



Complex Claims Assistance – Discharge Upgrades

Agenda

- The Why
- The Background
- The Practical Application
- The Future
- I Need More
- Questions

The Background

- 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.

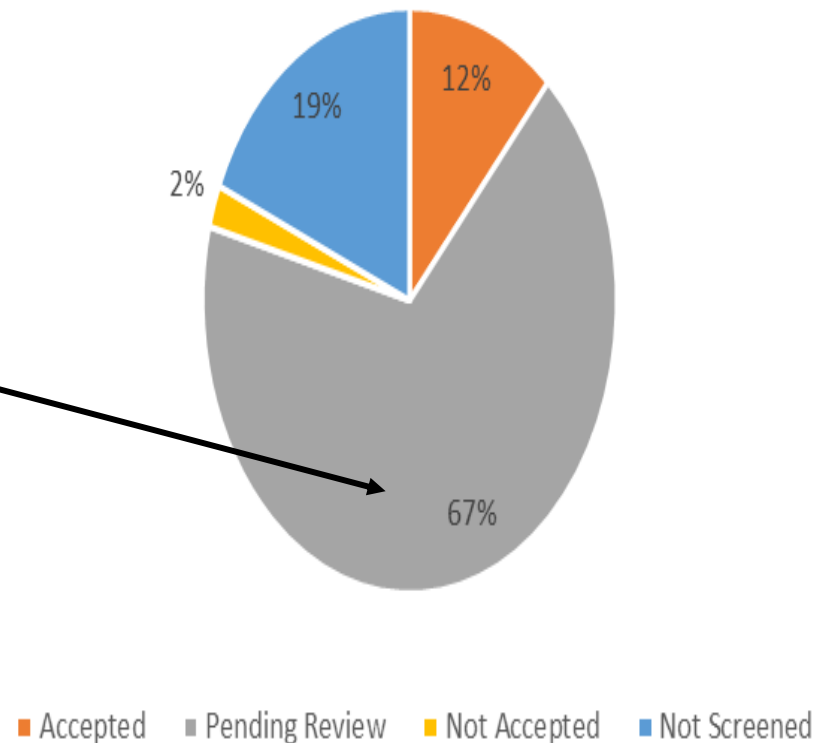
The Background

- 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 v 3 & Lunch & Learn

The Background

- Stats to Date
 - 42 Referrals
 - 5 Accepted
 - 26 = **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' with a light blue header. The form contains several sections with labels and input fields. The 'Personal Info' section includes fields for 'First Name', 'Last Name', 'Address', 'City', 'State', and 'Zip'. The 'Contact Info' section includes 'Phone' and 'Email'. The 'Service Info' section includes 'Service Number', 'Branch', 'Dates of Service', and 'Discharge Date'. The 'Assistance Request' section includes 'Reason for Request' and 'How we can help you'. At the bottom, there is a 'Submit' button and a 'Cancel' button. A small 'Print' button is also visible in the top right corner.

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

- Please feel free to contact Quality & Appeals Specialist Lloyd Sharp for assistance and support.

Questions?

