

# Did You Know?

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That at the close of our last American Legion membership year we had just over 88,600 members in Illinois! A lot of these members must read my monthly newsletter article because we are receiving a nice volume of calls and e-mails to our Chicago VA&R office. Our staff loves these communications. It gives us a chance to clear up rumors, get claims started for compensation and pension, or at least refer our comrades to the correct point of contact when their query falls outside of our expertise. But the most common positive feedback I hear is my "Rumors" articles. So with that in mind here are some more of those rumors floating around in the veteran community and the correct answers.

**1. Veterans who use the American Legion as their Power-of-Attorney (POA) for VA claims purposes must be a member of the American Legion, pay a fee and give a percentage of their VA award to the Legion if granted a benefit.**

False on all counts! There is absolutely no charge to the veteran or claimant for using the American Legion as their POA. If later their claim is favorably granted we do not get any percentage of anything, all monies awarded by the Veterans Administration go to the claimant. And membership in the American Legion is never required. Of course if they wish to join us, and have the correct eligibility dates, we would be happy to have them on board. We will even look up the addresses and phone numbers of local Legion Posts in their area if they want to get involved locally.

**2. I was injured during surgery at a VA hospital but because the VA hospital is a government agency I can't bring a law suit against them for malpractice.**

Again false. If a veteran patient suffered permanent damage due to an error by a VA doctor or staff they can sue the VA under the Federal Tort claims act. For instance the VA physician removes the wrong kidney, leaves a sponge in the body cavity or the nurse gives them the wrong medication and a complication arises. The veteran can, and many do bring suit. In these situations our office would not be able to assist them in any lawsuit. They would need to hire a private attorney. A simple GOOGLE search "attorneys for Veterans Administration tort claims" can locate attorneys who specialize in this field. Please note, separate from a tort claim the veteran can also file what is known as an 1151 Veterans Administration claim. Rather technical, so contact us for more info on that and see the next rumor.

**3. I filed a law suit under the above mentioned Federal Tort Claims Act but my case was dismissed because I waited too long. I have no further recourse.**

Wrong again. Although the Tort Act does have time limits there is no time limit to file a claim under a special provision of Title 38 USC. More commonly known as an 1151 hospital injury claim, this provision has no time limit for filing and since it falls under VA benefits our VA&R office can assist. In fact the veteran can actually file both ways, a law suit and an 1151 claim.

**4. My husband served in Vietnam and later died of lung cancer due to Agent Orange. I receive my VA DIC benefits as a survivor and with my part-time job I am able to make ends meet. It has been 15 years since my husband died and I have been dating a man for over a year. He recently proposed. If I remarry I will lose my VA DIC benefits.**

Depends. VA laws have been revised over the years. Our representatives in Congress felt it unfair to require a widow or widower to stay unmarried for the rest of their lives. Under current laws if a claimant receiving DIC benefits remarries on or after Dec. 16<sup>th</sup>, 2003 and is age 57 or more they can continue to receive that benefit.

Well this was fun. Looking forward to answering the telephone in our office and checking out more rumors. Remember no question or rumor is too silly or too small to check out. Give us a call or send us an e-mail. And if you are going to our state convention why not drop in on our Veterans Administration and

Rehabilitation Commission meeting. It will be held Thursday morning of convention week and we will be going over all the resolutions submitted that deal with Veterans Administration benefits. We are expecting over 30 this year.

**SOMETIMES THE QUESTIONS ARE COMPLICATED AND THE ANSWERS ARE SIMPLE  
DR. SEUSS**