



June 2023

# VA DISABILITY EXAMS

## Actions Needed to Clarify Program Requirements Regarding Examiners

Accessible Version

## Why GAO Did This Study

In fiscal year 2021, VA paid nearly \$99 billion in disability compensation to over 5 million veterans with service-connected disabilities. VA may ask a veteran to undergo a disability medical exam to help determine eligibility for disability compensation. VHA employees and examiners contracted by VBA conduct these exams.

The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 includes a provision for GAO to review certain aspects of VA's disability exam program. This report examines (1) VA's use of telehealth for disability medical exams, (2) how VA and its vendors used a temporary expansion of license portability, and (3) VHA's efforts to recruit and retain examiners and provide information to its medical facilities to inform such efforts.

GAO analyzed data on VA's use of telehealth from April 2020 through September 2022 and reviewed relevant VA guidance. GAO compared VA's guidance and practices to relevant federal standards for internal control. In addition, GAO interviewed officials from VA, exam vendors, and a non-generalizable sample of five VHA medical facilities, selected in part for variation in the number of exams completed and geographic location.

## What GAO Recommends

GAO is making three recommendations, including that VBA develop and document formal procedures to monitor license portability use and that VHA clarify guidance to facilities to define key terminology. VA generally agreed with the recommendations.

View [GAO-23-105787](#). For more information, contact Elizabeth Curda at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov)

## VA DISABILITY EXAMS

### Actions Needed to Clarify Program Requirements Regarding Examiners

## What GAO Found

The Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) within the Department of Veterans Affairs (VA) reported expanding their use of telehealth for disability medical exams since the start of the COVID-19 pandemic. Both VA officials and the vendors that VBA contracts with to provide examiners reported a range of benefits associated with telehealth use, including more easily reaching veterans in underserved areas. VBA's vendors and VHA primarily used telehealth to conduct mental health exams, according to GAO analysis and interviews. However, the full extent of telehealth use is unknown because VHA medical facilities did not accurately record this information. In September 2021, VHA provided guidance to facilities to improve data collection.

VBA officials and vendors said that the temporary expansion of license portability—which allows contracted examiners in certain specialties to conduct exams in states other than where they are licensed—also expanded access in underserved areas. However, the guidelines VBA provided to its contracted exam vendors included inaccuracies, and VBA conducted inadequate monitoring of the vendors. This contributed to vendors allowing ineligible examiners to conduct exams using license portability. Examples of issues GAO found include:

- **Inaccurate guidelines:** VBA incorrectly listed dentists as eligible for license portability in the guidelines it provided to vendors. This contributed to two of VBA's three vendors using dentists to conduct exams in states other than where they were licensed.
- **Inadequate monitoring:** VBA did not review vendor-reported data to identify the types of examiners using license portability. GAO's review of these data found that one vendor used optometrists to conduct exams in states other than where they were licensed, which VBA officials said was not permitted.

During the course of GAO's review, VBA took steps to address these deficiencies. VBA issued new guidance memos to its vendors specifying that dentists and optometrists are not eligible for license portability. VBA also updated its monitoring process to review data on the types of examiners used for such exams. However, VBA has not yet developed formal procedures or documentation to guide this monitoring process. Without doing so, VBA cannot be confident that vendors are using license portability as intended.

VHA did not provide medical facilities with clear information to inform the recruitment and retention of VHA examiners. For example, VHA provided facilities with guidance to halt programmatic changes and comply with a requirement to pause efforts to eliminate examiner positions. However, the guidance did not clearly define what constituted a programmatic change or an examiner position. As a result, officials at the five facilities GAO selected for review had different interpretations of how and whether the guidance applied to them. Without clarifying the guidance, facilities may not implement it as intended, and they risk not being positioned to help address veterans' exam needs.

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**Abbreviations**

VA	Department of Veterans Affairs
VBA	Veterans Benefits Administration
VHA	Veterans Health Administration
VISN	Veterans Integrated Services Network

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June 15, 2023

The Honorable Jon Tester  
Chairman  
The Honorable Jerry Moran  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate

The Honorable Mike Bost  
Chairman  
The Honorable Mark Takano  
Ranking Member  
Committee on Veterans' Affairs  
House of Representatives

In fiscal year 2021, the Department of Veterans Affairs (VA) paid nearly \$99 billion in disability compensation to over 5 million veterans with service-connected disabilities. VA often relies on disability medical examinations 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).<sup>1</sup> 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.<sup>2</sup> This suspension contributed to a growth in the backlog of exam requests from

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<sup>1</sup>In this report, we use “vendors” and “contracted examiners” to refer exclusively to the vendors and contracted examiners conducting disability exams for VBA. For the purposes of this report, “VHA examiners” generally refers to VHA employees who conduct disability exams.

<sup>2</sup>VHA 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 numbers of areas in June 2020, followed by a nationwide resumption of in-person contracted exams in September 2020.

approximately 158,000 in March 2020 to about 357,000 by December 2020.<sup>3</sup> 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.<sup>4</sup> For example, it granted certain types of VBA-contracted examiners temporary authority (known as license portability) to conduct exams in states other than those in which they hold a license.<sup>5</sup> It also required VA to suspend efforts to eliminate VA examiner positions until the number of backlogged exam requests is no greater than it was on March 1, 2020.<sup>6</sup>

The Act also includes a provision for GAO to review certain aspects of VA's disability exam program. We analyzed (1) VA's use of telehealth to administer disability medical exams; (2) how VA and its vendors have used a temporary expansion of license portability to provide exams to veterans; and (3) VHA's efforts to recruit and retain examiners and provide information to its medical facilities to inform such efforts.

To address the first objective, we analyzed data that vendors reported to VBA on the number of telehealth exams and total number of exams conducted by contracted examiners from April 2020 through September 2022.<sup>7</sup> These data allowed us to determine the proportion of all exams conducted by VBA-contracted examiners that were conducted via telehealth during this time period. The VBA telehealth exam data also

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<sup>3</sup>As of January 2023, approximately 231,000 exam requests were pending, according to VBA data.

<sup>4</sup>Pub. L. No. 116-315, § 2002, 134 Stat. 4932, 4967-69 (2021).

<sup>5</sup>This temporary authority is scheduled to expire on January 5, 2024.

<sup>6</sup>Pub. 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). In July 2021, VA reported to Congress that as the workload shifted to VBA contractors, VHA reduced its examiner staff by about 36 percent from fiscal year 2017 through fiscal year 2020. Department of Veterans Affairs, *Report on the Provision of Medical Disability Examinations* (July 2021).

<sup>7</sup>What we refer to as "telehealth exams" in this report, VA refers to as "tele-Compensation & Pension" exams. April 2020 was the first month in-person contracted exams were suspended.

provided information on the conditions evaluated.<sup>8</sup> However, with regard to VHA's telehealth data, we found these data were not sufficiently reliable to determine the precise number of telehealth exams conducted by VHA examiners.<sup>9</sup> As a result, we only report data on telehealth exams conducted by VBA-contracted examiners. We also interviewed officials from VHA's Office of Disability and Medical Assessment, VBA's Medical Disability Examination Office, and three vendors VBA contracts with to provide exams.<sup>10</sup> We interviewed them regarding the use, benefits, and challenges of telehealth exams.

To address the second objective, we reviewed information VBA provided to vendors on using license portability to conduct exams and VBA's efforts to monitor vendors' implementation of license portability. We determined that internal control principles that relate to externally communicating quality information, performing monitoring activities, and remediating deficiencies were significant to this objective.<sup>11</sup> We assessed the extent to which VBA has communicated quality information to its vendors on the types of examiners who would qualify to complete exams through license portability and how VBA monitored vendors' use of this flexibility.

We also reviewed vendor-reported data on exams conducted under temporary license portability. We determined the data were not sufficiently reliable to allow us to report precisely on the number of exams conducted under this authority.<sup>12</sup> However, the data were sufficiently reliable to identify the types of examiners using license portability. Additionally, we interviewed officials from VBA and its three vendors regarding the use, benefits, and challenges of license portability. The

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<sup>8</sup>We assessed the reliability of the VBA data through manual and electronic data checks as well as interviews with VBA officials and vendors; we determined the data were sufficiently reliable for the purposes of this objective.

<sup>9</sup>We assessed the reliability of the VHA data through reviews of VHA's reports on data accuracy and interviews with VHA officials and determined the data were not sufficiently reliable for the purposes of this objective.

<sup>10</sup>We interviewed officials from VBA's three contracted vendors who were operating over the full time period of our review. VBA added a fourth contracted exam vendor in June 2022, according to VBA officials.

<sup>11</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

<sup>12</sup>We assessed the reliability of these data through manual and electronic data checks and through interviews with VBA officials and vendors.

interviews also covered information VBA has provided to vendors on examiner eligibility to conduct exams using license portability.

To address the third objective, we reviewed VHA's efforts to recruit and retain examiners, and the extent to which VHA has provided information to its medical facilities to inform such efforts. Specifically, we reviewed relevant VHA guidance, including memos directing facilities to suspend efforts to eliminate examiner positions and to increase exam capacity. We determined that an internal control principle related to internally communicating quality information was significant to this objective.<sup>13</sup> We assessed the extent to which VHA's guidance to its medical facilities communicated necessary information regarding disability exam staffing and anticipated future workloads.

We also interviewed officials from VHA, five selected facilities, and two selected Veterans Integrated Services Networks (VISN) regarding strategies for and challenges in retaining and recruiting examiners.<sup>14</sup> The interviews also covered interpretation of VHA guidance on the subject and plans for VHA's future role in providing exams.<sup>15</sup> To obtain a variety of perspectives, we selected a sample of facilities that conducted high or low numbers of exams in recent years, were located in counties with high or low population densities, and varied in geographic location.<sup>16</sup> To further understand the breadth of VHA's efforts to recruit and retain examiners, we also selected two of the five VISNs that oversee the selected facilities.<sup>17</sup> Although not generalizable to the experiences of all VHA facilities and VISNs nationwide, these interviews provided illustrative examples of facilities' efforts to recruit and retain examiners and their interpretations of relevant VHA guidance.

We conducted this performance audit from December 2021 to June 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

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<sup>13</sup>[GAO-14-704G](#).

<sup>14</sup>VHA has 18 VISNs that manage and oversee its medical facilities.

<sup>15</sup>The specific types of officials we interviewed at each of the five facilities and two VISNs varied. Facility interviews included such officials as the facility director, the chief of staff, and the director of the disability exam program, among others. VISN interviews included such officials as leaders of the primary care, disability exam, and human resources programs.

<sup>16</sup>The five selected facilities were the Detroit, Michigan; Gulf Coast, Mississippi; Mountain Home, Tennessee; San Francisco, California; and Tomah, Wisconsin healthcare systems.

<sup>17</sup>The two VISNs we selected, VISNs 10 and 21, collectively oversee VHA facilities across all or part of seven states and three territories.



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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.

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## Background

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### VBA and VHA Roles in Conducting Disability Exams

VBA administers VA's disability compensation program, including the disability medical exam program. VHA provides veterans with health care and is divided into 18 regional VISNs, which in turn oversee VHA's medical facilities that provide direct care to veterans. Until the late 1990s, VHA employees conducted all VA disability exams. At that time, VA began contracting with vendors to provide a limited number of exams through contracted examiners, and has increased the use of contracted examiners over time.

VHA-employed examiners and VBA-contracted examiners currently conduct disability exams. In recent years, 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 completed nearly 1.1 million.<sup>18</sup>

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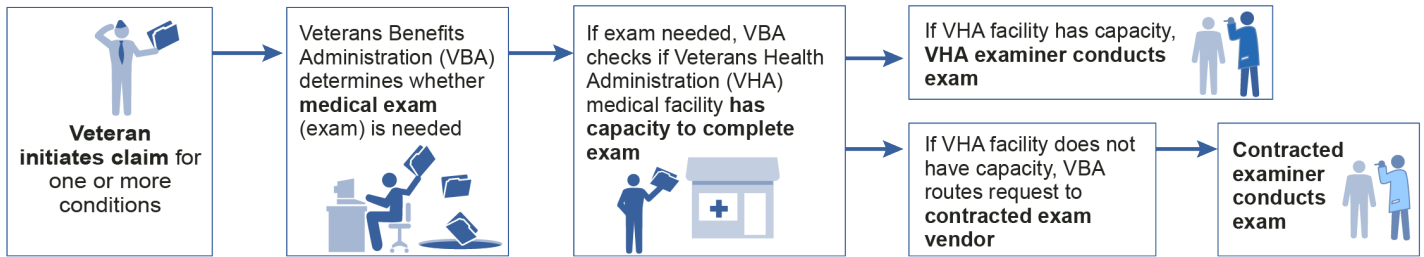
### Disability Exam Process

VA's process for allocating disability exams between VHA facilities and VBA's contracted vendors is dependent on VHA facilities' current capacity to conduct exams (see fig. 1). 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 one of the contracted vendors, who will assign it to a contracted examiner.

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<sup>18</sup>These counts reflect the number of completed exam scheduling requests. VBA may need to complete multiple scheduling requests for one disability claim. Each of these scheduling requests may include multiple appointments. In this report, we generally use "exam" to refer to an individual exam appointment.

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



Source: GAO analysis of Department of Veterans Affairs procedures; GAO (images). | GAO-23-105787

A single disability claim from a veteran may result in more than one exam. During each exam, the examiner completes one or more disability benefit questionnaires (disability questionnaires), which are used to assess the medical conditions claimed by a veteran. VBA claims processors then use the completed disability questionnaires to help determine whether the veteran receives compensation. For example, a veteran may file a claim for multiple conditions potentially related to military service, such as arthritis and sleep apnea. This claim may result in one exam for each of these two conditions. The single arthritis exam may lead the examiner to complete two disability questionnaires, one for the knees and one for the hips. Then, another examiner may complete a sleep apnea disability questionnaire after the apnea exam.

## Telehealth Exams

VHA facilities and VBA’s contracted vendors determine whether to complete an exam in-person, via telehealth, or through an acceptable clinical evidence review.<sup>19</sup> Telehealth exams are those conducted with the examiner and the veteran in different physical locations, such as exams conducted via video conference. For some types of disability questionnaires completed via telehealth, an assistant (known as a “telepresenter”) may be required to be present in the room with the veteran. The telepresenter helps the telehealth examiner by, for example, taking the veteran’s vital signs. In 2011, VA approved the use of telehealth for mental health conditions. VA expanded the list of conditions

<sup>19</sup>An acceptable clinical evidence review is an evaluation of a veteran’s existing medical records to assess claimed disabilities. Such a review can allow an examiner to make a disability determination without requiring the veteran to undergo an exam when there is sufficient medical detail already on file.

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most suitable for telehealth disability exams in 2013 and 2020 to include various other conditions, such as hypertension and skin diseases.

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## License Portability

Under license portability, a VBA-contracted examiner licensed in one state legally may 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.<sup>20</sup> This temporary license portability is scheduled to expire on January 5, 2024. In addition to this group of examiners with temporary authority to conduct exams under license portability, VBA contracted examiners who are physicians have had permanent license portability since 2016.<sup>21</sup> Additionally, all VHA examiners were granted permanent license portability specifically for telehealth exams in 2018, according to VHA officials.<sup>22</sup>

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## Plans for Exam Workload Distribution

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. We recommended that VBA collaborate with VHA to develop and document plans for the allocation of exams among the two groups.<sup>23</sup> As of February 2023, VBA had partially implemented this recommendation. To fully address the recommendation, VBA needs to develop more detailed plans. For example, VBA needs to specify the

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<sup>20</sup>Pub. 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.

<sup>21</sup>Pub. 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.

<sup>22</sup>The VA MISSION Act of 2018 granted VHA healthcare professionals the ability to provide telemedicine treatment to veterans living in states other than where the providers are licensed. Pub. L. No. 115-182, § 151(a), 132 Stat. 1393, 1430-31, codified at 38 U.S.C. § 1730C. VHA officials told us this flexibility also applies to VHA examiners conducting disability exams via telehealth.

<sup>23</sup>[GAO-21-444T](#).

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volume of exams to be conducted by VHA facilities and by VBA's contracted vendors, and to establish timelines for any further transfer of workload from VHA to VBA.

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## VA Reported That Expanding Its Use of Telehealth for Disability Exams Provided a Range of Benefits

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### VBA's Vendors and VHA Reported Expanding Use of Telehealth for Disability Exams, Most Commonly for Mental Health Evaluations

VBA's three contracted vendors have expanded their use of telehealth to conduct disability exams in recent years. 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.<sup>24</sup> According to our analysis of vendor-reported data, contracted examiners conducted more than 400,000 disability exams through telehealth from April 2020 through September 2022.<sup>25</sup> Telehealth exams constituted about 7 percent of all contracted exams in that time period.

We also found that the vast majority of evaluations completed through contracted telehealth exams were for mental health-related disability claims (see table 1). Specifically, about 50 percent of disability questionnaires completed via telehealth were for post-traumatic stress disorder, and nearly 40 percent were for other types of psychological conditions.

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<sup>24</sup>In 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.

<sup>25</sup>Vendors began reporting data on telehealth exams to VBA in April 2020, according to VBA officials.

**Table 1: Most Common Disability Questionnaire Categories Completed through Telehealth by VBA-Contracted Examiners, April 2020 through September 2022**

Category of Disability Questionnaires	Proportion of All Disability Questionnaires Completed through Telehealth
Psychological – Post-Traumatic Stress Disorder	50.2%
Psychological – Other <sup>a</sup>	39.6%
Neurological <sup>b</sup>	4.4%
Respiratory <sup>c</sup>	1.3%
Dermatological <sup>d</sup>	0.9%

Source: GAO analysis of Veterans Benefits Administration (VBA) data. | GAO-23-105787

Notes: Results exclude certain diagnostics conducted via telehealth, such as broad categories of “tests,” as well as a medical opinion questionnaire that examiners use to provide medical opinions on a range of claimed conditions. Additionally, GAO excluded instances of potential duplicate entries, which resulted in changes to the percentages shown above by 0.1 percentage points or fewer.

<sup>a</sup>Comprises disability questionnaires for mental disorders and eating disorders.

<sup>b</sup>Comprises disability questionnaires for a range of conditions, including headaches, traumatic brain injuries, and epilepsy.

<sup>c</sup>Comprises disability questionnaires for sleep apnea, tuberculosis, and other respiratory conditions.

<sup>d</sup>Comprises disability questionnaires for skin diseases and scars/disfigurements.

VHA officials also reported increasing the agency’s use of telehealth for disability exams during the pandemic, particularly for mental health-related exams. Specifically, officials said VHA significantly expanded its use of telehealth to comply with guidance from the Centers for Disease Control and Prevention to limit any non-urgent in-person visits based on the risk of COVID-19 transmission. Officials from three of our five selected VHA facilities said they have relied heavily on telehealth to conduct disability exams during the pandemic. Officials from two of these facilities said they rarely used telehealth before the pandemic, but now conduct at least 75 percent of their mental health-related disability exams through telehealth. VHA officials said they will continue to rely on telehealth moving forward, and are considering ways to further increase the use of telehealth for disability exams.

Although VHA officials reported increased use of telehealth, the specific number of telehealth exams conducted by VHA examiners is unknown because VHA’s available data does not consistently capture whether exams were conducted in-person or through telehealth. VHA directs facilities to record this information for each exam they conduct. However, although much of their disability exam workload switched to telehealth early in the pandemic, many facilities mistakenly continued to record

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exams as in-person.<sup>26</sup> In September 2021, VHA provided guidance to facilities on properly recording the methods through which they conduct exams, and instituted a process to monitor and provide feedback to facilities on data entry errors.

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## VA Officials and Vendors Stated that Telehealth Expanded Exam Reach and Benefited Veterans and Examiners

VA officials and officials from VBA's contracted vendors said using telehealth, when appropriate, provided a range of benefits.

**Safer exams during the pandemic.** Telehealth exams allowed VHA and contracted examiners to continue conducting disability exams during phases of the pandemic when in-person exams were not possible due to safety concerns. Officials from one vendor said some veterans who were concerned about the risk of COVID-19 transmission from an in-person appointment would not have received a disability exam without the use of telehealth.

**Exam reach.** Telehealth helped VA to provide exams to veterans who otherwise would be difficult to reach. For instance, officials from two vendors said telehealth has helped them provide exams to veterans in rural or underserved areas. Officials from one of these vendors said telehealth has made it easier to reach incarcerated veterans. Officials in one VISN also said telehealth has helped provide exams to veterans with medical conditions that make travel difficult or impossible.

**Convenience.** Telehealth exams were convenient for some veterans and examiners. While VBA instructs vendors to schedule exams as close to the veteran's home as possible, veterans who live in an area with limited providers may have to travel 100 miles or more. Telehealth often allows veterans to participate from their homes rather than having to travel to VHA or vendor facilities. Officials from one VHA facility and one VISN said that some veterans would otherwise have to travel three hours or more for an in-person exam. Telehealth also can be convenient for examiners, some of whom are able to work remotely, which can improve work-life balance, save travel time, and enable them to conduct more exams.

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<sup>26</sup>VHA officials said facilities also increased their use of acceptable clinical evidence reviews, which are evaluations of veterans' existing medical evidence to assess claimed disabilities.

**Facility space.** Telehealth exams also helped to ease physical space constraints (e.g., a limited number of exam rooms) faced by VHA and vendor facilities. Officials from one vendor said telehealth has allowed them to provide more exams than would have been possible had they needed to limit exam appointments based on the availability of facility space for in-person exams.

VA officials reported some challenges with providing telehealth exams, especially with the use of telehealth technology. For example, officials at one facility said it took several months for examiners to become comfortable using telehealth technology. Veterans also faced some challenges, including discomfort using telehealth technologies or lacking access to equipment needed for telehealth exams.

VA officials said they generally were able to manage these challenges by scheduling veterans less comfortable with technology for in-person exams and providing necessary equipment to veterans, when needed.<sup>27</sup> However, officials from one facility and one VISN cited additional technological challenges related to the use of telehealth, such as disruptions to internet connectivity during exams causing video connections to drop.<sup>28</sup> Additionally, VHA officials said it can be difficult to ensure that a telepresenter is available to help administer telehealth exams as necessary, a challenge that also has been reported by VA's Office of Inspector General.<sup>29</sup>

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## License Portability Expanded Exams in Underserved Areas, but Inaccuracies in VBA

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<sup>27</sup>Individual VHA facilities had discretion to determine when to resume offering in-person exams, with a requirement to follow applicable federal, state, and local re-opening guidance, according to VHA officials.

<sup>28</sup>The Consolidated Appropriations Act, 2023, includes a provision for GAO to assess VA's use of telehealth, including challenges in delivering telehealth services to veterans due to a lack of internet connectivity in many rural areas and strategies VA has used to mitigate such challenges. Pub. L. No. 117-328, Div. U, § 153, 136 Stat. 4459, 5429 (2022). This topic will be the subject of future GAO work.

<sup>29</sup>A telepresenter attends an exam at the veteran's location and assists the telehealth examiner by, for instance, taking the veteran's vital signs. In November 2020, VA's Office of Inspector General reported that VBA faced challenges ensuring that telepresenters were available when needed, which led to delays in conducting some types of disability exams. Department of Veterans Affairs, Office of Inspector General, *Veterans Benefits Administration, Enhanced Strategy Needed to Reduce Disability Exam Inventory Due to the Pandemic and Errors Related to Canceled Exams*, #20-02826-07 (Washington, D.C.: Nov. 19, 2020).

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## Guidelines and Inadequate Monitoring Led to Ineligible Examiners Using This Flexibility

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### VBA's Vendors Used Temporary License Portability to Improve Veterans' Access to Exams, Particularly in Rural and High-Need Areas

Officials from VBA's contracted vendors said they leveraged the temporary expansion of license portability to increase their capacity to provide exams across state lines through telehealth and in-person exams. For example, vendors used mobile clinics through which examiners traveled between states to conduct disability exams. Some vendors also temporarily stationed individual examiners in states other than where they were licensed. VBA and vendor officials also reported that the temporary expansion of license portability helped expand their exam reach and increase veterans' access to specialists and experienced examiners.

**Exam reach.** Vendors used expanded license portability to send examiners to rural and high-need areas that did not have enough examiners to meet local demand for disability exams, according to our interviews. Officials from one vendor also said license portability allowed them to continue serving veterans when natural disasters disrupted the availability of examiners in the affected states. For example, this vendor reported using license portability to send mobile clinics to Florida following Hurricane Ian in September 2022. Officials from another vendor said license portability helped them serve more veterans living on tribal lands.

Officials from all three vendors said expanded license portability helped them serve incarcerated veterans. Officials from one vendor said reaching these veterans historically has posed a challenge because not all examiners are willing to physically enter a prison, and license portability allowed them to use examiners willing to do so.<sup>30</sup>

**Access to specialists and experienced examiners.** The temporary expansion of license portability increased access to specialists needed to

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<sup>30</sup>Officials from all three vendors also said that the combination of telehealth and license portability has helped them to meet the demand for disability exams.



perform certain types of disability exams.<sup>31</sup> For instance, the temporary expansion allowed contracted psychologists to conduct exams for veterans living in other states. Officials from all three vendors said that this helped expand access to mental health exams. Officials from one vendor also said that as contracted psychologists took on more mental health exams due to the temporary expansion, their contracted psychiatrists were able to focus on exams related to traumatic brain injuries, for which there is typically less capacity nationwide. Officials from two vendors said temporary license portability also allowed them to send more experienced examiners to other states to provide disability exams.

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### Inaccuracies in VBA Guidelines and Inadequate Monitoring Led to Ineligible Examiners Using License Portability

We found that the guidelines issued by VBA contained some inaccuracies and information that could cause confusion for the contracted vendors. We also found that VBA did not adequately monitor vendors' use of license portability.

**Inaccurate guidelines.** 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.<sup>32</sup> However, the law granting temporary license portability for VBA contracted examiners does not list dentists as a category of eligible health care professional (see fig. 2). VBA officials told us that dentists are not eligible under this law.

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<sup>31</sup>VA requires that certain exams be completed by medical specialists. For example, VA requires certain mental health-related disability exams to be conducted by a board-certified/board-eligible psychiatrist or licensed doctorate-level psychologist, or by certain other mental health professionals under the close supervision of one of those specialists. Additionally, VA requires that an initial diagnosis for a traumatic brain injury be made by a physical medicine and rehabilitation physician (physiatrist), psychiatrist, neurosurgeon, or neurologist.

<sup>32</sup>According 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.

**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-23-105787

**Accessible Data for 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-23-105787

VBA officials told us that VBA included dentists due to an administrative error. We found that two of VBA’s three vendors used dentists to conduct exams under license portability, which the vendors confirmed. VBA told us that should not have been allowed. In April 2022, a third vendor asked VBA for clarification on dentist eligibility. VBA informed that vendor that dentists were not eligible for license portability. However, VBA did not communicate this information to its two other vendors or update its performance work statement at that time. Officials from one of these vendors said the inclusion of dentists in the performance work statement was the reason they used dentists to conduct exams under license portability.

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.<sup>33</sup> In January 2023, VBA issued a guidance memo to its vendors informing them that dentists are not eligible for license portability.

Additionally, VBA officials said that they did not consider any additional providers to be eligible for license portability beyond those explicitly listed in the law. However, VBA's performance work statement included the term "etc." following the list of examiner types eligible for license portability (see fig. 2), which could create confusion for vendors regarding eligibility for additional types of examiners. Officials from one vendor said that the inclusion of this term suggested that examiners other than those explicitly listed could perform exams under license portability. In March 2023, VBA officials said they requested that "etc." be removed from the performance work statement as part of an ongoing update. In April 2023, VBA issued a guidance memo to its vendors informing them that the "etc." does not extend eligibility to other types of examiners.<sup>34</sup>

**Inadequate monitoring.** In addition, VBA did not adequately monitor vendors' use of license portability. For example, VBA was unaware that one vendor was using optometrists to conduct exams in states other than where they were licensed, which VBA officials said was not permitted.<sup>35</sup> Our review of data submitted by this vendor to VBA showed that optometrists were used in states where they were not licensed, which VBA confirmed and said should not have been allowed.<sup>36</sup> VBA officials said in September 2022 that they primarily

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<sup>33</sup>This was one of several requested updates to the performance work statement, according to VBA officials. As of March 2023, these updates to the performance work statement were still pending.

<sup>34</sup>In 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.

<sup>35</sup>Although the law granting temporary license portability for VBA's contracted examiners and VBA's performance work statement did not list optometrists as eligible, this vendor interpreted a separate provision in VBA's performance work statement to signify that licensed optometrists could perform exams in any state without the need for license portability. This provision specified that ophthalmologists or licensed optometrists must be used for eye examinations, which the vendor interpreted to mean that licensed optometrists may perform disability exams in any state regardless of where they are licensed.

<sup>36</sup>Additionally, during our review of VBA's process for vendors to collect and report data on exams conducted under license portability, we identified confusion regarding whether and how vendors should report data when these exams were conducted via telehealth. In response, VBA issued updated instructions to support consistent data collection on telehealth exams across its vendors.

use the vendor-reported data to review where license portability is used to help identify areas that may need additional local capacity for contracted exams. Officials said VBA did not analyze the data regarding the types of examiners using license portability. In December 2022, VBA began monitoring vendor-reported data on the types of examiners using license portability, according to VBA officials. However, VBA has not yet developed formal procedures or documentation for this new monitoring process.<sup>37</sup> In January 2023, VBA issued a guidance memo to its vendors informing them that optometrists are not eligible for license portability.

Federal standards for internal control state that agencies should externally communicate the necessary quality information to achieve agency objectives and conduct ongoing monitoring of agency programs.<sup>38</sup>

The inaccuracies in the performance work statement and lack of monitoring of vendor-reported data on the use of license portability contributed to vendors using examiners that VBA considers ineligible for license portability. VBA took steps to clarify examiner eligibility by sending guidance memos to vendors for two specialty areas that were used inappropriately and to specify that the “etc.” does not extend eligibility to other types of examiners. VBA officials said it also has requested that the performance work statement be updated to remove dentists and “etc.” from the eligibility list. These actions will help ensure vendors have accurate information about the types of examiners who are eligible to complete exams using license portability. However, without developing formal procedures and documentation to guide its updated process for monitoring vendors’ use of license portability, VBA cannot be confident that vendors are using license portability as intended.

In addition, VBA confirmed that ineligible examiners conducted disability exams under license portability, but VBA has not fully assessed the extent to which this occurred and any potential effect on veterans’ claims. Federal standards for internal control specify that agencies should remediate identified internal control deficiencies on a timely basis.<sup>39</sup> In March 2023, 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. Taking steps to identify which exams were

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<sup>37</sup>In February 2023, VBA officials said they were in the process of developing formal procedures to guide this updated monitoring process.

<sup>38</sup>[GAO-14-704G](#), principles 15 and 16.

<sup>39</sup>[GAO-14-704G](#), principle 17.

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completed by ineligible examiners and assess whether any potential risks to these veterans' claims exist will allow VBA to determine whether any corrective actions need to be taken.

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## VHA Officials Cited Various Efforts to Recruit and Retain Disability Examiners, but Unclear Communication from VHA Hindered Planning

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### VHA Facilities' Efforts to Recruit and Retain Examiners Varied

We found that efforts to recruit and retain disability examiners varied among our five selected facilities, as some actively recruited examiners and others did not. Individual VHA facilities manage their own recruitment and retention decisions, according to VHA, VISN, and facility officials. VHA officials said facilities differ in their capacities and needs, and facility directors have knowledge of local resources, staffing models, and performance goals to make recruitment and retention decisions.<sup>40</sup>

Officials at two of the five selected facilities said they were actively recruiting examiners, partly to backfill positions that were vacant due to retirements and transfers during the pandemic. The same two facilities also mentioned efforts to retain examiners. The three other facilities were not actively recruiting examiners, according to officials. Rather than hiring providers specifically to conduct exams, one facility instead assigns staff from clinical care or other units to conduct a limited number of exams on an ad hoc basis, according to facility officials. Officials at two other facilities said they were not recruiting because they were prioritizing clinical care. Officials at the two selected VISNs confirmed that examiner recruitment varied among the facilities in their networks. In August 2022,

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<sup>40</sup>Officials told us VISNs can help facilities recruit examiners by posting job advertisements and reviewing applications, but facility-level officials decide how many new examiners to recruit and whether to retain current examiners.

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VHA estimated that its facilities were actively recruiting to fill 55 percent of all vacant positions supporting disability exam programs.<sup>41</sup>

Facility officials generally described the same recruitment and retention practices for disability examiners that they would use for all types of employees.<sup>42</sup> For example, they may offer student loan repayment assistance or workplace wellness classes to help retain staff. However, some facilities may offer additional recruitment or retention incentives to disability examiners that may not be available to other VHA medical providers. For example, officials at one VISN said that medical facilities could offer telework to disability examiners who conduct telehealth exams and acceptable clinical evidence reviews.<sup>43</sup>

Officials at several facilities described challenges to recruiting and retaining disability examiners. Several of the challenges they identified pertain to recruitment and retention of medical providers in general. For example, officials at two facilities said that VA's long timeline for hiring medical providers, including disability examiners, makes it hard for VHA to hire since providers can complete the onboarding process elsewhere more quickly.<sup>44</sup> On the other hand, some facilities' officials said there are additional challenges specific to the nature of disability exams. For example, officials at one facility said that because disability exams can take longer than clinical appointments, examiners complete fewer appointments than providers conducting clinical care. These officials said this can make examiners' productivity appear lower, which may prevent

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<sup>41</sup>These vacancies included examiner and administrative positions that would spend some portion of their time supporting facilities' disability exam programs. VHA collected this information from VISNs. All but one VISN reported ongoing efforts by facilities to actively recruit for such vacant positions.

<sup>42</sup>We have previously reported on VHA's recruitment and retention efforts. For example, see GAO, *Veterans Health Care: Staffing Challenges Persist for Fully Integrating Mental Health and Primary Care Services*, [GAO-23-105372](#) (Washington, D.C.: Dec. 15, 2022) and GAO, *Veterans Health Administration: Better Data and Evaluation Could Help Improve Physician Staffing, Recruitment, and Retention Strategies*, [GAO-18-124](#) (Washington, D.C.: Oct. 19, 2017).

<sup>43</sup>Acceptable clinical evidence reviews are evaluations of veterans' existing medical records to assess claimed disabilities.

<sup>44</sup>We previously reported that in response to the COVID-19 pandemic, VHA updated policies to shorten the onboarding process for clinicians. See GAO, *VA Health Care: VHA Lacks Reliable Onboarding Data for New Clinical Staff*, [GAO-23-105706](#) (Washington, D.C.: Jan. 25, 2023).

them from receiving salary increases. As a result, examiners may seek higher-paying work elsewhere.

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### VHA's Communication Regarding Recruitment and Retention Lacked Clarity and was Inconsistently Interpreted by Selected Facilities

The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 required VA to temporarily suspend efforts to eliminate disability examiner positions at the department.<sup>45</sup> In response to this provision, VHA issued guidance memos in January 2021, March 2021, and April 2022 instructing facilities 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.<sup>46</sup> 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.

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<sup>45</sup>The act, enacted on January 5, 2021, 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. VHA had reduced examiner staffing in prior years as exam workload shifted to VBA's contracted examiners, as VA reported to Congress in July 2021.

<sup>46</sup>VHA officials also described one facility that appeared to make programmatic changes to its disability exam services. This facility stopped providing exams after the guidance memos were provided. VHA discussed this case with the relevant VISN and facility and learned that the facility previously had only one examiner. When that examiner retired, the facility did not replace them and thus did not continue to provide exams.

Moreover, officials at one facility said they did not view VHA's guidance as applying to their facility. This facility does not use its staff to perform disability exams full-time; rather, it uses clinical care providers to conduct a limited number of disability exams on an ad-hoc basis. As a result, facility officials said they had no examiners, and, therefore, did not view VHA's guidance as applicable to their facility. However, VHA officials said that the guidance would apply to this facility because its staff conduct exams even if it is not their primary role.

VHA officials told us they intentionally did not include definitions of a "programmatic change to exam services" or a "disability examiner position" in the guidance memos. They said that because facilities must balance the need to provide clinical care with their disability exam workloads, VHA wanted to provide facilities the flexibility to allocate their resources as needed.<sup>47</sup>

Further, the guidance included statements that some facility officials said were contradictory. Officials at two facilities said that the guidance instructing facilities to both expand capacity for exams and prioritize clinical care seemed to conflict. As a result, it was unclear whether VHA was instructing them to focus their limited resources on disability exams or clinical care.<sup>48</sup> VHA officials said the guidance was intended to provide maximum flexibility for facilities to use their knowledge of local needs to balance their exam workloads with provision of healthcare services. While facilities may be best positioned to identify their needs, a clear understanding of VHA's expectations for disability exams is important to ensure facilities' actions align with VHA's intent.

Federal standards for internal control specify that agencies should internally communicate clear information to achieve organizational objectives.<sup>49</sup> Because VHA issued guidance without clear definitions and instructions, facilities implemented the guidance inconsistently. Without clearer guidance, VHA cannot be confident that facilities' recruitment and

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<sup>47</sup>VHA officials said that medical facilities do not receive separate budget allocations specific to disability medical exams programs. Rather, facilities must determine how to allocate available funds between disability exams and clinical care. VA's June 2022 report to Congress indicated that part of VHA's strategy to address some exam workloads shifting back to VHA would be establishing a distinct budget allocation for disability exams conducted by VHA examiners.

<sup>48</sup>Like the healthcare system as a whole, VHA medical facilities faced increased demand for clinical services as a result of COVID-19.

<sup>49</sup>[GAO-14-704G](#), principle 14.



retention plans align with its intent. Further, VHA may not be well positioned to address veterans' exam needs.

We also found that VHA did not clearly communicate with facilities in a timely manner regarding its expected future role in conducting disability exams. In June 2022, VA provided a report to Congress stating 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.<sup>50</sup> The report stated that with continued demand, VHA facilities must maintain capabilities to complete disability exams.<sup>51</sup> However, VHA did not clearly communicate this information to facilities until February 2023, after we made officials aware that some facilities remained uncertain about their future role in conducting exams.

VHA notified VISNs 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, but VHA did not provide information to facilities on how they were expected to help meet the demand.<sup>52</sup> During our interviews with selected facilities in August 2022, officials described differing interpretations of VHA's future role in completing exams. Officials at three facilities said they were unsure whether VHA would continue conducting a similar number of exams in the future, or whether more or all of the exams would shift to VBA contractors. Conversely, officials at another facility thought it was possible that the VBA contracts would not be renewed, and the full exam workload would return to VHA facilities. At least one facility developed plans to recruit examiners to meet the pending exam workload increase.

VHA's communication to VISNs and facilities in February 2023 should help clarify expectations that VHA will continue to conduct exams and that

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<sup>50</sup>Department 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 pandemic.

<sup>51</sup>VHA officials stated that a return to pre-pandemic disability exam workload may or may not entail a return to pre-pandemic disability examiner staffing levels. In February 2023, VHA officials told us they were collaborating with VBA to develop an operational plan to address the demand for exams. VHA officials said that this operational plan, informed by VBA's exam demand projections, would determine whether VHA facilities would return to pre-pandemic staffing levels for examiners.

<sup>52</sup>See Pub. L. No. 117-168, 136 Stat. 1759. This Act made the process of qualifying for disability benefits easier for certain veterans.

facilities will have to develop plans to meet workload demands. However, VA has not yet fully implemented our March 2021 recommendation that VBA, in consultation with VHA, use sound planning practices to develop and document plans for the allocation of future exam workloads between VHA facilities and VBA contractors.<sup>53</sup> VBA developed a plan that includes information on strategic goals, coordination and communication, and general information on risks, but other information is missing. For example, the plan lacks information related to other sound planning practices, such as documenting a strategy for achieving its goals and developing clear timelines or detailed assessments on potential risks associated with increased reliance on contracted examiners. We continue to believe a detailed plan is needed to help ensure that veterans receive quality exams in a timely manner. In addition, such a plan can also help VHA and its facilities make informed staffing decisions.

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## Conclusions

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. VA's expanded use of telehealth and license portability provide opportunities to meet veterans' exam needs. However, the lack of a formal monitoring process presents a risk that vendors will use examiners in states where they are not permitted to do so. Without taking additional steps to develop and document formal procedures to guide its monitoring process, VBA cannot ensure that vendors are implementing license portability provisions as intended. Further, without fully assessing the extent to which exams were inappropriately completed through license portability, as well as any potential risk to veterans' claims, VBA is not positioned to take any necessary corrective actions.

Additionally, VHA continues to play an important role in providing exams. However, VHA's unclear guidance on halting changes to facilities' exam services could lead facilities to make uninformed decisions on recruiting and retaining examiners. Clarifying what constitutes a programmatic change in exam services and what constitutes an examiner position would help ensure that facilities are implementing guidance as intended, and that VA is able to meet veterans' needs.

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<sup>53</sup>[GAO-21-444T](#).

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## Recommendations for Executive Action

We are making the following three recommendations to VA:

The Under Secretary for Benefits should develop and document formal procedures to guide VBA's process for monitoring contracted exam vendors' use of license portability to help prevent ineligible examiners from conducting exams in states where they are not licensed. (Recommendation 1)

The Under Secretary for Benefits should work with vendors to identify exams that were erroneously completed under license portability, assess any potential risks to veterans' claims, and develop and implement a corrective action plan to address any identified issues. (Recommendation 2)

The Under Secretary for Health should clarify guidance issued to VHA medical facilities regarding the statutory requirement to temporarily halt efforts to eliminate disability examiner positions. Specifically, the clarified guidance should define what constitutes (1) a programmatic change to disability exam services and (2) a medical examiner position. (Recommendation 3)

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## Agency Comments and Our Evaluation

We provided a draft of our report to VA for review and comment. In its comments, reproduced in appendix I, VA generally concurred with our recommendations and identified actions the agency has already taken or plans to take to implement them. With respect to the recommendation that VA identify exams erroneously completed under license portability, assess any potential risks to veterans claims, and take any necessary corrective actions, VA reported that it will further examine this issue to identify any risks and determine if corrective action is necessary. VA also provided general and technical comments, which we incorporated as appropriate.

In our draft report, we recommended that VBA issue a guidance memo to its contracted exam vendors to clarify that the "etc." in VBA's performance work statement does not extend eligibility for license portability to other types of examiners and specify that only listed examiner types are eligible. On April 25, 2023, VBA issued this guidance memo to its vendors and provided a copy to GAO with its written comments. We removed the recommendation and revised the report accordingly.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Veterans Affairs, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions, please contact me at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made significant contributions to this report are listed in appendix II.

A handwritten signature in black ink, reading "Elizabeth H. Curda". The signature is written in a cursive style with a large, prominent initial "E".

Elizabeth H. Curda  
Director, Education, Workforce, and Income Security Issues

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# Appendix I: Comments from the Department of Veterans Affairs

Appendix I: Comments from the Department of  
Veterans Affairs



DEPARTMENT OF VETERANS AFFAIRS  
WASHINGTON

May 17, 2023

Ms. Elizabeth Curda  
Director  
Education, Workforce  
and Income Security Issues  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Curda:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office (GAO) draft report: ***VA Disability Exams: Actions Needed to Clarify Program Requirements Regarding Examiners*** (GAO-23-105787).

The enclosure contains general and technical comments, and the action plan to address the draft report recommendations. VA appreciates the opportunity to comment on your draft report.

Sincerely,

A handwritten signature in cursive script that reads "Tanya J. Bradsher".

Tanya J. Bradsher  
Chief of Staff

Enclosure

**Appendix I: Comments from the Department of  
Veterans Affairs**

Enclosure

The Department of Veterans Affairs (VA) Comments to  
Government Accountability Office (GAO) Draft Report  
***VA DISABILITY EXAMS: Actions Needed to Clarify Program  
Requirements Regarding Examiners***  
(GAO-23-105787)

**Recommendation 1: The Under Secretary for Benefits should issue a guidance memo to VBA’s contracted exam vendors to clarify that the “etc.” in VBA’s performance work statement does not extend eligibility for license portability to other types of examiners and specify that only listed examiner types are eligible.**

**VA Response:** Concur. On April 25, 2023, the Veterans Benefits Administration (VBA) issued Vendor Guidance Memo 23-36 to exam vendors clarifying that the “etc.” in the performance work statement does not extend the eligibility for license portability to other types of examiners. In addition, VBA specified only listed examiner types per Public Law (P.L.) 116-315, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, are eligible (see Attachment A: Vendor Guidance Memo 23-36).

VBA considers this recommendation fully implemented and requests closure.

**Recommendation 2: The Under Secretary for Benefits should develop and document formal procedures to guide VBA’s process for monitoring contracted exam vendors’ use of license portability to help prevent ineligible examiners from conducting exams in states where they are not licensed.**

**VA Response:** Concur in principle. As GAO noted in its report, in December 2022, VBA began monitoring vendor reported data on the types of examiners using license portability. On January 26, 2023, VBA issued Vendor Guidance Memo 23-15 to vendors providing clarification on eligibility for license portability. Since issuing this guidance to vendors, no optometrists, dentists or other ineligible examiners have conducted examinations outside of State boundaries in which they hold a license. VBA will continue to monitor vendors’ use of license portability to ensure compliance with P.L. 116-315. Furthermore, VBA is actively documenting formal procedures to guide the process for monitoring vendors’ use of license portability as recommended and plans to have those procedures formalized by June 30, 2023 (see Attachment B: Vendor Guidance Memo 23-15).

Target Completion Date: June 30, 2023

**Recommendation 3: The Under Secretary for Benefits should work with vendors to identify exams that were erroneously completed under license portability, assess any potential risks to veterans’ claims, and develop and implement a corrective action plan to address any identified issues.**

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**VA Response:** Concur in principle. VBA conducted an initial risk assessment as detailed as follows:

**Initial Risk Assessment Regarding Exams Erroneously Completed Under Licensed Portability.**

**Background:** GAO and VBA identified instances of incorrect application of Licensed Portability, in which optometrists and dentists had performed Compensation and Pension (C&P) examinations outside State boundaries.

**Risk:** If there is incorrect application of Licensed Portability, then there may be a public misconception of VA using unlicensed examiners.

**Analysis:** The examinations in question were completed by fully licensed (albeit in another State), trained and certified C&P clinicians, resulting in sufficient examinations for rating purposes, where the only issue was the crossing of State lines to conduct the exam. This event is like an optometrist or dentist C&P examiner at a VA medical center (VAMC) located near another State border examining a Veteran from a neighboring State and the examiner is not licensed in that specific State. There would be no issue as the exam took place at a VAMC instead of a few miles away in a contractor facility. VBA will further examine this issue to determine any risks to Veterans' claims and determine if corrective action is necessary.

**Initial Mitigation:** On January 17, 2023, VBA mandated that vendors cease and desist this practice. As noted in the response to Recommendation 2, VBA will document processes and procedures to monitor vendor use of license portability. If the final risk assessment identifies issues for resolution, then VBA will develop a corrective action plan.

Target Completion Date: June 30, 2023

**Recommendation 4:** The Under Secretary for Health should clarify guidance issued to VHA medical facilities regarding the statutory requirement to temporarily halt efforts to eliminate disability examiner positions. Specifically, the clarified guidance should define what constitutes (1) a programmatic change to disability exam services and (2) a medical examiner position.

**VA Response:** Concur. The Veterans Health Administration (VHA) will provide written guidance to VHA medical facilities to meet the statutory requirements of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of



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2020 (P.L. 116-315) by defining what (1) constitutes a programmatic change to VHA disability exam services and (2) defines VHA medical examiner positions.

On January 5, 2021, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) was signed into law. Section 2002(c) required VA to submit a report to Congress regarding medical disability examinations that covers the following statutory requirements:

- (A) How the Secretary will increase the capacity, efficiency and timeliness of physician assistants, nurse practitioners, audiologists and psychologists of the VHA with respect to completing medical examinations described in subsection (b).
- (B) The total number of full-time equivalent employees among all physician assistants, nurse practitioners, audiologists and psychologists needed for the increases described in subparagraph (A).
- (C) An assessment regarding the importance of retaining a critical knowledge base within the Department for performing medical examinations for Veterans filing claims for compensation under chapters 11 and 13 of title 38 U.S.C., including with respect to military sexual trauma, post-traumatic stress disorder, traumatic brain injury and toxic exposure.

1. For programmatic change, the Office of Disability and Medical Assessment (DMA) will update the general guidance to meet current C&P examination requirements using relevant projections and as determined by VHA Senior Leadership.

2. A medical examiner position within the C&P program, as it relates to P.L. 116-315, § 2002(b), is defined as a qualified health care provider who is licensed and trained and certified in the performance of C&P medical disability examinations by VA, which includes physicians, physician associates, nurse practitioners, psychologists and audiologists.

To meet demand for disability examinations and recruit medical examiner positions for VHA C&P in June 2022, VHA submitted a Congressional Tracking Report to Congress regarding the development an internal resource plan with the goal of achieving pre-pandemic C&P workload levels to ensure that sufficient VHA C&P resources are dedicated to meet the needs of Veterans seeking disability benefits.

Target Completion Date: November 2023

# Accessible Text for Appendix I: Comments from the Department of Veterans Affairs

May 17, 2023

Ms. Elizabeth Curda Director  
Education, Workforce  
and Income Security Issues  
U.S. Government Accountability Office  
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Sincerely,

Tanya J. Bradsher  
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Enclosure

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VBA considers this recommendation fully implemented and requests closure.

Recommendation 2: The Under Secretary for Benefits should develop and document formal procedures to guide VBA's process for monitoring contracted exam vendors' use of license portability to help prevent ineligible examiners from conducting exams in states where they are not licensed.

VA Response: Concur in principle. As GAO noted in its report, in December 2022, VBA began monitoring vendor reported data on the types of examiners using license portability. On January 26, 2023, VBA issued Vendor Guidance Memo 23-15 to vendors providing clarification on eligibility for license portability. Since issuing this guidance to vendors, no optometrists, dentists or other ineligible examiners have conducted examinations outside of State boundaries in which they hold a license. VBA will continue to monitor vendors' use of license portability to ensure compliance with P.L. 116-315. Furthermore, VBA is actively documenting formal procedures to guide the process for monitoring vendors' use of license portability as recommended and plans to have those procedures formalized by June 30, 2023 (see Attachment B: Vendor Guidance Memo 23-15).

Target Completion Date: June 30, 2023

Recommendation 3: The Under Secretary for Benefits should work with vendors to identify exams that were erroneously completed under license portability, assess any potential risks to veterans' claims, and develop and implement a corrective action plan to address any identified issues.

VA Response: Concur in principle. VBA conducted an initial risk assessment as detailed as follows:

Initial Risk Assessment Regarding Exams Erroneously Completed Under Licensed Portability.

Background: GAO and VBA identified instances of incorrect application of Licensed Portability, in which optometrists and dentists had performed Compensation and Pension (C&P) examinations outside State boundaries.

Risk: If there is incorrect application of Licensed Portability, then there may be a public misconception of VA using unlicensed examiners.

Analysis: The examinations in question were completed by fully licensed (albeit in another State), trained and certified C&P clinicians, resulting in sufficient examinations for rating purposes, where the only issue was the crossing of State lines to conduct the exam. This event is like an optometrist or dentist C&P examiner at a VA medical center (VAMC) located near another State border examining a Veteran from a neighboring State and the examiner is not licensed in that specific State. There would be no issue as the exam took place at a VAMC instead of a few miles away in a contractor facility. VBA will further examine this issue to determine any risks to Veterans' claims and determine if corrective action is necessary.

Initial Mitigation: On January 17, 2023, VBA mandated that vendors cease and desist this practice. As noted in the response to Recommendation 2, VBA will document processes and procedures to monitor vendor use of license portability. If the final risk assessment identifies issues for resolution, then VBA will develop a corrective action plan.

Target Completion Date: June 30, 2023

Recommendation 4: The Under Secretary for Health should clarify guidance issued to VHA medical facilities regarding the statutory requirement to temporarily halt efforts to eliminate disability examiner positions. Specifically, the clarified guidance should define what constitutes (1) a programmatic change to disability exam services and (2) a medical examiner position.

VA Response: Concur. The Veterans Health Administration (VHA) will provide written guidance to VHA medical facilities to meet the statutory requirements of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) by defining what (1) constitutes a programmatic change to VHA disability exam services and (2) defines VHA medical examiner positions.

On January 5, 2021, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) was signed into law. Section 2002(c) required VA to submit a report to Congress regarding medical disability examinations that covers the following statutory requirements:

- (A) How the Secretary will increase the capacity, efficiency and timeliness of physician assistants, nurse practitioners, audiologists and psychologists of the VHA with respect to completing medical examinations described in subsection (b).

(B) The total number of full-time equivalent employees among all physician assistants, nurse practitioners, audiologists and psychologists needed for the increases described in subparagraph (A).

(C) An assessment regarding the importance of retaining a critical knowledge base within the Department for performing medical examinations for Veterans filing claims for compensation under chapters 11 and 13 of title 38 U.S.C., including with respect to military sexual trauma, post-traumatic stress disorder, traumatic brain injury and toxic exposure.

1. For programmatic change, the Office of Disability and Medical Assessment (DMA) will update the general guidance to meet current C&P examination requirements using relevant projections and as determined by VHA Senior Leadership.
2. A medical examiner position within the C&P program, as it relates to P.L. 116-315, § 2002(b), is defined as a qualified health care provider who is licensed and trained and certified in the performance of C&P medical disability examinations by VA, which includes physicians, physician associates, nurse practitioners, psychologists and audiologists.

To meet demand for disability examinations and recruit medical examiner positions for VHA C&P in June 2022, VHA submitted a Congressional Tracking Report to Congress regarding the development an internal resource plan with the goal of achieving pre- pandemic C&P workload levels to ensure that sufficient VHA C&P resources are dedicated to meet the needs of Veterans seeking disability benefits.

Target Completion Date: November 2023

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## Appendix II: GAO Contact and Staff Acknowledgments

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### GAO Contact

Elizabeth Curda, (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov)

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### Staff Acknowledgments

In addition to the contact named above, Nyree Ryder Tee (Assistant Director), Liam O’Laughlin (Analyst-in-Charge), and Zoe Ziliak Michel made key contributions to this report. Also contributing to this report were Steven Flint, Alex Galuten, Gina Hoover, Mimi Nguyen, Nhi Nguyen, Joy Solmonson, Almeta Spencer, Kate van Gelder, and Adam Wendel.

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