

**Testimony of Constance B. Tobias,
Nominee to be Chairman of the Board of Veterans' Appeals,
U.S. Department of Veterans Affairs
Before the Senate Committee on Veterans' Affairs**

November 6, 2013

Chairman Sanders, Ranking Member Burr, distinguished Members of the Committee: good morning and thank you for the opportunity to appear before you today. I am honored that President Obama has nominated me to serve as Chairman of the Board of Veterans' Appeals (Board). Much of my career as an attorney and a judge has been dedicated to the mission of repaying the debt of honor owed to the men and women who have worn our Nation's uniform. I am eager for the opportunity to redouble those efforts as part of the leadership team working to transform the Department of Veterans Affairs (VA) to meet the emerging challenges of the 21st century.

My longstanding commitment to serving Veterans arose in part from the guidance, love, and support of my family. In particular, I want to remember and recognize my father and his two brothers whose dedication and service to this country continue to inspire me. As a family, we have learned firsthand how crucial the benefits provided to Veterans by a grateful country can truly be for them and their families. For example, our family home was obtained with the help of the VA loan guaranty program and my uncles received high quality and compassionate care at the VA Medical Center in Salisbury, North Carolina. I am

excited about this opportunity to give back by adding my passion, dedication and leadership to continuing the enhancement of the VA's appeals so that it provides timely decisions to Veterans who seek our services.

I would like to thank my family and friends for their steadfast support, as well as all of my co-workers who have helped me along the way. I would also like to recognize the long career of Steven Keller, who recently retired from the Board, for his many years of federal service. I knew and served with Mr. Keller and with three prior Board Chairmen. It would be an honor for me to follow in their footsteps and to lead the more than 600 dedicated, hard-working, and professional employees of the Board. Finally, I want to recognize the essential role that the various Veterans Service Organizations play at the Board of Veterans Appeals. These organizations offer invaluable insights and serve as partners in much of the work conducted at the Board and, if confirmed, I look forward to working with them.

I know well the critical challenges facing the Board in the coming years to ensure fair, timely and accurate results in an appeal process that issued more than 41,000 decisions last year. I first came to VA in 1983, and my passion for serving our Veterans did not fade during my more than 20 years there. I wrote thousands of draft decisions as attorney-advisor and became a staff attorney with the Office of General Counsel working with the Department of Justice on some of the first appeals from the U. S. Court of Veterans Claims to the U. S. Court of Appeals for the Federal Circuit. I then served as counsel to the Board Chairman,

directing the professional activities of the Litigation Support Division, addressing the impact of court decisions on VA regulations and Board operations, and guiding litigation strategies for pending appeals. I focused especially on reducing administrative processing time of appeals remanded to the Board by the court. After I became a judge at the Board, I conducted hundreds of hearings and decided thousands of appeals. That role gave me the privilege of listening as our Nation's Veterans shared their stories of service and courage and made me appreciate the critical role the Board plays in many of their lives.

From 1995 to 2007, I took on a leadership role as Chief Veterans' Law Judge. In that role, I mentored judges and helped them to develop skills to increase productivity and work effectively with attorney staff. I also helped improve the quality of written decisions and managed efficient case distribution. It was my responsibility to ensure that cases were reassigned as necessary and that every judge and attorney could meet or exceed numerical performance goals in order to ensure the timely review of appeals.

During my tenure at the Board, I actively participated in initiatives designed to speed claims processing, increase decision output and eliminate the backlog of pending cases. I provided executive leadership to the development of the attorney telework program now in place at the Board. I also founded the Board of Veterans' Appeals Leadership Initiative to provide unique opportunities for employees at all levels, at my agency and throughout VA, to develop the leadership skills necessary for advancement. VA employees benefitted from

guidance contributed by a wide range of leader-models, including VA Assistant Secretaries, judges, law school deans and professors, as well as state and federal elected officials. As a result, the agency saw increases in dedication and workplace performance by the participants.

My appointment six years ago as Chairman of the Departmental Appeals Board (DAB) at the U.S. Department of Health and Human Services (HHS) allowed me to develop leadership methods that led to dramatic improvements in both quality and productivity. DAB itself resolves disputed decisions in a wide range of HHS programs with outside parties such as state agencies, universities, nursing homes, and health care providers. In a single year, disputes heard by DAB may involve as much as \$1 billion in federal grant funds. DAB also houses the Medicare Appeals Council, the final level of administrative review for claims denials and overpayments in the Medicare program nationwide.

During my term, DAB has made extraordinary progress in eliminating a backlog of appeals in two divisions and significantly reducing the backlog in a third by improving employee performance, re-engineering its operations and improving its case management techniques. Over the last several years, DAB launched an electronic case filing system, called DAB E-File, permitting parties to file documents electronically and reducing the paperwork and time required to process cases. Together with DAB's internal case management system, DAB E-File has proven to be an efficient means of managing DAB's case load, reducing administrative costs and space requirements. DAB has also worked

actively with the Office of Medicare Hearings and Appeals and the Center for Medicare and Medicaid Services to bring electronic case files to the Medicare workload.

I have also focused significant energy in my work at DAB in fully integrating video-teleconferencing (VTC) into the work of judges in all of the operating divisions with the result that, in FY 2013, no judges at DAB had to travel to conduct hearings. Not only were agency funds saved, but the time of judges and staff was better used and parties benefitted from more flexibility and reduced costs. We further leveraged the equipment to provide mediation services in DAB cases and HHS workplace disputes as well as free or low-cost educational opportunities to our staff through webinars and online training. I have also emphasized clear writing in plain English in all DAB decisions. I see strong parallels in the work with which I have been engaged at DAB and the efforts that are currently underway at the Board.

My previous work at the Board and my recent experience at HHS have equipped me to bring a unique perspective to the Board's ongoing efforts to streamline operations, provide timely, clear and accurate decisions, and continue robust coordination with the Veterans Benefits Administration – a key partner in the appeals effort. When our Veterans come to us with questions about disability claims, medical care or other benefit determinations, they need to have ready access to the appeals process, streamlined handling of their claims and answers that are correct and understandable. We owe them that. And in the 21st century,

Veterans expect real-time information on the status of their appeals. As we all know, appeal numbers are expected to grow dramatically over the coming years. To provide Veterans what they deserve in the face of growing needs will demand innovative and nimble solutions taking full advantage of the efficiencies of technologies and the tremendous potential of all of the Board's strong judges and staff.

My vision centers on using the funds made available to the Board to those two ends. My number one priority, if confirmed, must be to hire and train the strongest possible front line staff to review and decide Veterans' appeals. The second goal is to leverage opportunities provided by technology to the maximum possible extent, including to:

- coordinate workloads and assignments;
- improve and expand existing automation,
- develop effective adjudication/decision-making tools; and
- expand VTC for hearings and staff development.

If I return to the Board to carry out this vision, I will look for every opportunity to streamline and modernize management and re-engineer work flow to best serve today's Veterans.

In summary, I am thrilled at the prospect of leading a 21st century Board of Veterans' Appeals, not daunted. With this nomination, I consider myself one of the luckiest people in the world because I value the chance to better serve those who have served us all.

If confirmed as Chairman of the Board of Veterans' Appeals, I am committed to working with this Committee, the Congress more broadly, Veterans Service Organizations, the Court of Appeals for Veterans Claims, other stakeholders, and most importantly all of the wonderful employees at the Board to ensure that we provide timely and high-quality decisions to America's heroes. I am also committed to working closely and collaboratively with the Veterans Benefits Administration and other VA partners to improve the overall claims and appeals system for the benefit of the Veterans we serve. Should I be confirmed, I will serve with passion and conviction as an advocate on behalf of all of America's Veterans.

Thank you again for the opportunity to appear before you today. I look forward to answering any questions you may have.