

American Legion, the Disabled American Veterans, the United Spanish War Veterans, the Veterans of Foreign Wars, and such other organizations as the Secretary may approve, in the preparation, presentation, and prosecution of claims under laws administered by the Secretary.

(2) The Secretary may, in the discretion of the Secretary, furnish, if available, space and office facilities for the use of paid full-time representatives of national organizations so recognized.

(b)(1) No individual shall be recognized under this section—

(A) unless the individual has certified to the Secretary that no fee or compensation of any nature will be charged any individual for services rendered in connection with any claim; and

(B) unless, with respect to each claim, such individual has filed with the Secretary a power of attorney, executed in such manner and form as the Secretary may prescribe.

(2) An individual recognized under this section shall be subject to the provisions of section 5904(b) of this title on the same basis as an individual recognized under section 5904(a) of this title.

(c)(1) Unless a claimant specifically indicates in a power of attorney filed with the Department a desire to appoint only a recognized representative of an organization listed in or approved under subsection (a), the Secretary may, for any purpose, treat the power of attorney naming such an organization, a specific office of such an organization, or a recognized representative of such an organization as the claimant's representative as an appointment of the entire organization as the claimant's representative.

(2) Whenever the Secretary is required or permitted to notify a claimant's representative, and the claimant has named in a power of attorney an organization listed in or approved under subsection (a), a specific office of such an organization, or a recognized representative of such an organization without specifically indicating a desire to appoint only a recognized representative of the organization, the Secretary shall notify the organization at the address designated by the organization for the purpose of receiving the notification concerned.

(d) Service rendered in connection with any such claim, while not on active duty, by any retired officer, warrant officer, or enlisted member of the Armed Forces recognized under this section shall not be a violation of sections 203, 205, 206, or 207 of title 18.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1238, §3402; Pub. L. 91-24, §12(b), June 11, 1969, 83 Stat. 34; Pub. L. 98-160, title VII, §703(5), Nov. 21, 1983, 97 Stat. 1010; renumbered §5902, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 104-275, title V, §508(a), Oct. 9, 1996, 110 Stat. 3343; Pub. L. 109-461, title I, §101(a)(2), Dec. 22, 2006, 120 Stat. 3406.)

#### Editorial Notes

##### AMENDMENTS

2006—Subsec. (b). Pub. L. 109-461 designated existing provisions as par. (1), redesignated former pars. (1) and

(2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

1996—Subsecs. (c), (d). Pub. L. 104-275 added subsec. (c) and redesignated former subsec. (c) as (d).

1991—Pub. L. 102-40 renumbered section 3402 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsecs. (a)(2), (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

1983—Subsec. (a)(1). Pub. L. 98-160, §703(5)(A), substituted "the Administrator" for "he".

Subsec. (a)(2). Pub. L. 98-160, §703(5)(B), substituted "the discretion of the Administrator" for "his discretion".

Subsec. (b)(1). Pub. L. 98-160, §703(5)(C), substituted "the individual" for "he".

Subsec. (c). Pub. L. 98-160, §703(5)(D), substituted "member" for "man".

1969—Subsec. (c). Pub. L. 91-24 substituted "sections 203, 205, 206 or 207 of title 18" for "section 281 or 283 of title 18, or a violation of section 99 of title 5".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-275, title V, §508(b), Oct. 9, 1996, 110 Stat. 3344, provided that: "The amendments made by this section [amending this section] apply to any power of attorney filed with the Department of Veterans Affairs, regardless of the date of its execution."

#### § 5903. Recognition with respect to particular claims

(a) IN GENERAL.—The Secretary may recognize any individual for the preparation, presentation, and prosecution of any particular claim for benefits under any of the laws administered by the Secretary if—

(1) such individual has certified to the Secretary that no fee or compensation of any nature will be charged any individual for services rendered in connection with such claim; and

(2) such individual has filed with the Secretary a power of attorney, executed in such manner and in such form as the Secretary may prescribe.

(b) SUSPENSION.—An individual recognized under this section shall be subject to the provisions of section 5904(b) of this title on the same basis as an individual recognized under section 5904(a) of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1238, §3403; renumbered §5903, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 109-461, title I, §101(a)(3), Dec. 22, 2006, 120 Stat. 3407.)

#### Editorial Notes

##### AMENDMENTS

2006—Pub. L. 109-461 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1991—Pub. L. 102-40 renumbered section 3403 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in introductory provisions and wherever appearing in pars. (1) and (2).

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration" in introductory provisions.

**§ 5904. Recognition of agents and attorneys generally**

(a) RECOGNITION.—(1) Except as provided in paragraph (4), the Secretary may recognize any individual as an agent or attorney for the preparation, presentation, and prosecution of claims under laws administered by the Secretary.

(2) The Secretary shall prescribe in regulations (consistent with the Model Rules of Professional Conduct of the American Bar Association) qualifications and standards of conduct for individuals recognized under this section, including a requirement that, as a condition of being so recognized, an individual must—

(A) show that such individual is of good moral character and in good repute, is qualified to render claimants valuable service, and is otherwise competent to assist claimants in presenting claims;

(B) have such level of experience or specialized training as the Secretary shall specify; and

(C) certify to the Secretary that the individual has satisfied any qualifications and standards prescribed by the Secretary under this section.

(3) The Secretary shall prescribe in regulations requirements that each agent or attorney recognized under this section provide annually to the Secretary information about any court, bar, or Federal or State agency to which such agent or attorney is admitted to practice or otherwise authorized to appear, any relevant identification number or numbers, and a certification by such agent or attorney that such agent or attorney is in good standing in every jurisdiction where the agent or attorney is admitted to practice or otherwise authorized to appear.

(4) The Secretary may not recognize an individual as an agent or attorney under paragraph (1) if such individual has been suspended or disbarred by any court, bar, or Federal or State agency to which the individual was previously admitted to practice and has not been subsequently reinstated.

(5) The Secretary may prescribe in regulations reasonable restrictions on the amount of fees that an agent or attorney may charge a claimant for services rendered in the preparation, presentation, and prosecution of a claim before the Department. A fee that does not exceed 20 percent of the past due amount of benefits awarded on a claim shall be presumed to be reasonable.

(6)(A) The Secretary may charge and collect an assessment from an individual recognized as an agent or attorney under this section in any case in which the Secretary pays to the agent or attorney, from past-due benefits owed to a claimant represented by the agent or attorney, an amount as a fee in accordance with a fee arrangement between the claimant and the agent or attorney.

(B) The amount of an assessment under subparagraph (A) shall be equal to five percent of the amount of the fee required to be paid to the agent or attorney, except that the amount of such an assessment may not exceed \$100.

(C) The Secretary may collect an assessment under subparagraph (A) by offsetting the amount of the fee otherwise required to be paid to the agent or attorney from the past-due benefits owed to the claimant represented by the agent or attorney.

(D) An agent or attorney who is charged an assessment under subparagraph (A) may not, directly or indirectly, request, receive, or obtain reimbursement for such assessment from the claimant represented by the agent or attorney.

(E) Amounts collected under this paragraph shall be deposited in the account available for administrative expenses for veterans' benefits programs. Amounts so deposited shall be merged with amounts in such account and shall be available for the same purpose, and subject to the same conditions and limitations, as amounts otherwise in such account.

(b) SUSPENSION OF AGENTS AND ATTORNEYS.—The Secretary, after notice and opportunity for a hearing, may suspend or exclude from further practice before the Department any agent or attorney recognized under this section if the Secretary finds that such agent or attorney—

(1) has engaged in any unlawful, unprofessional, or dishonest practice;

(2) has been guilty of disreputable conduct;

(3) is incompetent;

(4) has violated or refused to comply with any of the laws administered by the Secretary, or with any of the regulations or instructions governing practice before the Department;

(5) has in any manner deceived, misled, or threatened any actual or prospective claimant;

(6) has presented to the Secretary a frivolous claim, issue, or argument, involving conduct inconsistent with ethical standards for the practice of law;

(7) has been suspended or disbarred by any court or bar to which such agent or attorney was previously admitted to practice, or has been disqualified from participating in or appearing before any Federal agency, and has not been subsequently reinstated;

(8) has charged excessive or unreasonable fees, as determined by the Secretary in accordance with subsection (c)(3)(A); or

(9) has failed to comply with any other condition specified in regulations prescribed by the Secretary for purposes of this subsection.

(c)(1) Except as provided in paragraph (4), in connection with a proceeding before the Department with respect to benefits under laws administered by the Secretary, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which a claimant is provided notice of the agency of original jurisdiction's initial decision under section 5104 of this title with respect to the case. The limitation in the preceding sentence does not apply to fees charged, allowed, or paid for services provided with respect to proceedings before a court.

(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of this subsection, represents a person before the Department or the Board of Veterans' Appeals after a claimant is provided notice of the agency of original jurisdiction's initial decision under sec-