

## **FREQUENTLY ASKED QUESTIONS:**

### **THE VETERANS CONSORTIUM PRO BONO PROGRAM (VCPBP)**

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## **1. What is the Veterans Consortium Pro Bono Program?**

The Veterans Consortium Pro Bono Program provides veterans and other VA claimants who have been denied by the VA's Board of Veterans' Appeals with free attorney representation in their appeal before the U.S. Court of Appeals for Veterans Claims. The Program recruits and trains attorneys and evaluates court appeals for merit. The trained volunteer attorneys are then matched with a client whose appeal has merit.

## **2. What Organizations are Part of the Veterans Consortium Pro Bono Program?**

The Veterans Consortium consists of four veterans service organizations: The American Legion, Disabled American Veterans, the National Veterans Legal Services Program, and Paralyzed Veterans of America. The Executive Board of the Consortium is composed of representatives of the four veterans service organizations along with members of the private bar.

## **3. How is the Pro Bono Program Funded?**

The Pro Bono Program is funded by a Congressional appropriation and a grant administered by the Legal Services Corporation, plus donated time and money from the four veterans service organizations.

## **4. How does the Pro Bono Program work?**

The program's staff of veterans law specialists screen the appeals of individuals who file pro se at the Court. Appeals that appear to have merit are referred to trained volunteer attorneys (if the appellant meets income eligibility guidelines).

While screening is taking place, volunteer attorneys are trained in veterans law by attending a day-long training seminar. (In some cases, training may be provided via DVD if an attorney is unable to attend in person and if the Program does not have sufficient in-person trained attorneys.)

After being trained and accepting a screened case, the volunteer receives a screening memorandum that addresses the facts and legal issues in the appeal. Each participating attorney also receives the latest version of the *Veterans Benefit Manual* (usually 2 bound volumes and a CD-ROM), a comprehensive guide to litigating veterans' benefits claims. The volunteer is also assigned a mentor who specializes in this area of the law.

**5. What services do mentors provide?**

Program mentors practice veterans law and usually work for one of the four service organizations that sponsor the VCPBP. Mentors are available to discuss litigation strategy, provide sample pleadings, review draft pleadings, and conduct a moot court if oral argument is granted. Mentors are invaluable in providing general advice and consultation concerning your case.

**6. What type of case will I get?**

The cases run the spectrum, from a Korean War veteran who now needs to supplement retirement income or obtain free VA medical care, to a Vietnam veteran struggling with Posttraumatic Stress Disorder, to an OEF/OIF veteran with traumatic brain injury. Some cases involve Gulf War veterans with undiagnosed disorders. There are cases that are not connected to combat as well as some cases that involve horrible complications from combat injuries. Some cases involve latent disorders and some concern survivors seeking survivor benefits.

**7. Why is obtaining a remand valuable?**

In cases assigned to volunteer attorneys, the administrative record may be deficient. A volunteer attorney can overcome that problem even though practicing before an appellate court that does not allow submission of additional evidence. Veterans/clients will benefit by obtaining a remand because they may add additional evidence to the record on remand while preserving an early effective date for entitlement to benefits.

**8. What are the unique benefits of volunteering?**

First, the program provides opportunities to obtain appellate litigation experience while performing pro bono service. Many cases involve brief writing and some present the opportunity for oral argument.

Second, since some cases may present issues of first impression, representation may provide an opportunity to make new law.

Third, the program provides significant training and support to ensure that your time is used effectively: cases are prescreened for merit in advance of assignment and volunteer attorneys are quickly oriented to the case with a memorandum describing the facts and legal issues.

**9. Is malpractice insurance provided to participating attorneys?**

Yes. Malpractice insurance is provided through a policy with the National Legal Aid and Defender Association Insurance Program (secondary payer if the attorney has primary coverage).

## **10. Do participating attorneys receive CLE?**

For each training seminar that is conducted (typically 5 training seminars per year) the Program seeks and receives CLE credit with at least one state bar (usually the state where the training occurs). If you seek CLE credit in a state for which the training seminar is currently CLE-approved, you need only submit to the state bar the form that is provided to you by the Program.

However, if you seek CLE credit in a state where our training seminar does not have current CLE approval, you must initiate the CLE process individually with the CLE administrator of the state. No state has ever denied the Program's training seminar CLE approval. In the past, we have received CLE approval in Virginia, Colorado, Washington state, Oregon, Utah, New York, Texas, California, Illinois, Indiana, Florida, South Carolina, Pennsylvania, West Virginia, Georgia, Michigan, Delaware, Minnesota, and other states. Typically the Program is approved for between 6.5 – 8.0 CLE credits, depending on the state.

## **11. How much time does a typical VCPBP Case take?**

Private attorneys with no veterans law experience have demonstrated their ability to capably represent appellants before the US Court of Appeals for Veterans Claims. Most cases can be completed in about 60 hours.

## **12. Does the Program's training meet VA Accreditation requirements?**

VA rules concerning accreditation to represent VA claimants before the VA are at 38 C.F.R. § 14.629. VA does not certify CLE courses itself, but it does attempt to monitor the courses that agents and attorneys take to ensure that they cover the required topics.

In order to be accredited by the VA, you must file an application with the VA's General Counsel and meet certain requirements that are not discussed in this FAQ. You can find all necessary information about VA accreditation, including the application for accreditation, at <http://www.va.gov/ogc/accreditation.asp>. Briefly, during the first year after initial VA accreditation, three hours of CLE (approved by any state) must be completed and must cover certain topics in veterans law. The Program's day-long training is approved for CLE credit by at least one state and covers the required topics in veterans law. (However, because under VA rules the initial CLE requirement must be completed during the one-year period after accreditation, a volunteer attorney must apply for and receive VA accreditation prior to attending our training in order to have our training fulfill the initial CLE requirement.) In order to maintain VA accreditation, every two years thereafter an additional three hours of CLE (approved by any state) covering any veterans benefits law and procedures topic(s) is required. Our day-long training appears to meet the requirements to maintain VA accreditation.

### **13. Why there is such a large pro se problem at the Court of Appeals for Veterans Claims?**

Veterans benefits have been provided since the American Revolution. In 1862 Congress imposed a five-dollar limit, later increased to ten dollars, on what an attorney could charge a veteran to represent the veteran on a claim for veterans benefits. This fee limitation statute was not intended at the time to bar attorneys from veterans law. Ten dollars was actually a reasonable fee for an attorney following the Civil War because the value of the dollar was much higher back then and because the veterans benefits process was a simple one.

With the passage of time and inflation, the ten-dollar fee limit became an economic bar to the practice of veterans benefits law. A system developed in which few attorneys practiced and non-attorneys from the veterans service organizations provided free representation to over 90 percent of the VA claimants.

The 1988 Veterans Judicial Review Act created a new Article I court for veterans claims and amended the attorney fee limitation to a limited degree. Subsequently, effective June 2007, attorneys were able to charge a reasonable fee after a VA regional office denied a claim and an initial appeal document (called the Notice of Disagreement) was filed.

These are some of the reasons that many veterans remain unrepresented at the time they file their appeal with the U.S. Court of Appeals for Veterans Claims.

### **14. What is the history of the Program?**

In 1991, the U.S. Court of Appeals for Veterans Claims, which had a large pro se caseload, asked Congress to reallocate part of the Court's own budget into efforts to secure representation for needy claimants. As a result of subsequent legislation, a consortium of four veterans service organizations received a grant to operate a pro bono program.

### **15. Who can I contact for more information about the Program?**

If you are an attorney interested in volunteering for the Program, contact the Program's Director of Outreach & Education, Meg Bartley, at 202-621-5670 or write her at [meg\\_bartley@nvlsp.org](mailto:meg_bartley@nvlsp.org). You may also contact Jolene Duncan-Gould, the assistant to the Director, at 202-621-5685 or write her at [jolene\\_duncangould@nvlsp.org](mailto:jolene_duncangould@nvlsp.org).

If you are a veteran or family member interested in receiving assistance from the Program, please contact David Myers, Deputy Director of Case Evaluation, at 202-628-8164 or write him at [DavidM@vetsprobono.org](mailto:DavidM@vetsprobono.org). Please keep in mind that only VA claimants who have recently (within the last 120 days) been denied by the Board of Veterans' Appeals usually qualify for assistance.