

# CHAPTER 1

## STUDY PLAN

# ROLE OF AN ADVOCATE

## OBJECTIVE

To understand one's role as a veteran's advocate.

## REFERENCE

- Veterans' Benefits Manual, §§ 1.1.2, 17.5.1

## THE ROLE OF AN ADVOCATE

Veterans Service Representatives, Veterans Claims Representatives, and Veterans Service Officers are advocates for veterans. Their role is to provide California's veterans with competent, high-quality representation that results in receipt of all benefits veterans have earned.

## INTERVIEWING VETERANS

Well-trained advocates begin by interviewing veterans with empathy, compassion and cultural sensitivity. Many times, veterans feel vulnerable or ashamed in talking about injuries that they incurred in the military. Additionally, conditions such as post-traumatic stress disorder resulting from combat or military sexual trauma, and traumatic brain injury can be very difficult and painful for veterans to discuss. In order to give veterans opportunities to disclose painful information, advocates should employ active

**<sup>1</sup>ad-vo-cate** *noun* \ 'ad-və-kət, -  
,kāt\

1. one that pleads the cause of another; *specifically*: one that pleads the cause of another before a tribunal or judicial court
2. one that defends or maintains a cause or proposal
3. one that supports or promotes the interests of another

**<sup>2</sup>ad-vo-cate** *verb* \ 'ad-və-, kāt\

to support or argue for (a cause, policy, etc.)

*Source: Merriam Webster's on-line dictionary*

listening and demonstrate respect for each veteran's unique circumstances. Getting each veteran's full story is critical to the claim, and successful advocates are able to take the time needed to allow veterans to tell their stories in their own ways, even under the time constraints of a heavy workload.

## **REQUESTING RECORDS**

After listening to the veteran's story and asking questions, advocates should let the veteran know what benefits he or she may be eligible for. The VSR then determines what evidence is necessary to support the claim and seeks to obtain that evidence or assist the veteran in doing so. Veterans should be active participants in this process if they are able; however, disability may prevent some veterans from providing much more assistance than signing release forms. In such cases, advocates must submit the requests for records and follow up on them to be sure the records are obtained.

## **REVIEWING RECORDS**

In the case of service-connected disability claims, the best practice is to review service medical/treatment records (SMRs or STRs). The STRs will reveal what injuries were actually documented in service and in some cases, may reveal other important information, such as other injuries that occurred that the veteran forgot to mention. Another benefit of reviewing STRs is that the advocate can let the veteran know when a claim has no possibility of success and advise against submitting the claim. Also, carefully reviewed records may reveal additional evidence that can be highlighted and pointed out in the application.

If a veteran has previously applied for or received benefits, VA has created a claims folder for the veteran. In the past couple of years, VA has converted those physical folders into electronic claims folders (eFolder). Advocates should review the contents of the eFolder—which contains STRs and copies of all prior benefits applications and VA correspondence—in order to properly develop the claim.

## DEVELOPING SUPPORTING STATEMENTS

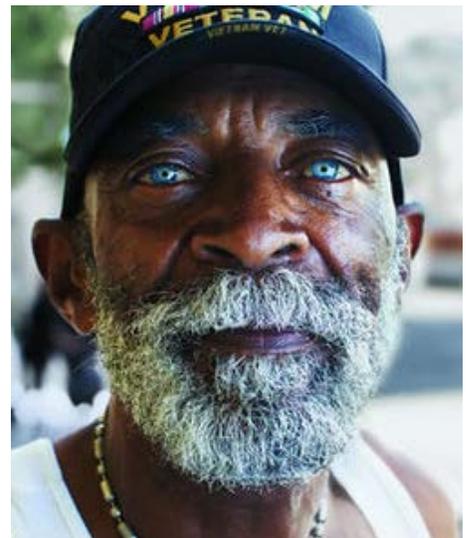
Personal statements from the veteran or the veteran's family and friends are frequently important evidence. The advocate should advise the veteran what should be included and not included in their letters. For veterans with disabilities who are not capable of writing a coherent and focused letter independently, the advocate can interview the veteran and write down the veteran's answers, working them up into a statement using the veteran's own words.

## KEEPING THE VETERAN INFORMED

After filing the claim, the advocate should keep the veteran apprised of the status of the case. Upon receipt of the decision, the decision should be fully explained to the veteran, and advice given regarding the best course of action. If the claim is to be pursued further, the advocate should identify what additional evidence is required and seek to acquire it or assist the veteran to acquire it.

## THE ROLE OF THE VETERAN

Veterans are active participants in the process of applying for VA benefits. The extent of their participation will vary, however, depending on their individual abilities, limitations, and/or disabilities. A necessary part of advocacy is being able to accurately determine how much a veteran can do on her/his own, and how much advocates must do to assist with a claim. Some veterans, due to health conditions, are unable to fully participate in the claims process and may need extra assistance.



## A COLLABORATION BETWEEN ADVOCATES AND VETERANS

When an advocate develops evidence, he or she is not doing the work **for** veterans, he or she is working **with** veterans—the veteran does some of the work, and the advocate does some of the work. Veterans cannot be expected to be legal experts just to receive the full scope of benefits they have earned through service.

As advocates, you are there to support and promote the veteran's cause by providing experienced advice and gathering, preparing, and submitting evidence in support of the claim. In this way, you can make a profound difference in the lives of California veterans.

## INTRODUCTION TO ADVOCACY SKILLS

### VETERANS' BENEFITS MANUAL, § 17.5.1, *THE ADVOCATE-CLAIMANT RELATIONSHIP*

"The relationship between the claimant and the representative is a special one. A claimant's representative is first and foremost an advocate for the claimant, a professional whose loyalty lies with the claimant and who speaks for and supports the claimant's claim for benefits. This special relationship creates for the claimant's representative an obligation to be a good advocate. Good advocacy means developing the case by taking the time to identify the facts that need to be proved, to obtain needed evidence, and to argue before the decision maker on behalf of the claimant. Thus, good advocacy implies action. An advocate who exemplifies this quality will go a long way toward creating a good claimant-representative relationship."

The relationship between the VSR and the veteran client starts with the first interview. Through the course of the client interview, the veteran learns that the VSR is engaged and compassionate, and in the best case scenario begins to let go of any negative preconceptions or stereotypes she or he might have about the VSR, and starts to trust her or him. To build a good working relationship, the advocate must possess good interviewing techniques, which include active listening skills. Creating a trusting relationship allows the VSR to obtain all of the necessary information for pursuing a claim successfully.

Once information is gathered from the interview, it may be time to **fill out forms**. The VSR is likely to fill out VA Form 21-22, *Appointment of Veterans Service Organization as Claimant's Representative*, during the first meeting. The first meeting is also a good time to complete any **records request** forms that the VSR feels may yield relevant evidence to support the veteran's claim. These requests for records will likely include the Standard Form 180 and/or VA Form 10-5345, *Request for and Authorization to Release Medical Records or Health Information* (VA Medical Records Request), among others.



In some cases, the VSR may be able to submit a **Fully Developed Claim** during the first meeting. More likely, the VSR will submit an Informal Claim/Notice of Intent to File a Claim for the veteran, or start but not complete an eBenefits application. Filling out forms carefully and completely is of the utmost importance and VSRs should be familiar with all the VA claims forms. A Fully Developed Claim submitted with incomplete or missing forms will be rejected and sent to the back of the line for standard processing resulting in months of delays. In order to ensure all forms are correctly completed, the VSR should go over the



form with the veteran step-by-step and ask for the necessary information. One time through is not enough; the VSR should go over the form two or three times to ensure that all information is correctly entered and that the form is signed and dated.

During the first interview, the VSR should **identify sources of evidence** such as: VA and private medical records, lay evidence such as letters from friends and family, and the veteran's own statement, photographs, diary entries, and other relevant items. Medical records must be requested as needed. Once the **records** are received, they are **reviewed** for positive evidence that supports the veteran's claim; these records should be submitted with the claim application as evidence. To participate in the

Fully Developed Claim Program, it is crucial to make sure that all the records that are pertinent to the claim are obtained at the outset, so they can all be filed together.

The VSR should provide guidance to the veteran on what information letters from family and friends should contain. Frequently, these letters are most helpful if they describe the veteran before the injury or disability at issue occurred and again afterwards, to document the changes that occurred as a result of the in-service incident. If the **veteran or a friend or family member** seems overwhelmed, is uncomfortable with writing, or has mental health or cognitive disabilities that make completing these letters difficult, the VSR can offer to work with the veteran on writing the **letter** together (this may include writing a sample letter or detailed outline that the friend or family member can then complete and sign). **Once all the evidence is gathered, including medical records, lay evidence & claim forms, claim can be submitted to the VA as a Fully Developed Claim.**

Over the next seven chapters, we will discuss and demonstrate each of these skills in detail so that the VSR can take his or her advocacy skills to the next level.