

All, as the 109th Congress wound down, Congress passed legislation to lift the longstanding ban against veterans being able to hire lawyers to appeal their benefits cases. The American Bar Association (ABA) has supported an end to the ban, adopting policy on the issue during Midyear Meeting in February 2005.

In a letter that I sent to certain House and senate members in late September of last year I supported, Governmental Affairs Office Director Robert D. Evans who wrote, "Veterans' cases have become increasingly complex and the Department [of Veterans Affairs] itself has numerous staff lawyers to assist it in the administration of these cases. ... [U]ltimately, the decision of whether to hire a lawyer in a particular case should reside with the veterans whose rights are at stake and not be precluded by the government."

While the congressional language is not a wholesale repeal of the ban – the Secretary of Veterans Affairs will still need to promulgate further regulations on the definition of who is a qualified agent to represent veterans; lawyers will be required to file fee assignments with the secretary; and the repeal is temporary, as the secretary is to report back to Congress in three and one-half years on whether to maintain the repeal or reinstate the restrictions – the signing of the law allows veterans to retain counsel following their first adverse ruling.

The ABA will be working to help address the existing VA backlog, as the association has done in other instances, as in Social Security claims. The association also looks forward to working with the VA, veterans' service organizations and others to help make the presence of lawyers in the process a plus.

While the legislation has been law for only a short time, ABA educational efforts for lawyers who are interested in participating in such work are expected to include continuing legal education programs, primers and panels. I am aware that certain large law firms in NC see this as a civil duty of their firm to support the veterans in their appeal process. How this will affect the on-lawyers that are currently assisting the veterans in their appeals, well in my estimate, he should enhance their abilities.