

§ 14.632

38 CFR Ch. I (7-1-14 Edition)

for appointment of alternative representation, and returning any documents provided by VA in the course of the representation to the agency of original jurisdiction or pursuant to the claimant's instructions, to the organization or individual substituted as the representative, agent, or attorney of record. Upon withdrawing from representation, all property of the claimant must be returned to the claimant. If the claimant is unavailable, all documents provided by VA for purposes of representation must be returned to the VA organization in possession of the claims file. Any other property of the claimant must be maintained by the organization or individual according to applicable law.

(d) Questions concerning the validity or effect of powers of attorney shall be referred to the Regional Counsel of jurisdiction for initial determination. This determination may be appealed to the General Counsel.

(e)(1) Only one organization, representative, agent, or attorney will be recognized at one time in the prosecution of a particular claim. Except as provided in §14.629(c) and paragraph (f)(2) of this section, all transactions concerning the claim will be conducted exclusively with the recognized organization, representative, agent, or attorney of record until notice of a change, if any, is received by the appropriate office of VA.

(2) An organization named in a power of attorney executed in accordance with paragraph (a) of this section may employ an attorney to represent a claimant in a particular claim. Unless the attorney is an accredited representative of the organization, the written consent of the claimant shall be required.

(f)(1) A power of attorney may be revoked at any time, and an agent or attorney may be discharged at any time. Unless a claimant specifically indicates otherwise, the receipt of a new power of attorney executed by the claimant and the organization or individual providing representation shall constitute a revocation of an existing power of attorney.

(2) If an agent or attorney limits the scope of his or her representation regarding a particular claim by so indi-

cating on VA Form 21-22a, or a claimant authorizes a person to provide representation in a particular claim under §14.630, such specific authority shall constitute a revocation of an existing general power of attorney filed under paragraph (a) of this section only as it pertains to, and during the pendency of, that particular claim. Following the final determination of such claim, the general power of attorney shall remain in effect as to any new or reopened claim.

(Authority: 38 U.S.C. 501(a), 5902, 5903, 5904)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0321)

[43 FR 46535-46537, Oct. 10, 1978, as amended at 53 FR 52421, Dec. 28, 1988; 68 FR 8546, Feb. 24, 2003; 73 FR 29873, May 22, 2008]

§ 14.632 Standards of conduct for persons providing representation before the Department

(a)(1) All persons acting on behalf of a claimant shall faithfully execute their duties as individuals providing representation on a particular claim under §14.630, representatives, agents, or attorneys.

(2) All individuals providing representation are required to be truthful in their dealings with claimants and VA.

(b) An individual providing representation on a particular claim under §14.630, representative, agent, or attorney shall:

(1) Provide claimants with competent representation before VA. Competent representation requires the knowledge, skill, thoroughness, and preparation necessary for the representation. This includes understanding the issues of fact and law relevant to the claim as well as the applicable provisions of title 38, United States Code, and title 38, Code of Federal Regulations;

(2) Act with reasonable diligence and promptness in representing claimants. This includes responding promptly to VA requests for information or assisting a claimant in responding promptly to VA requests for information.

(c) An individual providing representation on a particular claim under §14.630, representative, agent, or attorney shall not:

(1) Violate the standards of conduct as described in this section;

(2) Circumvent a rule of conduct through the actions of another;

(3) Engage in conduct involving fraud, deceit, misrepresentation, or dishonesty;

(4) Violate any of the provisions of title 38, United States Code, or title 38, Code of Federal Regulations;

(5) Enter into an agreement for, charge, solicit, or receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation;

(6) Solicit, receive, or enter into agreements for gifts related to representation provided before an agency of original jurisdiction has issued a decision on a claim or claims and a Notice of Disagreement has been filed with respect to that decision;

(7) Delay, without good cause, the processing of a claim at any stage of the administrative process;

(8) Mislead, threaten, coerce, or deceive a claimant regarding benefits or other rights under programs administered by VA;

(9) Engage in, or counsel or advise a claimant to engage in acts or behavior prejudicial to the fair and orderly conduct of administrative proceedings before VA;

(10) Disclose, without the claimant's authorization, any information provided by VA for purposes of representation; or

(11) Engage in any other unlawful or unethical conduct.

(d) In addition to complying with standards of conduct for practice before VA in paragraphs (a) through (c) of this section, an attorney shall not, in providing representation to a claimant before VA, engage in behavior or activities prohibited by the rules of professional conduct of any jurisdiction in which the attorney is licensed to practice law.

(Authority: 38 U.S.C. 501(a), 5902, 5904)

[73 FR 29873, May 22, 2008]

§ 14.633 Termination of accreditation or authority to provide representation under § 14.630.

(a) Accreditation or authority to provide representation on a particular claim under §14.630 may be suspended or canceled at the request of an organi-

zation, individual providing representation under §14.630, representative, agent, or attorney. When an organization requests suspension or cancellation of the accreditation of a representative due to misconduct or lack of competence on the part of the representative or because the representative resigned to avoid suspension or cancellation of accreditation for misconduct or lack of competence, the organization shall inform VA of the reason for the request for suspension or cancellation and the facts and circumstances surrounding any incident that led to the request.

(b) Accreditation shall be canceled at such time as a determination is made by the General Counsel that any requirement of §14.629 is no longer met by a representative, agent, or attorney.

(c) Accreditation or authority to provide representation on a particular claim shall be canceled when the General Counsel finds, by clear and convincing evidence, one or more of the following:

(1) Violation of or refusal to comply with the laws administered by VA or with the regulations governing practice before VA including the standards of conduct in §14.632;

(2) Knowingly presenting or prosecuting a fraudulent claim against the United States, or knowingly providing false information to the United States;

(3) Demanding or accepting unlawful compensation for preparing, presenting, prosecuting, or advising or consulting, concerning a claim;

(4) Knowingly presenting to VA a frivolous claim, issue, or argument. A claim, issue, or argument is frivolous if the individual providing representation under §14.630, representative, agent, or attorney is unable to make a good faith argument on the merits of the position taken or to support the position taken by a good faith argument for an extension, modification, or reversal of existing law;

(5) Suspension or disbarment by any court, bar, or Federal or State agency to which such individual providing representation under §14.630, representative, agent, or attorney was previously admitted to practice, or disqualification from participating in or appearing before any court, bar, or Federal or