

April 22, 2021

Alaska State Capitol
Alaska State House
Attn: Military and Veterans Affairs Committee, Chairman
Juneau, AK 99801-1182

Dear Representative Tuck,

When I read the press release for Senate Bill 40 (SB 40) in the *Anchorage Press*, I was encouraged. The release stated that Veteran Service Officers (VSOs) are “responsible for aiding and advising veterans [who wish to access earned VA benefits] free of charge”. The release implied to me that years-old VSO problems had been remedied. And if I were to resubmit my previously denied VSO assistance request today, I would finally get the help I have needed. After a few follow-up phone calls, however, I realized that nothing has been remedied, nothing has changed. VSOs still pursue a terribly limited range of VA appeals cases. Unless a veteran asks to dispute a VA disability rating decision only, VSOs provide no assistance at all.

In 2015, I attempted to appeal a defective VA decision. When it was clear that I was unable to navigate the Anchorage VA Clinic’s carefully crafted and outrageously difficult bureaucracy and its chain of command, I asked the Veterans of Foreign Wars (VFW) VSO for help. Lisa Robinson denied my request. She said her “office is understaffed and overworked”. Last week when I asked again, she told me that nothing has changed. In Alaska, VSOs only work with veterans with disability rating appeals. [I left voicemail about this with American Legion and Disabled American Veterans VSO offices at the Anchorage VA Clinic; neither returned calls.]

As personnel within the highest echelons of the Veterans Administration are aware that some VSOs do not provide services to all veterans, the VA website recommends: “If you need help filing a claim or appeal, you may want to work with an accredited attorney, a claims agent, or a Veterans Service Officer (VSO). We trust these professionals because they’re trained and certified in the VA claims and appeals processes and can help you with VA-related needs.” (<https://www.va.gov/disability/get-help-filing-claim>)

Now comes a proposed Alaska state senate bill that requires an attorney, who offers to represent a veteran before the VA Board of Appeals or otherwise, to inform the veteran that he or she can obtain VSO services for the same work at no cost, even when this is not true. If an attorney representing a veteran fails to secure the veteran’s signature on a document acknowledging that VSOs will work for them for free, that attorney is subject to a \$1,000.00 fine per violation (“with each continuing day of non-compliance constituting a separate violation”) and forfeiture of all compensation earned for their work. According to the bill sponsor, state Senator Josh Revak, the purpose of SB 40 is to prevent a veteran from “being taken advantage of”. But there are no Alaska state bar complaints or other evidence alleging any Alaska lawyer has taken advantage of any Alaska veteran. Is this a solution looking for a problem?

Verdie Bowen, of the Alaska Department of Military and Veterans Affairs (DMVA), stated in your committee meeting today that this proposed bill is needed to “help save funds veterans are

losing today." He did not provide evidence of any Alaska veteran who has "lost funds" after hiring an attorney to pursue a VA claim. Is he in possession of data that supports this claim?

Legal representation for Alaska veterans is not limited to attorneys who are members of the Alaska state bar. A large number of attorneys, who maintain practices in the Lower 48 states and advertise online, may be retained to represent Alaska veterans. How will these Outside attorneys and firms be informed of this legislation if passed? If this proposed legislation becomes law and attorneys, who practice Outside, are out of compliance, how will the state of Alaska discover, fine, charge, and collect against them? If DMVA ends up in possession of these fines and forfeitures, how specifically will they be used?

Apparently recognizing that Alaska VSOs are unable to serve the population of Alaska veterans adequately, SB 40 refers veterans to the state DMVA for "veterans' benefits services and veterans' benefits appeal services provided at no cost by the Department of Military and Veterans Affairs". The proposed language, quoted here, is intentionally misleading or just plain wrong. According to Forrest Powell of that office, there are no state employees who are certified, authorized, and otherwise available to provide VSO-type services to Alaska veterans who request them. Alternatively, there are 35 members of the Alaska bar who are qualified and available to do this work. The two options available to Alaska veterans seeking VSO-type VA-related appeal assistance are: 1) an understaff or overworked VSO or 2) an attorney or law firm.

When an unassisted veteran attempts to appeal a VA decision, the process is extremely adversarial and can be traumatizing or retraumatizing. My unsuccessful attempt at this was one of the most horrific experiences of my life. A VSO's denial of service and/or an inability to hire an attorney can lead a veteran to suicidal ideation and worse. It is completely unreasonable to expect an inexperienced and unprepared veteran to appeal his or her case without the assistance of a VSO or an attorney. For this reason, sufficient state resources must be identified, dedicated, and directed so that all veterans with VA claims can have "the affordable services they deserve" without paying "hefty fees" or taking on "debt". A veteran's ability to obtain a just decision in a VA appeal should not be limited by the state in which the veteran resides, available VSO funding there, or the willingness of a VSO to take a case. If the State of Alaska and the state legislature act affirmatively to ensure that all veterans have access to VA appeal services, then an accompanying fiscal note leading to an appropriate budget must reflect this. When a VSO denies requested services, attorneys' fees for veterans' appeal services must be covered by the state.

SB 40 is deficient in its current form. I expected to discuss this with state Senator Revak on Monday, April 12th at 1:30 p.m., but this did not happen. If needed, I can be available to discuss these topics further.

Sincerely,



Barbara Bachmeier

