



NATIONAL ORGANIZATION OF VETERANS' ADVOCATES, INC.
(NOVA)

1775 Eye Street, NW, Suite 1150
Washington, DC 20006
1-877-4VETADVOCATES
www.vetadvocates.org

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Nancy J. Kessinger
Veterans Benefits Administration (20M33)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

November 10, 2020

RE: OMB Control No. 2900-0881
Agency Information Collection
VA Form 10210, Lay/Witness Statement

Dear Ms. Kessinger:

The National Organization of Veterans' Advocates, Inc. (NOVA) is commenting in response to the Department of Veterans Affairs (VA) September 11, 2020, Federal Register notice regarding *VA Form 10210, Lay/Witness Statement*. 85 FR 56290.

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents nearly 650 attorneys and agents assisting tens of thousands of our nation's military veterans, their widows, and their families seeking to obtain their earned benefits from VA, and works to develop and encourage high standards of service and representation for all persons seeking VA benefits. NOVA members represent veterans before all levels of VA's disability claims process, as well as before the United States Court of Appeals for Veterans Claims and United Court of Appeals for the Federal Circuit.

In its notice, VA invites comments on how the collection of information obtained through this form is necessary for, among other things, proper performance of VBA functions, as well as how to minimize respondent burden. 85 FR 56291.

Lay statements are important to many veterans' claims and appeals because those statements often fill critical evidentiary gaps. For example, veterans submit lay

statements from buddies who witnessed in-service events, from family members who experience the veteran's symptoms in real time, and from employers who observe the veteran's work performance. VA recognizes the importance of such evidence in its abstract describing this form: "Without this information, VA may not be able to efficiently and successfully process claims that may require additional statements associated with a claim for benefits or services." 85 FR 56291. VA's proposed form, however, is overly burdensome, potentially misleading, and should be edited and clarified as detailed below.

VA Should Remove The Blocks For Narrative Text

VA has edited numerous forms to add blocks for writing or typing in letters and numbers, in an effort to read names, social security numbers, and addresses more quickly through the use of artificial intelligence. Use of blocks for this type of information seems logical for VA to be able to quickly associate claims forms to the proper electronic file for a claimant.

Use of these blocks for long passages of narrative text, as intended in *VA Form 21-10210* however, is not veteran friendly. Requiring lay individuals to write or type a personal statement letter by letter in a series of boxes is overly burdensome.

Furthermore, these blocks could mislead a respondent into believing he or she is limited to the two pages of block letters. Lay witness statements are typically personal and sometimes quite lengthy. Any attempt by VA to limit these statements is contrary to the nonadversarial nature of the VA claims process and could have a negative impact on the veteran's claim or appeal. **The blocks should be removed from this form and the form should clearly state that respondents can attach multiple pages if needed. In addition, VA should provide a line for the witness's physical address.**

VA Should Indicate This Form Is Not Required For Lay Statements

Historically, veterans and lay witnesses have used other forms, such as *VA Form 21-4138, Statement in Support of Claim*, to provide statements. (The current version of *VA Form 21-4138* only uses blocks in section I for the claimant's identifying information.) In addition, veterans and lay witnesses often use no form to submit a statement. As proposed *VA Form 21-10210* is not a standardized form required to initiate a claim or appeal, **VA should clearly indicate on *VA Form 21-10210* that it is not required and that lay witness statements will be accepted in other formats.**

Thank you for your consideration of NOVA's comments. Should you require additional information, please do not hesitate to contact me at 202.587.5708 or drauber@vetadvocates.org.

Sincerely,

/s/

Diane Boyd Rauber
Executive Director