

G.U.A.R.D. VA Benefits Act

Federal Law and VA Code of Federal Regulation

Veteran Service Organization “Representatives”:

38 U.S. Code § 5902 - Recognition of representatives of organizations

(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;

38 CFR § 14.628 - Recognition of organizations.

(d) Requirements for recognition.

(2) In addition, the organization requesting recognition shall supply:

(i) A statement that neither the organization nor its accredited representatives will charge or accept a fee or gratuity for service to a claimant and that the organization will not represent to the public that Department of Veterans Affairs recognition of the organization is for any purpose other than claimant representation;

38 CFR § 14.636 - Payment of fees for representation **by agents and attorneys** in proceedings before Agencies of Original Jurisdiction and before the Board of Veterans' Appeals.

(b) Who may charge fees for representation. **Only accredited agents and attorneys** may receive fees from claimants or appellants for their services provided in connection with representation. Recognized organizations (including their accredited representatives when acting as such) and individuals recognized under § 14.630 of this part are not permitted to receive fees. An agent or attorney who may also be an accredited representative of a recognized organization may not receive such fees unless he or she has been properly designated as an agent or attorney in accordance with § 14.631 of this part in his or her individual capacity as an accredited agent or attorney.

Claims Agents and Attorneys:

38 U.S.C. 5904(c)(1) (“[A] fee may not be charged, allowed, or paid for services of agents and attorneys . . . provided before the date on which a claimant is provided notice of [VA]’s initial decision . . . with respect to the case.”). Charging a fee or accepting a gift on an initial claim—including charging for assistance with gathering necessary documents and filling out forms—is a violation of the VA Standards of Conduct, 38 C.F.R. § 14.632(c)(5) and (6), and grounds for cancellation of VA accreditation. But, once a claimant receives an initial decision on a claim or claims, an attorney or a claims agent may charge a fee for assisting a claimant in seeking review of those claims. 38 C.F.R. § 14.636(c).

In 2006 the passing of P.L. 109-461 the criminal penalties for violating these laws were removed. OGC powerless to enforce.

Page 6 of P.L. 109-461:

(g) REPEAL OF PENALTY FOR CERTAIN ACTS.—Section 5905 is amended by striking “(1)” and all that follows through “(2)”.

ND Century Code

37-14-18. County veterans' service officer - Appointment - Duties.

The board of county commissioners of each county of the state of North Dakota shall appoint, employ, and pay, on a full-time or part-time basis, an officer to be known as a county veterans' service officer. The veterans' affairs commissioner may work directly with county veterans' service officers. An individual may serve as a county veterans' service officer in more than one county. The appointment must be made with the prior advice of the commissioner of veterans' affairs, and in accordance with veterans' preference as provided in section 37-19.1-02. **All county veterans' service officers must be accredited** by the national association of county veterans' service officers or the department of veterans' affairs within twelve months of appointment or employment. It is the duty of the county veterans' service officer to become acquainted with the laws, both state and federal, enacted for the benefit of returning servicemen and servicewomen to assist the returning members of the armed forces in the presentation, proof, and establishment of the claims, privileges, and rights members have. The county veterans' service officer shall cooperate with and coordinate the activities of the state and federal agencies within the county the officer serves to facilitate their operation and ensure promptness in the solution of the problems concerned with the re-establishment of returning servicemen and servicewomen in civilian pursuits. A county veterans' service officer may not serve as a conservator for an individual receiving benefits or services from the department of veterans' affairs or the United States department of veterans' affairs, except if the individual is the spouse or an immediate family member of the officer.

VA Office Of General Council (OGC)

- For accredited attorneys OGC and the law limits fees to 33% of **retroactive** benefits. Fee agreements can be disputed through VA's office of general counsel as well.
- Attorneys can represent one off cases without accreditation. For example, if your brother is an attorney and wants to represent your case, that is allowable.
- Criminal penalties no longer exist in claims representation. Which is why there is a proliferation of these companies and individuals working outside the scope of VA.

Notes:

Criminal penalties no longer exist in claims representation. Which is why there is a proliferation of these companies and individuals working outside the scope of VA. They do not tell VA they are representing a case, and often times sign into VA systems as the Veteran to submit claims/evidence in a case.

VBA Launches Predatory Practices Prevention Campaign to protect Veterans' Claims

The Department of Veterans Affairs (VA) and VA accredited representatives, like our VSO partners, are combining forces to ensure Veterans benefits are protected. Veterans and their beneficiaries are often targets of companies and individuals known as claims predators. Claims predators often try to unlawfully charge Veterans and their families a fee to “help” them prepare and consult on their claims with VA. Aggressive communication via emails, phone calls, and/or text messages is used in an effort to get Veterans to sign legally binding contracts that are not to the Veteran’s advantage. They advertise expedited claim processing times and/or guarantee higher disability ratings in exchange for their paid services. These [fraudulent schemes](#) target Veterans hard-earned benefits and may subject them to excessive fees.

Veterans need to be aware that ONLY [VA accredited attorneys, claims agents, and VSO representatives](#) can lawfully assist them with their initial benefits claims. Only VA accredited attorneys and claims agents may charge a fee to:

- Consult or advise VA claimants seeking review of or to appeal their claims.
- Collect evidence for a supplemental claim or an appeal.
- Prepare and file a supplemental claim.
- Submit requests for higher level review.
- Submit an appeal to the Board of Veterans Appeals

What is VA Doing to Help?

We are working to raise awareness of unlawful predatory practices used to exploit Veterans and their loved ones while providing resources to [safely claim VA benefits](#). These actions include working to make connecting with VA accredited representatives easier for Veterans and their families, collaborating with our federal partners such as [Federal Trade Commission](#), [Consumer Financial Protection Bureau](#), [U.S. Securities and Exchange Commission](#) and [Social Security Administration](#), and [developing communications](#) to spread awareness of the rising threat of claims predators. We launched a communications campaign to educate Veterans about claims predators and encourage the use of [VA accredited representatives](#) who offer free services to support their initial benefits claims.

What Can You Do to Help VA?

We request assistance from Veteran-centric organizations, such as your own, to share information from our Claims Predators Communications Campaign with the Veterans you serve and their beneficiaries. With your help, we can ensure Veterans have the knowledge to

understand the threat of predatory practices, identify claims predators, find VA accredited attorneys, claims agents, and VSO representatives to support their benefits claims, and report claims predators. Attached is a visual tool with an overview of claims predators, warning signs, protective measures, best practices and reporting resources.

What Can a Veteran Do If They Suspect Fraud?

If a Veteran suspects a representative acted unlawfully or unethically while assisting them in filing a VA benefits claim, they should file a report at www.vsafe.gov or by calling 833-38V-SAFE, a new government-wide website and call center designed to protect Veterans, service members, and their families from fraud and scams. To learn more about fraud, predatory practices targeting the Veteran community and how to protect their benefits from fraud, visit [Protecting Veterans From Fraud | Veterans Affairs \(va.gov\)](https://www.va.gov/protecting-veterans-from-fraud/). These tools will inform Veterans and their families about common fraud schemes, and help protect themselves, and provide an outlet for reporting and further assistance.