Predatory Practices and VA Claims Representation

Department of Veterans Affairs
Office of General Counsel

VA General Counsel, Jim Byrne
Veterans Service Organization (VSO) Representatives: A VSO is an organization recognized by VA to assist veterans with their VA benefit claims. A VSO Representative is a person who the organization has recommended for accreditation, and certified as being of good character and knowledgeable regarding VA benefits.

Attorneys: An individual who is licensed to practice law in at least one State and thereby presumed to have good character and fitness to represent veterans.

Claims agents: An individual who is not licensed to practice law, but has been found by VA to have good character and has demonstrated knowledge of veterans benefits through a written exam.

A searchable list of VA-accredited individuals and VA-recognized organizations is available at: https://www.va.gov/ogc/apps/accreditation/index.asp.
The Four Powers: Accredit, Monitor, Investigate, & Remove

The major components of VA OGC’s Accreditation Program are:

1. approving initial accreditation applications,
2. monitoring accredited individuals,
3. investigating complaints, and
4. removing accreditation, when necessary.
Our Limited Authority & Enforcement Challenges

What We Can Do:

 ✓ Impose disciplinary sanctions against a VA-accredited practitioner.
 ✓ In certain cases, reduce an attorney or agent’s fee for representation if it is not reasonable.
 ✓ Refer the matters to other State and Federal enforcement authorities.

What We Can’t Do:

 ✓ Modify or change decisions on VA benefit claims.
 ✓ Take money or property from the VA-accredited practitioner to return to the claimant.
 ✓ Sue a VA-accredited practitioner because of his or her careless handling of a claim.
 ✓ Perform the work that the VA-accredited practitioner failed to do.
 ✓ Impose criminal penalties.
 ✓ Investigate matters that do not involve VA-accredited practitioners.
Successful State/Federal Collaborations

- Maryland
- Michigan
- Washington
- California
- Arizona,

- Most recently: Iowa, early Feb. 2018

And VA continues to work with many other States to better protect our Veterans.
Common Abuses

Major Predatory Practices Related to Representation:

- **Financial Planners** who promise to qualify ineligible Veterans by repositioning assets with financial products not always in the Veteran’s best interest.

- **Home Care Entities** that file VA claims while fronting home healthcare costs, and then charge the claimant when the VA claim is not approved.

- **Pre-Filing Consultation** practices in which advisors attempt to avoid the law against charging Veterans a fee to initiate or file a claim. Advisors avoid this rule by charging a fee on the front end for estate planning or providing “general information about Federal benefits,” and then file the benefit application free-of-charge as required by Federal law or instructing the claimants to file it on their own.

- **Post-Filing Contract Management** practices involve individuals or organizations that file the benefit claim free-of-charge, but then charge a contract management fee on the back end to oversee communications with service providers and VA.
Partnering with VA

Partner with VA to protect Veterans from predatory practices, by:

- Enforcing state laws, regarding consumer protection, elder abuse, predatory practices, and the unauthorized practice of law, in order to help protect Veterans from scams;
- Informing our office of any ongoing investigations that relate to representation for VA benefits;
- Using VA as a resource in your prosecutions;
- Widely publicizing prosecutions as a deterrent to other potential predators; and
- Educate us on State laws and best practices.
“Where should I go for more info?”

http://www.va.gov/ogc/accreditation.asp

“Who should I contact at VA OGC with questions?”

Margaret Talbot, VA paralegal specialist

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