



Department of

Veterans Services

TDVS' Complex Claims Assistance Program

Agenda

- The Why
- The Background
- The Practical Application
 - Discharge Upgrades
 - NVLSP Representation at Court of Appeals for Veterans Claims
 - Program of Comprehensive Assistance for Family Caregivers
- The Future
- I Need More
- Questions

Discharge Upgrades

- Since 1980, **575,000+** service members have received **less than fully honorable** discharges.
- Between 2011 and 2015, **91,764** service members were **separated for misconduct**.
 - **62% (57,141)** of those service members had been diagnosed with **PTSD, TBI or some other mental health condition** that could be associated with the misconduct.
- Between 2002 and 2013, **103,581** servicemembers received **an other than honorable discharge** characterization.
- **So What?**
 - Hurt employment opportunities;
 - Damage reputation and self-esteem;
 - **Prevent a Veteran from accessing benefits.**

The Background

- **Honorable:** Eligible for all VA benefits (disability compensation, health care, GI Bill, home loans)
- **General:** Eligible for all VA benefits except GI Bill
- **Not Eligible** for VA Benefits:
 - Other Than Honorable
 - Bad Conduct
 - Dishonorable

The Background

- **VA Healthcare**

- **Other Than Honorable discharge** due to regulatory bar (offense involving moral turpitude, mutiny or spying, willful and persistent misconduct) retains eligibility for VA healthcare for service incurred or aggravated disabilities.
- **Other Than Honorable discharge** – treatment for mental health conditions to individual who presents to VA seeking mental health care in emergency circumstances for a condition the former service member asserts is related to military service.
- Veterans Comprehensive Prevention, Access to Care, and Treatment (**COMPACT**) Act
 - Veterans with acute suicidal crisis can go to any VA or non-VA health care facility for emergency treatment at no cost to them.
 - Enrollment in VA health care not a requirement.

The Background

- **Discharge Upgrade** – Discharge Review Board (DRB) OR Board of Correction of Military (or Naval) Records (MCMR/BCNR) **Coast Guard within Department of Homeland Security
 - Change the characterization of service.
 - Change the narrative reason for separation to something less stigmatizing.
- **VA Character of Discharge Determinations**
 - Is the Veteran's service "honorable" for VA purposes?
 - Separate from discharge upgrade.

The Background

- Character of Discharge Determinations – Regulatory Changes
 - Final Rule, April 26, 2024 – Effective June 25, 2024
 - **Maintains** Regulatory Bars
 - Discharge in lieu of general court-martial
 - Mutiny or Spying
 - Moral turpitude, and
 - Willful and persistent misconduct.
 - **Removes** the aggravated homosexual acts bar.
 - **Adds clarifying definitions** for willful and persistent misconduct.
 - **Applies compelling circumstances** (including mental impairment, physical health, family obligations, etc.) to the moral turpitude and willful and persistent misconduct bars.

Key Takeaways

- **Former service members with OTH discharges and bad conduct discharges** (adjudged at special court-martial) **should** apply for VA healthcare and benefits.
- **Even with a less-than-honorable discharge, a former service member may be able to access some VA benefits** prior to an administrative review of their COD.
- Too often, former service members are either **incorrectly told**, or self-select away from VA, based on belief that COD makes them ineligible for VA benefits and services.

TDVS Partnership with NVLSP – Discharge upgrades

- April 2024 Spring Regional Trainings – Introduction to NVLSP’s Lawyers Serving Warriors® program to help in some discharge upgrades.
- April 2024 - TDVS Fact Sheet
- November 2024 – TDVS Fact Sheet v2
- February 2025 – TDVS Fact Sheet v3 & Lunch & Learn
- September 2025 – TDVS Fact Sheet v5 (current)

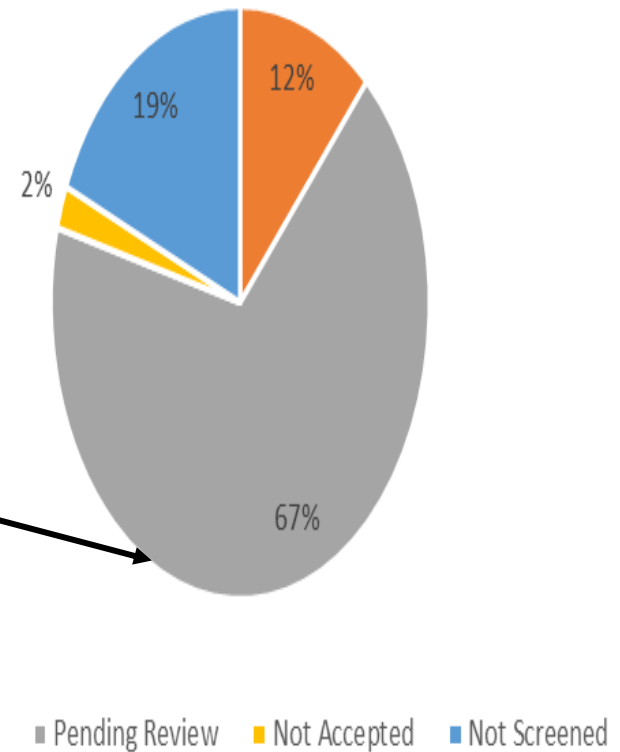
The Background

- Stats to Date

84 Referrals -

- 13 Accepted
- 18 Not screened
- 7 Not accepted
- 46 = **CHALLENGE**
 - Responsiveness of Clients IOT Screen

Complex Claims Assistance - Status Snapshot



The Practical Application

What we have been doing:

1. Establish POA with TDVS
2. Assist Veteran w/ Online Screen
3. Assist Veteran w/ Intake Packet
4. Flag and Follow Up



Complex Claims Assistance Program Discharge Upgrades TDVS Fact Sheet V3 February 2025

A **less than fully honorable discharge** can have negative and long-lasting consequences on former service members following their military service. A less than honorable discharge can prevent Veterans from accessing VA benefits, cause difficulty finding employment, and contribute to chronic homelessness.

Why it matters: The rate of Veterans with less than honorable discharges has been climbing since World War II, through the Vietnam War, and to the present day according to [Underserved: How the VA Wrongfully Excludes Veterans with Bad Paper](#) published by the Veterans Legal Clinic of Harvard Law School.

What's next: TDVS is partnering with NVLSP's Lawyers Serving Warriors® program to help in some former service members seeking discharge upgrades.

Take these three steps to seek assistance for your client--

Step # 1 - Establish Power of Attorney with TDVS.

Step # 2 - Assist the Veteran with [requesting assistance](#) from NVLSP's Lawyers Serving Warriors® Program.

A screenshot of a web form titled 'Request Assistance' from the Department of Veterans Services. The form contains several sections with dropdown menus and checkboxes. The sections include: 'Requester Info' (Name, Address, City, State, Zip, Phone), 'Veteran Info' (Service No., Discharge Date, Discharge Type, Discharge Status, Discharge Reason, Discharge Authority, Discharge Date, Discharge Status, Discharge Reason, Discharge Authority), 'Requester Info' (Name, Address, City, State, Zip, Phone), and 'Requester Info' (Name, Address, City, State, Zip, Phone). There are also checkboxes for 'Requester Info' and 'Requester Info'. The form is partially filled out with red text indicating required fields.

The Practical Application

- What we have learned:
 - Intake Packet(s)
 - Frontload Intake Packets / Provide Directly to NVLSP
 - Virtual Clinic No Shows
 - Host Veteran in Your Office
 - No Response to Correspondence
 - Counsel About Next Steps
- What we don't know:
 - Open Discussion

The Future

- Process Improvement
 - Facilitate More Successful Screens
 - Automation
 - Updates to VSOs/CSOs Re: Their Referrals
 - Continuing Relationship w/ Client

I Need More

- TDVS & County Veteran Service Officers
 - Familiarization Training for All Accredited Representatives
 - Partnership with National Veterans Legal Services Program
- Pro Bono or FREE Legal Assistance
 - National Veterans Legal Services Program – Lawyers Serving Warriors
 - The Veterans Consortium – Discharge Upgrade Program
- Self Help
 - VA (DoD) Upgrade Wizard

I Need More

- [NVLSP Self Help Manual: Applying for VA Benefits After a Discharge Upgrade](#)
- Yale Law School – [Forms & Resources for Veterans Seeking Discharge Upgrade](#)
- [VA Final Rule](#) – Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge
 - [Final Rule](#)
 - [Federal Register](#)

TDVS Can Help

- Access complete factsheet with live links to intake packet on TDVS website under Learning and Development ➡ [TDVS FactSheet Catalog](#)
- Please feel free to contact **615-925-1574 [Veterans Services Advocate, Ashley Thompson](#)** for assistance and support.

TDVS Partnership With NVLSP - CAVC

- NVLSP reviews **Board of Veterans' Appeals (BVA) denials**
- Identifies **appealable errors** in TDVS cases
- If error found: NVLSP offers **free representation** at CAVC
- Ensures veterans don't miss rightful benefits

Who is Impacted

- NVLSP **reviews BVA decisions** involving TDVS-represented veterans to see if there's an **appealable error**.
- If they find a wrongful denial, NVLSP **offers representation at CAVC at no cost to the veteran/claimant**.
- The offer is **mailed** to the address on file with VBA and includes an **introductory letter from TDVS** so the veteran knows it's legitimate. ([Sample correspondence is linked in the fact sheet.](#))

Key Considerations and Resources

- NVLSP independently decides whether to offer representation
- Veterans have **120 days** from BVA decision to appeal
- NVLSP does **not contact claimants** if no offer is made
- Supplemental Claim option also available (preserves effective date)
- For more info:
 - **Lloyd Sharp, TDVS Appeals Advocate** – 615-934-8460 / lloyd.sharp@tn.gov
 - [TDVS Fact Sheet](#)

The Results

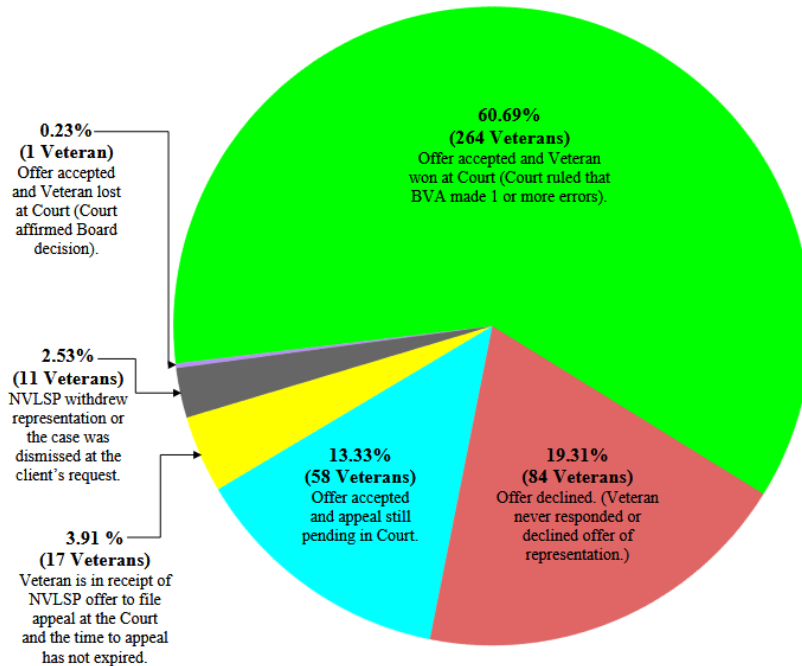


Tennessee Department of Veteran Affairs Case Dispositions



RESULTS OF 435 OFFERS OF FREE REPRESENTATION BEFORE THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Pursuant to our Memorandum of Agreement, NVLSP reviews Board of Veterans' Appeals decisions where a veteran represented by your state agency was denied a benefit. To date, NVLSP has offered to represent 435 claimants in an appeal before the United States Court of Appeals for Veterans Claims at no cost to the claimant. Here is a summary of the results of these offers of representation.



- NVLSP has been **successful in every case but one** that has reached conclusion at CAVC.
- NVLSP has identified over **\$3 million in retroactive benefits** that can be traced to their representation at CAVC.
- Most importantly, **approximately 2/3 of Veterans receive a positive outcome** following remand from CAVC.

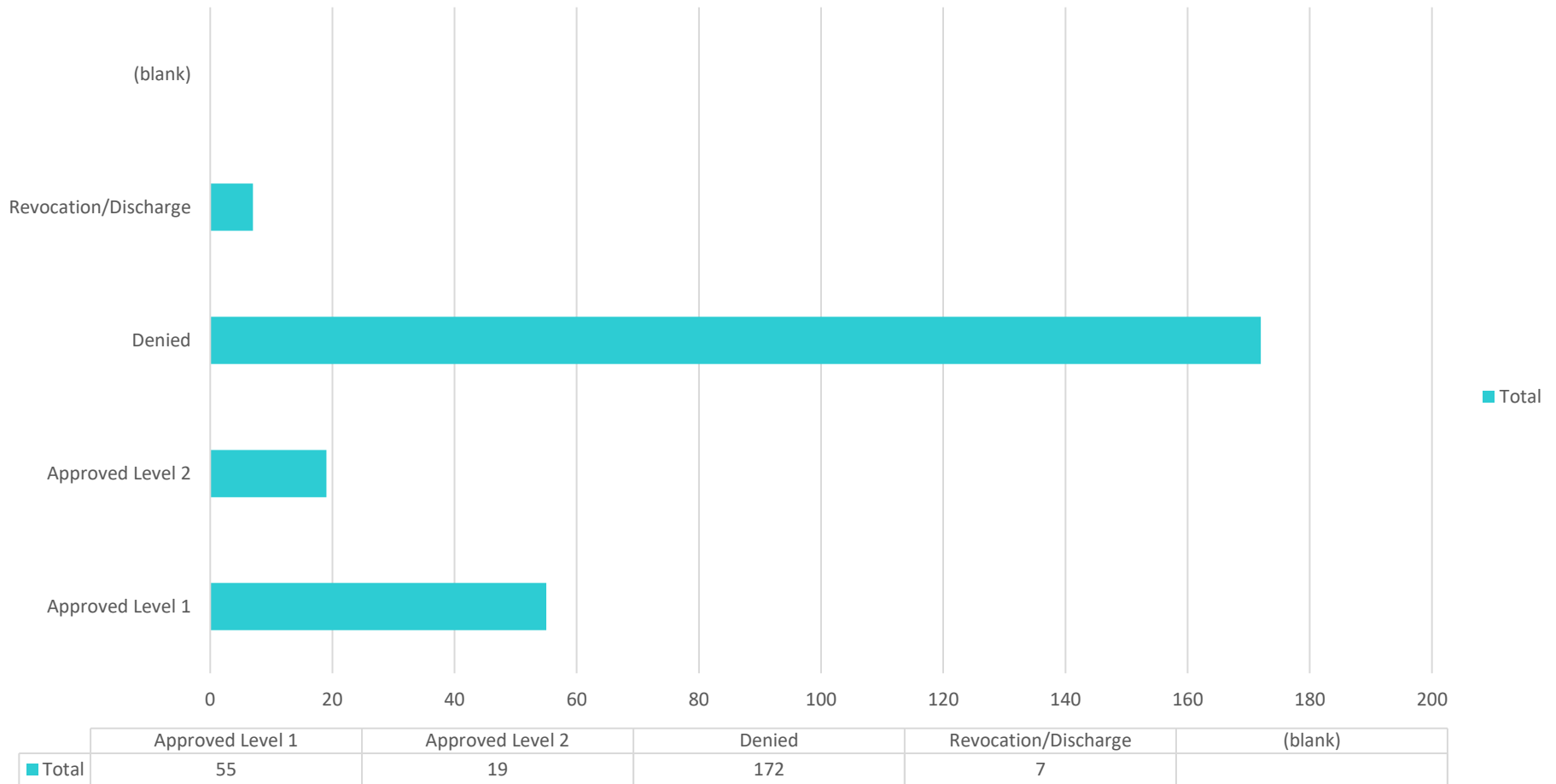
The Why

Yes but: The PCAFC and the subsequent expansion has been plagued by issues such as inconsistent application and eligibility reassessments.

- Enacted in 2010 to provide benefits to caregivers of post-9/11 disabled Veterans with serious injuries.
- Eligibility expanded by 2018 MISSION Act.
 - October 1, 2020 – Veterans discharged on or before May 7, 1975
 - **October 1, 2022 – All Eras of Veterans**
- July 1, 2020, VA rewrote eligibility criteria and began a reassessment of legacy participants.
- April 2021, CAVC found right to appeal Caregiver denials to Board of Veterans' Appeals
- September 22, 2021, VA extended the reassessment by an additional year.
- March 22, 2022, VA announces pause to reassessments.
- **September 15, 2022, VA announces extension of eligibility for legacy participants.**
- **September 21, 2022, final interim rule published in the Federal Register extending eligibility for legacy participants.**
- December 6, 2024, proposed rule published in the Federal Register to revise the regulations that govern PCAFC.

The Why

PCAFC Decision Outcomes - TDVS



The Future

- One Stop Shop Knowledge and Resource Library - Like
- Additional Training
- TDVS PCAFC Liaison

Honoring Our PACT Act Toolbox

The PACT Act is a new law that expands VA health care and benefits for Veterans exposed to burn pits and other toxic substances. This law helps provide generations of Veterans — and their survivors — with the care and benefits they've earned and deserve. VA has considered all the presumptive conditions established by the PACT Act presumptive on the date the bill became law - August 10, 2022. Veterans and their families are already asking you for advice on whether and how this legislation impacts them. Hope this page provides you a one stop shop for the PACT Act. Any recommendations to this page, please contact Ron Dvorsky - TDVS Training Director @ ronald.dvorsky@trn.gov

• [Public Law 117-168 \(8/10/2022\) – Honoring our PACT Act of 2022](#)

• [The PACT Act and your VA benefits](#)

• [VA PACT Act First Year In Review \(August 10, 2023\)](#)

• [Improvements to Airborne Hazards and Open Burn Pit Registry](#) Since 2014, VA's Airborne Hazards and Open Burn Pit Registry has been an important tool for recent Veterans and service members to record their airborne hazard exposures and related health conditions, with an optional examination with a health care provider to learn more. VA is making the registry more user-friendly and ensuring that Veterans have the option to have an in-person health exam.

• [VA releases dashboard to measure the PACT Act's impact on Veterans and survivors](#): All that information and more is now available in a new [VA PACT Act Performance Dashboard August 18, 2023](#). VA will publish this dashboard every other Friday to measure the implementation of this legislation and showcase its impact on Veterans and survivors. As part of VA's commitment to transparency, we are sharing the same dashboard both internally and externally to maximize accountability to the Veterans, families, caregivers, and survivors we serve.

• **Key aspects of the dashboard include:**

• The # of Veterans who have applied for PACT Act-related benefits

• The # of Veterans who have received toxic exposure screenings, and the percentage of those Veterans who have concerns about exposure

• The # of Veterans who have enrolled in VA health care since August 4, 2023

• A Veteran story about the impact of PACT Act-related VA care and benefits

• An overview of upcoming events where Veterans and survivors can learn more about PACT Act-related care and benefits

• **December 22, 2022 - VA Guidance Processing Claims Involving Public Law 117-168 (PACT Act)** Claims processors in ROs must apply this guidance when processing disability compensation claims and appeals for Veterans and survivors impacted by the PACT Act

• **June 12, 2024: Updated Guidance on Processing Claims Involving Public Law 117-168** Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 (hereinafter referred to as "PACT Act")

> [PACT Act TDVS Fact Sheet](#)

> [NVLSP PACT Act Resources](#)

> [PACT Act VA Fact Sheet](#)

> [Job Aids](#)

> [TDVS Benefits Bulletins](#)

I Need More

- [TDVS Fact Sheet: Program of Comprehensive Assistance for Family Caregivers, V2 \(January 2025\)](#)
- [TDVS Training Catalog](#)
 - 2020 Caregiver Support Program Overview and Updates
 - 2022 Guide to VA Benefits for Family Caregivers and Beaudette Class Action
 - CSP 101: Introduction to the VA Caregiver Support Program
- [Program of Comprehensive Assistance for Family Caregivers \(PCAFC\) VSO Toolkit](#)
- [NVLSP's Family Caregiver Assistance Program](#)
- [VA Caregiver Support Program – Options for Further Review and Appeal](#)
- [VA Resources](#)

Questions?

