

## **THANK YOU FOR YOUR SERVICE: WHY ELDERLY VETERANS WITH PTSD NEED MEDICAL-LEGAL PARTNERSHIPS**

*Dan Lewis*

*Elderly veterans are especially susceptible to mental illnesses like Post-Traumatic Stress Disorder. These mental illnesses are a direct result of their time serving in the military. As these elderly veterans are dependent on government aid for their health care, being stripped of these benefits can have a huge impact on these veteran's lives. These veterans often get lost in the bureaucratic maze and no longer receive these benefits, despite potential eligibility.*

*Medical-legal partnerships are a very useful tool that help people receive the government health care benefits they are eligible for. Some medical-legal partnerships, like the Road Home program in Chicago, have focused specifically on elderly veterans and have seen great results. Veterans who receive assistance from these medical-legal partnerships have experienced advantageous results in the form of increased benefits or maintaining their access to these benefits for a longer period of time.*

*This Note surveys the bureaucratic maze elderly veterans face in their search for health care benefits. It recommends an expanded use of medical-legal partnerships to provide expanded care to elderly veterans and to give these veterans the care they are entitled to. Medical-legal partnerships like Road Home in Chicago are a great model for success and this program exemplifies the potential that the expanded use of these partnerships has. Improved care for elderly veterans can truly be unlocked through these partnerships.*

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## I. Introduction

Post-Traumatic Stress Disorder (“PTSD”) is a “syndrome occurring after a person experiences trauma outside the range of normal human experience.”<sup>1</sup> Combat in war is a traumatic experience that many elderly veterans relive each day, sometimes years after returning home from service. One veteran aptly described his experience with PTSD as flashbacks to the jungles of Vietnam where he was ambushed every night.<sup>2</sup>

PTSD severely impacts the veterans who have served our country.<sup>3</sup> The federal government, states, and non-profit organizations have made various efforts to serve veterans with PTSD returning from the Iraq and Afghanistan wars.<sup>4</sup> While these efforts are laudable, the elderly veterans who struggle with PTSD decades after returning from service should not be neglected.<sup>5</sup>

In addition to the psychological toll that PTSD poses for elderly veterans, there are a variety of unique legal obstacles that arise from this combat-related disorder. Many Vietnam-era veterans have been unable to access disability benefits and other legal services, have been discharged from duty because of misconduct aggravated by the psychiatric disorder, and must go through painstakingly long review boards and appeal processes for denied benefits.<sup>6</sup>

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1. Craig M. Kabatchnick, *PTSD and its Effects on Elderly, Minority, and Female Veterans of All Wars*, 10 MARQ. ELDER'S ADVISOR 269, 270 (2009) [hereinafter Kabatchnick].

2. Kara Frame, *I Will Go Back Tonight*, YOUTUBE (Nov. 8, 2016), <https://www.youtube.com/watch?v=z8LRLx3kZ1s> [hereinafter Frame].

3. See *Aging Veterans and Posttraumatic Stress Symptoms*, U.S. DEP'T OF VETERANS AFF. <https://www.ptsd.va.gov/public/types/war/ptsd-older-vets.asp> (last visited Sept. 12, 2018) [hereinafter *Aging Veterans and Posttraumatic Stress Symptoms*].

4. See *PTSD Treatment Programs in the U.S. Department of Veterans Affairs*, U.S. DEP'T OF VETERANS AFF., [https://www.ptsd.va.gov/gethelp/tx\\_programs.asp](https://www.ptsd.va.gov/gethelp/tx_programs.asp) (last visited Sept. 12, 2018); see also WOUNDED WARRIOR PROJECT, <https://www.woundedwarriorproject.org/> (last visited Sept. 12, 2018).

5. See Brian Handwerk, *Over a Quarter-Million Vietnam War Veterans Still Have PTSD*, SMITHSONIAN.COM (July 22, 2015), <https://www.smithsonianmag.com/science-nature/over-quarter-million-vietnam-war-veterans-still-have-ptsd-180955997/> [hereinafter Handwerk].

6. See *id.*

Medical-legal partnerships (“MLP”) are innovative programs that integrate attorneys from civil legal aid organizations and medical professionals from various hospitals and other healthcare providers.<sup>7</sup> Lawyers paired with healthcare specialists provide solutions that simultaneously meet a patient’s healthcare and legal needs.<sup>8</sup> Although MLPs are a fairly recent innovation, they have proven effective in providing solutions for the legal and health needs of vulnerable populations.<sup>9</sup> An MLP can provide elderly veterans suffering from PTSD with the critical health care they need in addition to the disability benefits they are legally entitled to.<sup>10</sup>

Road Home is an MLP that works with attorneys to provide legal services to veterans struggling with PTSD.<sup>11</sup> Veterans with PTSD and other behavioral health conditions are eligible for disability benefits if they can demonstrate that the PTSD occurred during service or was aggravated due to service.<sup>12</sup> Road Home has improved the lives of many veterans struggling with PTSD or other mental health conditions.<sup>13</sup> But in order to provide these services to all elderly veterans in need, MLPs across the country should be expanded.

This Note proposes an expansion of MLPs uniquely tailored to elderly veterans with PTSD and other mental illnesses. Part II of this Note explores the amount of elderly veterans struggling with PTSD, the severity of the symptoms they experience, and the impact PTSD can have on elderly veterans. This Note also examines the military’s and the psychiatric community’s failure to provide proper treatment to traumatized veterans throughout history and the contemporary consequences for elderly veterans. Part III discusses the legal challenges that result from veterans’ PTSD or other mental health conditions. Further, this

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7. See *The Need*, NAT’L CTR. FOR MED. LEGAL PARTNERSHIP, <http://medical-legalpartnership.org/need/> (last visited Sept. 12, 2018) [hereinafter *The Need*].

8. See *id.*

9. See *Impact*, NAT’L CTR. FOR MED. LEGAL PARTNERSHIP, <http://medical-legalpartnership.org/impact/> (last visited Sept. 12, 2018) [hereinafter *Impact*] (“Last year, medical-legal partnerships helped more than 75,000 patients resolve legal issues that were impeding their health. . .”).

10. See *id.*

11. ROAD HOME PROGRAM: THE CTR. FOR VETERANS & FAMILIES RUSH, <https://roadhomeprogram.org/> (last visited Sept. 12, 2018).

12. *Compensation*, U.S. DEP’T OF VETERANS AFF., <https://www.benefits.va.gov/Compensation/> (last visited Sept. 12, 2018) [hereinafter *Compensation*].

13. See Lisa Schencker, *Rush to receive \$45 million, its largest single donation ever, to help veterans with PTSD*, CHI. TRIB. (June 5, 2018), [www.chicagotribune.com/business/ct-biz-rush-donation-veterans-0606-story.html](http://www.chicagotribune.com/business/ct-biz-rush-donation-veterans-0606-story.html) (“The program . . . has treated more than 1,000 people since launching in 2014.”).

Note illustrates why elderly veterans require attorney assistance when applying for disability benefits, or when appealing decisions made by the U.S. Department of Veterans Affairs. Part IV discusses the rise of MLPs across the United States and their successful integration of the medical and legal fields in serving patients' health and legal needs. Part V explains why an MLP specifically tailored to elderly veterans with mental health conditions is necessary to address elderly veterans' unique legal problems. Part VI provides recommendations for how Congress, the states, and private medical and legal partners can continue building MLPs, such as the Road Home Program in Chicago, and expanding them to include elderly veterans with PTSD.

## II. Background

### A. PTSD in Elderly Veterans

Many elderly veterans struggle with behavioral health conditions that were caused or exacerbated by their military service.<sup>14</sup> Veterans have disproportionately higher rates of mental health conditions compared with any other group in the United States.<sup>15</sup> Vietnam War veterans are one of the largest groups of veterans impacted by PTSD.<sup>16</sup> As of 2015, there were nearly two million veterans who had served in the Korean War and over seven million veterans who had served in the Vietnam War.<sup>17</sup> Some psychological surveys indicate that over 250,000 Vietnam War veterans have PTSD.<sup>18</sup> Other studies indicate that 25% of Vietnam War veterans, or 700,000 soldiers, have needed some kind of

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14. See Handwerk, *supra* note 5.

15. See *Removing Barriers to Mental Health Services for Veterans*, AM. PUB. HEALTH ASS'N (Nov. 18, 2014), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2015/01/28/14/51/removing-barriers-to-mental-health-services-for-veterans>; see also *PTSD: A Growing Epidemic*, 4 NIH MEDLINE PLUS 10-14 (2009), <https://medlineplus.gov/magazine/issues/winter09/articles/winter09pg10-14.html>.

16. See Lisa Rapaport, *Many Vietnam Veterans Have PTSD 40 Years After War's End*, REUTERS (July 22, 2015, 10:41 AM), <https://www.reuters.com/article/us-health-ptsd-vietnam-vets/many-vietnam-veterans-have-ptsd-40-years-after-wars-end-idUSKCN0PW1TZ20150722> [hereinafter Rapaport].

17. NAT'L ACAD. OF MED., SUPPORTING MENTAL HEALTH IN OLDER VETERANS: DC PUBLIC HEALTH CASE CHALLENGE 2015 16 (2015), <https://nam.edu/wp-content/uploads/2015/10/2015DCPublicHealthCaseChallenge.pdf>.

18. Handwerk, *supra* note 5.

psychological care for the delayed effects of combat exposure.<sup>19</sup> Given that the average age of soldiers serving in the Vietnam War was twenty years old, most Vietnam War veterans would likely be in their late fifties or sixties.<sup>20</sup>

PTSD symptoms can be difficult for elderly veterans to manage without proper treatment.<sup>21</sup> PTSD is a psychological condition that occurs after an individual has experienced a traumatic event.<sup>22</sup> The definition of PTSD includes experiencing flashbacks, upsetting memories, and anxiety following a traumatic attack such as war-related events or combat.<sup>23</sup> Although it was previously listed as an anxiety disorder, PTSD has been updated to the new category of Trauma- and Stressor-Related disorders in the most recent version of the official guide on psychological conditions.<sup>24</sup> Some common symptoms of PTSD include reliving the traumatic event, anti-social behavior to avoid memories of the event, a negative outlook on life and personal relationships, irritability, and hyperarousal.<sup>25</sup> Many veterans may also have symptoms that impair daily life but do not meet all the criteria for a PTSD diagnosis.<sup>26</sup>

PTSD also impacts the families of veterans.<sup>27</sup> PTSD symptoms can be difficult for a veteran to handle and can spill over into their interactions with loved ones.<sup>28</sup> This “spillover effect” can be difficult for family members to handle. The Department of Veteran Affairs (“VA”)

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19. Miriam Reisman, *PTSD Treatment for Veterans: What's Working, What's New, and What's Next*, 41 PHARMACY & THERAPEUTICS 623, 623 (2016) [hereinafter Reisman].

20. *Statistics About the Vietnam War*, VIET. HELICOPTER FLIGHT CREW NETWORK, <http://www.vhfcn.org/stat.html> (last visited Sept. 12, 2018).

21. See Reisman, *supra* note 19.

22. Kabatchnick, *supra* note 1, at 269.

23. *PTSD and Vietnam Veterans: A Lasting Issue 40 Years Later*, U.S. DEP'T OF VETERANS AFF., <https://www.publichealth.va.gov/exposures/publications/agent-orange/agent-orange-summer-2015/nvvl.asp> (last visited Sept. 12, 2018).

24. *History of PTSD in Veterans: Civil War to DSM-5*, U.S. DEP'T OF VETERANS AFF., <https://www.ptsd.va.gov/public/PTSD-overview/basics/history-of-ptsd-vets.asp> (last visited Sept. 12, 2018) [hereinafter *History of PTSD in Veterans*].

25. *Symptoms of PTSD*, U.S. DEP'T OF VETERANS AFF., [https://www.ptsd.va.gov/public/ptsd-overview/basics/symptoms\\_of\\_ptsd.asp](https://www.ptsd.va.gov/public/ptsd-overview/basics/symptoms_of_ptsd.asp) (last visited Sept. 12, 2018).

26. Rapaport, *supra* note 16.

27. See Frame, *supra* note 2; see also Brian Albrecht, *Families Share the Pains of Veterans' PTSD*, CLEVELAND.COM (Mar. 23, 2013), [http://www.cleveland.com/metro/index.ssf/2013/03/families\\_share\\_the\\_pain\\_of\\_vet.html](http://www.cleveland.com/metro/index.ssf/2013/03/families_share_the_pain_of_vet.html) [hereinafter Albrecht].

28. Albrecht, *supra* note 27.

notes that spouses of veterans with PTSD are twice as likely to get divorced than those married to veterans without the disorder.<sup>29</sup> Children can also react to their veteran parents' PTSD symptoms with anger, fear, and isolation, further straining their relationship with the veteran.<sup>30</sup> The "spillover effect" can be particularly challenging for elderly veterans whose symptoms are worsening or appearing for the first time later in life.<sup>31</sup>

PTSD symptoms manifest in elderly veterans in numerous ways.<sup>32</sup> While the symptoms of some veterans improve over time, the symptoms for other veterans intensify as they age.<sup>33</sup> PTSD symptoms may manifest immediately after return from service and can last into old age.<sup>34</sup> The severity of symptoms can also fluctuate over the course of a veteran's life and then worsen later in old age.<sup>35</sup> For example, Bill Simon was a combat veteran who struggled with nightmares and flashbacks after he returned from service.<sup>36</sup> He worked, raised a family, and did not experience any PTSD symptoms for several years.<sup>37</sup> But as he grew older, the nightmares and flashbacks of incidents in Vietnam haunted Simon every night.<sup>38</sup>

Some veterans develop PTSD, even without prior diagnosis or symptoms, decades after service.<sup>39</sup> The VA concluded that veterans could begin exhibiting symptoms of PTSD up to fifty years after their service.<sup>40</sup> Tim Markowski, a wounded combat veteran from the Vietnam War, did not exhibit any PTSD symptoms when he returned to civilian life.<sup>41</sup> As he got closer to retirement, Markowski began having nightmares of the young North Vietnamese soldier he killed while on duty.<sup>42</sup> After Markowski retired, he was finally diagnosed with PTSD.<sup>43</sup>

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29. *Id.*

30. *Id.*

31. *See id.*; *see also* Frame, *supra* note 2.

32. *See Aging Veterans and Posttraumatic Stress Symptoms, supra* note 3.

33. *Id.*

34. *Id.*

35. *Id.*

36. Colleen Mastony, *Stress Hits Some Vets Late in Life*, CHI. TRIB., (Nov. 11, 2013), [http://articles.chicagotribune.com/2013-11-11/news/ct-met-late-onset-ptsd-2-20131111\\_1\\_vietnam-veterans-nightmares-vietnam-war](http://articles.chicagotribune.com/2013-11-11/news/ct-met-late-onset-ptsd-2-20131111_1_vietnam-veterans-nightmares-vietnam-war) [hereinafter Mastony].

37. *Id.*

38. *Id.*

39. *Aging Veterans and Posttraumatic Stress Symptoms, supra* note 3.

40. *Id.*

41. Mastony, *supra* note 36.

42. *Id.*

43. *Id.*

There are several reasons why an elderly veteran might experience PTSD later in life, or experience aggravated symptoms later in life. Some researchers suspect that PTSD symptoms in elderly veterans are exacerbated by aging.<sup>44</sup> Other researchers suggests that although younger and elderly veterans present similar PTSD symptoms, the intensity and expression of the symptoms may be worse among elderly veterans.<sup>45</sup> Others believe that PTSD symptoms are heightened later in life, especially in elderly veterans, because their illness went untreated and unrecognized for so long.<sup>46</sup> Thus, there are not only elderly veterans who have a diagnosis of PTSD who need assistance; but, possibly many more veterans who have yet to, or are just beginning to, experience PTSD symptoms and will require assistance.

Another reason why elderly veterans are more likely to struggle with untreated PTSD involves the United States' troubling history of disregarding serious mental illness. Although PTSD's symptoms are documented in soldiers dating as far back as the American Revolution,<sup>47</sup> the first attempt to diagnose veterans struggling from trauma was not until the Civil War.<sup>48</sup> Psychiatrists also failed to solidify the PTSD diagnosis until after the Korean and Vietnam Wars.<sup>49</sup> The Diagnostic and Statistical Manual of Mental Disorders ("DSM") provides defined psychological conditions and the associated symptoms, which mental health professionals use to diagnose and treat individuals.<sup>50</sup> Although there was evidence that traumatic events from combat led to psychiatric problems, originally called "shell shock" or "combat stress reaction," the first version of the DSM, introduced in 1952, recognized a very limited diagnosis where a veteran's symptoms lasted only six months after the tragic event.<sup>51</sup> Sixteen years later, the DSM-II removed

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44. *Id.*

45. Gina P. Owens et al., *Review of Assessment and Treatment of PTSD Among Elderly American Armed Force Veterans*, 20 INT'L J. OF GERIATRIC PSYCHIATRY 1118, 1119 (2005).

46. *Older Veterans May Experience Delayed Post-Traumatic Stress Disorder*, RIGHT AT HOME, <http://www.caringnews.com/en/122/1/135/Older-Veterans-May-Experience-Delayed-Post-Traumatic-Stress-Disorder.htm> (last visited Sept. 12, 2018) [hereinafter *Delayed Post-Traumatic Stress Disorder*].

47. See *History of PTSD in Veterans*, *supra* note 24.

48. *Id.*

49. *Id.*

50. *PTSD History and Overview*, U.S. DEP'T OF VETERANS AFF., <https://www.ptsd.va.gov/professional/ptsd-overview/ptsd-overview.asp> (last visited Sept. 12, 2018).

51. *History of PTSD in Veterans*, *supra* note 24.

the trauma-based diagnosis in 1968.<sup>52</sup> PTSD was not recognized as a psychiatric disorder until 1980.<sup>53</sup> Consequently, any service member exhibiting PTSD symptoms before 1980 did not have a recognized psychiatric disorder while they were in service.<sup>54</sup> The Vietnam War concluded only five years prior to the classification of PTSD as a psychological disorder.<sup>55</sup> Korean War veterans were already in their forties by the time the VA recognized PTSD as an official diagnosis.<sup>56</sup> Consequently, elderly veterans exposed to combat were much more likely to be diagnosed with PTSD.<sup>57</sup>

The failure to provide a medical diagnosis for soldiers' trauma-based reactions and symptoms had long-lasting impacts. Service members exhibiting signs of PTSD were considered "weak," rather than individuals struggling with an illness in need of treatment.<sup>58</sup> Many veterans returning from Vietnam turned to substance abuse to cope with PTSD symptoms.<sup>59</sup> PTSD can also take the form of severe depression, as many elderly veterans have taken their own lives.<sup>60</sup> Although discussion of veteran suicides has focused on veterans from the recent wars, a VA study found that seven out of ten suicides were committed by veterans over the age of fifty.<sup>61</sup> PTSD significantly impacts elderly veterans' mental health, and the added legal barriers these veterans experience can aggravate these problems.

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52. *Id.*

53. *Id.*

54. *Id.*

55. *PTSD and Vietnam Veterans: A Lasting Issue 40 Years Later*, U.S. DEPT OF VETERANS AFF., <https://www.publichealth.va.gov/exposures/publications/agent-orange/agent-orange-summer-2015/nvvl.asp> (last visited Sept. 12, 2018).

56. Bryant Jordan, *Older Vets Committing Suicide at Alarming Rate*, MILITARY.COM, <https://www.military.com/daily-news/2014/08/31/older-vets-committing-suicide-at-alarming-rate.html> (last visited Sept. 12, 2018) [hereinafter Jordan].

57. Josh Hochgesang et al., *The Psychological Effects of the Vietnam War*, ETHICS OF DEV. IN A GLOBAL ENV'T, [https://web.stanford.edu/class/e297c/war\\_peace/media/hpsych.html](https://web.stanford.edu/class/e297c/war_peace/media/hpsych.html) (last visited Oct. 25, 2018).

58. *Delayed Post-Traumatic Stress Disorder*, *supra* note 46.

59. Kabatchnick, *supra* note 1, at 295.

60. *See* Jordan, *supra* note 56.

61. *Id.*



## B. The Legal Problems Associated with Elderly Veterans' Mental Illnesses

Elderly veterans with PTSD and other mental health conditions face particularly challenging legal barriers. One such problem is that many veterans with mental health conditions are homeless.<sup>62</sup> A study conducted by the Substance Abuse and Mental Health Services Administration ("SAMHSA") found that one in five homeless people had some kind of mental illness.<sup>63</sup> The same study also found that although homelessness rates among veterans have decreased over the last decade, there are still many veterans who are at risk for homelessness or are homeless because of their PTSD.<sup>64</sup> A VA study found that at least half of the top ten problems associated with homelessness cannot be solved without legal help.<sup>65</sup> But, the largest legal barrier elderly veterans face is access to VA disability benefits.<sup>66</sup>

### 1. REQUESTING MEDICAL RECORDS

Attorneys can assist elderly veterans in the first step of applying for VA disability benefits.<sup>67</sup> In order to file a claim for VA disability benefits, a veteran must request his or her Official Military Personnel Files ("OMPF"), a compilation of military records including service history and medical records while in service.<sup>68</sup> However, the process is not

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62. U.S. DEP'T OF HOUS. AND URBAN DEV., VETERAN HOMELESSNESS: A SUPPLEMENTAL REPORT TO THE 2010 ANNUAL HOMELESS ASSESSMENT REPORT TO CONGRESS 13 (2010), <https://www.va.gov/HOMELESS/docs/2010AHARVeteransReport.pdf>.

63. *Homelessness and Housing*, SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMIN., <https://www.samhsa.gov/homelessness-housing> (last visited Sept. 12, 2018).

64. *Id.*

65. ABA President Klein Promotes Medical-Legal Partnerships for Veterans at Washington Health Law Summit, A.B.A. (Dec. 14, 2016, 1:08 PM), [https://www.americanbar.org/news/abanews/aba-news-archives/2016/12/aba\\_president\\_klein.html](https://www.americanbar.org/news/abanews/aba-news-archives/2016/12/aba_president_klein.html).

66. Craig M. Kabatchnick, *Obstacles Faced by the Elderly Veteran*, 12 MARQ. ELDER'S ADVISOR 185, 186-87 (2010).

67. Sean D. Cuddigan, *Why Hiring the Right VA Disability Attorney Can Make A Huge Difference in Your Case*, CUDDIGAN L., <https://www.cuddiganlaw.com/blog/why-and-when-should-veterans-hire-a-va-disability-lawyer-.cfm> (last visited Sept. 12, 2018) (stating that a VA disability lawyer will devote more attention to a client).

68. *Veterans' Medical and Health Records*, U.S. NAT'L ARCHIVES AND RECORDS ADMIN., <https://www.archives.gov/veterans/military-service-records/medical-records.html> (last visited Sept. 12, 2018).

streamlined to one office or branch.<sup>69</sup> The location where a veteran sends his or her request for the OMPF depends on what branch the veteran served in and when the veteran was discharged.<sup>70</sup> Most veterans are unaware of this requirement, which poses a barrier to elderly veterans attempting to receive disability benefits.<sup>71</sup>

## 2. DISABILITY BENEFITS AND THE VA'S COMPLEX DISABILITY RATING SYSTEM

Applying for VA benefits can be confusing for many people, let alone those without attorney assistance. The most common legal issue affecting veterans is access to disability benefits.<sup>72</sup> Veterans who are disabled as a result of their service are eligible for various VA disability benefits.<sup>73</sup> The most common form of disability benefits is called "service-connected disability compensation."<sup>74</sup> The key to receive this benefit is demonstrating both that the veteran is disabled, and that the veteran was disabled by an injury or illness that was incurred or aggravated during military service.<sup>75</sup> While this benefit covers physical disabilities, it also covers PTSD, traumatic brain injury, military sexual trauma, and other psychological and mental illnesses.<sup>76</sup> But many veterans do not understand that the VA does not automatically distribute benefits to veterans; elderly veterans are required to apply through a vast and complex disability review process.<sup>77</sup> Moreover, veterans who fail to meet the elements of a disability claim will not earn compensation, even if they are, in fact, disabled.<sup>78</sup>

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69. *See id.*

70. *Id.*

71. *The Application Process*, U.S. DEP'T OF VETERANS AFF., [https://www.va.gov/healthbenefits/apply/application\\_process.asp](https://www.va.gov/healthbenefits/apply/application_process.asp) (last visited Sept. 12, 2018).

72. Chris Adams, *VA Outreach Lags as Many Veterans Unaware of Benefits*, MCCLATCHY (Nov. 19, 2012), <https://www.mcclatchydc.com/news/nation-world/nation/article24740527.html>.

73. *Compensation*, *supra* note 12.

74. *Id.*

75. *Id.*

76. *See* Jean C. O'Neill, *How to Make a PTSD Claim for Veterans Disability With the VA*, DISABILITY SECRETS, <https://www.disabilitysecrets.com/resources/disability/veterans-disability/make-ptsd-claim-va.htm> (last visited Sept. 12, 2018).

77. *See* Thomas J. Reed, *Article: Parallel Lines Never Meet: Why the Military Disability Retirement and Veterans Affairs Department Claims Adjudication Systems Are a Failure*, 19 WIDENER L.J. 57, 104 (2009) (highlighting that as recent as in 2009, many veterans mistakenly believed that disability benefits were automatically distributed if they have been provided a disability diagnosis by a private physician) [hereinafter Reed].

78. *Id.*

The unique VA disability ratings system makes it difficult for many veterans to qualify for disability benefits because they do not understand what factors the VA considers.<sup>79</sup> Firstly, the VA's disability rating system is complex, but it is even more complicated for veterans with Social Security disability benefits who are also seeking VA disability benefits.<sup>80</sup> Unlike Social Security claims for disability benefits, the VA uses the Veterans' Administration Schedule for Rating Disabilities ("VASRD") to determine monthly payments.<sup>81</sup> This system "lists disability percentages for various physical and mental impairments, ranging from 0 percent to 100 percent, depending upon the nature and severity of the impairments."<sup>82</sup> Thus, veterans with fewer or less severe symptoms may only receive a 30% disability rating, while a very disabled veteran may receive a 70% disability rating.<sup>83</sup> But if the VA determines that a veteran has a 0% disability rating, the veteran will not be compensated for their disability, regardless of whether a private physician has diagnosed them with a disability or mental impairment.<sup>84</sup> The amount each veteran earns is directly proportional to the disability rating.<sup>85</sup> Thus, the higher a veteran's disability rating, the more the VA will compensate a veteran per month.<sup>86</sup>

Secondly, the disability rating system disadvantages elderly veterans with PTSD because of the VA's reliance on medical records from service.<sup>87</sup> In order to receive service-connected compensation, an elderly veteran must demonstrate that his or her PTSD results from the

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79. *See id.*

80. *See* SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMIN., *SSA And VA Disability Benefits: Tips for Veterans*, <https://soarworks.prainc.com/article/ssa-and-va-disability-benefits-tips-veterans> (last visited Sept. 12, 2018); *see also* Robert Powell, *Q&A: Veterans Seek Help on Social Security Planning Confusion*, USA TODAY (Mar. 24, 2017, 1:02 PM), <https://www.usatoday.com/story/money/personal-finance/retirement/2017/03/24/q-veterans-seek-help-social-security-planning-confusion/99467676/>.

81. 38 C.F.R. § 4.130 (2012) (providing the schedule of ratings for mental disorders that would qualify veterans for service-connected compensation) [hereinafter VA Ratings schedule].

82. *See id.*; *see also* Major Chuck R. Pardue, *The Grenada Intervention: Military Disability in a Nutshell*, 109 MIL. L. REV. 149, 171 (1985) [hereinafter *Military Disability in a Nutshell*].

83. *See* VA Ratings schedule, *supra* note 81.

84. *Id.*

85. *Id.*

86. *Id.*

87. *See Military Disability in a Nutshell*, *supra* note 82, at 178 (discussing need for records to establish eligibility); Scott Simonson, *Back from War – A Battle for Benefits:*

trauma he or she experienced during wartime.<sup>88</sup> This might be particularly difficult for elderly veterans because they may not have exhibited symptoms during service to qualify for a PTSD diagnosis. As noted earlier, many elderly veterans do not show signs of PTSD until later in life.<sup>89</sup> More importantly, PTSD was not a recognized diagnosis until after the Vietnam and Korean Wars concluded.<sup>90</sup> If no documentation of PTSD symptoms exist in the veteran's rating record, it is unlikely that the VA Rating Authorities will determine the veteran's PTSD is service-connected.<sup>91</sup> Thus, elderly veterans who do not have the resources to hire an attorney face significant hardships in securing disability benefits.<sup>92</sup>

The VA may also change veterans' disability ratings over the course of their lives, which could severely impact their financial well-being.<sup>93</sup> A veteran with a 50% disability rating would qualify for \$919.64 per month for the veteran and his or her spouse.<sup>94</sup> In contrast, a veteran who receives a 30% disability rating would receive \$456.97 per month for the same two people.<sup>95</sup> Changing a veteran's disability rating could potentially remove half of his or her income. Moreover, if a veteran previously received and depended on benefits and the VA later determined that the veteran is 0% disabled, that veteran would no longer receive any form of compensation.<sup>96</sup>

Many elderly veterans rely on disability benefits for their economic security,<sup>97</sup> because treating PTSD can be very expensive. A 2012 VA study demonstrated that it could cost nearly \$4000 for one year of

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*Reforming VA's Disability Ratings Systems for Veterans with Post-Traumatic Stress Disorder*, 50 ARIZ. L. REV. 1177, 1179 (2008) [hereinafter Simonson].

88. *Compensation*, *supra* note 12.

89. *See Aging Veterans and Posttraumatic Stress Symptoms*, *supra* note 3.

90. *History of PTSD in Veterans*, *supra* note 24.

91. *See Reed*, *supra* note 77, at 98; *Compensation*, *supra* note 12 (discussing the need for disability to be service-related for benefit eligibility).

92. *See Simonson*, *supra* note 87, at 1182-83.

93. Christian Losciale, *VA Military Disability Compensation Rate Tables*, VETERANS UNITED NETWORK (Dec. 5, 2017), <https://www.veteransunited.com/network/military-disability-compensation-rate-tables/>.

94. *Id.*

95. *Id.*

96. *See id.*

97. *See Simonson*, *supra* note 87, at 1195.

PTSD-specific therapy for veterans.<sup>98</sup> In 2017, a veteran who was determined to be eligible for service-connected disability compensation could have received anywhere from \$136.24 to nearly \$3000 per month depending on the severity of the disability.<sup>99</sup> Thus, an elderly veteran could greatly benefit from an attorney's assistance navigating through the complex disability review process. Lawyers are also necessary when veterans appeal VA disability rating decisions.

### 3. THE MILITARY'S REVIEW BOARD PROCESS IS SLOW AND HAS ONLY RECENTLY BEGUN TO SERIOUSLY CONSIDER PTSD'S EFFECTS ON ELDERLY VETERANS

If a veteran disagrees with the VA's disability rating decision, he or she can appeal that decision to a review board called the Board of Veterans Appeals ("BVA").<sup>100</sup> The U.S. Department of Defense ("DOD") has various boards that review decisions made by the VA and commanding officers while a soldier was in service.<sup>101</sup> The boards review whether the VA provided an accurate diagnosis of a service-connected disability and, if the veteran was diagnosed, whether the veteran was properly rated for their disability rating.<sup>102</sup> A board can determine whether the veteran is disabled, whether the disability rating the VA provided was accurate, or both.<sup>103</sup>

However, the appeals process is incredibly slow.<sup>104</sup> One reason for this is the vast number of appeals.<sup>105</sup> From 2005 to 2015, the number of

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98. John H. Cushman, Jr., *New Study Gives Scope and Costs of Combat-Related Conditions Among Veterans*, N.Y. TIMES: AT WAR (Feb. 24, 2012, 1:42 PM), <https://at-war.blogs.nytimes.com/2012/02/24/new-study-gives-scope-and-cost-of-combat-related-conditions-among-veterans/>.

99. *Veterans Compensation Benefits Rate Table - Effective 12/1/17*, U.S. DEP'T OF VETERANS AFF., [https://www.benefits.va.gov/compensation/resources\\_comp01.asp](https://www.benefits.va.gov/compensation/resources_comp01.asp) (last visited Sept. 12, 2018).

100. *Board of Veterans Appeals*, U.S. DEP'T OF VETERANS AFF., <https://www.bva.va.gov/> (last visited Sept. 12, 2018).

101. See ARMY REV. BOARDS AGENCY, *Boards*, <http://arba.army.pentagon.mil/> (last visited Sept. 12, 2018); *Board for Corrections of Naval Records*, U.S. MARINE CORPS OFF. OF LEGIS. AFF., <http://www.hqmc.marines.mil/Agencies/Office-of-Legislative-Affairs/Congressional-Correspondence-Section/Board-for-Corrections-of-Naval-Records/> (last visited Sept. 12, 2018).

102. See *id.* (providing information on the boards' process in determining benefit eligibility).

103. *Id.*

104. *Id.*

105. Alan Zarembo, *VA is Buried in a Backlog of Never-ending Veterans Disability Appeals*, L.A. TIMES (Nov. 23, 2015, 4:00 AM), <http://www.latimes.com/nation/la-na-veterans-appeals-backlog-20151123-story.html>.

appeals of VA decisions rose dramatically from 167,412 to 425,480.<sup>106</sup> For example, a veteran who applied for disability benefits in 1985 underwent over two dozen rulings on his case before he was awarded a 100% disability rating for injuries incurred while serving in the Puerto Rico Army National Guard.<sup>107</sup> That veteran's experience litigating for decades is not an outlier; several elderly veterans have had a similar fate.<sup>108</sup> Even if elderly veterans successfully appeal, and the board determines that the veterans are eligible for disability benefits, many of these elderly veterans do not receive retroactive compensation they should have received when the VA inaccurately determined they were not disabled.

This long review process poses significant problems for elderly veterans. Veterans diagnosed with PTSD decades after service face considerable challenges when appealing VA rating decisions. Because the PTSD diagnosis was not recognized until 1980, many elderly veterans had difficulty proving they suffered from those conditions because treating physicians would not provide medical evidence or a diagnosis of PTSD.<sup>109</sup> The Obama Administration took positive steps to address this barrier.<sup>110</sup> In 2014, Secretary of Defense Chuck Hagel released a memo to military review boards encouraging them to use "liberal consideration" when reviewing claims for PTSD service-connected compensation, especially for those who had been struggling with PTSD before the 1980 addition to the DSM-III.<sup>111</sup> But this step was only taken after a class action lawsuit was filed on behalf of thousands of veterans struggling with PTSD in March 2014.<sup>112</sup>

While this was a positive step toward providing necessary services to veterans, it only encouraged review of PTSD claims and failed

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106. *Id.*

107. *Id.*

108. *Id.*

109. MEMORANDUM FROM THE SEC'Y OF THE DEF. TO THE SEC'YS OF THE MILITARY DEPT'S, (Sept. 3, 2014), <http://arba.army.pentagon.mil/documents/SECDEF%20Guidance%20to%20BCMRs%20re%20Vets%20Claiming%20PTSD.pdf> [hereinafter Hagel Memorandum].

110. Alexander Mooney, *Obama Announces Changes for Vets with Post-traumatic Stress*, CNN POLITICS (July 10, 2010, 9:42 AM), <http://politicalticker.blogs.cnn.com/2010/07/10/Obama-announces-changes-for-vets-with-post-traumatic-stress/>.

111. See Hagel Memorandum, *supra* note 109.

112. *Monk v. Mabus*, YALE L. SCH., <https://law.yale.edu/studying-law-yale/clinical-and-experiential-learning/our-clinics/veterans-legal-services-clinic/monk-v-mabus> (last visited Sept. 12, 2018).

to address other mental health conditions such as severe depression, sexual abuse, or other serious conditions.<sup>113</sup> Many veterans organizations have indicated that this step forward is not enough because a new president can easily reverse Hagel's directive, and his memorandum fails to address the flaws of the review boards themselves.<sup>114</sup> Further, if a veteran can successfully demonstrate eligibility for disability benefits, the benefits are not retroactively applied to compensate for the years the veteran was not recognized as disabled by the VA.<sup>115</sup>

Recently, the Trump Administration clarified the "liberal consideration" veterans should receive in review of their claims.<sup>116</sup> This new guidance provides several factors that review boards should consider when reviewing claims from veterans with mental health conditions.<sup>117</sup> This guidance underscores why elderly veterans need legal assistance when applying for disability benefits or appealing a disability rating decision.<sup>118</sup> Many veterans may be unaware that this guidance exists. An attorney can supplement the elderly veteran's case with this guidance and craft a strong case for why the review boards should overturn the VA's rating decision.

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113. See Hagel Memorandum, *supra* note 109, at 1-2 (providing that the military review board only need to apply this "liberal consideration" to PTSD claims, but does not mention any other behavioral health conditions).

114. *Id.* (showing that it is only a supplemental policy directive and not a codified regulation enforced by the Department of Defense); see also David Phillips, *Veterans Want Past Discharges to Recognize Post-Traumatic Stress*, N.Y. TIMES (Feb. 19, 2016), <https://www.nytimes.com/2016/02/20/us/veterans-look-for-greater-emphasis-on-ptsd-in-bids-to-upgrade-discharges.html> [hereinafter Phillips].

115. See James Dao, *For a Veteran, Disability Payment is Long in Coming*, N.Y. TIMES (Jan. 25, 2012), <http://www.nytimes.com/2012/01/26/us/veteran-denied-disability-to-be-repaid-after-60-years.html> ("He called the retroactive award one of the largest he had ever seen.").

116. *DoD Releases Clarifying Guidance to Veterans Regarding Discharges and Military Records*, U.S. DEP'T OF DEF. (Aug. 28, 2017), <https://www.defense.gov/News/News-Releases/News-Release-View/Article/1292833/dod-releases-clarifying-guidance-to-veterans-regarding-discharges-and-military/>.

117. MEMORANDUM FROM THE U.S. DEP'T OF DEF. ON CLARIFYING GUIDANCE TO MIL. DISCHARGE REVIEW BOARDS AND BOARDS FOR CORRECTION OF MIL./NAVAL RECORDS CONSIDERING REQUESTS BY VETERANS FOR MODIFICATION OF THEIR DISCHARGE DUE TO MENTAL HEALTH CONDITIONS, SEXUAL ASSAULT, OR SEXUAL HARASSMENT (Aug. 25, 2017) (available at <https://www.defense.gov/Portals/1/Documents/pubs/Clarifying-Guidance-to-Military-Discharge-Review-Boards.pdf>).

118. *Id.*

#### 4. "BAD PAPER" DISCHARGES

An attorney's advocacy skills are especially necessary for veterans with "bad paper" discharges.<sup>119</sup> Another legal barrier elderly veterans face is qualifying for VA benefits due to their status upon discharge from military service.<sup>120</sup> When all service members leave the military, they receive a discharge.<sup>121</sup> Some service members are involuntarily separated from service through an administrative discharge.<sup>122</sup> Administrative discharges are provided to service members who violate a portion of the Uniform Code of Military Justice, but have not committed an offense severe enough to be court martialed and dishonorably discharged.<sup>123</sup> Examples of an administrative discharge include: serious misconduct, a pattern of misconduct, failure to adapt, and substandard performance.<sup>124</sup> But some veterans have also been involuntarily separated due to a failure to recognize a soldier's mental illness. This practice is pejoratively termed a "bad paper" discharge.<sup>125</sup>

"Bad paper" discharges punish veterans who exhibited symptoms of their mental illness that were mistaken for misconduct worthy of separation from the military.<sup>126</sup> "Bad paper" discharges have been used to discharge soldiers struggling with mental illness.<sup>127</sup> For example, a depressed service member who attempted to commit suicide while in service was discharged with a "Bad Conduct Discharge."<sup>128</sup> Although evidence suggests "bad paper" discharges have increased

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119. Adam Weinstein, *Vets with 'Bad Paper' Discharges Get Good News New DoD Guidance*, TASK & PURPOSE (Aug. 29, 2017), <https://taskandpurpose.com/vets-bad-paper-discharges-get-good-news-new-dod-guidance/> [hereinafter Weinstein].

120. *Benefits at Separation*, ST. SIDE LEGAL, [http://statesidelegal.org/benefits\\_separation](http://statesidelegal.org/benefits_separation) (last visited Sept. 12, 2018) (displaying charts of a veteran's eligibility for public benefits depending on their discharge status).

121. Ryan Guina, *Types of Military Discharges*, THE MIL. WALLET, <https://themilitarywallet.com/types-of-military-discharges/> (last visited Sept. 12, 2018).

122. *Id.*

123. The Mayer Group, *Administrative Separations*, MILITARYADVOCACY.COM, <http://www.militaryadvocacy.com/areas-of-practice/administrative-separations.html> (last visited Sept. 12, 2018).

124. *Id.*

125. *Id.*

126. See Rose Carmen Goldberg, "Make the VA Great Again": Medical-Legal Partnerships for Veterans, HARV. L. & POL'Y R. (Feb. 13, 2017), <http://harvardlpr.com/2017/02/13/make-the-va-great-again-medical-legal-partnerships-for-veterans/> [hereinafter Goldberg].

127. See Lindsay I. McCarl, "To Have No Yesterday": The Rise of Suicide Rates in the Military and Among Veterans, 46 CREIGHTON L. REV. 393, 427-28 (2013) (discussing the mental health issues veterans face).

128. *Id.*



drastically in the tours of Afghanistan and Iraq,<sup>129</sup> the practice of discharging soldiers with mental illness dates back to before the Vietnam War.<sup>130</sup>

Service members with a “bad paper” discharge are ineligible for certain VA and military benefits.<sup>131</sup> Even if veterans have a diagnosable condition under the VA disability rating system, they are still precluded from obtaining benefits if they received an administrative discharge from military service.<sup>132</sup> Some of those benefits include: service-connected disability compensation, VA pensions, GI bill education benefits, healthcare, home loans, insurance, vocational rehabilitation and employment, and burial services.<sup>133</sup> “Bad paper” discharges severely limit veterans exhibiting signs of mental health conditions from accessing benefits they rightfully deserve.

Moreover, “bad paper” discharges also hinder veterans seeking jobs because employers can see the discharge status when veterans apply for jobs.<sup>134</sup> Thus, both a veteran’s inability to secure disability benefits and the stigma behind the “bad paper” discharge can prevent an elderly veteran from achieving economic security. “Bad paper” discharges are a systemic failure of the VA which harms elderly veterans who exhibited PTSD symptoms while in service. Veterans seeking a review of their “bad paper” discharge require the skills of an attorney to assist them in addressing this injustice.

##### 5. DISCHARGE REVIEW BOARDS AND DISCHARGE UPGRADES

Veterans seeking benefits who have been involuntarily separated from service need an attorney’s assistance to petition discharge review

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129. See Phillips, *supra* note 114.

130. See Weinstein, *supra* note 119; see also *Mental-Health Related “Bad Paper Discharges,”* VIET. VETERANS OF AM., <https://vva.org/news/the-majority-of-veteran-suicides-are-50-and-older-we-still-dont-know-why/> (last visited Sept. 12, 2018).

131. Leo Shane, *Not All Veterans Will Be Eligible For New ID Cards,* MILITARYTIMES (Oct. 19, 2017), <http://www.militarytimes.com/veterans/2017/10/19/not-all-veterans-will-be-eligible-for-new-id-cards/>.

132. Marisa Peñaloza & Quil Lawrence, *Path to Reclaiming Identity Steep for Vets with ‘Bad Paper,’* NPR (Dec. 11, 2013 4:58 AM), <https://www.npr.org/2013/12/11/249962933/path-to-reclaiming-identity-steep-for-vets-with-bad-paper>.

133. *Veterans,* U.S. DEP’T OF VETERANS AFF., <https://www.benefits.va.gov/persona/veteran-vietnam.asp> (last visited Sept. 12, 2017).

134. Marisa Peñaloza & Quil Lawrence, *Other-Than-Honorable Discharge Burdens Like a Scarlet Letter,* NPR (Dec. 9, 2013 6:00 AM), <https://www.npr.org/2013/12/09/249342610/other-than-honorable-discharge-burdens-like-a-scarlet-letter>.

boards.<sup>135</sup> Just as a veteran would petition a review board to consider whether the VA appropriately decided his or her disability rating, a veteran may also appeal his or her discharge status to a military review board.<sup>136</sup> Veterans appeal their discharge status because it could determine whether they receive VA disability benefits.<sup>137</sup>

Navigating the discharge upgrade process without an attorney can be challenging. In order to be considered for a discharge review, a veteran must file the appeal within fifteen years of their separation from service.<sup>138</sup> The VA has recently expanded a veteran's opportunity to challenge "bad paper" discharges, but the correct form to complete depends on whether he or she was discharged more than fifteen years ago.<sup>139</sup> An attorney can help determine the appropriate paperwork to complete, which could shorten a veteran's time in finding out whether his or her discharge status has changed. Thus, an attorney would significantly help elderly veterans who did not exhibit symptoms of PTSD or other psychiatric conditions until fifteen years after their separation from service.

Elderly veterans face a myriad of legal issues stemming from their PTSD. These legal obstacles can be addressed by many civil legal aid organizations, or even hiring an attorney. But, an MLP would enable elderly veterans to receive both the appropriate psychiatric care and legal assistance.

### III. What is a Medical-Legal Partnership ("MLP")?

An MLP for elderly veterans provides the opportunity to address both the mental health needs and the subsequent legal issues resulting from their illness.<sup>140</sup> MLPs integrate civil legal aid organizations with

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135. *Veterans Benefits Administration*, U.S. DEP'T OF VETERANS AFF., <http://www.benefits.va.gov/persona/veteran-vietnam.asp> (last visited Sept. 12, 2018).

136. *See generally Veterans Discharge Upgrade Manual*, CONN. VETERANS LEGAL CTR. (2011), <https://ctveteranslegal.org/wp-content/uploads/2012/12/Connecticut-Veterans-Legal-Center-Discharge-Upgrade-Manual-November-2011.pdf>.

137. *Id.*

138. *Discharge Review Boards*, MILITARY.COM, <http://www.military.com/benefits/records-and-forms/discharge-review.html> (last visited Sept. 12, 2018).

139. Wyatt Olson, *Pentagon Review Could Help Veterans Shed 'Bad Paper' Discharges*, MILITARY.COM (Dec. 31, 2016), <https://www.military.com/daily-news/2016/12/31/pentagon-review-could-help-veterans-shed-bad-paper-discharges.html>.

140. Alexis Ferruccio, *Medical Legal Partnerships: Veterans' Health Beyond the Stethoscope*, U.S. DEP'T OF VETERANS AFF.: VANTAGE POINT (May 17, 2017, 9:53 AM),

healthcare teams to address the social determinants of health, such as access to safe housing and sufficient resources to meet basic needs.<sup>141</sup> MLPs are different from other referral programs because lawyers are present on-site in healthcare meetings and participate in clinical meetings.<sup>142</sup> Even if lawyers are not on-site, these partnerships are beneficial because a treating physician is likely to notice potential legal obstacles or issues that the patient is struggling with and pair the patient with appropriate direct legal services.<sup>143</sup> Patients benefit, regardless of whether attorneys represent them in legal proceedings, because an attorney's understanding of relevant policies, laws, and systems can provide solutions to health-related social and legal needs.<sup>144</sup>

Although MLPs have only been formally recognized since the early 2000s, pairing civil legal aid services with medical services has been a common practice over the last fifty years.<sup>145</sup> For example, at the height of the AIDS crisis, many hospitals and healthcare providers partnered with civil legal aid organizations to provide for their patients' end-of-life needs.<sup>146</sup> In 1993, the Boston Medical Center collaborated with a legal team to address landlords' sanitary code violations when patients kept returning to the hospital with aggravated asthma symptoms.<sup>147</sup>

MLPs have expanded across the United States over the last decade.<sup>148</sup> From 2001 to 2006, the nation went from having no formally recognized MLPs to having seventy-five formal partnerships between civil

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<https://www.blogs.va.gov/VAntage/38055/medical-legal-partnerships-veterans-health-beyond-stethoscope/> [hereinafter Ferruccio].

141. See Margaret Middleton et al., *Lessons Learned by an Interdisciplinary Research Team Evaluating Medical-Legal Partnership with the Department of Veterans Affairs*, 68 S.C. L. REV. 311, 313 (2016).

142. See Rishi Manchanda et al., *The Invisible Battlefield: Veterans Facing Health-Harming Legal Needs in Civilian Life*, NAT'L CTR. FOR MED. LEGAL PARTNERSHIP (June 2016), <http://medical-legalpartnership.org/wp-content/uploads/2016/06/The-Invisible-Battlefield.pdf> [hereinafter Manchanda].

143. *The Need*, *supra* note 7.

144. *Id.*

145. Joanna Theiss & Joel Tietelbaum, *Medical-Legal Partnerships: Treating Legal Needs to Improve Health*, 20 A.B.A. DIALOGUE (2017), [https://www.americanbar.org/groups/legal\\_services/publications/dialogue/volume/20/fall-2017/pro-bono-medical-legal.html](https://www.americanbar.org/groups/legal_services/publications/dialogue/volume/20/fall-2017/pro-bono-medical-legal.html) [hereinafter Theiss & Tietelbaum].

146. Ellen Lawton, *A History of the Medical Legal Partnership Movement*, NAT'L ASS'N OF CMTY HEALTH CTRS. (Fall/Winter 2014), at 12-13, <http://medical-legal-partnership.org/wp-content/uploads/2015/01/NACHC-Magazine-A-History-of-the-Medical-Legal-Partnership-Movement.pdf>.

147. *Id.*

148. *Id.*

legal aid organizations and healthcare providers.<sup>149</sup> In 2016, 75,000 patients in forty-one states received some form of legal assistance from civil legal aid attorneys who were part of an MLP.<sup>150</sup> Currently, there are over 300 MLPs serving disadvantaged populations in the nation.<sup>151</sup>

MLPs positively impact the communities they serve: 86% of clinicians reported improved health outcomes for patients served through an MLP.<sup>152</sup> Studies also indicate that people receiving legal assistance through an MLP are less likely to be admitted to hospitals as frequently as before.<sup>153</sup>

Additionally, MLPs have also developed to target specific groups of vulnerable populations.<sup>154</sup> For example, the Chicago Medical-Legal Partnership for Children provides legal assistance to vulnerable children by working with Chicago's leading children's hospitals and clinics.<sup>155</sup> Notably, California has two medical-legal partnerships dedicated solely to serving the elderly population.<sup>156</sup> Some partnerships have even been dedicated solely to serve veterans.<sup>157</sup> However, elderly veterans with PTSD are in need of their own MLP.

#### **IV. How an MLP Would Address Elderly Veterans' Mental Health and Legal Needs**

An MLP between mental healthcare providers and civil legal aid organizations is needed to directly address the unique health and legal problems of elderly veterans with mental illnesses. While MLPs have proven beneficial to many disadvantaged populations, there are few

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149. *Id.*

150. *Impact, supra* note 9.

151. Theiss & Tietelbaum, *supra* note 145.

152. *Impact, supra* note 9.

153. *Id.*

154. Tishra Beeson et al., *Making the Case for Medical-Legal Partnerships: A Review of the Evidence*, NAT'L CTR. FOR MED. LEGAL PARTNERSHIPS (Feb. 2013), <https://medical-legalpartnership.org/wp-content/uploads/2014/03/Medical-Legal-Partnership-Literary-Review-February-2013.pdf> [hereinafter Beeson].

155. *Legal Council for Health Justice – Chicago Medical-Legal Partnership for Children*, PUB. INT. L. INITIATIVE, [pili.org/agencies/chicago-medical-legal-partnership-for-children](http://pili.org/agencies/chicago-medical-legal-partnership-for-children) (last visited Sept. 12, 2018).

156. Katherine C. Pearson, *Spotlight: UC Hastings' and UC San Francisco's Medical-Legal Partnership for Senior Clinics*, L. PROFESSORS BLOG NETWORK (Aug. 17, 2016), [http://lawprofessors.typepad.com/elder\\_law/2016/08/spotlight-uc-hastings-and-uc-san-franciscos-medical-legal-partnership-for-seniors-clinic.html](http://lawprofessors.typepad.com/elder_law/2016/08/spotlight-uc-hastings-and-uc-san-franciscos-medical-legal-partnership-for-seniors-clinic.html).

157. Rhiannon Guzelia, *Three Cool Veteran Collaborations Happening in Maine*, NAT'L VETERANS INTERMEDIARY (Aug. 28, 2018), <https://www.nvi.org/resouces/2018/three-cool-veteran-collaborations-happening-in-Maine>.

that focus specifically on veterans.<sup>158</sup> In 2009, the Connecticut Veterans Legal Center formed the first MLP with the VA, providing legal services to address barriers that affect veteran recovery and access to stable housing, health care, and income.<sup>159</sup> Although the National Center for Medical-Legal Partnerships notes that there are over 300 MLPs across the nation, there are not enough MLPs to meet elderly veterans' needs.<sup>160</sup> The VA currently has seventeen MLPs with various healthcare organizations throughout the entire nation.<sup>161</sup>

Some scholars have suggested expanding MLPs with VA health centers throughout the nation.<sup>162</sup> But this is problematic for a few reasons. First, the VA is often an adversary to elderly veterans' interests.<sup>163</sup> Elderly veterans' legal issues include appealing rating decisions, psychiatric evaluations, or other errors made by the VA.<sup>164</sup> The VA often takes its own psychiatrists' positions rather than those of the veterans seeking disability benefits.<sup>165</sup> Moreover, about 70% of veterans do not use the VA for their own healthcare.<sup>166</sup>

Second, the VA lacks the resources to adequately address elderly veterans' legal issues through an MLP.<sup>167</sup> The VA does not have the necessary staffing to treat elderly veterans' mental health problems.<sup>168</sup>

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158. See Stacey-Rae Simcox, *Lightening the VA's Rucksack: A Proposal for Higher Education Medical-Legal Partnerships to Assist the VA in Efficiently and Accurately Granting Veterans Disability Compensation*, 25 CORNELL J. L. & PUB. POL'Y 141, 174 (2015) [hereinafter Simcox].

159. *How CVLC Works*, CONN. VETERANS LEGAL CTR., <https://ctveterans-legal.org/how-cvlc-works/> (last visited Sept. 12, 2018).

160. See *The Partnerships*, NAT'L CTR. FOR MED. LEGAL PARTNERSHIPS, <https://medical-legalpartnership.org/partnerships/> (last visited Sept. 12, 2018).

161. Ferruccio, *supra* note 140.

162. See generally Jack Tsai et al., *Medical-Legal Partnerships at Veterans Affairs Medical Centers Improve Housing and Psychosocial Outcomes for Vets*, 36 HEALTH AFF. 2195 (2017); Goldberg, *supra* note 126.

163. See Simcox, *supra* note 158, at 142.

164. See generally *id.* at 187.

165. See Byron Pitts, *Why the VA Frustrates Veterans*, CBS NEWS (Jan. 1, 2010), <https://www.cbsnews.com/news/why-the-va-frustrates-veterans/>, (illustrating situations that evidence the VA's bias).

166. Michael Friedman, *Older Veterans Also Have Mental Health Needs*, THE HUFFINGTON POST (Nov. 11, 2012), [https://www.huffingtonpost.com/michael-friedman-lmsw/veterans-mental-health\\_b\\_2037857.html](https://www.huffingtonpost.com/michael-friedman-lmsw/veterans-mental-health_b_2037857.html).

167. Manchanda, *supra* note 142.

168. See Richard A. Oppel, Jr. & Abby Goodnough, *Doctor Shortage Is Cited In Delays at V.A. Hospitals*, N.Y. TIMES (May 29, 2014), <https://www.nytimes.com/2014/05/30/us/doctor-shortages-cited-in-va-hospital-waits.html> [hereinafter *Delays at VA Hospital*]; see also David Wood, *VA Mental Health Care Delays, Staff Shortages, Plague Veterans*, HUFFINGTON POST (Apr. 6, 2014, 7:00 AM), <http://www>.

The increased demand for VA healthcare has outpaced the availability of doctors in many locations.<sup>169</sup> Some VA health centers have so few mental health professionals that patients are discharged early.<sup>170</sup> In 2014, the VA sought to fill over 1000 mental health professional positions in various VA medical centers.<sup>171</sup> One veteran employee stated that if she had not been working at the VA she would have waited five or six months to be seen.<sup>172</sup> A Government Accountability Office (“GAO”) report found that the appeals backlogs will only continue to increase over the next decade unless the VA hires more employees.<sup>173</sup> Expanding resources with the VA has shown to be impractical and these efforts are unlikely to further the interests of elderly veterans.

Unlike the VA, MLPs between private hospitals and civil legal aid organizations could supply adequate legal representation that is not adverse to their interest.<sup>174</sup> In addition to remedying elderly veterans’ legal issues through professionals with no ties or connections to the VA, MLPs would also ensure that elderly veterans receive higher quality care for their behavioral health conditions.<sup>175</sup>

Without an MLP in place, civil legal aid organizations may be unable to direct elderly veterans to the appropriate mental health resources. Because non-profits operate on federal, state, and local grants, they can only hire people based on the amount of funding received.<sup>176</sup> Unlike a large law firm that can devote the time and resources to each client’s various needs, many civil legal aid organizations must make difficult decisions regarding which clients they can or cannot represent.

In addition, MLPs enable veterans with PTSD to receive legal assistance.<sup>177</sup> Rush University Hospital in Chicago, Illinois provides mental health services specifically designed for veterans through the Road

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[huffingtonpost.com.mx/entry/va-mental-health-delays\\_n\\_5380739](http://huffingtonpost.com.mx/entry/va-mental-health-delays_n_5380739) [hereinafter Wood].

169. See *Delays at VA Hospital*, *supra* note 168.

170. Wood, *supra* note 168.

171. *Id.*

172. *Id.*

173. U.S. GOV’T ACCOUNTABILITY OFF., GAO-17-234, VA DISABILITY BENEFITS: ADDITIONAL PLANNING WOULD ENHANCE EFFORTS TO IMPROVE THE TIMELINESS OF APPEALS 1 (2017).

174. See Theis & Tietelbaum, *supra* note 145.

175. Cf. Beeson, *supra* note 154, at 7 (concluding that MLPs look promising for addressing social, legal, and health challenges).

176. See *Civil Legal Aid Funding*, NAT’L LEGAL AID & DEF. ASS’N, <http://www.nlada.org/tools-and-technical-assistance/civil-resources/civil-legal-aid-funding> (last visited Sept. 12, 2018).

177. Simcox, *supra* note 158, at 184.

Home Program.<sup>178</sup> Road Home is one of four hospitals part of the Wounded Warrior Projects' Wounded Warrior Care Network, which provides high quality medical care to veterans struggling with PTSD.<sup>179</sup> Road Home is run by a team of trauma psychologists, social workers, traumatic brain injury specialists, and child psychologists. Many of these care providers are also veterans.<sup>180</sup>

Road Home provides intensive outpatient programs for veterans struggling with mental health conditions after service.<sup>181</sup> The intensive outpatient program involves daily treatment for three weeks and includes weekend activities.<sup>182</sup> The program's primary purpose is to reduce the PTSD symptoms through individual and group psychotherapy, stress reduction training, physical fitness, and other individualized services.<sup>183</sup> Road Home also provides counseling services for veterans' family members.<sup>184</sup> Besides the hardships that PTSD inflicts on veterans, the psychiatric disorder's symptoms can also impact the family and friends of veterans.<sup>185</sup>

Intensive therapy services provide life-changing results for veterans with behavioral health conditions.<sup>186</sup> Keith F. Kopets, a U.S. Marine who served for twenty-one years, was diagnosed with PTSD and struggled with alcohol addiction, hypervigilance, and major depression.<sup>187</sup> After four months of treatment in a program similar to Road Home and

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178. *Welcome to the Road Home Program*, ROAD HOME PROGRAM: THE CTR. FOR VETERANS AND FAMILIES AT RUSH, <https://roadhomeprogram.org/> (last visited Sept. 12, 2018).

179. *Warrior Care Network*, WOUNDED WARRIOR PROJECT, <https://www.woundedwarriorproject.org/programs/warrior-care-network> (last visited Sept. 12, 2018).

180. *What Makes Road Home Unique?*, ROAD HOME PROGRAM: THE CTR. FOR VETERANS AND FAMILIES AT RUSH, <https://roadhomeprogram.org/veteran-mental-health-services/> (last visited Sept. 12, 2018).

181. *Intensive Outpatient Program*, ROAD HOME PROGRAM: THE CTR. FOR VETERANS AND FAMILIES AT RUSH, <https://roadhomeprogram.org/intensive-outpatient-program/> (last visited Sept. 12, 2018).

182. *Id.*

183. *Id.*

184. *Family Center*, ROAD HOME PROGRAM: THE CTR. FOR VETERANS & FAMILIES AT RUSH, <https://roadhomeprogram.org/family-center/> (last visited Sept. 12, 2018).

185. *See generally* Frame, *supra* note 2.

186. Keith F. Kopets, *PTSD Experiences*, *In Veterans and Civilians*, N.Y. TIMES (Feb. 1, 2016), <https://www.nytimes.com/2016/02/01/opinion/ptsd-experiences-in-veterans-and-civilians.html>.

187. *Id.*

recurring intensive psychotherapy, Kopets was able to reclaim his sobriety and rebuild his marriage.<sup>188</sup>

The Road Home Program has partnered with the Veterans Rights Project of the Legal Assistance Foundation (“LAF”), a civil legal aid organization in Chicago.<sup>189</sup> From 2015 to 2017, one of LAF’s Equal Justice Works (“EJW”) Fellows worked on-site at Road Home to help veterans apply for VA public benefits and a myriad of other legal issues.<sup>190</sup> While the EJW Fellow worked in cooperation with Road Home, this unique program operated like an MLP model to provide legal services to veterans with mental health conditions.<sup>191</sup>

Following a model crafted by both the EJW Fellow and mental health professionals, a clinician screens the client for any potential claims for disability benefits.<sup>192</sup> Based on this screening, and after identifying potential legal barriers, the clinician refers the patient to a civil legal aid attorney at LAF.<sup>193</sup> The attorney meets with veterans seeking service-connected compensation for their behavioral health conditions, additional compensation if they qualify, and helps them acquire Social Security benefits as well, among many other potential legal remedies a veteran may require.<sup>194</sup>

MLPs have already positively impacted elderly veterans’ lives. Dave Howard served in Vietnam and struggled with PTSD conditions during his service, received a “bad paper” discharge, was unable to adapt to civilian life, turned to drugs, and even served some jail time.<sup>195</sup> His discharge status alone would have prevented him from accessing many VA benefits. After connecting with an attorney and meeting with a psychiatrist at an MLP, Howard applied for disability benefits.<sup>196</sup> Less

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188. *Id.*

189. *About Us*, LAF, <https://www.lafchicago.org/about-us> (last visited Sept. 12, 2018).

190. *See Erin Sutton Is the AMA Health Law Fellow*, AM. MED. ASS’N, <https://www.ama-assn.org/about/erin-sutton-ama-health-law-fellow> (last visited Nov. 8, 2018) (“For the past 20 months, Erin has been a practicing attorney with the Legal Assistance Foundation of Metropolitan Chicago (LAF Chicago). There, she launched a medical-legal partnership between LAF Chicago and The Center for Veterans and Their Families at Rush University Medical Center (the Road Home Program).” [hereinafter *Erin Sutton*]).

191. *LAF’s Veterans Rights Project*, UNITEUS, <https://www.2.uniteus.com/groups/laf-veterans-rights-project> (last visited Sept. 12, 2018).

192. *Erin Sutton*, *supra* note 190.

193. *Id.*

194. *Id.*

195. Manchanda, *supra* note 142.

196. *Id.*



than two years after meeting with his attorney, Howard was awarded service-connected disability benefits of \$3000 per month and was awarded \$40,000 in retroactive benefits.<sup>197</sup>

Applying for VA disability benefits or appealing a military officer's decades-old decision is a daunting task for an elderly veteran to tackle alone. Attorneys working alongside mental health professionals can help an elderly veteran seeking VA benefits. Attorney assistance increases the likelihood of veterans qualifying for public benefits.<sup>198</sup> Additionally, attorneys can provide information of potential benefits.<sup>199</sup> Just as the Social Security Administration has unique requirements for disability eligibility,<sup>200</sup> the VA has its own unique method of determining whether a veteran suffers from a service-connected disability, and knowledgeable attorneys can help an applicant navigate this process.<sup>201</sup> Similarly, MLPs have enabled veterans to obtain benefits that they otherwise would not have obtained.<sup>202</sup>

Non-profits, such as EJW and Skadden fellowships, have provided funding for fellows to work at civil legal aid organizations, which have in turn developed or strengthened MLPs nationwide.<sup>203</sup> But these fellowships, while innovative and impactful to the communities served, are a short-term solution. Although EJW fellows can provide necessary legal services to elderly veterans through organizations like

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197. *Id.*

198. *Why Professional Advocacy is the Veteran's Best Option*, NAT'L ORG. OF VETERANS ADVOCATES, INC., <https://vetadvocates.org/veterans-help/why-professional-advocacy-is-the-veterans-best-option/> (last visited Sept. 12, 2018) (highlighting that veterans represented by attorneys during the appeals process have the lowest denial rate in front of the Board of Veteran's Appeals) [hereinafter *Why Professional Advocacy is the Veteran's Best Option*].

199. *Id.*

200. SOC. SECURITY ADMIN., *Benefits Planner: Disability*, <https://www.ssa.gov/planners/disability/dqualify.html> (last visited Sept. 12, 2018).

201. *See id.*; *see also Why Professional Advocacy is the Veteran's Best Option*, *supra* note 198.

202. 'Reporting for Duty' at the Veteran's Legal Clinic, LAF (May 26, 2017) <https://lafchicago.wordpress.com/2017/05/26/reporting-for-duty-at-the-veterans-legal-clinic/> (highlighting how attorneys have been able to assist veterans facing legal obstacles).

203. *See* Eliza Schafner, *Skadden Fellowship Supports Behavioral Health Partnership*, MENTAL HEALTH ADVOC. SERV. (Dec. 18, 2014), <http://mhas-la.org/skadden-fellowship-supports-behavioral-health-legal-partnership/>; *see also Innovative Medical-Legal Partnership Helps Hospital Patients Access Legal Assistance*, EQUAL JUST. WORKS, <http://www.equaljusticeworks.org/news/blog/fellowfriday-desai> (last visited Sept. 12, 2018).

LAF, these programs only guarantee two years of funding for fellows.<sup>204</sup> If that fellow leaves, or the legal non-profit does not have the funding to maintain an MLP model, then those beneficial legal services may be discontinued. Further, even if those fellows remain at the non-profit after their fellowship finished, they need to secure grants to continue the project originally funded through the outside organization.<sup>205</sup> While beneficial to the veterans for those two years, this limited window of time does not provide long-lasting help to elderly veterans in need of assistance. Thus, creating permanent MLPs that are dedicated specifically to serving elderly veterans is the long-term solution that elderly veterans with PTSD need.

## V. Recommendation

While the federal government has made impressive steps in recent years to address the risk of suicide, homelessness, and other psychological conditions experienced by veterans, not enough has been done to adequately address the unique legal and mental health problems of elderly veterans. MLPs specifically established to address the needs of elderly veterans are a necessary step toward providing for those who served this country.

Although beneficial programs like Road Home exist, there is still a significant need to increase the amount of MLPs that address the mental health needs of veterans across the nation.<sup>206</sup> While the VA has expanded MLPs in recent years, there are few MLPs for veterans outside the VA.<sup>207</sup> The Oakland Vet Center, a health clinic designed specifically for veterans as an alternative to the VA, is the only vet center in the nation with an MLP.<sup>208</sup> Elderly veterans in rural areas are at an even

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204. See *Host a Fellow*, EQUAL JUST. WORKS, <http://www.equaljusticeworks.org/post-grad/equal-justice-works-fellowships/host-a-fellowship> (last visited Sept. 12, 2018) (providing “[u]p to \$50,000 annually towards each Fellow’s salary during their two-year term . . . [the a]bility to pilot or expand a project with minimal financial risk, allowing you to serve new communities or serve your communities in new ways.”).

205. *Id.*

206. AM. PSYCHOLOGICAL ASS’N, *THE MENTAL HEALTH NEEDS OF VETERANS, SERV. MEMBERS AND THEIR FAMILIES* (2014), <http://www.apa.org/advocacy/military-veterans/mental-health-needs.pdf> (showing that there is an insufficient mental health care workforce to address the vast number of veterans struggling with behavioral health conditions).

207. See Ferruccio, *supra* note 140.

208. Rose Carmen Goldberg, *Honoring the Veterans Most in Need: Swords to Plowshares and Oakland Vet Center Creates First of Its Kind Medical-Legal Partnership*, A.B.A.

larger disadvantage. According to the VA Office of Rural Health, rural veterans are considerably less likely to access mental health services.<sup>209</sup> Some rural areas have no mental health specialists at all.<sup>210</sup>

To properly show our gratitude for veterans and their service, we should provide them the critical care they need. Elderly veterans struggling with behavioral health conditions have unique needs that can only be addressed through an MLP like the Road Home Program in Chicago. States, law schools, and hospitals should consider expanding intensive outpatient programs and MLPs to elderly veterans who might be struggling with symptoms of PTSD or other mental health conditions.<sup>211</sup>

Furthermore, hospitals, civil legal aid organizations, and mental health professionals should apply for federal block grants. While MLPs are beneficial to the populations they serve, many MLPs encounter financial difficulties.<sup>212</sup> Some hospitals and non-profits that would like to operate medical-legal partnerships lack the funding or financial ability to do so.<sup>213</sup> Civil legal aid organizations cannot meet the demands of elderly veterans on their own due to low funding from the Legal Services Corporation (“LSC”). It is estimated that at least 50% of people who are eligible to receive free legal services are turned away because of a legal non-profit’s insufficient resources.<sup>214</sup> Other studies have found that as much as 80% of civil legal needs of low-income people

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HEALTH ESOURCE, [https://www.americanbar.org/publications/aba\\_health\\_esource/2016-2017/july2017/medicalllegal.html](https://www.americanbar.org/publications/aba_health_esource/2016-2017/july2017/medicalllegal.html) (last visited Sept. 12, 2018).

209. See Reisman, *supra* note 19.

210. *Id.*

211. See generally Simcox, *supra* note 158.

212. See DAYNA BOWEN MATTHEW, THE LAW AS HEALER: HOW PAYING FOR MEDICAL-LEGAL PARTNERSHIPS SAVES LIVES AND MONEY 33 (2017), [https://www.brookings.edu/wp-content/uploads/2017/01/es\\_20170130\\_medicallegal.pdf](https://www.brookings.edu/wp-content/uploads/2017/01/es_20170130_medicallegal.pdf) (“That is because funding remains a substantial challenge to developing, sustaining, and growing MLPs.”) [hereinafter MATTHEW].

213. See *id.* (“Direct support of lawyers and paralegals generally comes from sources outside of the health center, with the lion’s share contributed from federal, state or locally funded civil legal aid agencies or law school clinics. Therefore, funding sources do not account for or align with populations’ need for those legal services that could address health-related problems.”).

214. *Introduction: The Current Crisis in Legal Services*, LEGAL SERVICES CORP., <https://www.lsc.gov/introduction-current-crisis-legal-services> (last visited Sept. 12, 2018).

are not met.<sup>215</sup> Thus, federal grants could help foster and develop more MLPs around the nation.<sup>216</sup>

Some MLPs across the country already receive federal funding.<sup>217</sup> Federal grants have enabled hospitals and civil legal aid organizations to expand their services to underserved populations.<sup>218</sup> In one instance, a health center in Hawaii was able to expand its MLP services to children after receiving a \$20,000 grant.<sup>219</sup> A federal grant enabled a hospital in New Hampshire to reopen its medical legal partnership that had originally closed due to a lack of funding.<sup>220</sup> More grants dedicated to MLPs would enable hospitals to provide these vital services for elderly veterans in need and expand elderly veterans' ability to address their legal needs with free attorneys.

The federal government has explicitly listed MLPs as a way states can use block grants.<sup>221</sup> In the 2018–2019 application, SAMHSA explicitly states that some mental health agencies “have established medical-legal partnerships to assist persons with mental and substance use disorders in meeting their housing, employment, and education needs.”<sup>222</sup> SAMHSA also provides grants to organizations serving veterans' various needs such as trauma, suicide prevention, and mental health treatment.<sup>223</sup> Hospitals, non-profits, and mental health agencies could apply for these grants to specifically address the needs of elderly veterans through an MLP.

Besides applying for federal grants, states and local governments have also made necessary policy moves to help expand MLPs.<sup>224</sup> Some states have used a combination of private and public funding, such as

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215. *Id.*

216. MATTHEW, *supra* note 212, at 35 (“Seventy-seven MLPs receive funding under section 330 of the Public Health Service Act; health centers should expand their use of this source of federal grant funding to include all health centers hosting MLPs nationwide.”).

217. *Id.*

218. *Id.*

219. *Id.* at 36

220. *Id.*

221. SAMHSA *Grant Applications List MLP as Way to Help Address Substance Use Disorder*, NAT'L CTR. FOR MED. LEGAL PARTNERSHIP (Oct. 25, 2017), <http://medical-legalpartnership.org/samhsa-grant/>.

222. *Id.*

223. *Critical Issues Facing Veterans and Military Families*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMIN., <https://www.samhsa.gov/veterans-military-families/critical-issues> (last visited Sept. 12, 2018).

224. MATTHEW *supra* note 212, at 43–44.

social impact bonds (“SIB”), to help MLPs operate.<sup>225</sup> Under this method, a state agency and private investors set a measurable outcome for a social program that provides services to a specific population to achieve within a period of time.<sup>226</sup> Private investors pay the upfront costs for the program and are repaid by the agency over time if a third party determines that the services actually achieved the outcomes agreed upon by state agencies and private investors.<sup>227</sup> SIBs have proven successful in other states.<sup>228</sup> States have used SIBs to reduce rates of premature births for Medicaid beneficiaries,<sup>229</sup> child asthma hospitalizations and emergency room visits,<sup>230</sup> and teenage pregnancy rates.<sup>231</sup> States should use SIBs to provide grants to civil legal aid organizations and healthcare providers to develop MLPs for elderly veterans with PTSD.

Lawmakers, lawyers, non-profits, and healthcare providers can work together to create MLPs for elderly veterans. The federal government and states have tools at their disposal to create more MLPs dedicated to elderly veterans.<sup>232</sup> Hospitals and healthcare providers can also use federal grants to develop an MLP with legal non-profits. States, legal non-profits, and law schools that have used such tools have enabled healthcare providers to provide the critical benefits of an MLP to many disadvantaged populations.<sup>233</sup> These same policies should be utilized to develop and expand MLPs for elderly veterans.

## VI. Conclusion

MLPs have been life-changing for many vulnerable and disadvantaged populations. Elderly veterans with PTSD and similar mental health conditions should also have access to an excellent MLP designed to address their unique medical and legal needs. Programs like Road Home should seek to expand their federal funding and state funding. Private healthcare providers and legal clinics, instead of the VA, should continue to expand these MLPs for elderly veterans suffering from

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225. *Id.* at 43.

226. *Id.*

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. *Id.*

232. *Id.*

233. *Id.* at 5–6.

PTSD or other various mental health conditions. Non-profits specialized in disability and elder law, or that focus on veterans' needs, should join forces with local healthcare providers to create more MLPs for elderly veterans.

It is commonplace to hear Americans say "thank you" to veterans for their service to our country.<sup>234</sup> But those words are empty for the veterans who are unable to receive what they have been promised due to the circumstances of their mental health conditions.<sup>235</sup> These brave men and women in uniform have risked their lives and have been subjected to trauma in ways that civilians will never understand.

Actions speak louder than words. Therefore, to truly thank our veterans, lawmakers need to act by addressing this public health crisis. MLPs will enable veterans to live better and fuller lives and truly show appreciation for the sacrifices elderly veterans made for our nation. Unfortunately, throughout our nation's history, policymakers have failed to live up to their promise of providing economic security to veterans. This failure has especially impacted veterans with PTSD, in particular those returning from the Vietnam War. Over the last few decades, our nation has recognized the seriousness of mental illnesses experienced by veterans and has begun to provide solutions to the economic, social, and legal barriers that plague veterans. In particular, lawmakers have addressed barriers facing service members returning from the recent wars in Iraq and Afghanistan. But policymakers should not forget about the elderly veterans who also fought on behalf of our nation decades ago because elderly veterans with PTSD will never be able to forget. Accordingly, lawmakers, legal non-profits, and healthcare providers should take steps to truly thank elderly veterans through action by creating more MLPs to serve this community.

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234. See 25 *Veterans and Service Members Share How People Should Thank Them for Their Service*, BUS. INSIDER (Nov. 11, 2015, 10:41 AM), <http://www.businessinsider.com/veterans-share-how-to-thank-them-for-their-service-2015-11>; see also James Doubek, *Don't Say 'Thank You for Your Service' This Monday*, NPR (May 28, 2017, 5:03 PM), <http://www.npr.org/2017/05/28/530504781/words-youll-hear-memorial-day-dos-and-donts> (highlighting how common it is for Americans to say "thank you" when they meet a veteran); see also *Thank You for Your Service* (2017), INT'L MOVIE DATABASE, <http://www.imdb.com/title/tt2776878/> (last visited Sept. 12, 2018).

235. Max Fisher, *Why Some Veterans Hate It When You Say 'Thank You,'* THE ATLANTIC (Dec. 11, 2000), <https://www.theatlantic.com/politics/archive/2010/12/why-some-veterans-hate-it-when-you-say-thank-you/339407/> (highlighting that it is painful for certain veterans to be thanked because of the pain they experienced or their fellow soldiers faced during combat).