

**STATEMENT OF
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TO THE
SUBCOMMITTEE ON
DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ON
THE ROLE OF NATIONAL, STATE, AND COUNTY VETERAN SERVICE
OFFICERS IN CLAIMS DEVELOPMENT**

July 19, 2006

Chairman Miller and Members of the Subcommittee:

Thank you for this opportunity to present the role of the Nevada Office of Veteran Services (NOVS) in veteran claim development. Veterans' advocacy, in its most simple form doesn't vary between Florida, New Hampshire, North Carolina, or Nevada. At the end of the day, every advocate whether a representative of a Veterans' Service Organization, County Veteran Service Officer, or service officer for a state agency such as NOVS desires to help every veteran receive all individual benefits and opportunities earned by honorable military service to this country.

In its most basic form, a veterans' advocate is someone who cares about veterans and supports their causes. This broad definition of a veterans' advocate would include everyone from a World War II veteran's grandchild, to a radio talk show host, to a member of Congress. With respect to the claims process through the Department of Veterans Affairs (VA), the veterans' advocate takes a greater role and responsibility. It is the advocate's obligation to present the veteran and his/her claim in the most succinct, accurate and complete manner so that each VA ratings officer has a complete package on which to base a ratings decision.

Traditionally, the veterans' advocate is required to zealously assert the veteran's position within the ethical limits. Only when asked to commit fraud or cross an ethical boundary

does the good veterans' service officer stop ardently pursuing the case. For it is the good veterans' advocate who understands this obligation to never commit fraud or deliberately mislead the adjudicator by knowingly presenting false statements about material fact.

Veterans' advocacy through the claims process has five distinct steps. First, the service officer must work directly with the veteran or family to identify all the possible benefits the claimant may be entitled. This often involves hours of interviewing and analysis of medical and military records to ascertain the status of the veteran's health or financial situation. Next, the service officer must determine if additional records, tests or materials are necessary to establish the facts or conditions presented by the veteran. Then, the service officer must take great care to present the veteran in a concise, but complete package that not only identifies all the benefits for which the veteran is entitled. This package should be sufficient to persuade the ratings specialist to grant the claim. Once the decision has been rendered, it is incumbent upon the advocate to explain the results to the veteran and determine if additional actions are necessary. It is only once the veteran and advocate have exhausted all avenues of review that the case can be set aside for the final step. Often overlooked, the final step is a periodic evaluation with the veteran to determine if medical or financial conditions warrant the claim to be reopened.

The US Court of Appeals for Veterans Claims has described the duty to assist a claimant develop evidence as the "cornerstone of the veterans' claim process." However, due to budgetary, staffing, or administrative pressure, this cannot always be accomplished to a satisfactory level. I have never met an employee of the VA who does not sincerely care for the well-being of veterans or their family members, but I have met many employees who are overworked and pressured to complete tremendous amounts of work and in that haste fail to notice a simple piece of evidence or an easy resolution that would benefit both the VA and the veteran. It is the role of the veterans' service officer to help push the facts and relevant evidence forward to ease the burden of the VA rating specialist.

When reviewing the process of claim development for veterans, perhaps no information is more important than that presented in the VA's Office of Inspector General (OIG)

report entitled *Review of State Variances in VA Disability Compensation Payments*. This report presented eight issues that resulted in different veteran compensation throughout the nation. Like the VA, we cannot change the demographics of Nevada's veterans. We cannot directly influence the training and workload of the VA staff, but we can serve the veterans through representation in claims submission.

Although Nevada had fewer claims represented by veterans' service organizations and our office than the national average, those veterans who submitted claims with our representation received twice as much disability compensation as those who submitted them without our assistance. Moreover, through representation, we can help identify additional claims the veteran may not realize; therefore, granting a higher compensation amount.

Our biggest challenge is to serve the approximate 300,000 veterans of Nevada with only six service officers. Even if you look to the veterans' service organizations and their accredited service officers, there are still more than 10,000 veterans in Nevada for each qualified service officer. It is not uncommon for a veteran to have to wait four to six weeks to meet with a service officer. If you couple this with the nine month wait for a decision at the regional office, the veteran lucky enough to walk into our office today may not receive a decision on the claim for a year. This may not seem to be a long time to the 21-year old returning from Afghanistan, but it is an eternity to the Korean veteran dying of service-connected medical condition.

Couple that lack of staffing with the challenges of the rural spread of most of the western states, and you find significant shortcomings in the representation process. The Census Bureau determined during the 2000 census a higher percentage of veterans are found in rural and non-metropolitan counties than live in urban locales. Even though Nevada is the most urbanized state in the nation, our statistics show a below average number of claims and therefore awards in our rural counties. This is primarily due to a lack of representation and service officer support in these counties and the costs of maintaining a

county service office is prohibitive. So in these instances, Nevada and many other western states look to the state for assistance.

In addition to cost sharing, staff development and state funding of veterans' advocacy programs, service by NOVS or similar state agencies throughout the nation has several advantages for the veteran. For example:

- Our agency holds accreditation with 14 organizations including The American Legion, National Association of County Veteran Service Officers, and Military Order of the Purple Heart. This allows our service officers to receive the most varied amount of training by several organizations in order to maintain expertise in the ever-changing world of claims adjudication.
- Veterans and families of veterans do not have to pay for representation by our agency or join an organization to receive our services. Through state funding, we are able to pay our service officers well and provide them with the necessary technology, training, and support necessary to adequately service the veteran.
- We have offices co-located with the VA regional offices facilitating the sharing of information, ideas, and constructive feedback that not only benefits the veteran, but also promotes an increased efficiency of the decision rating process.
- Since we usually have more than one service officer, they can work together to develop a claim. If one service officer has more experience in appeals, she may take a larger role during that stage while the other uses his expertise in Agent Orange claims. Together they can guide each other on the significantly important details that will facilitate a quick and accurate decision.
- Since the NOVS is involved with the practice of claims development and veteran advocacy every day, we have developed considerable experience through the knowledge base of career employees who serve as veterans' advocates.

The role of the NOVS doesn't start with the veteran walking through our door. It begins long before in our attempts to educate the public and veterans on the services we offer and the benefits they have earned. Although the veteran may not realize how military

service ultimately affected their health, talking about wounds and injuries has never been something people hide. For example, when one veteran receives compensation for Agent Orange exposure and the resultant conditions caused by it, every other veteran he runs across is quickly informed of conditions that may be caused by exposure or service and urged to file the appropriate claim.

In contrast, financial status or well-being is not often discussed outside a family. This coupled with an overwhelming pride in not taking advantage of programs such as welfare often brings about the relative obscurity of the VA pension benefits. In late 2005, Knight-Ridder published an article entitled "2 million veterans, widows miss out on VA pensions" based on a Stanford University study of low income veterans in Reno, Nevada. In short, an estimated 2 million veterans or widows are missing out on as much as \$22 billion each year in VA pensions. The primary reason is a lack of public awareness of the program. While the estimated population of veterans and widows eligible for the benefit has remained the same, benefits have decreased at a dramatic rate.

Once a veteran or veterans' family enters our office, like every other advocate, it is our responsibility to determine eligibility for compensation, pension, or other benefits through the VA or State of Nevada. Like all our counterparts throughout the nation, we must develop the case, review the pertinent information and prepare a claim for the veteran to submit. However, at this juncture, we differ from our counterparts at the county level in that we are located at the regional office and approve and submit all of the veteran's applications for benefits. Located within the same building, we are often able to facilitate the compilation of additional information when it is necessary, thereby limiting the longer wait times that would be associated if we needed to send it back to a local office. In addition, since we are accredited with so many organizations, we receive a complimentary copy of the notice of decision for our records so that we can be proactive in reviewing the decision and determining a course of action before the veteran has received the same letter.

Unfortunately, with these spoils comes some added burden. If a veteran submits a claim for compensation and lists the veteran service organization of which he/she is a member as the limited power-of-attorney, we are obligated to serve that veteran once that notice of decision has been issued. Through this, we inherit many claims we did not initially develop and did not submit to our standards, but must somehow at this late date provide the necessary information and data to reverse the original decision. This is often more time consuming than the establishment and development of a case from the beginning. I estimate I lose one of my six service officers entirely to the appeal process.

Unless removed from our responsibility by the claimant, NOVS will represent the veteran all the way through the Board of Veteran Appeals (BVA). The procedure, process, and work necessary to have success at the BVA level requires skilled service officers with tremendous experience and a high level of knowledge of not only the specific case, but issues that can be contended. If we are unsuccessful at this level, we will help the veteran find competent legal counsel at the US Court of Appeals for Veterans Claims. Although we may not be directly involved at this stage, we still are deeply interested in the resolution and outcome for the veteran.

In conclusion, if I were to query the room and ask if anyone knew Jack Prelutsky, I am almost certain no one would recognize the name. However, ask the same question about the name Dr. Suess and you would not only find recognition by almost everyone in the room, but most of us could list our favorite book or tell you they don't like green eggs and ham. But Jack Prelutsky was responsible for taking the notes, sketches, and thoughts of Theodor "Dr. Suess" Geisel and compiling them into a highly acclaimed book that few knew was not written by Dr. Suess. If Jack Prelutsky had written *Hooray for Diffendooper Day!* and put his name on the cover, he would have been ridiculed as a fraud and sold very few books. But the same compilation of words and thoughts became a best seller when associated with Dr. Suess even though he passed away 7 years before.

The service officer is the ghost writer of a veteran's claim before the VA. It is this service officer's job to take the veteran's service records, medical history, personal

recollections and current medical conditions and weave a story that characterizes the veteran for the VA's rating specialist. The veterans' service officer must take all these sources and develop a package that will become a best seller, although in this case, the satisfaction will come not from critical acclaim by the **New York Times**, but rather compensation or pension for the veteran or family by the VA. In most cases, the rating specialist may never even talk or meet the veteran, but if the service officer is successful, that veteran is as well known to the rating officer as the "Grinch who stole Christmas."

Again, thank you Mr. Chairman for giving the Nevada Office of Veteran Services an opportunity to present our perspective on such an important issue. This hearing is very timely and addresses an ongoing need to service the veterans throughout America. We look forward to working with the Subcommittee to see that no veteran goes without qualified representation.