ABA VCAN Checklist for Volunteer Attorneys

Attorneys accepting a pro bono case on behalf of a veteran client through the American Bar Association Veterans Claims Assistance Network (VCAN) to help the veteran prepare and complete his or her benefits claim with the U.S. Department of Veterans Affairs (VA) may find this form to be a useful checklist tool while volunteering with VCAN.

This list includes some, but not all, steps of representing clients for initial VA benefits claims. These are basic tips. Attorneys are encouraged to conduct their own legal research and use their own legal resources to best represent their clients.

I. Development of Attorney-Client Relationship

☐ After agreeing to assist a veteran client, promptly contact the veteran and perform an intake.

☐ Provide to the veteran a VA Form 21-22a. Actual representation between the claimant and pro bono attorney commences upon the date of full execution of a VA Form 21-22a (Appointment of Individual as Claimant’s Representative) that is filed with the appropriate VA Regional Office (RO).

☐ Explain and make clear to the veteran:

1. The nature and duration of your pro bono representation (which we recommend specifying in a retainer agreement or engagement letter with the veteran);
2. You are providing limited representation that you will terminate upon the VA’s initial claim decision, unless both you and the veteran agree to extend representation;
3. By law, you cannot charge a fee for services provided prior to the filing of a Notice of Disagreement (NOD) on the claim after the VA’s initial decision on the claim; and
4. You may hold the veteran responsible for any and all costs related to acquisition of documents and records necessary to substantiate his or her claim (e.g., medical record fees), though you may exercise discretion in deciding whether to collect such fees based on the veteran’s individual financial circumstances.

☐ Within 14 days after agreeing to represent a veteran through VCAN, or as soon as possible thereafter, return fully filled and executed copies of the VA Form 21-22a to the VA through one of the following:

Mail:
DEPARTMENT OF VETERANS AFFAIRS
CLAIMS INTAKE CENTER
PO BOX 4444
JANESVILLE, WI 53547-4444

1 All VA and VCAN forms noted in this form can be downloaded through the VCAN website, www.ABAVCAN.org.
II. Veteran Representation and Claim Development

☐ Comply with all attorney rules of professional conduct in your jurisdiction, as well as the following:

(1) Use your veteran client’s information for representation purposes only, and
(2) Do not disclose your veteran client’s information other than as authorized by law and/or by the veteran.

☐ Submit to the VA an Intent to File (VA Form 21-0966). This alerts the VA of the client’s intent to file for a selected general benefit within a one-year deadline.

☐ Consult with the veteran on his or her benefits claim and evaluate the veteran’s potential claim and existing or needed evidence to support the claim.

☐ Gather as much necessary evidence as possible from both the veteran and third parties to submit in support of the claim, which includes (when possible and/or appropriate) the following:

(1) Disability Benefit Questionnaires (DBQs);
(2) Federal and state records (e.g., any receipt of Social Security benefits for a claimed condition, any military records and/or military personnel records (DD 214), any relevant medical records held by a federal agency, such as the Social Security Administration);
(3) Non-Federal records (e.g., relevant private medical treatment records from private medical providers, statements in support of claim from persons who have knowledge of claimed medical condition and how/when it occurred); and
(4) Any additional information to substantiate the claim.

☐ Modify or withdraw the claim as necessary.

☐ Prepare and submit evidence to support the fully developed claim.

III. Claim Submission

☐ Submit to the VA any and all information and evidence in support of the veteran’s claim before the deadline, which is one year from the submission of the Intent to File (VA Form 21-0966).

☐ When ready to submit all of the veteran’s claim materials, send materials to the VA through one of the following:
Mail:
DEPARTMENT OF VETERANS AFFAIRS
CLAIMS INTAKE CENTER
PO BOX 4444
JANESVILLE, WI 53547-4444

Fax:
(844) 531-7818 (inside the U.S.)
(248) 524-4260 (outside the U.S.)

Online:
VA’s Stakeholder Enterprise Portal (SEP)
https://www.sep.va.gov
(As an accredited representative, you have access to VA’s Stakeholder Enterprise Portal (SEP), which allows you to submit claims electronically and manage the process more efficiently. Please visit https://www.sep.va.gov to learn more about the functionality of SEP and ways to register.)

Once uploaded, the claim materials will become a part of the veteran’s VA file for purposes of rating and adjudication.

IV. **Representation After the VA’s Rating on the Claim**

- Once a decision has been issued by VA on the veteran’s claim, the VA will notify both the veteran and you. At this point, discuss with the veteran the VA decision and whether your representation will continue or end.

- If your representation will end, send a written letter indicating the revocation of representation to the VA.

- If you continue representation with the veteran’s claim after the VA’s initial decision on the claim, understand that representation will be outside of the VCAN program, but may continue under one of the following conditions, according to your agreement with the veteran:
  
  (1) Representation on a pro bono basis, or
  (2) Representation by charging the veteran a fee for your services provided after the filing of a Notice of Disagreement (NOD) based on a fee agreement that meets the requirements of 38 C.F.R § 14.636

- Upon completion of the representation, submit case closing information to VCAN using the VCAN Case Closure Letter.