans and their supporters know that they can turn to VA, and away from potentially predatory actors, for help with understanding, applying for, and maintaining the benefits and services administered through the Department.

VEO applies human-centered design methodology and conducts interviews with customers to understand unmet needs and identify opportunities to improve their experiences. This qualitative data also creates a consistent shared understanding about VA's customers and how they feel about their interactions with VA, thus bringing the voice of the Veteran to the forefront. VEO also provides quantitative information about Veterans' interactions with VA by capturing and analyzing customer input in real-time utilizing the Veterans Signals (VSignals) survey platform. VSignals was modeled after an industry best-in-class framework and a modern, web-based platform utilized by leading customer service companies in the private sector. This allows the Department to view VA's performance from the Veterans' perspective and holds VA accountable to Veterans, their families, caregivers and survivors.

It was, in part, through accumulating qualitative and quantitative data, as described above, that VEO was able to realize that there are many complexities involved in issues involving consumer protection and veteran fraud and, because of this, decided to take action and lead VA in initiating the VSAFE task force. In June 2022, the VSAFE taskforce began the process of mapping out fraud prevention efforts across the

Department. In July 2022, the VSAFE taskforce met with Veteran Service Organizations (VSOs) and other stakeholders to map out their interactions with VA on fraud reporting and prevention efforts. Then, in August 2022, the VSAFE taskforce held a listening session with multiple Federal agencies, to include the Department of Defense, Social Security Administration, Department of Education, FTC, Office of Management and Budget, Office of Overseas Citizens, Office of Visa Services, Office of Fraud Prevention Programs, and CFPB. The results of these mapping efforts helped VA identify that there is potential for VA to improve in areas involving consumer education and information sharing.

Armed with this background, the VSAFE taskforce utilized VA's governance process to stand up the VSAFE Integrated Project Team (IPT), which is a Department-wide team that aims to develop long-term solutions to combat potential fraud through knowledge-sharing and the implementation of best practices. The VSAFE IPT has identified five main objectives. First, the VSAFE IPT aims to utilize insights across VA so that the Department speaks with one voice regarding fraud prevention and the coordination of public awareness efforts. Second, the VSAFE IPT aims to catalog, streamline, and coordinate internal existing efforts to protect Veterans from potential fraud. Third, VSAFE IPT aims to review academic, legislative, and partner-created research to inform VA's decision-making process and help develop innovations. Fourth, the VSAFE IPT aims to cultivate and strengthen on-going sustainable Federal partnerships and develop mutually supportive endeavors. Last, the team aims to quickly bring together cyber-based fraud interventions and techniques as well as technology-based solutioning efforts to better protect Veterans.

Currently, the VSAFE IPT is focusing on designing targeted communications and campaigns to educate and warn the Veteran community about the fraud schemes and unsavory predatory practices that affect Veterans' lives daily. The VSAFE IPT is working towards publishing a one-page infographic that can easily be shared within the Veteran community, as well as publishing a more robust fraud prevention booklet, that will help inform the Veteran community how they can identify potentially fraudulent schemes, where such schemes can be reported, and how someone, who believes that they have been a victim of Veteran fraud, may access resources available through VA and other Federal partners that could help. VA is also creating a centralized webpage that will make it easy for the Veteran community to electronically connect with VA on this important issue. VA is proud of the direction that the VSAFE IPT is moving and we look forward to bolstering the administration's and program offices' own efforts through this initiative.

This concludes VA's statement. We will be happy to answer any questions you may have.