

Advocating for Veterans: The Basics on VA Benefits, Discharge Upgrades and Veteran Cultural Competency 2016

San Francisco, Live Webcast and www.pli.edu,* November 14, 2016
Live Webcast, November 14, 2016

IMPORTANT! If you get accredited by the VA before you attend this training, the first three hours will satisfy the VA's CLE requirement.

1. Attorneys and other advocates must be accredited to practice before the VA. To obtain accreditation you must complete this form:
<http://www.va.gov/vaforms/va/pdf/VA21a.pdf>.
2. Accreditation by the VA may take several weeks, so do not delay filing your application. You can speed up the process by emailing the form to OGCAccreditationMailbox@va.gov.
3. Within 12 months after accreditation you are required to complete three hours of qualifying CLE. The morning session of this program satisfies that requirement, but only if you have already received your accreditation from the VA. If you have not received it, you should still watch this program, but keep in mind that you will need to complete three additional hours of CLE within 12 months after receiving your accreditation.
4. Attorneys and other advocates who become accredited will be listed on a national VA list, and are entitled to represent veterans in their claims for benefits, on a pro bono basis, and for attorney's fees on appeals, where they are available.

Why You Should Attend

There are over 21 million veterans in the U.S.; many of them are not aware of the benefits to which they are entitled. Medical and financial assistance are available to those who have served in the military, but many veterans most in need are not receiving VA benefits. Navigating the VA claims system and applying for discharge upgrades before the Department of Defense are difficult and complex processes. Attorneys play an essential role in removing barriers to VA benefits, such as:

- Lack of evidence to “service-connect” their injuries or disabilities.
- Lack of current medical or mental health evidence documenting severity of symptoms for accurate disability ratings.
- VA eligibility determinations for those given less than fully honorable discharges for behaviors that were related to minor disciplinary infractions or symptoms of post traumatic stress or other service-related disabilities.

What You Will Learn

Nearly 45% of veterans returning from Iraq and Afghanistan seek compensation from the Department of Veterans Affairs (VA) for service related injuries; 30% of these veterans who file for VA benefits include claims for Post-Traumatic Stress. Many of those who should receive benefits will be denied. All of them will wait months or years for the VA to issue decisions on their claims. Learn how to navigate the VA claims process and to become an effective advocate for veterans in need. This all-day program will provide an overview of VA disability law and military discharge review law. You will gain an understanding of different types of military

discharges, why they are important, and how you can help veterans with less than Honorable discharges.

- The three one-hour morning sessions provide the basics you need to represent veterans before the VA, including veteran cultural competency. The morning session fulfills the VA's requirement for qualifying CLE within the first 12 months of your VA accreditation.
- The 1:45 session, *Special Issues in VA Benefits Representation* will explore more complex legal issues that arise in VA benefits law, including the interactions between VA benefits and other public benefits, such as SSI and SSDI.
- The 2:45 to 5:00 sessions will provide attorneys with the tools that they need to assist veterans in upgrading their discharge status and removing stigmatizing information from their discharge documents.

Who Should Attend

Attorneys seeking meaningful *pro bono* opportunities and any advocate who wants to help change the life of a veteran with a disability. Attorneys seeking to meet VA's CLE requirements for new and continuing VA accreditation should also attend. Finally, attorneys who hope to expand their practice areas to include veterans' cases where fees are available should register for one or more of the sessions.

Program Schedule

Morning Session: 9:00 a.m. – 12:30 p.m.

9:00

Program Overview and Introductions

Michael Blecker, Theresa Mesa, Kate Richardson

9:15

Introduction to Benefits for Veterans with Disabilities

To introduce the topic, we will define the term "veteran" and provide an overview of the various benefits that veterans can receive from the VA. We will also discuss the VA attorney accreditation process for those interested in practicing in this field, and emphasize the need for *pro bono* attorneys to assist veterans. We will also discuss basic veteran eligibility, particularly for those veterans who were discharged with less than honorable discharges, making them ineligible for VA benefits.

- Veteran Cultural Competency
- Benefits Available from the Department of Veterans Affairs
- Veteran Eligibility
- VA Character of Discharge Determinations

Bradford Adams, Kate Richardson

10:15

Department of Veteran Affairs Service Connected Disability Compensation

In this hour, we will discuss service-connected disability compensation, the three requirements to win a claim for this benefit, and the VA's disability percentage rating system. We will also discuss some of the signature wounds of the more recent conflicts as well as how to build a disability claim based on a sexual assault.

- Service Connected Disability Compensation
- Evaluating and Developing the Claim
- Post-Traumatic Stress and Military Sexual Trauma

Nicole M. Perez, Maureen Sedor

11:15

Networking Break

11:30

Department of Veteran Affairs Claims Procedure

In this hour, we will cover VA claims procedure, including how to pursue a claim for the initial application through to an appeal to the Board of Veterans' Appeals.

- VA Procedure Overview
- Hearings and Appeals
- Summary/Practice Tips
- Attorney's Fees

Devin Bissman, Nicole M. Perez

12:30

Lunch Break

Afternoon Session: 1:45 p.m. – 5:00 p.m.

1:45

Special Issues in VA Benefits Representation

In this hour, we will cover more complex legal issues common to VA benefits practice, such as overlapping mental health diagnoses, Traumatic Brain Injury, and the various interactions between VA benefits and other public benefits, such as SSI and SSDI.

- Overlapping Mental Health Diagnoses
- Maximizing Mental Health Ratings
- Traumatic Brain Injury
- Applying for VA Non-Service Connected Pension / Interaction between VA & other Public Benefits

Bradford Adams, Nicole M. Perez

2:45

Military Discharge Upgrade and Review I

A less than fully Honorable discharge has many consequences: it disqualifies the veteran from many VA benefits; it can impact a veteran's employment opportunities; and it may cause feelings of shame, inadequacy, and anger. We will explain how you can help a veteran upgrade his or her discharge by applying to the Discharge Review Boards and Boards for Correction of Military Records.

- The Uniform Code of Military Justice (UCMJ) and Character of Military Service
- Post-Military Service Problems for Those with Less Than Fully Honorable Discharges
- Military Discharge Review Boards and Boards for Correction of Military/Naval Records
- Reasons for Upgrade: Equity or Propriety; Correcting Errors or Injustices; Clemency

Becca von Behren

3:45

Networking Break

4:00

Military Discharge Upgrade and Review II

Discharge review work is document-heavy, and this session covers everything you need to know about obtaining and evaluating evidence. Many veterans are discharged from the military for reasons that are unjust or inaccurate, and assistance is needed to remove stigmatizing information from their discharge documents.

- Obtaining and Evaluating Military Records and other Evidence; Developing the Case
- Changing the Reason for Discharge
- Wrongful Personality Disorder Discharges vs. Disability Discharges
- General Practice Pointers

Becca von Behren

5:00

Adjourn

Faculty

Co-Chairs:

Theresa Mesa

Program Developer
Office of Legal Services, The State Bar of California
San Francisco

Kate Richardson

Legal Director
Swords to Plowshares
San Francisco

Michael Blecker

Executive Director
Swords to Plowshares
San Francisco

Bradford Adams

Staff Attorney & Manager of Direct Legal Services
Swords to Plowshares
San Francisco

Devin Bissman

Staff Attorney
Swords to Plowshares
San Francisco

Nicole M. Perez

Directing Attorney
Veterans Justice Center
Legal Aid Foundation of Los Angeles
Los Angeles

Maureen Siedor

Staff Attorney & Pro Bono Coordinator
Swords to Plowshares
San Francisco

Becca von Behren

Staff Attorney
Homeless Action Center
Berkeley