

House Government and Veterans Affairs Committee
69th Legislative Session
Representative Schauer-Chair

Chairman Schauer and House Government and Veterans Affairs Committee,

Please accept this testimony in support of HB 1169 with amendment.

Intent of bill:

Ensure North Dakota's veterans receive qualified, competent representation on their benefit claims.

- Require disclosure statement:
 - Provided by attorneys to veterans or dependents stating services offered for free by other organizations.
 - Clearly defined fee charges in line with VA OGC.
- Require accreditation:
 - Require representatives, agents, and attorneys to be accredited with VA OGC to represent veterans and dependents in claims for benefits.
- Limit non-attorney compensation except as allowed by federal VA:
 - Prohibit non-attorney representatives and agents from charging fees to, advise, assist, prepare, present, refer, submit, or prosecute claims for veterans or their dependents except as allowed by Federal VA.
- Establish penalty. (VA law removed)
 - Reimbursement of fees to veteran/dependent
 - Fines
 - Imprisonment
- Prohibit excessive or unreasonable compensation or fees to attorneys:
 - Limit fees attorney's may charge for representation of veterans or dependents to advise, assist, prepare, present, refer, submit, or prosecute claims for veterans or their dependents.
 - VA Office of General Council limits Attorney fees to 33% of retroactive payment.
 - Prohibit fees for initial claim filing.

Need for bill:

- 38 CFR 14.626 and 38 USC 5904 were created to ensure veterans received responsible, qualified representation and assistance when applying for benefits. These laws require anyone who assists them in preparing, presenting, or prosecuting these claims are properly accredited through the VA Office of General Counsel (OGC).
- Public Law. 109-461 in 2006 (PACT ACT) removed criminal penalties, Section 5905, for violating those laws. VA OGC can no longer do anything about unscrupulous representation of veterans' claims.
- Vulnerable Veterans and dependents are targets for financial exploitation of these VA Benefits.
- Unqualified and uncredited representatives charge fees for services and can capture large portions of VA benefits from veterans and dependents.
- Increasing reports of fraudulent schemes gaining access to bank accounts of vulnerable veterans and dependents.
- VA representation is provided to veterans at no cost by veteran service organizations, county, tribal and state veteran service officers.

- With over 22 states currently implementing laws claim agents will concentrate on states that do not have these laws.
- G.A.U.R.D. Act: Federal bills not likely to be passed in the next year.

Additional Information:

- G.A.U.R.D. Act: Federal bills of 118th Congress: HR 1139 and SB 740 which are attempting to address the issue of “claim sharks”.
 - 44 State Attorney Generals of the US states and territories support, including ND.
- Federal VA has 3 categories of accreditations,
 - Representative
 - Veteran Service organizations (Federally recognized)
 - State agencies
 - Agents
 - Independent persons or organizations-not part of a federally recognized VSO
 - Attorneys
- NDCC 37-14-18 currently requires all county veteran service officers (government employees) to be accredited as representatives through the federal VA OGC.

Outcome of bill:

- Protect vulnerable ND Veterans and Dependents from paying fees for service they are already paying for (State and County VSO’s) and offered for free from Veteran Service Organizations.
- Ensure claim agents and attorneys are accredited with Federal VA and comply with approved fee charges.
- Prevent unscrupulous claim sharks from targeting and exploiting their VA benefits.
- Require accreditation with Federal VA-VA will be charged with policing the accredited agents.
- Provide legal ramifications for failing to comply with federal VA policies.

Fiscal note:

None expected.

Amendment recommended to page 1. Section 1

- 17 2. A person may not:
- 18 a. Receive compensation for advising or assisting an individual regarding any
- 19 federal or state veterans’ benefits matter, except as allowed by federal law.
- 20 ab. Receive compensation for referring an individual to another person to advise or
- 21 assist the individual with any veterans' benefits matter.
- 22 cb. Guarantee to an individual a specific veterans' benefit, including any level,
- 23 percentage, or amount of veterans' benefit, either directly or by implication.
- 24 ed. Receive excessive or unreasonable fees as compensation for advising or
- 25 assisting an individual with a veterans' benefits matter.

Thank you for your consideration.
 Lonnie Wangen Commissioner-NDDVA