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

February 3, 2023

RE: OMB Control No. 2900-0321

**Agency Information Collection Activity:
Appointment of Individual as Claimant's
Representative – VA Form 21-22a**

Dear Ms. Kessinger:

The National Organization of Veterans' Advocates, Inc., (NOVA) provides these comments in response to the notice of agency information collection activity regarding an updated *VA Form 21-22a*. 87 FR 74474 (December 5, 2022). We have attached a copy of the form VA provided to NOVA in response to our request and our comments refer to the attached.

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents nearly 800 attorneys, agents, and qualified members assisting tens of thousands of our nation's military veterans, their widows, and their families seeking to obtain their earned VA benefits. NOVA 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 and file the VA Form 21-22a every time they agree to represent a veteran or family member in a VA disability claim or appeal.

NOVA submits the following list of comments for consideration:

1. **Page 1, Instructions:** Given the proliferation of unaccredited claims consultants, VA should emphasize that claimants only use accredited representatives for assistance with their claims and appeals.

2. **Page 1, Instructions:** For improved clarity, we suggest the following language to replace the second and third sentence:

Only use this form if you intend to appoint a VA Accredited Attorney or VA Accredited Claims Agent to act on your behalf in the preparation, presentation, and prosecution of your claims for VA benefits. If you prefer to have a Veterans Service Organization assist you with your claims instead of a VA Accredited Attorney or VA Accredited Claims Agent, you must complete VA Form 21-22, *Appointment of Veterans Service Organization as Claimant's Representative*, instead.

3. **Page 1, Instructions, Line 5:** The word “form” should be “forms.”
4. **Page 1, Section I, Box 6, Branch of Service:** “Marine Corps” should be added as a Branch of Service.
5. **Page 1, Section III, Note:** VA should return the explanation of 38 U.S.C. § 7332 as contained on the current VA Form 21-22a.
6. **Page 1, Section III, Box 15B, Individual Is:** Since a separate form, VA Form 21-22, exists for use by representatives of Veterans Service Organizations and VA Form 21-22a is intended for use by accredited attorneys, agents, or individuals providing representation under 38 C.F.R. § 14.630, the option to select a “Service Organization Representative” in the proposed form should be removed to avoid confusion.
7. **Page 2, Section IV, Box 20, Authorization for Representative's Access to Records Protected by Section 7332, Title 38, U.S.C., Lines 4 and 5:** The phrase “and the firm/organization named in Item 21” should state “and the firm/organization named in Item 22.”
8. **Page 2, Section IV, Box 21, Authorization for Disclosure to Affiliated Personnel:**
 - a. There should be a period after the number 21.
 - b. Although we believe the claimant is the individual who is intended to sign here, it should be clearly stated to avoid confusion.
9. **Page 2, Section IV, Box 22, Limitation of Consent:**
 - a. The heading “Limitation of Consent” and some of the content in this box is confusing. By checking (or not checking) the bubble in Box 20, the claimant has already consented or prohibited access to protected section 7332 records. In spite of the opening sentence of Box 22 and as clarified in its respective bubbles, Box 22 addresses disclosure of **all records**, not just protected records (depending on

how Box 20 was completed), to (1) associate attorneys, claims agents, and support staff affiliated with the accredited representative who signed the form and “has been approved by VA for affiliated access” (bubble 1), and (2) the “individuals named as administrative employees” of the accredited representative (bubble 2). Therefore, this box provides for potential expanded access, not a limitation of consent to protected records already covered by Box 20. Therefore, we respectfully request that (1) Boxes 21 and 22 be merged, with the signature line placed underneath bubbles 1 and 2; (2) in the alternative, the title of Box 22 be revised to reflect its purpose more accurately, e.g., Authorization for Specified Affiliated/Administrative Access; and (3) the sentence immediately after “Limitation of Consent,” referring to protected records under section 7332, be omitted.

b. Other concerns

- i. Is the name of the firm/organization sufficient to comply with the first bubble of proposed Box 22, without a requirement for individual associate attorneys, claims agents, and support staff to be listed?
- ii. Conversely, how does VA define “administrative employees” for purposes of listing individuals in the second bubble?

10. Page 2, Box 23, Authorization for Representative to Act on Claimant’s Behalf to Change Claimant’s Address: Is the accredited representative empowered to change the address for all VA records, including both VBA and VHA records? If this authority is limited in any way, it should be clearly stated.

11. Page 3, Conditions of Appointment, line 4: “Item 24” should read “Item 25.”

12. Page 3, Box 25A, Signature of Representative: This signature should be indicated as a required one.

Thank you for your consideration of these 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

VA DATE STAMP
(DO NOT WRITE IN THIS SPACE)

INSTRUCTIONS: Before completing the form, read the Privacy Act and Respondent Burden on Page 3. Use this form to recognize the individual(s) appointed to act on your behalf in the preparation, presentation, and prosecution of claims for VA benefits. If you would instead prefer to have a service organization assist you with your claim, complete, VA Form 21-22, *Appointment of Veterans Service Organization as Claimant's Representative*. For more information, you can contact us through Ask VA: <https://ask.va.gov/>, or call us toll-free at 800-827-1000 (TTY 711). VA form are available at www.va.gov/vaforms. After completing the form, use the mailing addresses provided on Page 3.

NOTE: You may complete the form online or by hand. If completed by hand, print the information requested in ink, neatly and legibly, insert one letter per box, and completely fill in each applicable circle to help expedite processing of the form.

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[illegible]

C

ARMY

NAVY

AIR FORCE

C

COAST GUARD

C

SPACE FORCE

NOAA

USPHS

[illegible][illegible]

State/Province			Country			ZIP Code/Postal Code				-					
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8. TELEPHONE NUMBER (Include Area Code)	9. E-MAIL ADDRESS (Optional)
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The diagram consists of three boxes, each containing a single digit '1'. These boxes are connected by minus signs. To the right of this sequence is a long, single box containing a sequence of 15 zeros.

[illegible]

SECTION II: CLAIMANT'S INFORMATION (If other than veteran)

10. CLAIMANT'S NAME (First, Middle Initial, Last)					

Street									
Apt /Unit Number		City							

State/Province _____ Country _____ ZIP Code/Postal Code _____

12. TELEPHONE NUMBER (Include Area Code)		13. EMAIL ADDRESS (Optional)	14. RELATIONSHIP TO VETERAN
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Enter International Phone Number (If applicable)		
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SECTION III: APPOINTED REPRESENTATIVE'S INFORMATION

NOTE: By appointing the attorney or agent below, I give permission for other attorneys/agents and support staff within the same law firm/organization to have access to my file (to include information under *Section 7332, Title 38, U.S.C.*) on behalf of my representation.

15A. NAME OF INDIVIDUAL APPOINTED AS REPRESENTATIVE (First, Middle Initial, Last)

☐ ATTORNEY ☐ AGENT ☐ INDIVIDUAL PROVIDING REPRESENTATION UNDER SECTION 14.630 (*See required statement below. Signatures are required in Items 16A and 17A)

☐ SERVICE ORGANIZATION REPRESENTATIVE(Specify)

(Skip to Item 18, if the box for "Individual Providing Representation Under Section 14.630" was not checked in Item 15B)

The appointment of the individual named in Item 15A (the representative) authorizes that person to represent the individual named in Item 1 or 10 (if other than veteran) is for a particular claim pursuant to the provisions of 38 C.F.R. 14.630. By our signatures below, we, the representative and the claimant, attest that no compensation will be charged by or paid for the individual named in Item 15A.

16A. SIGNATURE OF REPRESENTATIVE NAMED IN ITEM 15A	16B. DATE SIGNED (MM/DD/YYYY)
17A. SIGNATURE OF VETERAN NAMED IN ITEM 1 OR CLAIMANT NAMED IN ITEM 10	17B. DATE SIGNED (MM/DD/YYYY)

[illegible][illegible]

20. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C. -

☐ I authorize the VA facility having custody of my VA claimant records to disclose to the individual named in Item 15A, and the firm/organization named in Item 21 (if approved by VA for affiliated access) all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Redisclosure of these records by my representative, other than to VA or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 15A, either by explicit revocation or the appointment of another representative.

21 AUTHORIZATION FOR DISCLOSURE TO AFFILIATED PERSONNEL

☐ If the individual in Item 15A is an accredited agent or attorney who has been approved by VA for affiliated access, I **authorize** VA to disclose any and all of my records (other than as provided in Items 20 and 22) to the associate attorneys, claims agents, and support staff affiliated with my representative through: (Provide the name of the firm/organization here.)

☐ If the individual in Item 15A is an accredited agent or attorney, I authorize VA to disclose any and all of my records (other than as provided in Items 20 and 22) to the following individuals named as administrative employees of my representative:

C I authorize the individual named in Item 15A to act on my behalf to change my address in my VA records. This authorization does not extend to any other individual without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 15A, either by explicit revocation or the appointment of another representative.

CONDITIONS OF APPOINTMENT

I, the veteran named in Item 1 or the claimant named in Item 10, hereby **appoint** the individual named in Item 15A as my representative to prepare, present, and prosecute my claims for any and all benefits from VA based on the service of the veteran named in Item 1. If the individual named in Item 15A is an accredited agent or attorney, the scope of representation provided before VA may be limited by the agent or attorney as indicated below in Item 24. I authorize VA to disclose any and all of my records (other than as provided in Items 20 and 21) to that individual appointed as my representative.

Signed and accepted subject to the foregoing conditions.

24A. SIGNATURE OF VETERAN/CLAIMANT (Required)

24B. DATE OF SIGNATURE (MM/DD/YYYY)

25. LIMITATIONS ON REPRESENTATION - AGENTS OR ATTORNEYS ONLY (Unless limited by an agent or attorney, this power of attorney revokes all previously existing powers of attorney)

26A. SIGNATURE OF REPRESENTATIVE

26B. DATE OF SIGNATURE (MM/DD/YYYY)

FEES: Section 5904, Title 38, United States Code, contains provisions regarding fees that may be charged, allowed, or paid for services of agents or attorneys in connection with a proceeding before the Department of Veterans Affairs with respect to benefits under laws administered by the Department.

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

Documents may be submitted by mail, in person at a VA regional office or electronically. However, VA recommends submitting correspondence electronically as this is the fastest method of receipt.

VA provides several tools to assist in electronic submission. To learn more about how to submit documents and claims electronically, visit www.va.gov/disability/upload-supporting-evidence. You can also go directly to access.va.gov to digitally upload any correspondence using Direct Upload.

By visiting www.va.gov you can also check your claims status and learn about other VA benefits.

If you prefer to mail your correspondence, please use the related mailing address below.

COMPENSATION CLAIMS

Department of Veterans Affairs
Evidence Intake Center
PO Box 4444
Janesville, WI 53547-4444

PENSION & SURVIVORS BENEFIT CLAIMS

Department of Veterans Affairs
Pension Intake Center
PO Box 5365
Janesville, WI 53547-5365

FIDUCIARY

Department of Veterans Affairs
Fiduciary Intake
PO Box 95211
Lakeland, FL 33804-5211

BOARD OF VETERANS' APPEALS

Department of Veterans Affairs
Board of Veterans' Appeals
PO Box 27063
Washington, DC 20038

PRIVACY ACT NOTICE: VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records -VA, published in the Federal Register. Your obligation to respond is voluntary. However, failure to respond provide the requested information could impede the recognition of your representative and/or identification of disclosable records. Except for information protected by 38 U.S.C. 7332, your representative is not prohibited from redisclosing records. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to recognize the individuals appointed by claimants to act on their behalf in the preparation, presentation, and prosecution of claims for VA benefits (38 U.S.C. 5902, 5903, and 5904) and for those individuals to accept appointment. We will also use the information to verify consent for disclosure of VA records to the appointed representative (38 U.S.C. 5701(b) and 7332) Title 38, United States Code, allows us to ask for this information. We estimate that claimants and individuals appointed for purposes of representation will each need an average of 5 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. A Valid OMB control number can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.