

an appeal by an Adjudication Officer or Service Center Manager.

Several commenters addressed aspects of the testing requirements in proposed §§ 14.629(a)(2)(ii) and 14.629(b)(2). These comments evidenced a misconception that the examination requirements would apply to all service organization representatives. In fact, these requirements, which already exist in current regulations, apply respectively only to county veterans service officers recommended for accreditation by State organizations and to applicants for accreditation as claims agents. In light of this misunderstanding, we make no change based on these comments.

One commenter expressed the view that the claims-agent testing requirement should be applied to all applicants for accreditation. Veterans service organizations generally conduct their own training and testing programs or contract for training and testing of the representatives in order to assure proper handling of claims. VA is aware of no evidence that this system is not working adequately. Accordingly, we see no need for imposition of a requirement that all applicants for accreditation be tested by VA.

To promote consistency with regulations and practices governing access to Veterans Benefits Administration automated claims records, we are adding a note at the end of § 14.629 to clarify that persons working under the supervision of a claimant's designated representative may qualify for read-only access to the claimant's Veterans Benefits Administration automated claims records.

Section 14.631 Powers of Attorney

One commenter questioned the proposal in proposed § 14.631(a)(2) to require the submission of a power of attorney to the VA "regional office that has jurisdiction over the claim." That section currently requires that the power of attorney be submitted to the "appropriate" VA office. The commenter argued that the change is inconsistent with VA's practice of accepting claims at facilities other than regional offices and would require claimants, in certain instances, to submit powers of attorney and claims to different offices. Based on this comment, we have determined to retain the current wording of § 14.631(a)(2).

The same commenter stated that an additional provision should be added to § 14.631(c) permitting a service organization to file with VA a notice that it will not allow the appointment of an individual accredited representative

of the organization as the sole representative of a claimant. The commenter stated that the appointment of specific representatives would impair the ability of the organization to exercise management control over its operations. Two other commenters expressed the belief that a claimant should not be permitted to appoint an individual representative in a power of attorney, as would be permitted under proposed § 14.631(c). Proposed § 14.631(c) is intended to reflect the amendment to 38 U.S.C. 5902(c) made by Public Law 104-275. That statute clearly reflects Congress' judgment that a claimant may under certain circumstances choose to appoint an individual accredited service organization representative as his or her sole representative. We note, however, that, notwithstanding the referenced statute, service organizations retain management authority over their representatives, may direct them not to accept individual appointments, and may request cancellation of their accreditation if they fail to follow organization policy in this regard. Such matters involve issues of internal service organization operations that need not be addressed in the regulations.

One commenter suggested that, in light of proposed § 14.631(d), which permits a service organization or individual named in a claimant's power of attorney to decline appointment as a claimant's representative, the power-of-attorney form should incorporate an acceptance space that must be signed by the accredited representative to make the appointment operative. Because recognized service organizations are generally expected to provide representation to each claimant requesting assistance, we believe it is not unreasonable to require service organizations and their representatives to decline an appointment by written notification to the claimant and VA. Written notification to VA may be submitted via hand delivery, mail, electronic mail, or facsimile. Accordingly, we have adopted proposed § 14.631(d) without change, but have added a note to that provision clarifying the acceptable means of submission of notification to VA.

Section 14.633 Termination of Accreditation of Agents, Attorneys, and Representatives

We received numerous comments on various aspects of our proposed amendments to § 14.633, governing termination of accreditation. In light of these comments, we are undertaking a full reevaluation of that section of the

regulation and plan to publish a revised proposal concerning that provision in the future. Accordingly, we are not adopting any changes to § 14.633 at this time.

Section 14.635 Office Space and Facilities

One commenter stated the belief that an appeal process is needed to prevent arbitrary and capricious decisions from being made by VA facility directors, who have discretion under proposed § 14.635 to withdraw office space and facilities previously granted to an organization and to reassign the space to another organization. As stated in proposed § 14.635(b), final decisions regarding allocation of office space and facilities will be made by the Under Secretary for Benefits in the case of a facility under the control of the Veterans Benefits Administration. Thus, if any organization feels that space has been withdrawn by a facility director in an arbitrary manner, the organization may appeal the matter to the Under Secretary. This should provide a sufficient safeguard against arbitrary decisionmaking. We have added a reference to the regulation to provide for final decision by the Under Secretary for Health in the case of a facility under the control of the Veterans Health Administration.

Another commenter suggested that office space currently assigned to accredited representatives should not be subject to withdrawal. Under 38 U.S.C. 5902(a)(2), VA may, on a discretionary basis, furnish space and facilities, if available, to organizations engaged in claim representation. Guaranteeing space to representatives currently occupying such space would interfere with VA's ability to accomplish its mission by using its facilities in the most efficient manner. Accordingly, we have not adopted this suggestion.

Applicability of Regulations

Three commenters asked whether the proposed amendments would apply to organizations and representatives already recognized or accredited. As to organizations, current regulations at 38 CFR 14.628(a)(1) and (f), which would not be changed by these amendments, reflect VA's understanding that organizations must continue to meet regulatory requirements for recognition in order to retain that recognition. Existing organizations would be expected to meet the amended requirements subsequent to their effective date. However, VA has no plans to conduct a review of already-recognized organizations to assure compliance with the revised