



Testimony

Before the Subcommittee on Disability Assistance and Memorial Affairs,
Committee on Veterans' Affairs, House
of Representatives

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VA DISABILITY EXAMS

Opportunities Remain to Improve Program Planning and Oversight

Statement of Elizabeth Curda, Director, Education,
Workforce, and Income Security

Accessible Version

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee:

I am pleased to be here today to discuss the findings from our recent work on Department of Veterans Affairs (VA) disability medical examinations. As you know, VA often relies on disability medical exams to determine whether veterans are eligible for disability compensation. Two groups of disability medical examiners conduct these exams: examiners employed by the Veterans Health Administration (VHA) and examiners working for vendors contracted by the Veterans Benefits Administration (VBA). Together, these examiners perform more than 1 million disability exams per year.

In April 2020, VA suspended in-person exams for several months due to safety concerns related to the COVID-19 pandemic.¹ This suspension contributed to a growth in backlogged exam requests, from approximately 158,000 in March 2020 to about 357,000 by December 2020.² In January 2021, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 was enacted. This Act includes several provisions related to disability medical exams.³ For example, the Act granted certain types of VBA-contracted examiners temporary authority to conduct exams in states other than those in which they hold a license (known as license portability).⁴ The Act also required VA to

¹VHA suspended in-person disability exams at VHA facilities in March 2020. Individual facilities had discretion over when to return to offering in-person exams, with a requirement to follow applicable federal, state, and local re-opening guidance, according to VHA officials. In April 2020, VBA suspended use of in-person disability exams for its contracted examiners. Contractors resumed in-person exams in a limited number of areas in June 2020, followed by a nationwide resumption of in-person contracted exams in September 2020.

²As of June 30, 2023, approximately 303,000 exam requests were pending, according to VBA provided data.

³Pub. L. No. 116-315, § 2002, 134 Stat. 4932, 4967-69 (2021).

⁴This temporary authority is scheduled to expire on January 5, 2024.

suspend efforts to eliminate VA examiner positions until the number of backlogged exam requests is no greater than it was on March 1, 2020.⁵

My remarks today are based primarily on our June 2023 report and related updates from VA.⁶ This testimony summarizes our findings related to (1) VA's management of exam workloads between VBA contracted examiners and VHA examiners, and (2) VA's use of available flexibilities to help meet exam demand.

For our June 2023 report, we reviewed VHA guidance to its medical facilities related to examiner staffing and exam workloads, and VHA's communication to facilities regarding its expected future role in conducting exams. We also reviewed information VBA provided to its contracted exam vendors on the use of license portability for conducting disability exams, as well as vendor-reported data on exams conducted under license portability and via telehealth. Additionally, we interviewed officials from VHA, VBA, five selected medical facilities, and three contracted exam vendors. In that report, we also assessed the status of a related prior GAO recommendation on exam workload allocation. More information on our scope and methodology is available in our June 2023 report.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

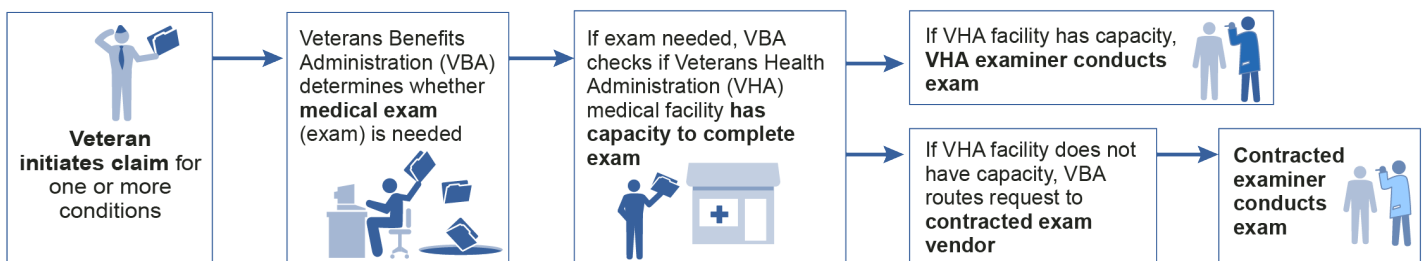
VA's process for allocating disability exams between VHA facilities and VBA's contracted exam vendors is dependent on VHA facilities' current capacity to conduct exams (see fig. 1). When assigning a disability exam,

⁵Pub. L. No. 116-315, § 2002(b), 134 Stat. 4932, 4968. We previously reported that VA has shifted much of its disability exam workload from VHA employees to VBA contractors. GAO, *VA Disability Exams: Better Planning Needed as Use of Contracted Examiners Continues to Grow*, [GAO-21-444T](#) (Washington, D.C.: Mar. 23, 2021).

⁶GAO, *VA Disability Exams: Actions Needed to Clarify Program Requirements Regarding Examiners*, [GAO-23-105787](#) (Washington, D.C.: June 15, 2023).

VBA claims processors will first seek to route an exam request to a VHA facility. If the facility does not have capacity, a claims processor will send the request to a contracted exam vendor, who will assign it to a contracted examiner.

Figure 1: VA Disability Exam Allocation Process as of February 2023



Source: GAO analysis of Department of Veterans Affairs procedures; GAO (images). | GAO-23-106939

Text for Figure 1: VA Disability Exam Allocation Process as of February 2023

- 1) Veteran initiates claim for one or more conditions
- 2) Veterans Benefits Administration (VBA) determines whether medical exam (exam) is needed
- 3) If exam needed, VBA checks if Veterans Health Administration (VHA) medical facility has capacity to complete exam
- 4) Capacity
 - a) If VHA facility has capacity, VHA examiner conducts exam
 - b) If VHA facility does not have capacity, VBA routes request to contracted exam vendor
 - i) Contracted examiner conducts exam

Source: GAO analysis of Department of Veterans Affairs procedures; GAO (images). | GAO-23-106939

VA increasingly has transferred its disability exam workload from VHA-employed examiners to VBA's contracted examiners. In fiscal year 2017, VHA examiners completed over 700,000 exams, compared to roughly 600,000 completed by VBA's contracted examiners. In fiscal year 2020, VHA completed fewer than 335,000 exams, while VBA's contracted

examiners completed nearly 1.1 million.⁷ We reported in 2021 that prior to the COVID-19 pandemic, VA planned to transfer additional exam workload from VHA facilities to VBA's contracted examiners.

Under license portability, a VBA-contracted examiner licensed in one state may legally conduct an exam in another state in which they are not licensed. Specifically, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 granted temporary license portability for VBA-contracted nurse practitioners, physician assistants, audiologists, and psychologists conducting disability exams.⁸ This temporary license portability is scheduled to expire on January 5, 2024. VBA contracted examiners who are physicians have had permanent license portability since 2016.⁹

Additional Actions Needed to Plan for Disability Exam Workloads and Clarify VHA Facilities' Examiner Staffing Requirements

Planning for exam workloads. We reported in June 2023 that VBA had not fully implemented our recommendations from March 2021 to apply sound planning practices to its increased use of contracted disability examiners.¹⁰ In 2021, we found that VBA had not developed a

⁷As part of VA's shift to increased use of contracted examiners, VA reported that VHA facilities had reduced their examiner staffing levels by about 36 percent from fiscal years 2017 through 2020. Department of Veterans Affairs, *Report on the Provision of Medical Disability Examinations* (July 2021).

⁸Pub. L. No. 116-315, § 2002(a)(1), 134 Stat. 4932, 4967. In order to be eligible to conduct VA disability exams under temporary license portability, such examiners must have a current unrestricted license and not be barred from practicing their profession in any state or territory.

⁹Pub. L. No. 114-315, § 109(a)(2), 130 Stat. 1536, 1544-45 (2016). In order to be eligible to conduct VA disability exams under permanent license portability, physicians must have a current unrestricted license and not be barred from practicing their profession in any state or territory.

¹⁰Since 2019, we have reported on challenges VA has had overseeing disability medical exam contractors and made several recommendations to address related issues. VA has implemented many them. For example, VA has addressed recommendations we made to better oversee training and exam quality. See GAO, *VA Disability Exams: Improved Performance Analysis and Training Oversight Needed for Contracted Exams*, [GAO-19-13](#) (Washington, D.C.: Oct. 12, 2018) and [GAO-21-444T](#).

documented strategy and goals for allocating exams between contracted examiners and VHA medical facilities, timelines for any further transfer of exam workload to contracted examiners, and an assessment of potential risks associated with increased reliance on contracted examiners.¹¹ We recommended that VBA, in consultation with VHA, use sound planning practices to develop and document such plans.

VBA developed a plan that incorporates some of the sound planning practices we identified, but other information is missing. For example, the plan does not include information on potential volumes or timeframes for future transfers of disability exam workloads from VHA medical centers to contracted examiners, or detailed assessments of potential risks associated with VA's increased reliance on contracted examiners. To fully address the recommendation, VBA needs to develop more detailed plans incorporating the sound planning practices we identified. In July 2023, VBA officials said the agency is updating its exam workload plan to incorporate these sound planning practices. Officials estimated this process would be completed by September 2023.

Clarifying VHA facilities' examiner needs. During the course of our review for the June 2023 report, we also found that VHA did not clearly communicate with medical facilities in a timely manner regarding its expected future role in conducting disability exams. In June 2022, VA reported to Congress that over the 5 years beginning in fiscal year 2023, VHA facilities would develop internal plans to return their disability exam workload to the levels they maintained prior to the COVID-19 pandemic.¹² VHA notified its Veterans Integrated Services Networks in July 2022 that the enactment of the Honoring our PACT Act of 2022 likely would double the VHA exam workload to approximately 500,000 exams by fiscal year 2025.¹³ However, VHA did not provide information to its medical facilities on how they were expected to help meet the demand.

During our interviews with selected facilities in August 2022, officials differed in their interpretations of VHA's future role in completing exams.

¹¹[GAO-21-444T](#).

¹²Department of Veterans Affairs, *Report to Congress on Compensation and Pension Exams* (June 2022). In July 2021, VA reported to Congress that VHA facilities had reduced disability exam capacity as facilities shifted examiners to focus on work associated with the COVID-19 pandemic.

¹³See Pub. L. No. 117-168, 136 Stat. 1759. This Act made the process of qualifying for disability benefits easier for certain veterans. VHA has 18 Veterans Integrated Services Networks that manage and oversee its medical facilities.

Officials at three facilities said they were unsure whether VHA would maintain their exam workloads in the future, or whether more or all of the exams would shift to VBA contractors. It was not until February 2023, after we made officials aware that some facilities remained uncertain about their future role in conducting exams, that VHA communicated to facilities that they will continue to conduct exams and should develop plans to meet workload demands.

Further, VHA did not provide clear guidance to its medical facilities that would address the requirement to temporarily halt efforts to eliminate examiner positions. As noted above, in January 2021, legislation was enacted that required VA to temporarily suspend efforts to eliminate disability examiner positions.¹⁴ In response to this provision, between January 2021 and April 2022, VHA issued several guidance memos to its facilities instructing them to increase exam capacity, halt any programmatic changes to their disability exam services, and pause any elimination of disability examiner positions. VHA's guidance also stated that facilities should prioritize critical and essential healthcare services.

VHA's guidance, however, did not define a "programmatic change to exam services" or "disability examiner position." Consequently, officials' interpretations of VHA's guidance memos varied at the selected facilities. For example, officials at one facility said that to avoid making a programmatic change to their exam services, they were not supposed to eliminate examiner positions from their organizational chart, but could leave these positions vacant as examiners retired or left. Officials at another facility said the guidance left them leeway to continue moving away from conducting disability exams and prioritize clinical care. VHA officials said the statutory requirement precludes facilities from making significant reductions in disability exam staff or eliminating their disability exam programs. However, the guidance VHA issued to facilities was not this specific.

Without clearer guidance, VHA cannot be confident that facilities' recruitment and retention plans align with its intent and facilities may not be well positioned to address veterans' exam needs. As a result, we recommended that VHA clarify the guidance it provided to medical

¹⁴This Act required the Secretary of Veterans Affairs to temporarily suspend efforts to eliminate disability examiner positions until the number of veterans awaiting a disability exam is equal to or less than the number on March 1, 2020. Pub. L. No. 116-315, § 2002(b), 134 Stat. 4932, 4968.

facilities. VHA officials said the agency plans to complete this clarification by November 2023.

VA Used Available Flexibilities to Help Meet Exam Demand, but Inaccuracies in VBA's Guidelines and Inadequate Monitoring Led to Ineligible Examiners Using License Portability

VA used available flexibilities to help meet demand for disability exams by leveraging the use of telehealth and license portability.

Telehealth Exams. VBA's vendors and VHA increased their use of telehealth to meet exam demand during the pandemic. Vendors rarely used telehealth before the COVID-19 pandemic, according to VBA and vendor officials. In April 2020, when in-person contracted exams were temporarily suspended, vendors began increasing their use of telehealth, according to VBA officials.¹⁵ VHA officials also reported increasing the agency's use of telehealth for disability exams during the pandemic. Telehealth was most commonly used for mental health exams, according to our data analysis and interviews.

VA officials and officials from VBA's vendors said using telehealth to conduct exams, when appropriate, provided a range of benefits. For example, officials told us that telehealth allowed for safer exams during the pandemic, helped provide exams to veterans who otherwise would be difficult to reach, and allowed some veterans to avoid traveling long distances for in-person exams. VA officials also reported some challenges with providing telehealth exams, especially with the use of telehealth technology, but told us they were generally able to manage them.

License Portability. Additionally, officials from VBA's contracted exam vendors said they leveraged the temporary expansion of license portability to increase their capacity to provide exams across state lines

¹⁵In March 2020, VA expanded the list of disability questionnaires deemed most suitable for telehealth exams from 16 to 29, in addition to four questionnaires for mental health-related exams. Additionally, vendor officials said that VA eased certain requirements for telehealth exams early in the pandemic, such as allowing veterans to use their own technological devices to participate in exams, which helped vendors expand their use of telehealth.

through telehealth and in-person exams. Vendors used mobile clinics through which examiners traveled between states to conduct exams and also temporarily stationed individual examiners in states other than where they were licensed. VBA and vendor officials reported that the temporary expansion of license portability helped expand their exam reach to rural and high-need areas and increase veterans' access to specialists and experienced examiners.

We found that the guidelines on license portability issued by VBA contained some inaccuracies and information that could cause confusion for the contracted exam vendors. In particular, VBA's performance work statement for its three vendors, which provides instructions for conducting contracted disability exams, inaccurately listed dentists as eligible for license portability and included the term "etc." following the list of examiner types eligible for license portability.¹⁶ However, the law granting temporary license portability for VBA contracted examiners specifies the eligible types of health care professionals and does not include dentists (see fig. 2).

Figure 2: Comparison between Law Authorizing Temporary License Portability and VBA Guidelines

Federal law extends temporary license portability to an eligible individual who is a "physician, physician assistant, nurse practitioner, audiologist, or psychologist."

VBA's performance work statement, in turn, states that eligible "Physicians, Nurse Practitioners, Physician Assistants, Audiologists, **Dentists** and Psychologists (PsyD, PhD) **etc.**" can use license portability.

Source: Pub. L. No. 116-315 and Veterans Benefits Administration (VBA) contract performance work statement. | GAO-23-106939

VBA officials told us that dentists and non-listed providers are not eligible under this law. However, we found that two of VBA's three vendors used dentists to conduct exams under license portability, which the vendors confirmed. Our review of vendor-reported data submitted to VBA also showed that one vendor was using optometrists to conduct exams in

¹⁶According to VBA officials, VBA's contracts specify that vendors must adhere to the performance work statement, which outlines instructions and requirements for completing contracted disability exams. VBA updated its performance work statement in September 2021 to incorporate provisions related to the temporary expansion of license portability, according to VBA officials.

states other than where they were licensed, which VBA officials confirmed should not occur.

VBA officials said that in November 2022, they requested that VA's contracting office update the performance work statement to remove dentists from the list of eligible examiners.¹⁷ In January 2023, VBA issued a guidance memo to its vendors informing them that dentists are not eligible for license portability. Additionally, in March 2023, VBA officials said they requested that "etc." be removed from the performance work statement, and in April 2023 VBA issued a guidance memo informing vendors that the "etc." does not extend eligibility to other types of examiners.¹⁸

We also found that VBA did not adequately monitor vendors' use of license portability. VBA was unaware that some vendors were using dentists and optometrists to conduct exams in states other than where they were licensed.¹⁹ In December 2022, VBA began monitoring vendor-reported data on the types of examiners using license portability, according to VBA officials. However, VBA had not yet developed formal procedures or documentation for its monitoring process. We recommended that VBA develop and document such formal procedures. In June 2023, VBA finalized formal, written procedures to guide this new monitoring process.

In addition, although VBA confirmed that ineligible examiners conducted disability exams under license portability, VBA has not fully assessed the extent to which this occurred and any potential effect on veterans' claims. VBA officials said they believe there is little-to-no risk to veterans' claims. However, VBA has not conducted a formal assessment to support this position. We recommended that VBA work with its vendors to identify which exams were completed by ineligible examiners, assess any potential risks to veterans' claims, and develop and implement a corrective action plan to address any identified issues. In July 2023, VBA

¹⁷This was one of several requested updates to the performance work statement, according to VBA officials. VA executed the updates to the performance work statement in May 2023, according to VBA officials.

¹⁸In our draft report, we recommended that VBA issue such a guidance memo. VBA took this action while our draft report was with VA for review and comment.

¹⁹In January 2023, VBA issued a guidance memo to its vendors informing them that optometrists are not eligible for license portability.

officials said they started a formal risk assessment and expected to complete it by August 2023.

In conclusion, as VA continues to address a backlog of disability medical exams and expected influx of new requests, it is important that the agency consider its ability to meet this demand through both VBA's contracted examiners and VHA examiners. Fully incorporating sound planning practices into VBA's plan for the allocation of future exam workloads would better position VA to ensure that veterans receive quality exams in a timely manner. Additionally, VHA facilities continue to play an important role in providing exams, but unclear guidance on halting the elimination of disability examiner positions and what constitutes changes to exam services could result in suboptimal capacity to perform exams.

Additionally, VA's expanded use of telehealth and license portability provide opportunities to meet veterans' exam needs. While VBA has taken steps to improve its guidance and oversight on the use of license portability for contracted disability exams, it has not yet completed a formal assessment of exams that were erroneously completed under license portability and any potential risks to veteran claim decisions. Completing such an assessment will help VBA to identify and take any necessary corrective actions to ensure veterans' claims have been properly decided.

Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

GAO Contact and Staff Acknowledgments

For questions about this statement, please contact Elizabeth Curda, Director, Education, Workforce, and Income Security at (202) 512-7215 or curdae@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition to the contact above, Nyree Ryder Tee (Assistant Director), Liam O'Laughlin (Analyst-in-Charge), Alex Galuten, Ronni Schwartz, and Joy Solmonson made key contributions to this testimony. Other staff who made key contributions to the report cited in the testimony are identified in the source product.

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