

**2025 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1169**

## 2025 HOUSE STANDING COMMITTEE MINUTES

### GOVERNMENT VETERANS AFFAIRS COMMITTEE

PIONEER ROOM, STATE CAPITOL

HB 1169

1/17/2025

Relating to compensation for veterans' benefits; and to provide a penalty.
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10:53 a.m. Chairman Schauer opened the hearing.

Members present: Chairman Schauer, Representatives, Brown, Christy, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Vice Chairman Satrom, Representative Bahl

#### **Discussion Topics:**

- Protections from predatory organizations

10:53 a.m. Representative Jeremy Olson, District 26, introduced the bill and submitted testimony, #29491.

10:58 a.m. Peter O'Rourke, President of the National Association for Veteran's Rights, testified in support and submitted testimony, #28629.

11:04 a.m. Jim Nelson, ND Veterans Council on behalf of Bill Tuff, testified in favor and submitted testimony, #29788.

11:10 a.m. Lonnie Wangen, Commissioner of North Dakota Department of Veterans Affairs. testified in favor and submitted testimony, #29708, #29709, #29710, #29711, #29712.

11:25 a.m. Ray Colas, Veteran Benefits Guide, testified in favor and submitted testimony, #29317.

#### **Additional written testimony:**

William Taylor, submitted testimony in favor #28705, #28706.

11:28 a.m. Chairman Schauer closed the hearing.

*Jackson Toman, Committee Clerk*





January 13, 2025

Peter O'Rourke Testimony Supporting North Dakota House Bill No. 1169 - *A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota Century Code, relating to compensation for veterans' benefits; and to provide a penalty.*

Dear Chairman Schauer and Members of the House Government & Veterans Affairs Committee,

My name is Peter O'Rourke, the former Acting Secretary of the U.S. Department of Veterans Affairs (VA) under President Trump, the current President of the National Association for Veteran Rights (NAVR), and a proud Veteran. I strongly support North Dakota House Bill No. 1169 (HB 1169). HB 1169, as amended, seeks to ensure transparency and ethical standards in the compensation of individuals advising or assisting Veterans with their benefits claims. This legislation is vital in safeguarding the rights and well-being of Veterans and their families as they navigate complex VA benefits systems.

HB 1169 is essential for protecting Veterans from unethical practices within the claims assistance industry while granting them the freedom to choose how they navigate the complex process of filing disability claims. The provisions of HB 1169 align with NAVR's mission to promote ethical business practices and advocate for Veteran-owned businesses. We commend the bill's provisions, which prohibit predatory practices such as excessive fees, misleading guarantees, and improper access to Veterans' sensitive information. By requiring clear disclosures and written agreements, the bill ensures Veterans are informed of their rights and the availability of free services.

NAVR strongly supports the emphasis on protecting recently discharged Veterans during the critical one-year presumptive period, recognizing that no Veteran should be financially exploited at such a vulnerable time. Additionally, prohibiting nonrefundable fees and the use of international call centers to process sensitive personal information, further underscores the bill's commitment to privacy and security.

We believe this legislation strikes an important balance—encouraging Veterans to seek expert support while holding service providers accountable to the highest ethical standards. NAVR stands ready to assist in ensuring the successful implementation of this bill and to support further efforts that prioritize the dignity and trust our Veterans deserve.

Thank you for your dedication to Veteran advocacy and for championing HB 1169, demonstrating North Dakota's commitment to advocating for those who have served our nation.

Sincerely,

The Honorable Peter O'Rourke  
President, NAVR

**Organizations SUPPORTING SAVE Act**

60 Plus Association	Governor Mike Huckabee, Former Governor of Arkansas	Project Exodus Relief
AFG Free	Heart of an Ace	React DC
AMAC Action	Heartland Institute	Reagan Alumni Association
American Commitment	Hispanic Leadership Fund	Restore America's Mission
Americans for a Balanced Budget	Irreverent Warriors	Rule 20
Americans for Liberty & Security	The Independence Fund	Small Business & Entrepreneurship Council
Americans for Limited Government	Institute for Liberty	Special Operations Association of America
Americans for Tax Reform	Joint Operation North Star	Strengthening America for All
Black Veteran Empowerment Council	The Last Best Hope on Earth Institute	Task Force Argo
Center for a Free Economy	The Leadership Institute	Task Force Pineapple
Center for Military Readiness	Less Government	Taxpayers Protection Alliance
Citizen Outreach	The Lifeline Foundation	Teamsters - International Brotherhood of Maintenance Way Employees
Committee to Unleash Prosperity	Market Institute	Tradition, Family, Property, Inc.
Consumer Action for a Strong Economy	The Moral Compass Federation	The Veterans Education Project
Defending America Foundation	NMRG Rescue Project	Vote America First
Flanders Fields	Operation 620	Ukraine NGO Coordination Network
Freedom & Prosperity Caucus	Operation Recovery	
Freedom Bird Foundation	Ops Sacred Promise	
Frontiers of Freedom	Patriotic Veterans	
	Phyllis Schlafly Eagles	
	Project 21	

**SUBMITTED TESTIMONY OF WILLIAM C. TAYLOR, LTC (RET) US ARMY**  
**CO-FOUNDER AND CHIEF OPERATING OFFICER,**  
**VETERANS GUARDIAN VA CLAIM CONSULTING, LLC**  
**BEFORE THE NORTH DAKOTA STATE HOUSE**  
**HOUSE GOVERNMENT AND VETERANS AFFAIRS PUBLIC HEARING**  
**JANUARY 17, 2025**  
**OPENING STATEMENT IN SUPPORT OF ND HB 1169**

***I. Introduction***

Thank you for the opportunity to provide written testimony expressing Veterans Guardian's supportive views of North Dakota House Bill 1169.

My name is William Taylor and I am a co-founder of Veterans Guardian VA Claim Consulting, and a Veteran of the US Army. I am a proud graduate of the United States Military Academy at West Point and retired in 2018 as a Lieutenant Colonel after a 23-year career that included six deployments to Afghanistan, Iraq, and the Balkans, and positions from the platoon to 4-star level staff positions. I am proud to have founded one of the largest Veteran owned and operated companies assisting my fellow Veterans with their disability claims.

In 2015, as I was considering retiring from the Army, one of the questions that came up was VA disability benefits. I knew little more than that they existed and, like so many in the military, I had heard horror stories about how cumbersome and complicated the process was, but I felt healthy and assumed I probably did not qualify, which I now know was wrong. Information about claiming VA disability benefits was practically non-existent and difficult to find. Worse still, getting an appointment with a claims representative was even more difficult due to limited operating hours and limited capacity for the large military population in and around Fort Bragg, North Carolina. Despite being a senior officer, and having knowledgeable friends and colleagues, it took a significant amount of their support, advice, and my own research for me to successfully navigate the system and submit my own claim. Unfortunately, I am the exception and not the norm. That is why we founded Veterans Guardian. If I, as a senior officer, had this much trouble navigating the system, something surely was not right. Unfortunately, the VA disability process is a bureaucratic and difficult system to navigate that presents challenges to most Veterans, often resulting in deserving Veterans not receiving the benefits to which they are entitled. I am proud of the work my company has done to assist Veterans with this process.

Veterans Guardian employs a staff of more than 70% Veterans, spouses of Veterans, spouses of active-duty service members or immediate family members of veterans. We have been recognized by the Department of Labor by receiving the HIRE Vets platinum or gold award five years in a row. We have received the BBB Torch Award for Marketplace Ethics since 2020.

We were most recently recognized for hiring veterans and spouses and named a Military Friendly Company of the year. We are the national presenting sponsor for Irreverent Warriors and support more than 100 national and local charities, including support to local chapters of many of the organizations that have also been invited to engage in this important discussion today.

## **II. *Veterans Guardian's Mission and Work***

Our mission is to provide the best possible service to our Veteran clients to ensure that they receive all the benefits that they are entitled to based on injuries that occurred during their time of honorable service to our nation. I am incredibly proud of the work we do every day to offer a transparent, effective, and efficient option to help Veterans navigate a complex and oftentimes failing system. Our capabilities are complementary to the other services available to Veterans. My trained and expert staff inform every Veteran that there are free options and services available to them in the form of county and state Veteran Service Officers, the Veteran Service Organizations, and their local Congressional offices, and we connect them directly to these services if they choose.

Given the difficulty that many Veterans face when trying to navigate the VA disability process, as well as the sheer volume of Veterans that need assistance, there continues to be a backlog of more than 360,000 veteran disability claims. Contrary to common belief and statements from the VA, the current systems alone do not provide enough representatives or caliber of services to meet the needs of Veterans seeking assistance. Veterans need more options for assistance, not less. To address Veterans' pressing and time sensitive needs, they should be able to pursue their claims in the manner that best serves them, with full knowledge of all available providers (including county and state employees, VSOs, lawyers, claims agents, and companies like Veterans Guardian) who can assist them at any step in the process.

Veterans make a fully informed choice to use our services for a multitude of reasons: easy access and responsiveness, our experience and knowledge developed and refined over tens of thousands of claims, our expertise utilizing a team method with team members becoming experts in all stages of the process, our ability to help develop medical and lay evidence with a network of independent external doctors, our understanding of the regulations, and our competence in developing claims for secondary conditions. Based on all of this, I am proud that we have assisted tens of thousands of Veterans with a success rate of more than 90%. The Veterans themselves have made clear that we are providing an important and necessary service, as we have thousands of positive reviews and many personal referrals from our clients. In fact, 50% of our new clients each month are referred from previous or current clients. The thousands of positive reviews and direct referrals that we receive are a direct testament to the importance we place on client care. We have also received extensive recognition for our work, including 11 awards from various organizations, including: AMVETS North Carolina, National AMVETS, Department of Labor HIREVETS – Gold and Platinum Medallion awards, the Better Business Bureau – Ethics Awards three years in a row, Military Friendly Employer, and Military Spouse Friendly Employer.

We are transparent about our process and fee structure, and up-front about who we are and who we are not. We do not aggressively solicit any Veteran, the Veteran comes to us informed and ready to receive the benefits they have earned. We do not have doctors on our payroll doing medical exams, nor do we have automated or international call centers. Our fee structure reflects our mission and is clearly communicated to Veteran clients throughout each step in the process. We do not collect any fee unless the Veteran achieves an increase in their VA benefits, and we do not have access to a Veteran's financial or e-benefits accounts. Any fee that a Veteran pays us comes from new benefits we have helped them secure, and no Veteran is financially disadvantaged from where they were before they utilized our services. Our Veterans are paying a one-time fee for assistance while receiving a lifetime of benefits. Included in our written submission for the record is a detailed description of our fee structure.

### III. The Problem

The perversely incentivized federal system permits accredited agents and attorneys to accept compensation only *after* the agency issues an initial decision in a veteran's case. Veterans Guardian focuses on getting claims right the first time around, so no appeal is needed. Accordingly, Veterans Guardian cannot be accredited under the current system. Veterans Guardian conducts its business in a way that comports with federal law because it limits its activities to consulting services and does not act as a veteran's "agent." We are transparent with our clients that we are not accredited, and our clients acknowledge their understanding of our status as well as the free options available to them.

But we know that the system could work better. The current US Department of Veterans' Affairs (VA) disability benefits system is at best cumbersome and adversarial, and at worst broken to a point where it harms the veterans for the benefit of a small number of powerful boutique law firms. In fact, in recent US Congressional testimony, Kenneth Arnold, Acting Chairman of the Board of Veterans' Appeals testified under oath:

"The [VA] courts clerk annually approved 6,500 to 7,300 attorney fee requests each year, almost all for remanded cases. **This generates \$45 to \$50 million in attorney's fees each year, with the majority going to a small number of boutique law firms with relatively few veterans receiving any increase in their monthly compensation.**"

According to the VA's publicly available data on accredited service officers and agents, the entire state of **North Dakota has only 75 unique VSO representatives (yet they advertise a capacity of 178)**<sup>1</sup> to aid the estimated 48,788 veterans who currently reside in the state. This equates to **ONE representative being responsible for handling the affairs of 643 veterans.**

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<sup>1</sup> Data was taken from publicly available sources from the US Department of Veterans Affairs accredited agent database. Many unique names are counted multiple times and are counted as the same name affiliating with multiple VSOs. Analysis was done to remove the duplicative counting and once the unique names were only counted once, the reported 178 accredited agents is actually only 75.

Even the hardest working and most efficient volunteer would be pressed to give the best possible service to that many veterans.

This is why over 70% of Veterans Guardian clients have turned to us for help after trying the other options available – they, not us, are telling you they prefer our expertly trained professional staff and the services we offer.

As our business model has shown, we are strong supporters of improving the process by which Veterans obtain their disability benefits. Our goal should be to expand good options for our Veterans, not restrict them; to improve oversight and ensure Veterans are receiving competent, timely assistance; and to provide our Veterans the freedom to make an informed decision regarding how they want to pursue their disability claims. We have continued to be strong supporters of accreditation reform on the federal level, including increasing knowledge requirements and scrutiny of applicants for accreditation.

Those efforts are underway and we expect that they will result in bi-partisan legislation that opens the tent to accreditation for companies like Veterans Guardian, which endeavor every day to help veterans secure the benefits they are owed as a result of their honorable service.

#### **IV. The Solution: North Dakota House Bill 1169 (as amended)**

ND HB 1169 would preserve the rights of a Veteran to choose how they pursue their own US Department of Veterans' Affairs disability claim and address the full spectrum of the issues at hand. This bill provides additional oversight and protections for the Veteran while preserving their Constitutional rights to petition their government in a manner they see fit, and ensuring Veterans have access to diverse options and effective solutions for decades to come.

If passed, ND HB 1169 will help alleviate the problems with the current system and could help decrease the ever-growing backlog of claims processed through VSOs and perversely incentivized attorneys. ND HB 1169 secures the opportunity of Veterans to seek expert help with a wide variety of claims and could help them avoid the Veterans Administration appeals trap.

There is momentum building at the federal level in the United States Congress to reform the accreditation process for third party actors, like Veterans Guardian, that help Veterans achieve the full disability benefits they have earned. There are more than 18 million veterans in America, but only 5 million have a disability rating and most of those veterans are underrated. While actors such as VSOs and law firms also serve veterans, more options, not less, are needed to effectively meet the demand of American Veterans.

ND HB 1169 preserves a Veteran's right to choose how they pursue their claim and implements necessary reforms that must take place to ensure the integrity of the systems and to protect Veterans from potentially bad actors. Some of these reforms include, but are not limited to:

- o Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- o Prohibiting any initial or non-refundable fees;
- o Mandating that presumptive period Veterans be referred to a VSO of their choice;
- o Getting written confirmation from the veteran they have been informed of their free options;
- o Prohibiting the use of international call centers or data centers for processing Veteran's personal information;
- o Prohibiting aggressive and direct solicitation;
- o Prohibiting advertising or guaranteeing a successful outcome;
- o Mandating the use of HIPAA compliant servers; and other protections.

These are true protections that will ensure the Veteran is not taken advantage of, while still preserving their rights to seek expert claims support.

The demand for current services in this space is far too vast for the government and VSOs to handle on their own. This highlights the need for an enhanced system that provides an expanded pathway for accreditation at the federal level and enhanced oversight against bad practices at the state level – ND HB 1169 does just that!

## **V. Conclusion**

Veterans Guardian strongly supports ND HB 1169. We also join in the dozens and dozens of organizations (see Attachment I) who also support this bill.

I look forward to remaining engaged and working with you and your staffs to support measures such as this and continue to develop solutions for this and other important issues facing our nation's Veterans. Thank you for the opportunity to submit this testimony.



The Honorable Austen Schauer  
Chairperson House Government and Veterans Affairs  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505

**Re: Veteran Benefits Guide - House Bill 1169 Letter of Support**

Dear Chairman Schauer and members of the Committee,

My name is Josh Smith and I am the CEO and Co-Founder of Veteran Benefits Guide ([VBG](#)) writing to you today to express my **support for House Bill 1169**. VBG provides Veterans with a private, legal and federally compliant service that assists Veterans in navigating the Department of Veterans Affairs (VA) disability claims process to help ensure they receive the full benefits that they have earned.

**VBG strongly appreciates Representative Olson's commitment to protecting our Veterans and actually believes that HB 1169 provides the right balance between establishing necessary guardrails to protect Veterans, including disclosure requirements and fee caps, an ensuring that honorable for-profit companies like VBG are allowed to continue serving Veterans.**

In addition to being the CEO of VBG, I am also a U.S. Marine Corps Veteran and a former VA employee. At the VA, I served as a Rating Veteran Service Representative, where I reviewed disability compensation applications and assigned disability ratings, determining the amount of benefits Veterans would receive. In that role, I witnessed firsthand that the VA's disability compensation benefits process is inefficient and often running counter to the agency's mission of helping Veterans.

While we were certainly helping some Veterans, far too many were being denied benefits they earned due to an absurdly complicated system. Through no fault of their own, Veterans were receiving lower disability ratings than they deserved or were simply waiting years to receive final determinations on their benefits.

That is why, in 2015, I left the VA and, with my wife, Lauren, created Veteran Benefits Guide to help guide Veterans through the process and ensure they receive the full benefits they earned from their service in a timely manner. Much like a tax service provider, we help Veterans travel through a confusing bureaucracy to get what they are owed.

We are proud to have grown our company and now have more than 200 employees, with offices in Nevada and California. Eighty percent of our employees are Veterans themselves or immediate family members of Veterans. And we have employed former VA personnel, like myself, to keep up-to-date with VA regulations and practice of the VA disability compensation system.

In exchange for our service, we are paid a one-time success-based fee only after the Veteran is paid. Our fee represents a small percentage of the increase in benefits received and is typically around 1% of a Veteran's total lifetime benefits. And if the Veteran's benefit doesn't change, there is no fee.

At VBG, we are committed to putting the Veterans' interests first. All of our clients sign a waiver upfront acknowledging that free services are available. We have never taken a Veteran to small claims court for non-payment and automatically write off 10% of our revenue due to unpaid fees. And we do not offer services around PACT Act claims, which do not require an expert guide.



To date, we have guided more than 35,000 Veterans through the claims process. These Veterans have received an average increase in monthly benefits of \$1,300 benefits they would not have received without our help. Despite their best efforts, Veteran Service Organizations (VSOs), which are intended to represent Veterans in the process, do not have enough resources to keep up with the demand. In fact, more than 70% of our clients first tried navigating the VA benefits process with the help of a VSO representative or on their own. They were either denied their full benefits or felt the process was taking too long.

It is clear that our service is needed. At present, only 5.2 million of 19 million eligible Veterans are receiving benefits. That means there may be millions of eligible Veterans who are not receiving benefits they have earned, either because they aren't aware of their eligibility, have already tried to receive benefits and were wrongly denied, or are too intimidated by the process to even apply.

The opponents of the bill may inaccurately insinuate that organizations such as ours choose not to be accredited. That is inaccurate. VBG would welcome the opportunity to become accredited with the VA but cannot because current law prohibits accredited entities from charging a fee for representation of Veterans on the initial claim. VBG's personnel, medical service provider network and procedures already meet standards required of VA-accredited agents and would meet any reasonable threshold for accreditation set by the VA.

Opponents of the bill may also claim that private services like VBG are violating the law. That is also inaccurate. Federal law states that "no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Secretary" without first being accredited. I would like to state for the record that:

- We **DO NOT** practice law.
- We **DO NOT** act as the Veteran's agent of record.
- We **DO NOT** present before the VA.

House Bill 1169 preserves freedom of choice, representation, and access to Veteran services, while making it harder for unscrupulous individuals to take advantage of Veterans and the benefits they have earned. As members of the House Government and Veterans Affairs Committee, we urge you to support House Bill 1169.

Very Respectfully,



Josh Smith  
CEO and Co-Founder  
Veteran Benefits Guide



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Jeremy Olson

District 26  
P.O. Box 692  
Arnegard, ND 58835-0692  
C: 701-651-7486  
[jolson@ndlegis.gov](mailto:jolson@ndlegis.gov)

## COMMITTEES:

Finance and Taxation  
Energy and Natural Resources

17 January 2025

Mr. Chairman and members of the Government and Veterans Affairs Committee, I am Jeremy Olson, State Representative, District 26, representing most of McKenzie and Dunn Counties. I am the prime sponsor for HB 1169 as part of the Military and Veteran's Caucus goal of protecting the benefits and quality of life for our active-duty members and veterans in North Dakota. The goal of HB 1169 is to protect our disabled veterans from predatory practices of some organizations whose business model is to assist disabled veterans to receive disability compensation but use unethical methods against the veteran for this service.

There are respectable organizations who truly do good work to help our disabled veteran community, as well as our local Veteran Service Officers, as they navigate the often-complex system of the Veteran's Affairs disability claims system. We want to retain the good ones and restrict the predatory ones. The main provisions of HB 1169 ensure that the veteran is protected from predatory practices of excessive fees, improper access to private information, and making misleading guarantees of success. In short, this bill adds many more protections to the disabled veteran seeking these services against tactics that some non-reputable groups currently employ.

The proponents following me can give you a more granular perspective of the challenges and solutions that HB 1169. Thank you for your consideration.

Respectfully,

Jeremy L Olson MBA, CSP  
ND House of Representatives, District 26  
House Republican Caucus Leader  
[jolson@ndlegis.gov](mailto:jolson@ndlegis.gov)  
701-651-7486



*The Accreditation, Discipline, & Fees Program*  
Benefits Law Group, Office of General Counsel

**VA**



U.S. Department  
of Veterans Affairs

## *Tips on Fee Agreements for Veterans Claims*

**1. Don't charge a fee too early.** An attorney or a claims agent may never charge a claimant or receive a fee or a gift from a claimant for assistance with preparing and filing an initial VA benefits claim. 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).

**2. Ensure your fee is reasonable.** A fee for representation on a veteran’s benefits claims must be reasonable at all times. 38 C.F.R. § 14.636(e) (“[f]ees permitted for services of an agent or attorney admitted to practice before VA must be reasonable”). Pursuant to VA’s standards of conduct for accredited individuals, it is a VA-accredited attorney or agent’s responsibility to ensure that he or she does not “enter into an agreement for, charge, solicit, or receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation.” 38 C.F.R. § 14.632(c)(5). It is important to remember that in most instances the onus is on the attorney or the claims agent to assess whether the fee is reasonable.

When an attorney or claims agent has a contingency fee agreement that does not exceed 20-percent and provides continuous representation from the date of the agreement through the date of the decision awarding benefits, the fee called for in the fee agreement is presumed to be reasonable in the absence of clear and convincing evidence to the contrary. 38 U.S.C. § 5904(a)(5); 38 C.F.R. § 14.636(f); *see also Scates v. Principi*, 282 F.3d 1362, 1365 (Fed. Cir. 2002) (explaining that even if a fee agreement provides for a fee of 20 percent of past-due benefits awarded, implicit in that arrangement is the understanding that the attorney or agent’s right to receive the full 20-percent fee only arises if the attorney or agent continues as the veteran’s representative until the case is successfully completed). In contrast, an attorney or agent with a 20-percent contingency fee agreement whose representation of the claimant ends before the case is completed, may still be eligible for a fee, but the full amount of the fee stated in the agreement generally would not represent a reasonable fee for that attorney or agent. Rather a reasonable fee for a discharged agent or attorney would be limited to the amount of the “fee that fairly and accurately reflects [the attorney or agent’s] contribution to and responsibility for the benefits awarded.” *Scates*, 282 F.3d at 1366.

**3. Choose your fee payment arrangement wisely.** Two different types of fee payment arrangements are permitted on VA benefits claims. The parties may choose either, but not both. Most fee agreements filed with VA are direct-payment fee agreements, under which the claimant and the attorney or claims agent agree that the fee is to be paid to the agent or attorney by VA directly from any past-due benefits awarded to the claimant. In these types of arrangements, the total fee may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim and the fee must be entirely contingent on the claimant receiving a favorable result on the claim. 38 C.F.R. § 14.636(h).

With the other type of fee arrangement, commonly referred to as a non-direct payment fee arrangement, the attorney or claims agent is responsible for collecting any fees for representation from the claimant without assistance from VA. Under this type of arrangement an attorney may charge reasonable fees based on a fixed fee, an hourly rate, a percentage of benefits recovered, or a combination of such bases. While there is not an absolute cap on the amount of fees that may be charged under these arrangements, if the fee charged

exceeds 33 1/3 percent of past-due benefits awarded, the attorney or agent must provide VA with clear and convincing evidence that such a fee is reasonable before receiving payment.

**4. Mixed-type fee agreements and the direct payment of fees, don't mix.** Fees may be based on a fixed fee, hourly rate, a percentage of benefits recovered, or a combination of such bases. 38 C.F.R. § 14.636(e). But, in order to receive direct payment of a fee by VA, the fee must be wholly contingent on favorable resolution of the claim. 38 C.F.R. § 14.636(h)(1)(ii). VA will not provide direct payment for any fee agreements that mixes a contingent fee with a fixed or hourly rate. Moreover, if an attorney or claims agent were to receive a direct payment fee of 20 percent in addition to another fee, that individual would be in violation of 38 C.F.R. § 14.632(c)(5) and could potentially risk losing his or her VA-accreditation.

**5. Make sure that your fee agreement is clear.** Any ambiguity in a written fee agreement will be resolved against the lawyer. Beatty v. NP Corp., 581 N.E.2d 1311, 1315 (Mass. App. Ct. 1991).

**6. Know what to include and not to include in your fee agreement.** It is not proper for a fee agreement to purport to restrict VA from contacting a veteran. A fee agreement is between a client and attorney or claims agent; it does not bind VA and cannot restrict VA from contacting a veteran. *Equal Employment Opportunity Comm'n v. Waffle House, Inc.*, 534 U.S. 279, 294 (2002) ("It goes without saying that a contract cannot bind a nonparty."). Please make sure that you are using the fee agreement for its intended purpose. In addition, a fee agreement should never purport to eliminate a claimant's right to terminate the attorney-client relationship or dispute a fee. Veterans have a *legal right* to terminate an attorney at any time and to dispute an attorney's eligibility to a fee or question the reasonableness of a fee. See 38 C.F.R. §§ 14.631(f)(1) ("A power of attorney may be revoked at any time, and an agent or attorney may be discharged at any time); 14.636(i) ("[T]he Office of the General Counsel may review a fee agreement . . . upon its own motion or the claimant or appellant."). Finally, with regard to termination clauses in contingent fee agreements specifically, a contingent fee agreement that penalizes the client for discharging the lawyer is impermissible. See, e.g., *Guy Bennett Rubin PA v. Guettler*, 73 So. 3d 809 (Fla. Dist. Ct. App. 2011) (finding a termination clause in contingent-fee contract requiring client to pay hourly rate for work done before discharge chills client's right to switch lawyers or to abandon case); *In re Lansky*, 678 N.E.2d 1114 (Ind. 1997) (finding an agreement guaranteeing a lawyer 40 percent of the client's gross recovery if the lawyer is discharged before the resolution of case to be unreasonable); *Hoover Slovacek LLP v. Walton*, 206 S.W.3d 557 (Tex. 2006) (finding a retainer provision that entitles an attorney to the full value of a contingent fee if the attorney is discharged before the contingency occurs violates public policy and is unenforceable); Va. Ethics Op. 1812 (2005) (determining it to be impermissible to include a provision stating that if client terminates agreement, "reasonable value of Attorney's services shall be valued at \$200 per hour," or alternative provision that lawyer may, "where permitted by law, elect compensation based on the agreed contingent fee for any settlement offer made to Client prior to termination").

**7. Explain the scope of your representation and any limitations.** Sometimes an attorney's or claim agent's representation of a claimant is limited in the scope of representation to a specific claim on appeal, or to a particular stage of the adjudicatory process (e.g., an attorney may limit representation of the claimant only before the Court of Appeals for Veterans Claims). An attorney or agent may limit the scope of engagement, but the limitation must be reasonable under the circumstances and the claimant should consent to the limited scope. See 38 C.F.R. § 14.632(c)(9) (an attorney or agent shall not engage in acts or behavior prejudicial to the fair and orderly conduct of administrative proceedings before VA); MRPR, 1.2(c). For the attorney and agent's protection, it is best to memorialize the limitations and consent in writing. See Wong v.

Michael Kennedy, P.C., 853 F. Supp. 73, 80 (E.D.N.Y. 1994) (explaining that an attorney who drafts a fee agreement stands in a fiduciary relationship to the client and has the burden of showing that the agreement is fair, reasonable, and fully understood by the client). Remember that on the VA Form 21-22a, Appointment of Individual as Claimant's Representative, Item 23 allows an attorney or agent to list any limitations on representation.

**8. Beware of making mid-representation changes to the fee agreement.** Attorneys face additional scrutiny when they change fee arrangements mid-representation. Having assumed representation of the client, the lawyer now owes fiduciary duties to his or her client. Courts and regulators are often concerned that a lawyer may take advantage of a vulnerable client. Therefore, particularly if the lawyer receives a larger fee under the new arrangement, the lawyer may face disciplinary charges or invalidation of the new fee arrangement.

The American Bar Association, Model Rule 1.8(a) as well as the rules of most States provide that a lawyer shall not enter into a business transaction with a client unless: (1) the transaction is objectively fair and reasonable; (2) fully disclosed in writing and in terms that are understandable to the client; and (3) the client is provided an opportunity to have the transaction reviewed by outside counsel and agrees to the transaction in writing. MODEL RULES OF PROF'L CONDUCT (MPRC) r. 1.8(a) (AM. BAR ASS'N 1983). *See also* RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 126 (2000) (showing the protections in MRPC Rule 1.8 are consistent with the common law governing the attorney-client relationship); RESTATEMENT (THIRD) OF AGENCY § 8.03 (2006) (showing that the protections are also consistent with the law of agency). Although this particular rule would not generally apply to an ordinary fee agreement between an attorney and a client, States have applied it to situations in which the attorney modifies an existing fee agreement during the course of representation to tip the scale in the attorney's favor. *See e.g., In re Corcella*, 994 N.E.2d 1127 (Ind. 2013) (lawyer switched fee type from an hourly rate to a contingency fee without complying with Indiana Professional Conduct Rule 1.8(a)); *In re Curry*, 16 So. 3d 1139 (La. 2009) (revising a fee agreement to more favorable terms for the attorney violated Louisiana Rules of Professional Conduct 1.8(a)). To avoid such problems, if an attorney or agent must change their fee arrangement mid-representation, he or she ensure that the new arrangement is fair to the client, inform the client of the new agreement in writing, and recommend that the client seek independent counsel on the fee agreement and provide the client an opportunity to do so.

**9. Know where to file your fee agreement.** Fee agreements should be filed with VA in only one location—that location is determined by whether the fee agreement calls for VA to directly pay the attorney fees from the claimant's award of past-due benefits. A direct-payment fee agreement must be filed with the Veteran Benefits Administration at the Evidence Intake Center within 30 days of its execution. In contrast, a non-direct payment fee agreement must be filed with OGC within 30 days of its execution.

**10. Provide competent, diligent representation.** A contract providing for the direct payment of fees from the claimant's past-due benefits could be perceived as creating a perverse incentive for attorneys and claims agents to provide subpar representation—effectively encouraging attorney and agents to try to provide the least amount of representation as they can and still collect fees, if past-due benefits are awarded to the claimant. However, under 38 C.F.R. § 14.632(b)(1), attorneys and claims agents are required to provide competent representation before VA. Competent representation requires the knowledge, skill, thoroughness, and preparation necessary for the representation. Competent representation also requires the attorney and claims agent to know and understand the issues of fact as well as the law. Section 14.632(b)(2) requires an attorney and a claims agent to act with reasonable diligence and promptness in representing claimants. This means promptly responding to VA's requests for information as well as returning your client's phone calls and emails. Accordingly, it is wise to make sure that you do not spread yourself too thin when handling veterans



claims so you can ensure that each of your clients is receiving the competent and diligent representation that is required by VA's standards of conduct.

**11. Communication is key.** We recommend that at the onset of representation that you discuss with the claimant how you will communicate about the claim and how often. One of the biggest complaints that claimants have in challenging the reasonableness of a fee is that they were unable to reach their attorney or agent and were not provided regular updates on their claim.

**12. Document your work and record your time, it may be helpful later.** The best time to document your work is when you are doing it. Even if you typically work for a contingency fee, having a record of the work you completed and the time you spent on a case may come in handy if there is a dispute over your fee.

**13. Do not rely on OGC to review your fee for reasonableness.** VA's Office of General Counsel does not review every fee for reasonableness, and simply because you were determined eligible for a fee does not mean you should accept or keep the funds dispersed to you. Pursuant to VA's standards of conduct for accredited individuals, it is a VA-accredited attorney or agent's responsibility to ensure that he or she does not "receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation." 38 C.F.R. § 14.632(c)(5). It is important to remember that in the majority of VA claims, just like in many other areas of the law, the onus is primarily on the attorney or the claims agent to assess whether the fee is reasonable.

The only time that OGC always reviews a fee for reasonableness is when more than one attorney or agent is involved in a case, and the fee agreements call for the direct-payment of fees to be made by VA from the claimant's past-due benefits. When a claimant retains more than one attorney or agent through a direct payment fee agreement during the course of the case, the total amount of the funds that VA can direct to the attorneys and agents collectively under 38 U.S.C. § 5904(d) is capped at 20 percent of the claimant's past-due benefits awarded. *Scates*, 282 F.3d at 1365-66. Thus, VA is unable to disperse the withheld funds based on an attorney or agent's eligibility for the direct-payment of fees alone. See 38 C.F.R. § 14.636(c), (g)-(h). In order to effectuate payment, OGC, on its own motion, exercises its authority to review the fees to determine the reasonable share to be issued to each attorney and/or agent.

**14. Waiving fees may be the right thing to do.** Generally, it is your responsibility to waive your right to fees if you did no work, or an insignificant amount of work, that contributed to the Claimant's award. See 38 C.F.R. § 14.632(c)(5); see also, e.g., *In re Cleaver-Bascombe*, 892 A.2d 396 (D.C. 2006) (explaining that it is by definition "unreasonable" to charge for work that was not done); *In re Powell*, 953 N.E.2d 1060 (Ind. 2011) (explaining that terms of a contingent fee agreement may have been reasonable at outset, but because the matter quickly resolved, the lawyer should have realized that his fee had become unreasonable); *In re Sinnott*, 845 A.2d 373 (Vt. 2004) (holding that it was unreasonable for a lawyer to charge a client for negotiations that the client ended up doing herself). To waive entitlement to the fee called for in your fee agreement with the claimant, please submit a written response indicating that you have elected to do so to the regional office and the Office of General Counsel.

**15. If a matter is with OGC for the review of the reasonableness of a fee, settlement may be an option.** VA encourages the informal resolution of fee matters. In our experience, attorneys, agents, and claimants, have been able to settle these matters in a fair and timely manner. Accordingly, we encourage attorney and

agents to consider the applicable law and communicate with the other parties—whether it be with the claimant, another agent or attorney, or both—regarding the possibility of proposing a settlement agreement.

If you were the only attorney or agent of record, you should advise the claimant, in writing, to seek independent advice and counsel prior to reaching an agreement. Under ABA Model Rule 1.8(h)(2), “[a] lawyer shall not . . . settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.” In Comment 15 to Model Rule 1.8(h)(2), the ABA states that “[a]greements settling a claim or a potential claim for malpractice are not prohibited by this Rule” but, “in view of the danger that a lawyer will take unfair advantage of an unrepresented client or former client, the lawyer must first advise such a person in writing of the appropriateness of independent representation in connection with such a settlement.” Additionally, the attorney must “give the client or former client a reasonable opportunity to find and consult independent counsel.” *Id.* The failure of an attorney to properly advise a client to seek independent advice in such matters may subject the attorney to bar discipline. See, e.g., *Kentucky Bar Ass’n v. Keating*, 405 S.W.3d 462, 464 (Ky. 2013) (accepting board of governors 18-month suspension recommendation for attorney who settled a potential malpractice claim “without advising [the client] in writing of the desirability of seeking, and giving her a reasonable opportunity to seek, the advice of independent legal counsel in connection therewith”); *Attorney Grievance Comm’n of Maryland v. Butler*, 44 A.3d 1022, 1030 (Md. 2012) (affirming 60-day suspension of attorney who “plainly limited his liability for his mismanagement” of a case without presenting evidence that he “advised the clients to seek independent counsel”).

If there is more than one attorney or agent of record, you and the other eligible attorney or agent should submit a written response to our office, indicating that you are proposing that this matter be resolved through agreement by the representatives, and attach the signed agreement. The consent of the claimant may be necessary depending on your state rules of professional conduct and the situation at hand. Your response should include all pertinent details concerning the terms of the proposed settlement agreement, such as an explanation as to the portion of the fees that should be paid to each representative and, if appropriate, the Claimant. Upon receipt of the settlement agreement, OGC may opt to withdraw this motion to review the fee matter and instruct that fees be paid in accordance with the terms of the settlement agreement. A settlement agreement that does not secure the consent of the claimant would not preclude the claimant from filing, or OGC from acting upon, a motion from the claimant requesting a review of the reasonableness of the fees pursuant to section 14.636(i)(1) within the regulatory time period.

**16. Think, before accepting a big fee.** Before you celebrate over a windfall of fees coming your way, you should first pause and consider whether the fee is reasonable, from both your perspective and the claimant’s perspective. It is important to be aware of the consequences an attorney or agent may face for accepting an unreasonable fee. The reasonableness review process under 38 C.F.R. § 14.636(i) can lead to the suspension or cancellation of accreditation under 38 C.F.R. § 14.633(c)(6), which specifically refers to “[c]harging excessive or unreasonable fees for representation as determined by VA.” However, equally important, outside of the reasonableness review process, violation of the standard of conduct at 38 C.F.R. § 14.632(c)(5)—providing that an attorney shall not “enter into an agreement for, charge, solicit, or receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation”—could lead to the suspension or cancellation of accreditation under 38 C.F.R. § 14.633(c)(1), which specifically refers to “[v]iolation of or refusal to comply with the laws administered by VA or with the regulations governing practice before VA *including the standards of conduct in § 14.632.*” The bottom line is that you should never accept a fee that is not reasonable.



## Department of Veterans Affairs

EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444

January 14, 2025

In reply, refer to file number:  
[REDACTED]

[REDACTED]

The Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxins Act of 2022, known as the PACT Act, expands and extends eligibility for health care and benefits to Veterans exposed to burn pits and other toxic substances. The law enables the Department of Veterans Affairs (VA) to provide generations of Veterans and their survivors with the care and benefits they have earned and deserve. Unfortunately, since the PACT Act was passed, claims predators have increasingly targeted Veterans – via emails, phone calls, or text messages – and tried to take some portion of their PACT Act-related and VA benefits. VA defines claims predators as "bad actors" who try to unlawfully charge Veterans to "help" process their claims with VA. These claims predators are not accredited by VA and are charging Veterans improper and exorbitant fees to help prepare, consult on, or file their initial benefits claims. VA claimants should **never** pay a fee to file or receive help in filing an initial claim for benefits. It is **unlawful** for these bad actors to charge fees for preparing, or helping to prepare, an initial claim. VA employees, as well as Veterans Service Organizations (VSOs) and VA accredited representatives, are available to help Veterans file their initial claims.

### What Are Some Signs an Entity May Be a Claims Predator?

- **They Are Not Accredited by VA:** Beware of claims predators asserting they don't need to be accredited by VA or they are qualified to help in some other way. Don't believe them!
- **They Downplay VA Accreditation:** Beware of claims predators downplaying the quality of help Veterans and their family members can receive from VA accredited VSOs for free.
- **They Charge High Fees:** Beware of claims predators charging absurd fees or requesting a portion of your VA benefits payments. Never pay anyone a fee to file an initial claim for benefits.
- **They Make Dishonest Promises:** Do not trust anyone who claims they can help accelerate the claims process and obtain a 100% disability benefits evaluation. Only VA has the authority to determine disability evaluations.
- **They Require Contracts:** Never sign a contract agreeing to pay an unaccredited individual or company a fee in exchange for assistance in filing a VA initial claim, to include a percentage of or flat fee from future benefit payments.





## What Is VA Doing?

Fraud poses a real threat to benefits and services, as fraudsters' schemes are constantly evolving. VA is committed to safeguarding your benefit payments by employing industry-leading fraud prevention techniques and partnering with federal agencies and other stakeholders to create a united front in protecting Veterans. There is a devoted team within VA that works diligently to proactively stop fraud before it occurs, create robust educational communication tools, and remediate financial losses if fraud does occur.

## Where Can You Find More Fraud Prevention Information?

You can protect your benefits against claims predators by either applying for benefits in person at any VA regional office or securely online at: [www.benefits.va.gov/BENEFITS/Applying.asp](http://www.benefits.va.gov/BENEFITS/Applying.asp). VA will help gather the evidence needed to support your claims. If you choose to seek assistance outside of VA, you can find a VA accredited representative by visiting [www.va.gov/get-help-from-accredited-representative/find-rep/](http://www.va.gov/get-help-from-accredited-representative/find-rep/). If your claim is denied and you want a further review without submitting additional evidence, you can request a higher-level review. If your claim is denied and you want to submit new evidence, you can either file a supplemental claim or appeal the decision to the Board of Veterans' Appeals.

For more information about claims predators fraud prevention resources, scan the below QR code or go to [www.digital.va.gov/outreach-toolkits/claims-predators](http://www.digital.va.gov/outreach-toolkits/claims-predators).



## How To Report Fraud?

If you suspect a representative has acted unlawfully or unethically while helping file a VA benefits claim, you can report these claims predators at [www.vsafe.gov](http://www.vsafe.gov) or by calling 833-38V-SAFE.

Our goal is to empower you with tools to recognize claims predators and avoid their deceptive tactics. Every day at VA, we are working to fulfill our mission and our duty to honor the sacrifices you and your families have made.

HB 1169

North Dakota Department of Veterans Affairs  
Lonnie Wangen-Commissioner

1/17/2025

**House Government and Veterans Affairs Committee**  
**69<sup>th</sup> 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 Counsel 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 118<sup>th</sup> 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

# 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](http://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 \(va.gov\)](http://ProtectingVeteransFromFraud|VeteransAffairs.va.gov). 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.



PRESIDENT

**Dave Yost**Ohio  
Attorney General

August 8, 2023

PRESIDENT-ELECT

**Ellen F. Rosenblum**Oregon  
Attorney General**Via E-mail**

VICE PRESIDENT

**John Formella**New Hampshire  
Attorney GeneralThe Honorable Kevin McCarthy  
Speaker  
House of Representatives  
Washington, DC 20515The Honorable Chuck Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510IMMEDIATE PAST  
PRESIDENT**Josh Stein**North Carolina  
Attorney GeneralThe Honorable Hakeem Jeffries  
Minority Leader  
House of Representatives  
Washington, DC 20515The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510**Re: Support for Passing the G.U.A.R.D. VA Benefits Act****Brian Kane**

Executive Director

Dear Congressional Leaders:

1850 M Street NW  
12th Floor  
Washington, DC 20036  
(202) 326-6000  
www.naag.org

The undersigned Attorneys General write to express our strong support for the passage of bipartisan legislative proposals included in, *H.R. 1139* and *S. 740*, both cited as the *Governing Unaccredited Representatives Defrauding VA Benefits Act* and otherwise referred to as the *G.U.A.R.D. VA Benefits Act*.

The history of the service and sacrifice of our nation's veterans is long and storied. This country and the freedoms we enjoy were built on those sacrifices. Our nation has long recognized its obligation to provide support and care for those veterans and their families as compensation for their many sacrifices. This nation has long provided that support and care through various VA benefits. However, some of those benefits make the veterans who have earned them targets for financial exploitation.



To ensure veterans received “responsible, qualified representation”<sup>1</sup> and assistance when applying for those benefits, federal laws were created requiring anyone who assists them in preparing, presenting, or prosecuting those claims to be properly accredited through the VA Office of General Counsel (OGC).<sup>2</sup> Those same laws govern whether, when, and how much veterans can be charged for that assistance.

In 2006, the criminal penalties for violating those laws were removed<sup>3</sup>, leaving the OGC virtually powerless to enforce the law against anyone except those who *voluntarily* followed those laws and became accredited. That left the door open for unaccredited, often unscrupulous, actors to swoop in and turn what had been created as a benefit for veterans into profitable businesses that targeted those veterans and their benefits. Over the years, those unaccredited actors have proliferated throughout the VA benefits claims system at all levels.

Unaccredited actors advertise their services as superior to the free services offered by accredited actors, like veteran service officers, claims agents, and attorneys, who are trained, tested, supervised, regulated, or otherwise held accountable. They boast quicker response times and better or even guaranteed results, neither of which is based in fact or even remotely quantifiable.

Assisting or representing veterans and their families in preparing, presenting, and prosecuting claims for VA benefits is governed by federal statute and requires VA accreditation. So unaccredited actors advertise their services as “coaching” or “consultation” instead of assistance or representation to avoid oversight or accountability. Many use language in their advertising and their contracts indicating that the veteran will be doing all the work that requires accreditation and that the unaccredited actors are only there to answer questions or advise. In fact, they typically do everything except sign the claim. Conversely, other unaccredited actors do absolutely nothing except point the veteran to DIY websites and online videos that the veteran could have found themselves.

Regardless of how much or how little assistance unaccredited actors actually provide a veteran in preparing and presenting their claim, they all abandon those veterans when it comes to representation. At that point, often a critical one, those veterans are entirely on their own. Accredited actors stay with the veteran throughout the process and are accountable for their work.

Since they do not have access to the veteran’s VA claim files, unaccredited actors sometimes require the veteran to share their VA system logins and passwords so they can

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<sup>1</sup> 38 CFR 14.626.

<sup>2</sup> 38 USC 5904.

<sup>3</sup> P.L. 109-461.

monitor the claims process, know when benefits decisions are made, and know the amounts of those benefits so that they can calculate their cut. Additionally, they might have the veteran give them access to the checking or savings account where the benefits will be direct deposited, so that the company can immediately withdraw their fees from the account, sometimes before the veteran even learns that the money had been deposited.

With the recent passage and signing into law of the PACT Act, there is an expectation of a significant increase in filing applications or claims for benefits. In the first six months after the PACT Act became law, the VA received 124,127 completed PACT Act related claims for VA benefits, 122,130 from veterans and 1,999 from survivors. In just the first five months, there were 161,659 new enrollees in the Veterans Health Administration (VHA) system, representing an almost fifteen percent increase in the number of new enrollees over the same five-month period from the year before.<sup>4</sup> Unaccredited actors see this potential influx of claims, especially those associated with the long list of new presumptive conditions, as a target-rich environment and an opportunity to further exploit veterans and their families without fear of punishment or reprisal, as evidenced by a recent and continuing barrage of internet, social media and even television advertisements referencing the recently enacted PACT Act and the Camp Lejeune Justice Act.

Any argument that the GUARD VA Benefits Act will take away a veteran's right to choose who they want to represent them or somehow limit their choices of representation is without merit.

While its opponents argue that the Act impinges upon veteran's right to choose who they wish to consult with or to represent them in the preparation, presentation, or prosecution of their attempts to obtain VA benefits, whether that be initial claims, claims for increases, or appeals of adverse decisions, on the contrary, it merely removes the ability of unaccredited, unregulated, and often unscrupulous actors to target and prey upon those veterans with impunity. It holds them accountable not just to the law but also to the veterans and their families by giving them options for redress when they find themselves victims of those same actors.

We urge the members of Congress, therefore, to reinstate those criminal penalties and to protect our veterans, and their families, from unaccredited predatory actors who seek to profit from veterans' service and sacrifice with total disregard for the laws designed to protect those veterans and their benefits. Our veterans deserve to be honored, not disproportionately targeted for financial victimization.

---

<sup>4</sup> [VA PACT Act Performance Dashboard](#)

The four co-sponsors of this letter, the attorneys general of California, Illinois, Ohio, and Tennessee, are joined by the undersigned attorneys general across the U.S. states and its territories.

Respectfully,

A handwritten signature in blue ink that reads "Rob Bonta".

Rob Bonta  
California Attorney General

A handwritten signature in black ink that reads "Kwame Raoul".

Kwame Raoul  
Illinois Attorney General

A handwritten signature in blue ink that reads "Dave Yost".

Dave Yost  
Ohio Attorney General

A handwritten signature in blue ink that reads "Jonathan Skrmetti".

Jonathan Skrmetti  
Tennessee Attorney General

A handwritten signature in blue ink that reads "Treg R. Taylor".

Treg R. Taylor  
Alaska Attorney General

A handwritten signature in black ink that reads "Fainu'ulelei Falefatu Ala'ilima-Utu".

Fainu'ulelei Falefatu Ala'ilima-Utu  
American Samoa Attorney General

A handwritten signature in blue ink that reads "Kris Mayes".

Kris Mayes  
Arizona Attorney General

A handwritten signature in black ink that reads "Phil Weiser".

Phil Weiser  
Colorado Attorney General

A blue ink signature, appearing to read "William Tong", written in a cursive style.

William Tong  
Connecticut Attorney General

A black ink signature, appearing to read "Kathleen Jennings", written in a cursive style.

Kathleen Jennings  
Delaware Attorney General

A black ink signature, appearing to read "Brian Schwalb", written in a cursive style.

Brian Schwalb  
District of Columbia Attorney General

A black ink signature, appearing to read "Ashley Moody", written in a cursive style.

Ashley Moody  
Florida Attorney General

A blue ink signature, appearing to read "Christopher M. Carr", written in a cursive style.

Christopher M. Carr  
Georgia Attorney General

A black ink signature, appearing to read "Anne E. Lopez", written in a cursive style.

Anne E. Lopez  
Hawaii Attorney General

A blue ink signature, appearing to read "Raúl R. Labrador", written in a cursive style.

Raúl Labrador  
Idaho Attorney General

A black ink signature, appearing to read "Kris W. Kobach", written in a cursive style.

Kris Kobach  
Kansas Attorney General



Daniel Cameron  
Kentucky Attorney General



Jeff Landry  
Louisiana Attorney General



Aaron M. Frey  
Maine Attorney General



Anthony G. Brown  
Maryland Attorney General



Andrea Joy Campbell  
Massachusetts Attorney General



Dana Nessel  
Michigan Attorney General



Keith Ellison  
Minnesota Attorney General

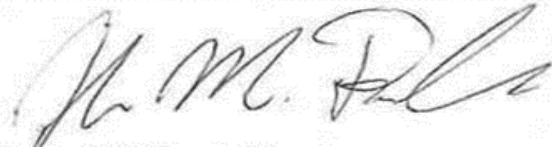


Lynn Fitch  
Mississippi Attorney General



Aaron D. Ford

Nevada Attorney General



John M. Formella

New Hampshire Attorney General



Matthew J. Platkin

New Jersey Attorney General



Letitia James

New York Attorney General



Josh Stein

North Carolina Attorney General




Drew H. Wrigley

North Dakota Attorney General



Gentner Drummond

Oklahoma Attorney General



Ellen F. Rosenblum

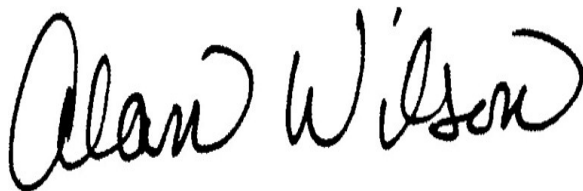
Oregon Attorney General



Michelle Henry  
Pennsylvania Attorney General



Peter F. Neronha  
Rhode Island Attorney General



Alan Wilson  
South Carolina Attorney General



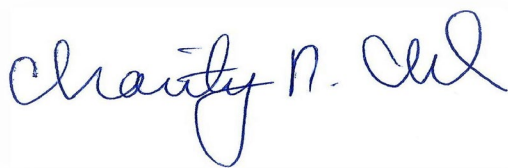
Marty Jackley  
South Dakota Attorney General



Angela Colmenero  
Provisional Texas Attorney General



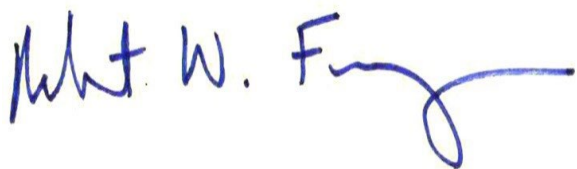
Sean D. Reyes  
Utah Attorney General



Charity Clark  
Vermont Attorney General



Jason S. Miyares  
Virginia Attorney General



Robert W. Ferguson  
Washington Attorney General



Patrick Morrissey  
West Virginia Attorney General



Joshua L. Kaul  
Wisconsin Attorney General



Bridget Hill  
Wyoming Attorney General



January 14, 2025

Testimony for House Bill 1169

Bill Tuff Veterans of Foreign Wars

Department of North Dakota ,

National Council of Administration for North Dakota

526 2<sup>nd</sup> St Ct West Fargo ND 58078 [bltuf@aol.com](mailto:bltuf@aol.com), 701-261-2144

HB 1169 This bill is what the Veterans of Foreign Wars and ND Veterans Legislative Conference hopes will assist with Veterans keeping their benefits earned while in service to The United States of America.

Currently there is no enforceable law that prevents unscrupulous individuals from taking advantage of Veterans who are trying to access their earned benefits.

The "Claim Sharks" is designed to prevent outside Predatory Practices from taking advantage of Veterans who are attempting to access their benefits from the Veterans Administration. Popular Scams are charging Veterans fees and a percentage of their benefits to access or help Veterans file claims, these are conducted by Non VA accredited individuals or organizations.

According to the Veteran Administration predators will promise 100% disability rating, unrealistic claim processing times, and a charge of astronomical costs to assist the Veteran. The Veteran Service Organizations have Service Officers who conduct the necessary work and paperwork and are accredited through the Veterans Administration to process claims for all veterans free of charge , the Service Officers go through continual education to keep up with the changing laws and rules.

The Veterans Administration has assisted the Veterans Service Organizations in the education and training of the Service Offices.

## How to Identify a “ Claim Shark” according to the VA and VFW

1. Charge high fees and take a percentage of your VA Benefits
2. Make deceitful promises. No one can guarantee a VA disability rating or accelerate claim promising.
3. Require a binding contract to perform the act of working the claim.

The easiest and safest way to prevent this is to work with an accredited Veteran Service Officer.

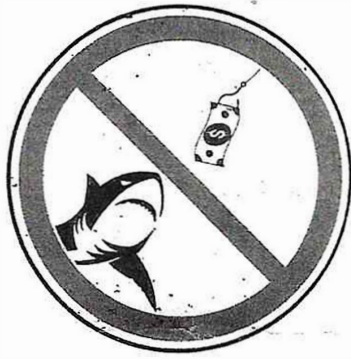
The Veterans of Foreign Wars is dedicated assist Veterans to receive their earned benefits and ridding the system of Non accredited individuals from taking the earned benefits who have protected this nation.

Being Accredited means the Veteran Service Officer has to adhere to well established professional and ethical standards that are set by the Veterans Administration, Claim Sharks do not have to adhere to these standards and rarely do.

It is illegal to mislead and defraud Veterans by Federal Law but in 2006 The Congress of the United States stripped away the penalties for charging veterans to access their rightful benefits. The VFW and other Veterans Organizations are attempting to protect the rights of Veterans and their families and the benefits they have earned.

A number of States have started to address this issue. We believe the State of North Dakota should join Minnesota and the other states who are addressing the Predatory Practices of Claim Sharks and other unscrupulous individuals who are attempting to defraud and scam Veterans of their owed benefits.

Bill Tuff



# DON'T FEED THE SHARKS



DontFeedTheSharks.org

## What is a "Claim Shark"?

- A Claim Shark is an individual or company that charges hefty fees to "assist" or "consult" veterans with filing their VA benefit claims – this practice is illegal!
- Claim Sharks are not VA accredited, meaning they aren't required to adhere to the well-established professional and ethical standards of VA accreditation, so their advice can often be misleading or even fraudulent.
- Like a "Loan Shark," once you're in, you can't get out, and may be subject to new and hidden fees whenever you get a new rating, no matter who does the work.

## Some of their predatory practices are:

- Promising or guaranteeing an increased disability rating or percentage increase.
- Advertising expedited VA claims decisions.
- Requesting login credentials to access a veteran's personal information through secure VA websites like eBenefits or VA.gov.
- Using confusing tactics or ambiguous language to mislead claimants or coerce them into signing a contract.
- Telling veterans to forego VA exams and offering health consultations within their own network of doctors.

## Who are the Claim Sharks?

- |                      |                         |
|----------------------|-------------------------|
| ✦ Trajector Medical  | ✦ Patriot Angels        |
| ✦ Vet Benefits Guide | ✦ Veteran Care Services |
| ✦ Veterans Guardian  | ✦ VetComm               |
| ✦ VA Claims Insider  | ✦ VA Claims Academy     |
| ✦ Telemedica         | ✦ Vet Assist            |

## Veterans can protect themselves by:

- Always working with VA accredited representatives.
- Attending all exams ordered by VA.
- Not signing contracts.
- Not agreeing to fees or payments from future benefits.
- Not agreeing to pay for medical consultations or opinions.
- Not providing access to Protected Health Information or Personal Identifiable Information.

## Who is NOT a Claim Shark?

- VA accredited veterans service organization representatives, like the VFW
- VA accredited claims agents
- VA accredited attorneys
- Attorneys assisting with Camp LeJeune lawsuits who do not charge excessive fees



# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
1/24/2025

Relating to compensation for veterans' benefits; and to provide a penalty.
--

10:34 a.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Bahl, Brown, Christy, Grindberg, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff  
Members absent: Representative Karls

### Discussion Topics:

- Committee discussion

10:35 a.m. Representative Brown provided an update to the committee, testimony #43672.

10:36 a.m. Chairman Schauer closed the meeting.

*Jackson Toman, Committee Clerk*

25.0410.02001  
Title.

Prepared by the Legislative Council  
staff for Representative Brown  
January 23, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1169

Introduced by

Representatives J. Olson, Grindberg, Klemin, Lefor, Marschall, Pyle, M. Ruby, Schauer

Senators Axtman, Bekkedahl, Cory, Roers

- 1 A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota  
2 Century Code, relating to compensation for veterans' benefits; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1.** A new section to chapter 37-14 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Compensation for advising on veterans' benefits prohibited - Limitations - Penalty.**

- 7 1. As used in this section:

8 a. "Compensation" means payment of any money, thing of value, or financial  
9 benefit.

10 b. "Veterans' benefits matter" means the preparation, presentation, or prosecution  
11 of any claim or appeal affecting an individual who has filed or expressed an intent  
12 to file a claim for a benefit, program, service, commodity, function, status, or an  
13 entitlement which is determined under the laws and regulations administered by  
14 the United States department of veterans affairs or the United States department  
15 of defense pertaining to a veteran, a veteran's dependent or survivor, or any  
16 other individual eligible for such benefit.

- 17 2. A person may not:

18 a. Receive compensation for referring an individual to another person to advise or  
19 assist the individual with any veterans' benefits matter.

1           b. Guarantee to an individual a specific veterans' benefit, including any level,  
2           percentage, or amount of veterans' benefit, either directly or by implication.

3           c. Receive excessive or unreasonable fees as compensation for advising or  
4           assisting an individual with a veterans' benefits matter.

5       3. A person seeking to receive compensation for advising or assisting an individual with a  
6       veterans' benefits matter shall memorialize all terms regarding the individual's  
7       payment of fees for services rendered in a written agreement.

8       4. A person seeking to receive compensation for advising or assisting an individual with a  
9       veterans' benefits matter shall provide the following disclosure at the outset of the  
10       business relationship:

11           This business is not sponsored by, or affiliated with, the United States department  
12           of veterans' affairs or the state department of veterans' affairs, or any other  
13           federally chartered veterans' service organization. Other organizations including  
14           the state department of veterans' affairs, a local veterans' service organization,  
15           and other federally chartered veterans' service organizations may be able to  
16           provide you with this service free of charge. Products or services offered by this  
17           business are not necessarily endorsed by any of these organizations. You may  
18           qualify for other veterans' benefits beyond the benefits for which you are  
19           receiving services here.

20       5. The written disclosure under subsection 4 must appear in at least twelve-point font in  
21       an easily identifiable location in the person's agreement with the individual seeking  
22       services. The individual shall sign the document in which the written disclosure  
23       appears to represent an understanding of these provisions. The person offering  
24       services shall retain a copy of the written disclosure while providing veterans' benefits  
25       services for compensation to the individual and for at least one year after the date on  
26       which the service relationship terminates.

27       6. A person seeking to receive compensation for advising or assisting a veteran in  
28       connection with an initial claim for benefits may not:

29           a. Receive any compensation for any services rendered in connection with any  
30           claim filed within a one-year presumptive period of active-duty release, unless the

- 1                    veteran acknowledges by signing a waiver that the veteran is within this period  
2                    and chooses to deny free services available to the veteran.
- 3                    b. Receive compensation that is not purely contingent on an increase in benefits  
4                    awarded or which exceeds five times the amount of the monthly benefits  
5                    awarded.
- 6                    c. Receive initial or nonrefundable fees.
- 7                    d. Demand, receive, or accept payment on a claim for benefits the veteran  
8                    developed and submitted on their own, without assistance.
- 9                    e. Use international call centers or data centers for processing veterans' personal  
10                   information.
- 11                   e.f. Use a veteran's personal login, username, or password information to access a  
12                   veteran's medical, financial, or government benefits information.
- 13                   f.g. Allow an individual access to a veteran's medical or financial information until the  
14                   individual successfully completes a background check. The background check  
15                   must be conducted by a reputable source and include identity verification and a  
16                   criminal records check.
- 17                   7. This section does not apply to, limit, or expand requirements imposed on an agent,  
18                   attorney, or representative accredited and regulated by the United States department  
19                   of veterans affairs.
- 20                   8. A violation of this section is an unlawful practice in violation of section 51-15-02 and  
21                   subject to a civil penalty under section 51-15-11.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
2/6/2025

Relating to compensation for veterans' benefits; and to provide a penalty.
--

12:05 p.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Brown, Grindberg, Karls, McLeod, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Representatives Bahl, Christy

### **Discussion Topics:**

- Amendments relating to eligibility of benefits

12:08 p.m. Representative Brown introduced amendments LC#25.0410.02001, #45168.

12:09 p.m. Chairman Schauer closed the meeting.

*Jackson Toman, Committee Clerk*



25.0410.02001  
Title.

Prepared by the Legislative Council  
staff for Representative Brown  
January 23, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1169

Introduced by

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13           federally chartered veterans' service organization. Other organizations including  
14           the state department of veterans' affairs, a local veterans' service organization,  
15           and other federally chartered veterans' service organizations may be able to  
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- 1                    veteran acknowledges by signing a waiver that the veteran is within this period  
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- 3                    b. Receive compensation that is not purely contingent on an increase in benefits  
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# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
2/13/2025

Relating to compensation for veterans' benefits; and to provide a penalty.
--

11:01 a.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Brown, Grindberg, Karls, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Representatives Bahl, Christy, McLeod

### Discussion Topics:

- Accreditation
- Federal VA versus State VA

11:02 a.m. Bryan Watters, State Service Office Supervisor at the ND Department of Veteran's Affairs, testified and answered questions.

11:12 a.m. Representative Olson testified and answered questions.

11:19 a.m. Laura Balliet, Assistant Attorney General, testified and answered questions.

11:27 a.m. Chairman Schauer closed the meeting.

*Jackson Toman, Committee Clerk*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
2/14/2025

Relating to compensation for veterans' benefits; and to provide a penalty.
--

10:23 a.m. Chairman Schauer opened the meeting.

Members present: Chairman Schauer, Vice Chairman Satrom, Representatives Brown, Grindberg, Karls, Rohr, Schneider, Steiner, VanWinkle, Vetter, Wolff

Members absent: Representatives Bahl, Christy, McLeod

### Discussion Topics:

- Committee action

10:25 a.m. Representative Brown moved a Do Not Pass.

10:25 a.m. Vice-Chairman Satrom seconded the motion.

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	AB
Representative Collette Brown	Y
Representative Josh Christy	AB
Representative Karen Grindberg	Y
Representative Karen Karls	N
Representative Carrie McLeod	AB
Representative Karen Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Lori VanWinkle	N
Representative Steve Vetter	N
Representative Christina Wolff	Y

10:26 a.m. Motion passed 8-3-3.

Representative Brown will carry the bill.

10:30 a.m. Chairman Schauer adjourned the meeting.

*Jackson Toman, Committee Clerk*

**REPORT OF STANDING COMMITTEE**  
**HB 1169 ([25.0410.02000](#))**

**Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends  
**DO NOT PASS** (8 YEAS, 3 NAYS, 3 ABSENT OR EXCUSED AND NOT VOTING). HB  
1169 was placed on the Eleventh order on the calendar.

**2025 SENATE AGRICULTURE AND VETERANS AFFAIRS**

**HB 1169**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

HB 1169

3/14/2025

A bill relating to compensation for veterans benefits; and to provide a penalty.
--

10:03 a.m. Chairman Luick opened the hearing.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

### Discussion Topics:

- Unethical methods and predatory practices
- Excessive fees and misuse of private information
- Accreditation requirement
- Disabled veterans and disability compensation
- County Veteran's Services Office and appeals process
- Difference in veteran services between states
- Native American's VA Offices and veterans
- Backlogs in the VA and choice for veterans
- Regulatory framework
- Freedom of Information Act and privacy
- Federal statute compliance

10:03 a.m. Representative Jeremy Olson, District 26, testified in favor, introduced the bill, and submitted testimony #40972.

10:06 a.m. Senator Jose Castaneda, District 40, testified in favor.

10:15 a.m. Senator Dick Dever, District 32, veteran, testified in favor.

10:21 a.m. Peter Orourke, President, National Association for Veterans Rights, testified in favor.

10:31 a.m. William Taylor, founder and CEO, Veterans Guardian VA Claim Consulting, testified in favor.

10:40 a.m. Amy Cleary, Veteran Benefits Guide, introduced the following speaker.

10:40 a.m. Ray Colas, Veteran Benefits Guide, testified in favor and submitted testimony #39629.

10:44 a.m. Senator Richard Marcellais, District 9, testified in opposition and submitted testimony #41569 and #41572.

10:53 a.m. Lonnie Wangen, Commissioner of Veterans Affairs, testified in opposition #44733.



11:08 a.m. Christopher Deary, Cass County Veteran Service Officer, testified in opposition.

11:12 a.m. Bill Tuff, Veterans of Foreign Affairs, Disabled Veteran, testified in opposition and submitted testimony #41570 and #41571.

11:13 a.m. Mamie Havelka, Commander at the American Legion Department of ND, testified in opposition and submitted testimony #41437.

11:15 a.m. Joseph Hall, Adjutant/member, DAV, Department of ND/NDVLC, testified in opposition and submitted testimony #40671.

**Additional written testimony:**

John Blomstrom, Manager of Government Relations, Veterans Guardian, submitted testimony #40141, #40142, #40143, and #40144 in favor.

Don R. Herrly, Department Adjutant, American Legion Department of ND, submitted testimony #41374 in opposition.

Nathan E. Huntington, member, American Legion Department of ND, submitted testimony #41443 in opposition.

Leslie Ross, VA Accredited Claims Agent, submitted testimonies #40134, #40135, #40136, #40137 and #40138 in opposition.

11:17 a.m. Chairman Luick closed the hearing.

*Audrey Oswald, Committee Clerk*



The Honorable Larry Luick  
Chairperson Senate Agriculture and Veterans Affairs  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505

**Re: Veteran Benefits Guide - House Bill 1169 Letter of Support**

Dear Chairman Luick and members of the Senate Agriculture and Veterans Affairs Committee,

My name is Josh Smith and I am the CEO and Co-Founder of Veteran Benefits Guide ([VBG](#)) writing to you today to express my **support for House Bill 1169**. VBG provides Veterans with a private, legal and federally compliant service that assists Veterans in navigating the Department of Veterans Affairs (VA) disability claims process to help ensure they receive the full benefits that they have earned.

**VBG strongly appreciates Representative Olson's commitment to protecting our Veterans and actually believes that HB 1169 provides the right balance between establishing necessary guardrails to protect Veterans, including disclosure requirements and fee caps, an ensuring that honorable for-profit companies like VBG are allowed to continue serving Veterans.**

In addition to being the CEO of VBG, I am also a U.S. Marine Corps Veteran and a former VA employee. At the VA, I served as a Rating Veteran Service Representative, where I reviewed disability compensation applications and assigned disability ratings, determining the amount of benefits Veterans would receive. In that role, I witnessed firsthand that the VA's disability compensation benefits process is inefficient and often running counter to the agency's mission of helping Veterans.

While we were certainly helping some Veterans, far too many were being denied benefits they earned due to an absurdly complicated system. Through no fault of their own, Veterans were receiving lower disability ratings than they deserved or were simply waiting years to receive final determinations on their benefits.

That is why, in 2015, I left the VA and, with my wife, Lauren, created Veteran Benefits Guide to help guide Veterans through the process and ensure they receive the full benefits they earned from their service in a timely manner. Much like a tax service provider, we help Veterans travel through a confusing bureaucracy to get what they are owed.

We are proud to have grown our company and now have more than 200 employees, with offices in Nevada and California. Eighty percent of our employees are Veterans themselves or immediate family members of Veterans. And we have employed former VA personnel, like myself, to keep up-to-date with VA regulations and practice of the VA disability compensation system.

In exchange for our service, we are paid a one-time success-based fee only after the Veteran is paid. Our fee represents a small percentage of the increase in benefits received and is typically around 1% of a Veteran's total lifetime benefits. And if the Veteran's benefit doesn't change, there is no fee.

At VBG, we are committed to putting the Veterans' interests first. All of our clients sign a waiver upfront acknowledging that free services are available. We have never taken a Veteran to small claims court for non-payment and automatically write off 10% of our revenue due to unpaid fees. And we do not offer services around PACT Act claims, which do not require an expert guide.

To date, we have guided more than 35,000 Veterans through the claims process. These Veterans have received an average increase in monthly benefits of \$1,300 benefits they would not have received without our help. Despite their best efforts, Veteran Service Organizations (VSOs), which are intended to represent Veterans in the process, do not have enough resources to keep up with the demand. In fact, more than 70% of our clients first tried navigating the VA benefits process with the help of a VSO representative or on their own. They were either denied their full benefits or felt the process was taking too long.

It is clear that our service is needed. At present, only 5.2 million of 19 million eligible Veterans are receiving benefits. That means there may be millions of eligible Veterans who are not receiving benefits they have earned, either because they aren't aware of their eligibility, have already tried to receive benefits and were wrongly denied, or are too intimidated by the process to even apply.

The opponents of the bill may inaccurately insinuate that organizations such as ours choose not to be accredited. That is inaccurate. VBG would welcome the opportunity to become accredited with the VA but cannot because current law prohibits accredited entities from charging a fee for representation of Veterans on the initial claim. VBG's personnel, medical service provider network and procedures already meet standards required of VA-accredited agents and would meet any reasonable threshold for accreditation set by the VA.

Opponents of the bill may also claim that private services like VBG are violating the law. That is also inaccurate. Federal law states that "no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Secretary" without first being accredited. I would like to state for the record that:

- We **DO NOT** practice law.
- We **DO NOT** act as the Veteran's agent of record.
- We **DO NOT** present before the VA.

House Bill 1169 preserves freedom of choice, representation, and access to Veteran services, while making it harder for unscrupulous individuals to take advantage of Veterans and the benefits they have earned. As members of the Senate Agriculture and Veterans Affairs Committee, we urge you to support House Bill 1169.

Very Respectfully,



Josh Smith  
CEO and Co-Founder  
Veteran Benefits Guide

HOUSE OF REPRESENTATIVES  
THIRTY-SECOND LEGISLATURE, 2024  
STATE OF HAWAII

**H.B. NO.** 2225  
H.D. 1  
PROPOSED

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# A BILL FOR AN ACT

RELATING TO VETERANS RIGHTS AND BENEFITS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to establish provisions governing any person who receives compensation for advising or assisting another person with veterans benefits.

SECTION 2. Chapter 363, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . VETERANS BENEFITS**

**§363- Prohibitions.** (a) No person shall receive compensation for advising or assisting any individual with regard to any veterans benefits matter, except as permitted under federal law.

(b) No person shall receive compensation for referring any individual to another person for the purpose of receiving advice or assistance with regard to any veterans benefits matter.

(c) Before rendering any services, a person seeking to receive compensation for advising or assisting any individual with any veterans benefits matter, shall memorialize in a written agreement all terms regarding the individual's payment

of fees for services rendered that adheres to all criteria specified within title 38 Code of Federal Regulations section 14.636 and shall be signed by both parties.

(d) No person shall receive any compensation for any services rendered before the date upon which a notice of disagreement is filed with the Department of Veterans Affairs with respect to the individual's case.

(e) No person shall guarantee, either directly or by implication, that any individual is certain to receive specific veterans benefits or that any individual is certain to receive a specific level, percentage, or amount of veterans benefits.

(f) No person shall receive excessive or unreasonable fees as compensation for advising or assisting any individual with any veterans benefits matter. The factors articulated within title 38 Code of Federal Regulations section 14.636 shall govern determinations of whether a fee is excessive or unreasonable.

(g) Notwithstanding the foregoing, nothing in this section shall be construed as prohibiting a division of fees between attorneys which is otherwise proper under the Hawaii rules of professional conduct.

**§363- Ethical standards.** Any person who receives compensation for preparing, presenting, or prosecuting a claim or action relating to veterans benefits or for advising or assisting an individual with regard to any veterans benefits matter before the Department of Veterans Affairs shall be held to the same ethical standards as an attorney is held to under

the Hawaii rules of professional conduct regarding the following:

- (1) Advertising;
- (2) Solicitation of new clients;
- (3) Confidentiality;
- (4) Duty of care;
- (5) Duty of honesty; and
- (6) Duty to zealously pursue what is in the best interest of their client.

**§363- Disclosure.** (a) No person shall receive compensation for advising or assisting any individual concerning any veterans benefits matter without clearly providing, at the outset of the business relationship, the following disclosure, both orally and in writing:

"THIS BUSINESS IS NOT SPONSORED BY, OR AFFILIATED WITH, THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR THE HAWAII DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, OR ANY OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATION. OTHER ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE HAWAII DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, YOUR LOCAL COUNTY VETERANS SERVICE AGENCY, AND OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATIONS, MAY BE ABLE TO PROVIDE YOU WITH THIS SERVICE FREE OF CHARGE. PRODUCTS OR SERVICES OFFERED BY THIS BUSINESS ARE NOT NECESSARILY ENDORSED BY ANY OF THESE ORGANIZATIONS. YOU MAY QUALIFY FOR OTHER

VETERANS BENEFITS BEYOND THE BENEFITS FOR WHICH YOU ARE RECEIVING SERVICES HERE."

(b) The written disclosure required by subsection (a) shall appear in at least twelve-point font and shall appear in a readily noticeable and identifiable place in the agreement with the individual seeking services. The individual shall verbally acknowledge understanding of the oral disclosure and shall sign the document in which the written disclosure appears to indicate understanding of these provisions. The person offering services shall retain a copy of the written disclosure while providing veterans benefits services for compensation to the individual and for at least one year after the date on which the services terminate.

**§363- Advertising.** (a) No person shall advertise for-compensation services in veterans benefits matters unless the advertisement includes the following disclosure:

"THIS BUSINESS IS NOT SPONSORED BY, OR AFFILIATED WITH, THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE HAWAII DEPARTMENT OF DEFENSE, THE HAWAII OFFICE OF VETERANS' SERVICES, OR ANY OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATION. OTHER ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE HAWAII DEPARTMENT OF DEFENSE, HAWAII OFFICE OF VETERANS' SERVICES, YOUR LOCAL COUNTY VETERANS SERVICE AGENCY, AND OTHER FEDERALLY CHARTERED VETERANS SERVICE ORGANIZATIONS, MAY BE ABLE TO PROVIDE YOU WITH THESE SERVICES FREE OF CHARGE. PRODUCTS OR SERVICES OFFERED BY THIS BUSINESS ARE NOT NECESSARILY ENDORSED BY ANY OF THESE ORGANIZATIONS. YOU MAY QUALIFY FOR OTHER



VETERANS BENEFITS BEYOND THE SERVICES THAT THIS BUSINESS OFFERS."

(b) If the advertisement is printed, including but not limited to advertisements visible to internet users, the disclosure required by subsection (a) shall appear in a readily visible place on the advertisement. If the advertisement is verbal, the disclosure shall be spoken in a clear and intelligible manner.

**§363- Penalty.** A violation of the provisions of this part shall be an unfair or deceptive act or practice under chapter 481A and a violation of section 480-2."

SECTION 3. Chapter 363, Hawaii Revised Statutes, is amended by designating sections 363-1 to 363-13 as part I, entitled "General Provisions".

SECTION 4. Section 363-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Compensation" means payment of any money, thing of value, or financial benefit.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Veterans benefits matter" means the preparation, presentation, or prosecution of any claim affecting any person who has filed or expressed an intent to file a claim for any

benefit, program, service, commodity, function, or status,  
entitlement to which is determined under the laws and  
regulations administered by the United States Department of  
Veterans Affairs or the department of defense pertaining to  
veterans, their dependents, their survivors, and any other  
individual eligible for such benefits."

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

**Report Title:**

Veterans Rights and Benefits; Advisors; Compensation;  
Prohibitions

**Description:**

Establishes provisions governing any person who receives compensation for advising or assisting another person with veterans benefits. (PROPOSED HD1)

March 10, 2025

**Testimony of Leslie Ross, Opposing North Dakota House Bill 1169**

-A BILL for an Act to create an enact a new section to chapter 37-14 of the North Dakota century code, relating to compensation for veterans' benefits; and to provide a penalty.

Dear Chairman Luick, and Members of the Senate Agriculture & Veterans Affairs Committee,

My name is Leslie Ross, I am an Air Force retiree, a disabled veteran, former County Veterans Service Officer (CVSO) and currently a VA Accredited Claims Agent. I also hold a Certificate in Military and Veterans Health, Policy and Advocacy from William and Mary Law School in Williamsburg, VA. I am fast approaching my 17<sup>th</sup> year of preparing, presenting and prosecuting claims before the VA and the Board of Veterans Appeals (BVA). I am a staunch advocate for continuing law education (CLE), training at all levels, competent representation and oversight. I also believe that veterans deserve and are entitled to free services provided by VA accredited representatives. Veterans are also entitled to choose a VA accredited attorney or claims agent at any stage in the claim but predominantly during the appeals process up to and including the U.S. Court of Appeals for Veterans Claims (CAVC).

My perspective isn't unique, it is educated, researched and based on current law and policy. I have no conflict of interest in providing my testimony since I would not benefit financially or professionally by the outcome. I represent my clients in all types of benefit claims without remuneration of any kind.

As a grateful nation, it is our responsibility to provide our veterans with the quality healthcare, housing, employment, and benefits that they have undoubtedly earned and absolutely deserve; however, there is nothing more egregious than to take advantage of veterans and their families through deception. This I believe we can all agree upon.

VA accreditation is required of anyone assisting veterans who indicate an intent to seek benefits.

Individuals and companies supporting this bill either have not researched this bill on a national level, have not noted the big six Veterans Service Organizations who oppose this bill, read the bill for intended and unintended consequences or are out of state bad actors who continue to bilk our veterans. The bad actors intentionally choose not to: become accredited, not sign their name to any VA form, not have access legally to VA claims files, not abide by the very strict representation process, contract process, and fee structure. Most importantly they operate outside the arm of the VA Office of General Counsel. This robs veterans of appellant opportunities regarding unreasonable fees and violations of the standards of conduct that ALL VA accredited representatives are held accountable to.

Here is a brief list of the Claim Shark companies that are making millions of dollars off our Veterans, and several have offered testimony in favor of this bill.

National Association of Veterans Rights (NAVR), Veterans Guardian, Veterans Benefits Guide, VA Claims Insider, Trajectory, Patriot Benefits Consulting, Veterans Valor to name a few. If they are not on the VA Office of General Counsel Website, they are Claim Sharks.

**This bill will not stop those who seek to profit off the backs of veterans.**

HR 1822, Preserving Lawful Utilization of Services for Veterans Act of 2023 or PLUS Act was introduced in the 118th Congress and not supported by our delegation or nationally by the big six veterans' service organizations (VSO's). HB 1169 replicates some significant language from the PLUS Act. This bill is an almost word for word replica of a Louisiana Senate Bill #159 entitled the Preserving lawful utilization of services for veterans. (PLUS Act), Arizona HB 2612, Hawaii HB 2225, Georgia HB 108, and Kentucky HB 39.

HB 1169 intends to circumvent and reinvent that which is already required in Federal Law 38 USC Chapter 59 with the application of this federal code in 38 CFR Part 14.626-636 which defines the following:

- VA's recognition of Organizations for Accreditation.
- Requirements for VA Accreditation for VSO's, Agents and Attorneys, known as POA's.
- Authorization for an individual a one-time opportunity to represent a claimant.
- POA disclosure of claimant information.
- Standards of Conduct
- Payment of Fees.

**History:**

The reason for the proliferation of bad actors or "Claim Sharks" is due to the passing of the PACT Act which created the largest benefit expansion in generations, resulting in the explosion of fraudsters. The VFW in their December 6, 2023, Action Alert: Stop Claim Sharks Now defined the Shark. These Claim Sharks are not VA accredited and use predatory practices such as charging fees to "assist and consult, deception, fraudulent and misleading advise, guaranteeing ratings, percentages, expedited VA decisions, requesting logins to VA.gov all to file VA benefits claims. This practice is already illegal!

**Specific issues with HB 1169**

**1. This bill is unconstitutional because it is preempted by federal law.**

- a. Federal law governs the administration of federal veterans' benefits. When a federal law occupies the entirety of a space and evidences intent to regulate that space, it "preempts" state law that conflicts with it. As a simple, if not imperfect, example: if a Federal Law said that all shirts must be green, and a state passed a law that said shirts can be green or blue, the state law is preempted by federal law, and you can't wear a blue shirt.
- b. In this case, this bill purports to legalize something that federal law has expressly prohibited. And because the administration of a federal benefits program is wholly within the purview of the federal government, it would be preempted.

**2. This bill could open the State up to costly litigation**

- a. This bill is *near* identical to similar bills in, Arizona, Hawaii, Georgia, Kentucky and Louisiana and the latter is currently being sued for this bill.
- b. If this bill passes, in its current form, and is not vetoed, it *will* cause expensive federal litigation (even assuming the NDAG defends the law, which is unlikely since he was one of 46 attorneys general who supported the GUARD ACT), which will harm taxpayers.
- c. Governor Armstrong, while a congressman was a cosponsor of the GUARD ACT as well.

**3. This bill does NOT require claims sharks to disclose their lack of accreditation or the fact that federal law requires accreditation to charge a fee for service.**

- a. If this bill *must* pass, I urge you to consider adding mandatory disclosure language which puts Veterans on notice that these companies are not accredited by the VA and that they are violating federal law.

**4. The bill incentivizes claims sharks to commit fraud.**

- a. This bill ties fees to benefits being increased. This creates an inarguable conflict of interest between the interests of the claims shark (who accepts no responsibility for representation) and a Veteran's interest in not committing fraud.
- b. Further, it encourages claims sharks to continue to provide inadequate representation by only tying their compensation to an "increase" in benefits. This evidences a bit of a misnomer with VA benefits. For example, a winning motion to revise a 2005 decision that gave the client an earlier effective date for their 100% rating. This did not "increase" their benefits, but it resulted in substantial retroactive pay for them. These issues would not only be entirely missed by claims sharks (because of their lack of expertise in VA law and their inability to access a claims file) but they would have no incentive to do so.

**5. The bill provides no ethical oversight or standards**

- a. We are dealing with folks making claims to the government for monetary benefits. The VA benefits system is (supposed) to be extremely pro-claimant, but the propensity for fraud or unethical behavior is rampant.
- b. There *must* be ethical standards and oversight.

**6. The bill provides no dispute process for the challenging of an illegal fee.**

- a. Claim Sharks use auto dialers to query a VA system to obtain protected information about a Veteran's disability payments. They then use this information to generate a bill – even if the Veteran has long fired them, did not use their services, and retained accredited representation.
- b. Veterans, therefore, find themselves getting invoices, collection notices, and threats of a lawsuit from these companies, months, if not years, after the Veteran has parted ways.

**7. The bill says something about a "one-year presumptive period"**

- a. This just highlights the Sharks' ignorance of VA law.
- b. There is no "one-year presumptive period".
- c. Under 38 C.F.R. 3.309(a), *certain* conditions, *if manifested* within one year of leaving active duty *may* be presumptive. But these conditions are limited. Simply put, it is a rampant misconception that "anything claimed within a year of discharge is automatically service connected". That is untrue.

## **Current ND Laws and Federal Laws:**

NDCC 51-15 already defines what misrepresentation or misleading consumers in the procurement of services and the authority of the ND Attorney General to investigate and enforce said rules.

In the following I will print the items in the bill and the current laws in place to prevent or enforce the position.

HB 1169 is a SHARK in a dolphin's skin. The SHARK lies in item 6 of this Bill:

6. A person seeking to receive compensation for advising or assisting a veteran in connection with an initial claim for benefits *may not*:

**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.”).

a. Receive any compensation for any services rendered in connection with any claim filed within a one - year presumptive period of active-duty release, unless the veteran acknowledges by signing a waiver that the veteran is within this period and chooses to deny free services available to the veteran.

There is no one year presumptive period for filing of claims. This entire paragraph is false.

**38 U.S.C. 5904(c)(1) this would be an initial claim, and a fee cannot be charged.**

b. Receive compensation that is not purely contingent on an increase in benefits awarded or which exceeds five times the amount of the monthly benefits awarded.

### **38 CFR § 14.636(b) - Payment of fees for representation by**

Only accredited agents and attorneys may receive fees from claimants or appellants for their services provided in connection with representation.

**38 CFR § 14.636 (e) Fees permitted.** Fees permitted for services of an agent or attorney admitted to practice before VA must be reasonable. They may be based on a fixed fee, hourly rate, a percentage of benefits recovered, or a combination of such bases.

**38 CFR § 14.636 (f)(1)** Fees which do not exceed 20 percent of any past-due benefits awarded... shall be presumed to be reasonable

c. Receive initial or nonrefundable fees.

### **38 CFR § 14.637 Payment of the expenses of agents and attorneys**

(b) **General.** Any agent or attorney may be reimbursed for expenses incurred on behalf of a veteran or a veteran's dependents or survivors in the prosecution of a claim for benefits pending before VA.

d. Use international call centers or data centers for processing veterans' personal information.

e. Use a veteran's personal login, username, or password information to access a veteran's medical, financial, or government benefits information.

**The Privacy Act of 1974 and HIPAA regulations protect the privacy of veterans' benefits information. These laws cover how the Department of Veterans Affairs (VA) collects, uses, and discloses personal information.**

f. Allow an individual access to a veteran's medical or financial information until the individual successfully completes a background check. The background check must be conducted by a reputable source and include identity verification and a criminal records check.

**The Privacy Act of 1974 and HIPAA regulations apply here.**

The background check must be conducted by a reputable source and include identity verification and a criminal records check in item f, **is a red herring.**

If you are accredited by the VA you have gone through background checks, fingerprinting, VA privacy training, and the entire accreditation process. In addition, Agents must complete an application, provide three references, go through an attorney character and fitness exam by the VA Office of General Counsel, pass a competency examination and prove continuing law education, to be and maintain VA accreditation.

I am limited to 5 files for testimony, so I am submitting the Arizona, Louisiana, Georgia and Hawaii bills for your reference and comparison to each other, to ND HB1169 and U. S. HB 1822 PLUS Act. With just a cursory look over the bills, you will note a few ministerial differences; however, the content is almost identical. The only bill that can ensure the proper oversight, appellant powers, and penalties for violating Federal Law is the GUARD Act. This is not the GUARD Act. **HB 1169 does not address the victimization of veterans; it gives the green light to continue to charge exorbitant fees in item 6b.** "Receive compensation that is not purely contingent on an increase in benefits awarded or which exceeds five times the amount of the monthly benefits awarded." and more importantly it does not require these "Claim Sharks" to become accredited by the VA.

**I urge you not to pass HB 1169. It is a SHARK in a dolphin's skin, supported by the sharks themselves to continue frenzied feeding on veterans.**

Thank you for your time and attention.

Leslie Ross, VA Accredited Claims Agent  
OGC #44975

The Highlighted text in this Bill is the same as in ND HB

REFERENCE TITLE: **veterans' benefits; claims; prohibition**

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

# HB 2612

Introduced by  
Representatives Kupper: Blackman, Marshall, Nguyen

## AN ACT

AMENDING SECTION 41-608.01, ARIZONA REVISED STATUTES;  
AMENDING TITLE 41, CHAPTER 3, ARTICLE 7, ARIZONA REVISED  
STATUTES, BY ADDING SECTION 41-610.03; RELATING TO THE  
DEPARTMENT OF VETERANS' SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-608.01, Arizona Revised Statutes, is amended to read:  
41-608.01. State homes for veterans trust fund; purpose



**A. The state homes for veterans trust fund is established. The director shall administer the fund for the sole purpose of operating and maintaining state-operated nursing and domiciliary homes for Arizona veterans.**

**B. The fund consists of monies deposited by the director from monies generated by operating the Arizona veterans' homes and monies deposited pursuant to ~~section~~ SECTIONS 41-603.01 AND 41-610.03.**

**C. Monies in the fund are subject to annual appropriation by the legislature. The fund is exempt from the provisions of section 35-190 relating to lapsing of appropriations. Any monies in the fund remaining unexpended or unencumbered at the end of the fiscal year do not revert to the state general fund.**

**D. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.**

**Sec. 2. Title 41, chapter 3, article 7, Arizona Revised Statutes, is amended by adding section 41-610.03, to read:**

**41-610.03. Veterans' benefits; claims; prohibition; exception; civil penalty; definitions**

**A. A PERSON MAY NOT RECEIVE COMPENSATION FOR REFERRING AN INDIVIDUAL TO ANOTHER PERSON TO ADVISE, CONSULT OR ASSIST THE INDIVIDUAL REGARDING A VETERANS' BENEFITS MATTER.**

**B. A PERSON MAY RECEIVE COMPENSATION FOR ADVISING, CONSULTING OR ASSISTING AN INDIVIDUAL REGARDING A VETERANS' BENEFITS MATTER IF, BEFORE PROVIDING ANY SERVICES TO THE INDIVIDUAL, THE PERSON PREPARES A WRITTEN AGREEMENT THAT IS SIGNED BY ALL THE PARTIES INVOLVED AND THAT CONTAINS THE FOLLOWING:**

**1. THE TERMS OF THE AGREEMENT, INCLUDING THE PAYMENT AMOUNT FOR THE SERVICES BEING PROVIDED.**

**2. THE FOLLOWING DISCLOSURE IN TWELVE-POINT FONT PLACED IN A READILY NOTICEABLE AND EASILY IDENTIFIABLE PLACE IN THE WRITTEN AGREEMENT:**

**THIS BUSINESS IS NOT SPONSORED BY, ENDORSED BY OR AFFILIATED WITH THE ARIZONA DEPARTMENT OF VETERANS' SERVICES OR THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR ANY OTHER FEDERALLY CHARTERED VETERANS' SERVICE ORGANIZATION. THE ARIZONA DEPARTMENT OF VETERANS' SERVICES, THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, LOCAL VETERANS' SERVICE ORGANIZATIONS OR OTHER FEDERALLY CHARTERED VETERANS' SERVICE**

**ORGANIZATIONS MAY BE ABLE TO PROVIDE YOU WITH THIS SERVICE FREE OF CHARGE.**

**C. A PERSON MAY NOT CHARGE AN INITIAL FEE OR A NONREFUNDABLE FEE FOR ADVISING, CONSULTING OR ASSISTING AN INDIVIDUAL REGARDING A VETERANS' BENEFITS MATTER. ANY COMPENSATION RECEIVED PURSUANT TO THIS SECTION SHALL BE CONTINGENT ON THE VETERAN'S BENEFITS BEING INCREASED. COMPENSATION MAY NOT BE MORE THAN FIVE TIMES THE AMOUNT OF THE VETERAN'S INCREASE IN BENEFITS.**

**D. A PERSON MAY NOT DO ANY OF THE FOLLOWING:**

**1. GUARANTEE, TO AN INDIVIDUAL THE PERSON IS ADVISING, CONSULTING OR ASSISTING REGARDING A VETERANS' BENEFITS MATTER, THAT THE INDIVIDUAL WILL RECEIVE A SPECIFIC VETERANS' BENEFIT OR A SPECIFIC LEVEL, PERCENTAGE OR AMOUNT OF VETERANS' BENEFITS.**

**2. RECEIVE COMPENSATION FOR ANY SERVICES PROVIDED REGARDING A VETERANS' BENEFITS MATTER THAT IS FILED WITHIN THE ONE-YEAR PRESUMPTIVE PERIOD OF ACTIVE DUTY RELEASE, UNLESS THE INDIVIDUAL ACKNOWLEDGES IN WRITING BEFORE ANY SERVICES ARE PROVIDED THAT THE INDIVIDUAL IS STILL WITHIN THE ONE-YEAR PRESUMPTIVE PERIOD OF ACTIVE DUTY RELEASE.**

**3. ADVERTISE SERVICES REGARDING VETERANS' BENEFITS MATTERS WITHOUT INCLUDING THE DISCLOSURE PRESCRIBED IN SUBSECTION B, PARAGRAPH 2 OF THIS SECTION. IF THE ADVERTISEMENT IS PRINTED, THE DISCLOSURE SHALL BE PLACED IN A READILY NOTICEABLE AND EASILY IDENTIFIABLE AREA ON THE ADVERTISEMENT. IF THE ADVERTISEMENT IS VERBAL, THE DISCLOSURE SHALL BE STATED CLEARLY.**

**4. EMPLOY A MEDICAL PROVIDER TO CONDUCT A SECONDARY MEDICAL EXAMINATION WHEN ADVISING, CONSULTING OR ASSISTING AN INDIVIDUAL REGARDING A VETERANS' BENEFITS MATTER.**

**5. USE AN INTERNATIONAL CALL CENTER OR DATA CENTER FOR PROCESSING A VETERAN'S PERSONAL INFORMATION.**

**6. GAIN DIRECT ACCESS TO ANY VETERAN'S PERSONAL MEDICAL, FINANCIAL OR GOVERNMENT BENEFITS INFORMATION.**

**E. A VIOLATION OF THIS SECTION IS AN UNFAIR, FALSE, MISLEADING OR DECEPTIVE ACT OR PRACTICE IN THE CONDUCT OF TRADE OR COMMERCE UNDER THE LAWS OF THIS STATE. THE ATTORNEY GENERAL MAY BRING AN ACTION IN SUPERIOR COURT AGAINST A PERSON THAT VIOLATES THIS SECTION FOR IMPOSITION OF A CIVIL PENALTY. ANY CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146**

**AND 35-147, IN THE STATE HOMES FOR VETERANS TRUST FUND ESTABLISHED BY SECTION 41-608.01**

**F. THIS SECTION DOES NOT LIMIT, EXPAND OR APPLY TO THE REQUIREMENTS IMPOSED ON AGENTS, ATTORNEYS OR OTHER REPRESENTATIVES WHO ARE ACCREDITED AND REGULATED BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.**

**G. FOR THE PURPOSES OF THIS SECTION:**

**1. "COMPENSATION" MEANS ANY MONEY, ITEM OF VALUE OR ECONOMIC BENEFIT CONFERRED ON OR RECEIVED BY AN INDIVIDUAL IN RETURN FOR SERVICES PROVIDED BY A PERSON.**

**2. "PERSON" INCLUDES ANY CORPORATION, TRUST, PARTNERSHIP, INCORPORATED OR UNINCORPORATED ASSOCIATION, OR ANY OTHER LEGAL ENTITY.**

**3. "VETERANS' BENEFITS MATTER" MEANS ANY BENEFIT, PROGRAM, SERVICE, COMMODITY, FUNCTION OR STATUS THE ENTITLEMENT TO WHICH IS DETERMINED BY THE DEPARTMENT OF VETERANS' SERVICES OR THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS PERTAINING TO VETERANS, THEIR DEPENDENTS, THEIR SURVIVORS AND ANY OTHER INDIVIDUAL ELIGIBLE FOR SUCH BENEFITS.**

2024 Regular Session

ACT No. 479

ENROLLED

SENATE BILL NO. 159

BY SENATOR CATHEY

1 AN ACT

2 To enact R.S. 29:296, relative to services for veterans; to provide for restrictions on services  
3 provided to veterans for compensation; to provide for definitions; to provide for  
4 disclosures; to provide relative to violations; to provide for an effective date; and to  
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 29:296 is hereby enacted to read as follows:

8 **§296. Preserving lawful utilization of services for veterans**

9 **A. For the purposes of this Section, the following terms shall have the**  
10 **following meanings:**

11 **(1) "Compensation" means any money, thing of value, or economic**  
12 **benefit conferred on, or received by, any person in return for services rendered,**  
13 **or to be rendered, by a person.**

14 **(2) "Person" means any natural person, corporation, trust, partnership,**  
15 **incorporated or unincorporated association, or any other legal entity.**

16 **(3) "Veterans' benefits matter" means the preparation, presentation, or**  
17 **prosecution of any claim affecting any person who has filed or expressed an**  
18 **intent to file a claim for any benefit, program, service, commodity, function,**  
19 **status, or entitlement to which is determined to pertain to veterans, their**  
20 **dependents, their survivors, or any other individual eligible for such benefits**  
21 **under the laws and regulations administered by the United States Department**  
22 **of Veterans Affairs or the Louisiana Department of Veterans Affairs.**

23 **B.(1) No person shall receive compensation for referring any individual**  
24 **to another person to advise or assist the individual with any veterans' benefits**  
25 **matter.**

26 **(2) No person shall receive any compensation for any services rendered**  
27 **in connection with any claim filed within the one-year presumptive period of**

1        active-duty release.

2                (3) No person shall receive any compensation for any services rendered  
3        in connection with any claim for pension benefits.

4                C.(1) A person seeking to receive compensation for advising, assisting,  
5        or consulting with any individual in connection with any veterans' benefits  
6        matter shall, before rendering any services, memorialize the specific terms  
7        under which the amount to be paid will be determined in a written agreement  
8        signed by both parties. Compensation must be purely contingent upon an  
9        increase in benefits awarded, and if successful, compensation shall not exceed  
10       five times the amount of the monthly increase in benefits awarded based on the  
11       claim. Compensation shall not exceed twelve thousand five hundred dollars or  
12       an amount established by federal law, whichever is less. No initial or  
13       nonrefundable fee shall be charged by a person advising, assisting, or consulting  
14       an individual on a veterans' benefit matter. No interest shall be charged on any  
15       payment plans agreed to by the parties.

16               (2) A person seeking to receive compensation for advising, assisting, or  
17        consulting with any individual with any veterans' benefits matter shall not  
18        utilize a medical professional with whom it has an employment or business  
19        relationship for a secondary medical exam.

20               (3) In the event that a veteran claimant dies prior to a claim being  
21        processed, any expected compensation shall be waived and no charge, fee, or  
22        debt shall be collected. Any payment plan for services rendered shall be  
23        terminated immediately.

24               D. No person shall guarantee, either directly or by implication, a  
25        successful outcome or that any individual is certain to receive specific veterans'  
26        benefits or that any individual is certain to receive a specific level, percentage,  
27        or amount of veterans' benefits.

28               E.(1) No person shall advise, assist, or consult for compensation with any  
29        individual concerning any veterans' benefits matter without clearly providing  
30        at the outset of the business relationship the following disclosure both orally and

1        in writing:

2                "This business is not sponsored by, or affiliated with, the United States  
3                Department of Veterans Affairs or the Louisiana Department of  
4                Veterans Affairs, or any other federally chartered veterans' service  
5                organization. Other organizations including but not limited to the  
6                Louisiana Department of Veterans Affairs, a local veterans' service  
7                organization, and other federally chartered veterans' service  
8                organizations may be able to provide you with this service free of charge.  
9                Products or services offered by this business are not necessarily  
10               endorsed by any of these organizations. You may qualify for other  
11               veterans' benefits beyond the benefits for which you are receiving  
12               services here."

13               (2) The written disclosure shall appear in at least twelve-point font and  
14               shall appear in a readily noticeable and identifiable place in the person's  
15               agreement with the individual seeking services. The disclosure shall direct the  
16               individual seeking services to the nearest Veterans Service Office, with the  
17               appropriate address and contact information for that office. The individual  
18               shall verbally acknowledge understanding of the oral disclosure and sign the  
19               document in which the written disclosure appears to represent understanding  
20               of these provisions. The person offering services shall retain a copy of the  
21               written disclosure while providing veterans' benefits services for compensation  
22               to the individual and for at least one year after the date on which the service  
23               relations terminate.

24               F. Businesses engaging in the preparation of an initial claim or appeal  
25               of a disability rating for a fee shall not do any of the following:

26               (1) Utilize international call center or data centers for processing  
27               veterans personal information.

28               (2) Gain direct access to any personal medical, financial, or government  
29               benefits log-in, username, or password information.

30               G. A violation of the provisions of this Section shall constitute an unfair,

false, misleading, or deceptive act or practice in the conduct of trade or commerce under the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq.

H. An entity assisting veterans with their initial disability claims as prescribed within this Section shall, within one hundred twenty days of the request, provide on an annualized basis of all of the following data to the Department of Veterans Affairs:

(1) Aggregate number of serviced in the state.

(2) Number of claims approved, denied, pending.

(3) Average claim return time.

(4) Number of clients who received a successful increase who have a previously assigned "agent of record".

(5) Data provided shall exclude any items of personal financial, medical, or other data deemed confidential, business privileged, or HIPAA protected information.

Section 2. This Act shall be known and may be cited as "The Preserving Lawful Utilization of Services for Veterans Act".

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

25

LC 46 0999

House Bill 108

By: Representatives Bonner of the 73<sup>rd</sup>, Clark of the 100<sup>th</sup>, Prince of the 132<sup>nd</sup>, Cannon of the 172<sup>nd</sup>, and Hitchens of the 161<sup>st</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia  
2 Annotated, relating to the "Fair Business Practices Act of 1975," so as to provide certain  
3 protections for veterans and other eligible persons applying for benefits; to provide for  
4 limitations; to provide for violations; to provide for a short title; to provide for definitions;  
5 to provide for an effective date; to provide for related matters; to repeal conflicting laws; and  
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Safeguarding American Veteran  
10 Empowerment Act" or "SAVE Act."

11 **SECTION 2.**

12 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
13 relating to the "Fair Business Practices Act of 1975," is amended by adding a new Code  
14 section to read as follows:

H. B. 108

- 1 -



"10-1-409.

(a) As used in this Code section, the term:

(1) 'Compensation' means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or herself or another.

(2) 'Person' means any natural person, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity.

(3) 'Veteran' means a former member of the United States armed forces or other eligible person entitled to a benefit from the United States armed forces.

(4) 'Veterans' benefits matter' means the preparation, presentation, or prosecution of any claim affecting any person who has filed or expressed an intent to file a claim for any benefit, program, service, commodity, function, status, or entitlement for which veterans, their dependents, their survivors, or any other individual are eligible under the laws and regulations administered by the United States Department of Veterans' Affairs or the Georgia Department of Veterans Service.

(b) No person shall receive compensation for referring any individual to another person to advise or assist the individual with any veterans' benefits matter.

(c) No person shall receive any compensation for any services rendered to a veteran in connection with any claim filed within the one-year presumptive period of active duty release, unless prior to the inception of the services agreement, the veteran acknowledges in writing that he or she is within such period yet chooses to decline free services available to him or her through the United States Department of Veterans' Affairs and the Georgia Department of Veterans Service.

(d) A person seeking to receive compensation for advising, assisting, or consulting with any individual in connection with any veterans' benefits matter shall, before rendering any services, memorialize the specific terms under which the amount to be paid shall be determined in a written agreement signed by both parties. Compensation shall be purely

contingent upon an increase in benefits awarded, and if successful, compensation shall not exceed five times the amount of the monthly increase in benefits awarded based on the claim. No initial or nonrefundable fee shall be charged by a person advising, assisting, or consulting an individual on a veterans' benefits matter.

(e) A person seeking to receive compensation for advising, assisting, or consulting with any individual regarding any veterans' benefits matter shall not utilize for a secondary medical examination of the veteran a medical professional with whom such person has an employment or business relationship.

(f) No person shall guarantee, either directly or impliedly, a successful outcome or that any individual is certain to receive specific veterans' benefits or that any individual is certain to receive a specific level, percentage, or amount of veterans' benefits.

(g) No person shall advise, assist, or consult for compensation with any veteran concerning any veterans' benefits matter without clearly providing prior to entering into a services agreement the following disclosure both orally and in writing:

'This business is not sponsored by, or affiliated with, the United States Department of Veterans' Affairs or the Georgia Department of Veterans Service, or any other federally chartered veterans' service organization. Other organizations, including but not limited to the Georgia Department of Veterans Service, a local veterans' service organization, and other federally chartered veterans' service organizations may be able to provide you with this service free of charge. Products or services offered by this business are not necessarily endorsed by any of these organizations. You may qualify for other veterans' benefits beyond the benefits for which you are receiving services here.'

The written disclosure shall appear in at least 12 point type in an easily identifiable place in the person's agreement with the veteran. The veteran shall verbally acknowledge understanding of the oral disclosure and sign the document in which the written disclosure appears to represent understanding of these provisions. The person offering services must retain a copy of the written disclosure while providing veterans' benefits services for

compensation to the veteran for at least one year after the date on which the agreement entered into by the parties terminates.

(h) Persons engaging in advising, assisting, or consulting on veterans' benefits matters for a fee shall not:

(1) Utilize international call centers or data centers for processing veterans' personal information; or

(2) Request a veteran's personal login, username, or password information or use such information to access such veteran's medical, financial, or government benefits information.

(i) Persons engaging in advising, assisting, or consulting on veterans' benefits matters for a fee shall ensure that any employee of such person who has access to veterans' medical or financial information undergoes a background check prior to having access to such information. The background check shall be conducted by a reputable entity and include identity verification and a criminal records check processes.

(j) A violation of the provisions of this Code section shall constitute a deceptive and unfair act or practice in the conduct of trade or commerce under this part.

(k) Each day that a violation of this Code section continues shall constitute a separate violation.

(l) Nothing in this Code section is to be construed as applying to, limiting, or expanding the requirements imposed on agents, attorneys, or other representatives accredited by the United States Department of Veterans Affairs and regulated by that agency."

### **SECTION 3.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

93

**SECTION 4.**

94 All laws and parts of laws in conflict with this Act are repealed.



## **VETERANS GUARDIAN PROCLAMATION**

### **THE VETERAN'S RIGHT TO CHOOSE**

***Your Claim, Your Choice***

Veterans Guardian VA Claim Consulting \* 75 Trotter Hills Circle \* Pinehurst, North Carolina 28374

I, \_\_\_\_\_, acknowledge that there are free services available to veterans to support the filing of claims for Veterans Administration (VA) benefits and for the services that Veterans Guardian will provide.

\_\_\_\_\_ I understand that I have the option to utilize the free services provided by entities such as the VA, National Service Organizations (e.g. VFW, DAV), Local Service Organizations, State Sponsored Veteran Service Officers, Local US Congressional office staff (where applicable), and/or the paid services of VA accredited agents or lawyers.

\_\_\_\_\_ I understand that utilization of Veterans Guardian consulting services is not required to submit a claim for VA benefits and I may achieve a positive VA benefit claim outcome with any of the free services or organizations.

\_\_\_\_\_ I understand that the Veterans Administration provides a search tool to find representatives who may assist with filing VA claims free of charge. I also understand that by choosing Veterans Guardian, I will receive enhanced assistance and a high level of service from dedicated and specialized professionals serving an organization with proven results.

\_\_\_\_\_ I understand that Veterans Guardian is not an accredited agent or entity recognized by the Department of Veteran Affairs and is not affiliated with the Department of Veterans Affairs in any way.

\_\_\_\_\_ I understand that this is a contingent based fee model whereby payment is only required upon successful completion of a claim and that the fee is not to exceed five times any monetary pay increase.

\_\_\_\_\_ I understand that if successful, I will be given the option to pay the final calculated fee in a lump sum, or over a 5 or 10 month period. I also acknowledge that custom payment plans are available in exceptional circumstances.

By signing this acknowledgement, I am certifying that I am aware of free services available and that I have exhausted all the free services or I have determined that the free services do not meet my personal needs. I am also certifying that I am choosing to use Veterans Guardian VA Claim Consulting, a contingent fee based pre-filing agency, to provide consulting services and that I will submit the claim to the VA on my own behalf.

Thank you for your service in support of a grateful Nation and thank you for your trust in Veterans Guardian.



***Veteran Owned - Veteran Operated...The way it should be.***

## Why Veterans Guardian's Services are Consistent with Federal Law

The statute and regulations governing VA disability benefit claims limits its restrictions on “preparation, presentation, or prosecution of any claim” to those who “act as an agent or attorney.” 38 U.S.C. § 5901; *accord* 38 U.S.C. § 5904; 38 C.F.R. §§ 14.629, 14.636. The word “act” is plainly modified by “as an agent or attorney.” Thus, the operative phrase is “act *as an agent or attorney*,” not simply “act.”

Veterans Guardian does not act as an agent or attorney. Veterans Guardian's clients do not authorize the company to take any action on their behalf, and we do not complete VA Form 21-22, authorizing or acting as an official “Agent of Record” for our clients.

*See Black's Law Dictionary (11th ed. 2019) (defining “agent” as “[s]omeone who is authorized to act for or in place of another”); Restatement (Third) of Agency § 1.01 (defining “agency” as a “fiduciary relationship that arises when one person (a ‘principal’) manifests assent to another person (an ‘agent’) that the agent shall act on the principal's behalf”).*

In addition, Veterans Guardian explicitly informs clients that it is not a law firm, has no attorney on staff, is not licensed to practice law, and while its services may include discussions of legal issues and procedures, its statements are only the company's opinion and are not legal assistance or advice.

It is therefore clear under the plain language of the statute and regulations that Veterans Guardian's services are not restricted.

Beyond the clarity of the governing law, the cannon of constitutional avoidance requires interpretation of the statute and regulations to avoid violating the First Amendment rights of Veterans Guardian and our clients.

An interpretation that Veterans Guardian cannot advise veterans—a speech-defined activity—on their benefits claims and veterans cannot receive the company's advice on their petitions to the government would impose an impermissible, content-based restriction on speech.

*See, e.g., Holder v. Humanitarian Law Project, 561 U.S. 1, 26–27 (2010) (rejecting government's argument that the “only thing truly at issue in litigation [challenging a federal bar on support to organizations designated for government sanctions, including expert advice or assistance] [was] conduct, not speech[,]” citing in particular the plaintiffs “communicat[ion] [of] advice derived from ‘specialized knowledge’ . . .”).*

Interpreting the statute to prevent Veterans Guardian from assisting in the preparation of a disability claim would also mean the statute violates the rights of the veteran to petition their government for disability benefits and to associate for that purpose, contrary to the First Amendment. The statute must be interpreted to avoid those unconstitutional results.

The plain language of the statute and the canon of constitutional avoidance thus require the conclusion that Veterans Guardian's services are not restricted and are consistent with the law.

# VA DISABILITY CLAIMS CAPACITY

VetsKnowTheFacts.com



**48,788**

ESTIMATED NUMBER OF  
VETERANS IN NORTH DAKOTA



**178**

PURPORTED NUMBER OF  
VSO REPRESENTATIVES



**75**

ACTUAL NUMBER OF VSO  
REPRESENTATIVES



**634**

VETERANS PER 1 ACTUAL  
VSO REPRESENTATIVE IN  
NORTH DAKOTA



**2,364**

PENDING CLAIMS (03/11/24)

**152**

**85**




AVERAGE # OF DAYS FOR THE VA  
TO MAKE A CLAIMS DECISION VS.  
VETERANS GUARDIAN'S CLIENTS'  
CLAIMS TURNAROUND TIME



**26.7%**

OF LISTED REPRESENTATIVES  
HAVE NO CONTACT INFORMATION



**43.1%**

OF CLAIMS HAVE BEEN  
PENDING OVER 125 DAYS



## VETERANS GUARDIAN VA CLAIM CONSULTING

The Honorable Larry Luick, Chair  
Senate Committee on Agriculture and Veterans Affairs  
North Dakota Legislative Council  
600 East Boulevard Avenue  
Bismarck, North Dakota 58505

Dear Chairman Luick and Members of the Senate Agriculture and Veterans Affairs Committee,

Thank you for the opportunity to testify today. My name is John Blomstrom, and I am here on behalf of Veterans Guardian, where I have the privilege of helping Veterans secure the benefits they have earned. I am also a United States Marine Corps Veteran who has personally navigated the VA claims process, experiencing firsthand the delays, frustration, and roadblocks that too many of our nation's heroes face when seeking the support they deserve. Beyond my work and my service, I also come before you as someone with deep midwestern farming and ranching roots. My family still operates a working ranch here in the Dakotas.

I understand the values of personal responsibility, freedom of choice, and ensuring that our Veterans are not left behind. That's why I am here today to urge you to support HB 1169, the SAVE Act—Safeguarding American Veteran Empowerment. Veteran Choice is at the Heart of this Debate at its core, this bill is about Veteran choice—protecting the right of those who served to seek out the best assistance for their individual needs.

In a Free Market State like North Dakota, Veterans deserve the freedom to choose who helps them navigate the VA system, whether that's a Veterans Service Organization (VSO), a private consultant, or an attorney.

Unfortunately, the VA disability process is a bureaucratic and difficult system to navigate, and presents challenges to most Veterans, often resulting in deserving Veterans not receiving the benefits to which they are entitled. In fact, there are more than 18 million Veterans in America, but only 5 million have a disability rating. While actors such as VSOs and law firms also serve Veterans, more options, not less, are needed to effectively meet the demand of American Veterans. I am proud of the work my company has done to support the benefits ecosystem and assist Veterans with this process.

Veterans Guardian employs a staff of more than 75% Veterans, spouses of Veterans, spouses of active-duty service members or immediate family members of veterans. We have been recognized by the Department of Labor by receiving the HIRE Vets platinum or gold award four years in a row. We have received the BBB Torch Award for Marketplace Ethics in 2020, 2021,



and 2022. We were most recently recognized for hiring Veterans and spouses and named a Military Friendly Company of the year. And, we are the national presenting sponsor for Irreverent Warriors and support more than 60 national and local charities, including support to local chapters of many of the organizations that have also been invited to engage in this important discussion today.

The Reality of VA Claims in North Dakota is that the state is home to 48,788 Veterans. There are only 75 accredited VSOs in the entire state—that's one VSO for every 634 Veterans. Simply put, the system does not have the capacity to support every Veteran who needs help. That is why organizations like Veterans Guardian exist. In North Dakota alone, we have helped 75 Veterans secure over \$700K in annual VA disability benefits—funds that improve quality of life and provide the financial security these Veterans have earned through their service.

Veterans Guardian is in enthusiastic support of ND HB 1169, which would preserve the rights of a Veteran to choose how they pursue their own US Department of Veterans' Affairs disability claim and address the full spectrum of the issues at hand. This bill provides additional oversight and protections for the Veteran while preserving their Constitutional rights to petition their government in a manner they see fit, and ensuring Veterans have access to diverse options and effective solutions for decades to come.

ND HB 1169 provides common-sense, straight forward protections for Veterans such as:

- Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- Prohibiting any initial or non-refundable fees;
- Getting written confirmation from the Veteran they have been informed of their free options;
- Prohibiting the use of international call centers or data centers for processing Veteran's personal information;
- Prohibiting aggressive and direct solicitation;
- Prohibiting advertising or guaranteeing a successful outcome.

These protections will ensure North Dakotan Veterans are not being taken advantage of by bad practices. Similar bills have passed at least one chamber this year in at least a dozen states.

Thank you again for the opportunity to provide written testimony. I strongly urge you to support ND HB 1169.



75 Trotter Hills Circle, Pinehurst NC 28374



833-577-8387



[support@vetsguardian.com](mailto:support@vetsguardian.com)

Good morning, Chairman Luick and Committee members; my name is Joe Hall. I represent the Disabled American Veterans, Department of North Dakota and the NDVLC. I am testifying about HB 1169 which we oppose with its current amendment. The original version of this bill in Section 2 read; A person may not receive compensation for advising or assisting an individual regarding any federal or state veterans' benefits matter, **except as allowed under federal law.**

That federal law is 38 USC 5904 (C)(1) and 38 Code of Federal Regulation 14.636 which reads: "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.

The current version removed the most important part (**except as allowed under federal law**). Allowing this amendment would allow "claim sharks" to assist veterans while breaking Federal Law. It allows veterans to spend money they have already earned for something they can get at no cost. As North Dakotans,

please tell me we won't choose to break the law because others want to profit from the benefits veterans earned. Removing 6 words tells us in North Dakota that the Federal Law really means nothing, I know we are above that and understand it's importance.

Besides this written testimony, I have submitted a DAV form about claim sharks and a copy of DAV's National Service Director for Training, Scott Hope's testimony presented to the Committee on Veterans' Affairs at the House of Representatives in D.C. on March 5, 2025.

I want to be clear; Claim Sharks are not about "Veterans Choices," Claim Sharks **are not above accreditation, Claim Sharks are predators!** They are feeding on Veterans' hard-earned benefits and already breaking Federal law.

We are trying to send a message that you cannot prey on North Dakota's Veterans, steal their hard-earned benefits, and openly break the law without consequences.

Don't fall for the false narratives. The sharks are afraid the prey will bite back, so they are swarming, they forgot Veterans are no easy prey.

NDVLC and the DAV oppose the current version of HB 1169 and would fully support the bill without the deletion of "except as allowed under federal law".



KEEPING OUR PROMISE TO  
**AMERICA'S VETERANS**

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**No veteran should have to pay to file a claim under any circumstance. Period.**

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## THE SITUATION

- The VA Office of General Counsel requires representatives to be **accredited**, like DAV, to provide veterans and their families with claims assistance.
- Predatory claims practitioners are **unaccredited** individuals or companies, not recognized by VA, that charge excessive fees for filing VA benefits claims, or consulting with veterans.
- Predatory claims practices aren't just wrong—they are **illegal!** Under 38 U.S.C. § 5904, **accredited** representatives are the only entities authorized to charge fees, but only **after** the VA has issued an initial decision on the claim.
- Predatory claims companies are using Social Media, email, pop-up ads, and other means to reach veterans.
- Predatory claims companies are attempting to get legislation passed at the state and federal levels that will allow them to charge exorbitant fees for initial claims.
- While a pathway for these for-profit companies to become accredited exists, they have continually refused, which shows they're driven by greed rather than simply looking to improve veteran's lives.

## WHAT YOU CAN DO

- Don't sign a contract. They are often unfair and can charge large fees or a percentage of benefits.
- Don't pay upfront fees for claim help. DAV claims work is always free.
- Don't give out your VA.gov passwords.
- Check to see if an individual/organization is accredited at [va.gov/ogc/accreditation.asp](https://va.gov/ogc/accreditation.asp).
- Contact your local NSO office. You can find the nearest at [benefitsquestions.org](https://benefitsquestions.org).
- Call your elected officials to support the GUARD VA Benefits Act, federal legislation that would reinstate criminal penalties, ensuring predatory claims companies can no longer continue their illegal practices. DAV supports this bill through DAV Resolution No. 324 to protect claimants from unnecessary fees.

### **If a veteran feels he or she has fallen victim to Predatory Claims Practices, they should**

- Report the issue to the VA Office of General Counsel at 202-461-7699;
- Report to the VA Office of Inspector General hotline at 1-800-488-8244;
- File a complaint with their State Attorney, and
- File a complaint with the Federal Trade Commission.



Washington Headquarters  
1300 I Street, NW, Suite 400 West  
Washington, DC 20005  
tel 202-554-3501  
dav.org

**STATEMENT OF  
SCOTT HOPE  
DEPUTY NATIONAL SERVICE DIRECTOR FOR TRAINING  
FOR THE RECORD OF THE  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
MARCH 5, 2025**

Chairman Luttrell, Ranking Member McGarvey and Members of the Subcommittee:

DAV (Disabled American Veterans) is grateful to provide testimony for the record for this legislative hearing concerning different pieces of legislation pertaining to Department of Veterans Affairs (VA) accreditation. DAV is a congressionally chartered and VA-accredited veterans service organization (VSO). We provide meaningful claims support free of charge to more than 1 million veterans, family members, caregivers and survivors.

To fulfill our service mission, DAV directly employs a corps of benefits advisors, national service officers (NSOs), all of whom are themselves wartime service-connected disabled veterans, at every VA regional office (VARO) as well as other VA facilities throughout the nation, including the Board of Veterans' Appeals (Board).

First, we draw attention to the unique, veteran-centric relationship between the VA and veterans of all generations. As promised by VA Secretary Doug Collins, the veteran is at the center of all VA programs. In order to qualify for compensation benefits, and a majority of other VA programs, such as health care and employment assistance, veterans must apply for and be found eligible for service connection for one or more service-related illness or injury. During the process of deciding service connection, the VA is bound by law to assist the veteran in application completion, evidence gathering, and medical examinations. VA is also bound by law to resolve all reasonable doubt in all instances in favor of the veteran.

For the VA to ensure veterans receive responsible, qualified representation and assistance when applying for VA benefits, federal laws were created requiring anyone who assists them in preparing, presenting, or prosecuting those claims to be properly accredited through the VA Office of General Counsel (OGC). Those same laws govern whether, when, and how much veterans can be charged for that assistance.

In 2006, the criminal penalties for violating those laws were removed, leaving the VA OGC virtually powerless to enforce the law against anyone except those who voluntarily followed those laws and became accredited. That left the door open for

unaccredited, often unscrupulous, actors to target veterans and illegally charge them for claims assistance.

A warning from the Consumer Financial Protection Bureau, dated February 15, 2023, states: “Unfortunately, there has been an influx of predatory advertisements, which purport to help veterans often through the guise of ‘medical consulting’ or ‘benefits coaching’ submit their initial claims to the [VA] for a fee. But unauthorized assistance in claim preparation is illegal.” We have been advised and in fact have seen that they have contracts the veteran signs showing they are going to take six times the amount of a veteran’s increased benefits.

As these predatory companies operate outside of accreditation, they do not fall under the OGC’s oversight. Additionally, these entities are not required to have employed individuals take VA training, follow VA’s required code of conduct, nor undergo background checks. We are concerned that the OGC’s purpose to protect veterans and their families has been intentionally circumnavigated, thus placing veterans at risk of financial exploitation.

The Veterans Appeals Improvement and Modernization Act of 2017 was signed into law (Public Law No. 115-55) on August 23, 2017, which allows VA-accredited attorneys or claims agents to charge fees for representation in the case of; a supplemental claim and higher level of review or after a notice of disagreement has been filed after an initial final decision on a specific claimed issue.

There is already a clear path for these individuals to become VA accredited and provide assistance. If these companies are solely concerned with assisting veterans, they would already be accredited; however, this path does not allow them to charge exorbitant fees for merely filling out paperwork. We must hold all of these predatory companies accountable for their knowingly illegal actions and take appropriate action to ensure they are not allowed to further exploit our nation’s ill and injured veterans.

### **The Governing Unaccredited Representatives Defrauding VA Benefits Act or GUARD VA Benefits Act**

By amending 38 U.S.C. § 5904 (2023), the GUARD VA Benefits Act would reinstate criminal penalties on individuals for soliciting, contracting for, charging, or receiving any unauthorized fee or compensation with respect to the preparation, presentation, or prosecution of any claim for VA benefits.

In August 2023, the National Association of Attorneys General sent Congressional leadership a letter of support for The Guard VA Benefits Act. They point out that these unaccredited claims predators are financially exploiting veterans and their families. This letter was signed by 44 State Attorneys General.

In accordance with DAV Resolution No. 324, DAV strongly supports, the GUARD VA Benefits Act, which will help ensure disabled veterans receive VA-accredited

representation while deterring predatory practices that seek to pick the pockets of our nation's heroes of their earned benefits. DAV vehemently believes that no one should be charged to file a claim in a non-adversarial process.

For many of our nation's disabled veterans, VA disability compensation can be the difference between making ends meet and more severe outcomes such as homelessness. That's why it is so vitally important that veterans are properly represented by accredited individuals and institutions when applying for VA benefits.

Some opponents of the GUARD VA Benefits Act argue that it impinges upon a veteran's right to choose their own representative. We believe the GUARD VA Benefits Act simply removes unaccredited, unregulated, and often unscrupulous actors who target veterans from entering the process. Unfortunately, veterans who do not understand the veteran-centric promise made by VA Secretary Collins fall victim to constant advertisements, primarily on social media, making unrealistic and baited promises. The passage of the GUARD VA Benefits Act holds bad actors accountable to the law and allows for redress when veterans find themselves victims of those bad actors.

In the 118<sup>th</sup> Congress, this legislation had over 220 bipartisan co-sponsors. We urge members of the House to again protect veterans and their families and focus on Secretary Collins' vision of placing veterans in the center of all things VA.

### **Preserving Lawful Utilization of Services for Veterans ACT of 2025 or the PLUS Act**

This legislation alleges that the administration of medical examinations and the writing of related reports do not constitute the preparation, presentation, or prosecution of claims.

DAV takes great exception to the deliberate blurring of the definition of what constitutes preparation, presentation, and prosecution of claims by those who claim to be completing a report. The deliberate blurring of the definitions clearly displays that those who are unwilling to be accredited in accordance with the current law, are knowingly, willingly, and consistently breaking the law, should not be allowed into any current or future accreditation model, and should be held accountable once the GUARD VA Benefits Act, or similar legislation, is passed.

Additionally, the bill introduces a 90-day deadline for the Secretary of Veterans Affairs to recognize agents or attorneys applying for VA accreditation with automatic recognition if qualifications cannot be verified within this period.

The VA has no obligation to provide manpower, resources, or funds to assist those seeking accreditation especially when they are knowingly breaking current law. An arbitrary 90-day waiting period is of no advantage to veterans seeking benefits they have earned as free assistance is available.

The PLUS for Veterans Act would revise fee structures for representation, capping fees at \$12,500, adjustable annually based on the Consumer Price Index, and would stipulate that fees are contingent on favorable claim outcomes. It would reinstate penalties for charging unauthorized fees, with fines or imprisonment for violations, effective one-year post-enactment.

DAV strongly supports current law, which clearly outlines what steps are necessary to become accredited and when it is appropriate to charge fees. We find it egregious to charge any amount for assistance in filing claims, but a charge contingent on favorable outcomes is particularly degenerate. This practice means that those veterans who fell prey to predatory practices, and who are ultimately found ill or injured in service to our nation, are not only paying the salaries of predatory claims employees, but they are also paying for the examinations and claims preparation of those veterans who use the predatory service but do not ultimately meet the criteria for service connection. What a veteran has earned through blood and sacrifice to our nation belongs to them; any redistribution is unacceptable. Based on DAV Resolution 324, we oppose this legislation. No veteran should be charged any amount for filing a claim, especially unjustified fees of thousands of dollars.

**Discussion Draft, to allow for certain fee agreements for services rendered in the preparation, presentation, and prosecution of initial claims and supplemental claims for benefits under laws administered by the Secretary of Veterans Affairs**

This discussion draft attempts to be a compromise but in reality, it favors these predatory claims companies being allowed into the VA system to further exploit veterans. For example, it would introduce a 180-day deadline for the VA Secretary to recognize agents or attorneys applying for VA accreditation with automatic recognition. If qualifications cannot be verified within this period; it would grant them temporary conditional recognition for a year.

Regardless of a 90-day or 180-day deadline, the VA should have no obligation to provide manpower, resources, or funds to assist those seeking accreditation, especially when they are knowingly breaking current law. An arbitrary 90- or 180-day waiting period is of no advantage to veterans seeking benefits they have earned as free assistance is available.

This proposed legislation would allow the VA Secretary to charge an assessment for accreditation and impose \$50,000 fines and banish an individual for a year. However, many of these predatory companies are taking millions of dollars from veterans and a \$50,000 fine is not much of a deterrence.

Additionally, we take umbrage with this proposed legislation's requirement that VA cannot hold against these claim companies, the fact they are/were illegally charging fees prior to the potential enactment of said legislation. If they are/were knowingly breaking the law, they should not be rewarded by allowing them in the VA system.



These companies have broken current law, exploited disabled veterans, and received hundreds of millions of dollars as a reward. It is abundantly clear that the current law means nothing to the companies who seek to gain from veterans' sacrifice and any change in law to accredit them will last only as long as these bad actors can generously profit. Once the process is no longer lucrative enough, we can surmise they will again break the law and then seek to legitimize their new business model as they have done here.

DAV opposes this discussion draft in accordance with DAV Resolution 324, as it would reward companies that have been breaking the law and taking millions out of the pockets of veterans and their families.

In closing, Mr. Chairman, we thank you for the opportunity to submit a statement for the record addressing our concerns on the bills being considered by the Subcommittee.



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Representative Jeremy Olson

District 26  
P.O. Box 692  
Arnegard, ND 58835-0692  
[jolson@ndlegis.gov](mailto:jolson@ndlegis.gov)

## House Majority Caucus Leader

### COMMITTEES:

Finance and Taxation  
Energy and Natural Resources

14 March 2025

Mr. Chairman and members of the Senate Agriculture and Veterans Affairs Committee,

I am Jeremy Olson, State Representative, District 26, representing most of McKenzie and Dunn Counties.

I am the prime sponsor for HB 1169 as part of the Military and Veteran's Caucus's goal of protecting the benefits and quality of life for our active duty members and veterans in North Dakota.

HB 1169 aims to protect our disabled veterans from predatory practices of some organizations whose business model is to assist disabled veterans to receive disability compensation but use unethical methods against the veteran for this service. There are respectable organizations who truly do good work to help our disabled veteran community, as well as our local Veteran Service Officers (VSOs), as they navigate the often-complex system of the Veteran's Affairs disability claims system.

This bill aims to shield veterans from unethical practices while ensuring they have the freedom to choose how and from whom they receive assistance.

For example, the main provisions of HB 1169 protect veterans from excessive fees, misuse of private information, and false promises of success. The proponents following me can give you a more granular perspective of the challenges and solutions that HB 1169 addresses.

This bill received questions in the House chamber based on a misunderstanding that these organizations are required to be accredited by the VA. The private companies this bill addresses do not practice law, do not represent the veteran before the VA, and do not act as the veteran's agent of record. Therefore, they do not need to be accredited, which would require offering their services for free, essentially ending their ability to operate in North Dakota. Including an accreditation requirement would nullify the bill's purpose.

Without this bill, however, North Dakota's code lacks clear guidelines on what constitutes acceptable practices when assisting veterans with their claims. Again, our goal is to ensure veteran choice while protecting their interests.

I humbly ask for a do pass recommendation and thank you for your consideration.

Respectfully,

A handwritten signature in blue ink that reads "Jeremy L Olson". The signature is fluid and cursive, with the first name "Jeremy" and last name "Olson" clearly legible.

Jeremy L Olson MBA, CSP

ND House of Representatives, District 26

House Republican Caucus Leader

[jolson@ndlegis.gov](mailto:jolson@ndlegis.gov)

701-651-7486



DONALD R. (DON) HERRLY  
DEPARTMENT ADJUTANT

The American Legion – Department of North Dakota

[Adjutant@NDLegion.org](mailto:Adjutant@NDLegion.org) / [www.ndlegion.org](http://www.ndlegion.org)

Office 701-293-3120 / Cell 701-426-7001

405 Main Ave W Suite 4A West Fargo, ND 58078-1664

PO Box 5057 West Fargo, ND 58078-5057



13 March 2025

**Senate Agriculture and Veterans Affairs Committee  
69<sup>th</sup> Legislative Session  
Senator Luick - Chair**

Chairman Luick and Senate Agriculture and Veterans Affairs Committee,

Please accept this testimony in OPPOSITION of HB 1169 version 25.0410.02000 as written and propose amending back to pre-session version 25.0410.01000.

**Intent of original bill 25.0410.01000:** (see attached: Bill 25.0410.01000 & Amendment)

1. Ensure North Dakota's veterans receive qualified, competent, and accredited representation on their benefit claims.
2. Require claim agents & attorneys to comply with Federal Laws.
3. Provide a penalty.

Allowing unaccredited representation will hurt ND veterans and will only benefit out of state unaccredited claim predators who do not register in ND or answer to any agency in ND.

The ACOVA respectfully requests that the Senate Agriculture and Veterans Affairs Committee amend the current version of HB 1169 to the 25.0410.01000 version and recommend a do pass.

If the Senate Agriculture and Veterans Affairs Committee does not amend, we respectfully request that HB 1169 gets a "DO NOT PASS" recommendation.

Respectfully,

A handwritten signature in blue ink that reads 'Don R. Herrly'.

Don R. Herrly, Department Adjutant  
The American Legion – Department of North Dakota

HB 1169

My name is Mamie Havelka, I am the Commander of The North Dakota American Legion and my address is Bismarck ND. I am here to represent ALL ND veterans. They are my concern.

I am asking you to Protect Veterans from Predatory Actors. Oppose HB 1169 in form as of 13 March 2025.

#### Background

America's veterans are being targeted by predatory claims companies that charge exorbitant fees for services provided free of charge by veteran service organizations (VSOs) and Department Service Officers by veteran organization. These companies use aggressive marketing tactics, misleading statements, and complicated contracts to profit from veterans receiving Department of Veterans Affairs (VA) benefit payments. They do not adhere to VA regulations.

These companies charge veterans at a rate of 500 or 600 percent of whatever future increase in monthly benefits they receive – a violation of the U.S. Code, which prohibits the payment of fees based on future benefits compensation (38 USC 5301(a)(3)(A)). In return for such large payments, these companies offer so-called "consulting services" and make it clear to the clients that they, themselves are responsible for filing the actual claim with the VA. These profiteers are not accredited by VA: thus, their activities cannot be monitored by VA's Office of General Counsel.

(Example for oral testimony. Our DSO, Department of North Dakota experience with these Predatory claims. Once the claims are received they have to almost start from scratch to get them in compliance. And the outside companies' client could easily be now called a victim. (My words) Because the outside company still charges the client).

(Another example: Camp Lejeune claims)

Getting accredited in the claims process is accessible to agents and attorneys through 38 US Code Chapter 59 Sub section 5904. They would have to contact the VA's Office of General Counsel. (I have the requirements if needed.)

#### Key Points

- Unaccredited predatory claims companies are not bound by VA regulations and cannot be penalized by the Office of General Counsel.
- Veterans are charged exorbitant fees by the "claim sharks" for services that are provided free of charge by the American Legion and other Veterans Service Organizations.
- Through aggressive ad campaigns, some unethical law firms and so-called consultants are convincing veterans to pay them for services for which the veteran is responsible to submit and for which VSOs already provide free of service in accordance with the law.

Respectfully,

Mamie Havelka

Commander, NDAL

"Proud to Belong, Forever Strong"

Good morning, Mr. Chairman and members of the Committee.

My name is Nate Huntington, I am a resident of Bismarck, a veteran, a member of the American Legion and Marine Corps Association Detachment 1419 of Mandan. I am also a registered Lobbyist for the American Legion Department of North Dakota.

I am testifying in opposition to HB 1169 in its current form. Originally, we were in favor of this legislation, but it was amended to remove a very important safeguard for the veterans of our State. That safeguard prevented unethical actors from receiving compensation for advising or assisting a veteran for state or federal benefits “except as allowed under federal law.” The removal of the phrase “except as allowed under federal law” leaves the door open for unethical people to charge veterans fees for assistance that is already being provided for them.

I am asking you to defeat HB 1169 unless you return the protection to the bill.

Please protect veterans from predatory actors.

The reality is that America’s veterans are being targeted by predatory claims companies. They charge exorbitant fees for services provided free of charge by veteran service organizations (VSOs). These companies use aggressive marketing tactics, misleading statements, and complicated contracts to profit from veterans receiving Department of Veterans Affairs (VA) benefit payments. They do not adhere to VA regulations and cannot legally represent veterans.

These companies charge veterans at a rate of 500-600 percent of whatever future increase in monthly benefits the veteran receives – a violation of the U.S. Code, which prohibits the payment of fees based on future benefits compensation (Sec 38 USC 5301(a)(3)(A)). In return for such large payments, these companies offer so-called “consulting services” and make it clear to the clients that they, themselves, are still responsible for filing the actual claim with the VA. These profiteers are not accredited by the VA: thus, their activities cannot be monitored by VA’s Office of General Counsel.

There are several key points I would like to bring to your attention:

- Unaccredited predatory claims companies are not bound by VA regulations and cannot be penalized by the Office of General Counsel.
- Veterans are charged exorbitant fees by these “claim sharks” for services that are provided free of charge by the American Legion and other Veterans Service Organizations.
- Through aggressive ad campaigns, unethical law firms and so-called consultants are convincing veterans to pay them for services that the veteran is responsible for and VSOs already provide for free in accordance with the law.
- These unethical operators are already breaking Federal law. We must not allow them to operate in North Dakota because it is our veterans who will bear the weight of their predatory activities.
- The removal of the important text *“a person may not: a. Receive compensation for advising or assisting an individual regarding any federal or state veteran’s benefits matter, except as allowed under federal law”* effectively allows claims sharks to prey on ND veterans.

Please vote *do not pass* unless HB 1169 is restored to its original text.

Thank you very much.

# North Dakota Senate

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Senator Richard Marcellais

District 9  
301 Laite Loop NE  
Belcourt, ND, 58316-3877  
[rmarcellais@ndlegis.gov](mailto:rmarcellais@ndlegis.gov)

## COMMITTEES:

Finance and Taxation  
Agriculture and Veterans Affairs

## HB 1169

Chairman Luick members of the Senate Agriculture/Veterans Affairs committee my name is  
Richard Marcellais, Senator from District 9.

HB 1169 relating to compensation for Veteran's Benefits and to provide a penalty.

As a Tribal Veteran Service Officer for the Turtle Mountain Band of Chippewa Indians since 2016 I have worked with several Veterans, Spouse, and Dependents to protect their privacy and freedom of information.

The following is our Veteran Service Officer Mission & Job Description:

### MISSION STATEMENT FOR VETERAN SERVICE OFFICERS (VSO's)

To provide quality advocacy for all US Veterans, Armed Forces members, their spouses & dependents, survivors through benefit counseling and programs, claims and outreach services.

To reach out to all Veterans Organizations, and veterans through traditional public relations, community involvement, and by initiation and implementation of activities that encourage them to access their rightfully earned entitlements and benefits.

To respond to the needs of all Veterans, armed forces members, their dependents and survivors, and to provide linkage for them to other support services.

### JOB DESCRIPTION:

1. Advises and assists veterans or their beneficiaries in present claims for benefits under Federal, State or local laws.
2. Works in cooperation with the Department of Veterans Affairs, other government agencies, the Veterans of the Vietnam War; Inc.
3. Conducts telephone communications and/or written correspondence with various Federal, State, County, Tribal Governmental Agencies concerning problems or questions on behalf of veterans or their beneficiaries.



4. Submits Department of Veterans Affairs claims to appropriate Department of Veterans Affairs Regional Office. Other claims are submitted to the government agencies involved.
5. Have a complete working knowledge of Department of Veterans requirements concerning the processing of claims for all types of veterans benefits. Must be able to develop knowledge, where required to process claims for other government benefits.
  - Compensation
  - Pension
  - Special Service Connected Benefits
  - Medical
  - Education
  - Life Insurance
  - Death Benefits
  - GI Loans
  - Records
6. Have a complete working knowledge of other agencies veterans benefits. VSO must be able to develop knowledge to process claims withing the following areas: (Social Secrity, Veteran State Loans, County Assessor tax exemptions, Job Disability, employment development department, Small Business Administration.
7. Must be familiar with the Freedom of Information and Privacy Acts, and Department of Veterans regulations concerning the release of claims information.
8. Quality
9. Timeliness
10. Confidentiality
11. Public Contact

VSO's are required to attend training twice a year to keep up their certification requirements.

All of the these services are free to the veteran.

March 14, 2025

Testimony for House Bill 1169

Bill Tuff Veterans of Foreign Wars . Disabled Veteran

Department of North Dakota ,

National Council of Administration for North Dakota

526 2<sup>nd</sup> St Ct West Fargo ND 58078 [bltuf@aol.com](mailto:bltuf@aol.com), 701-261-2144

HB 1169 This bill is what the Veterans of Foreign Wars and ND Veterans Legislative Conference hopes will assist with Veterans keeping their benefits earned while in service to The United States of America.

Currently there is no enforceable law that prevents unscrupulous individuals from taking advantage of Veterans who are trying to access their earned benefits.

The "Claim Sharks" is designed to prevent outside Predatory Practices from taking advantage of Veterans who are attempting to access their benefits from the Veterans Administration. Popular Scams are charging Veterans fees and a percentage of their benefits to access or help Veterans file claims, these are conducted by Non VA accredited individuals or organizations.

According to the Veteran Administration predators will promise 100% disability rating, unrealistic claim processing times, and a charge of astronomical costs to assist the Veteran. The Veteran Service Organizations have Service Officers who conduct the necessary work and paperwork and are accredited through the Veterans Administration to process claims for all veterans free of charge , the Service Officers go through continual education to keep up with the changing laws and rules.

The Veterans Administration has assisted the Veterans Service Organizations in the education and training of the Service Offices.

## How to Identify a “ Claim Shark” according to the VA and VFW

1. Charge high fees and take a percentage of your VA Benefits
2. Make deceitful promises. No one can guarantee a VA disability rating or accelerate claim promising.
3. Require a binding contract to perform the act of working the claim.

The easiest and safest way to prevent this is to work with an accredited Veteran Service Officer.

The Veterans of Foreign Wars is dedicated assist Veterans to receive their earned benefits and ridding the system of Non accredited individuals from taking the earned benefits who have protected this nation.

Being Accredited means the Veteran Service Officer has to adhere to well established professional and ethical standards that are set by the Veterans Administration, Claim Sharks do not have to adhere to these standards and rarely do.

It is illegal to mislead and defraud Veterans by Federal Law but in 2006 The Congress of the United States stripped away the penalties for charging veterans to access their rightful benefits. The VFW and other Veterans Organizations are attempting to protect the rights of Veterans and their families and the benefits they have earned.

A number of States have started to address this issue. We believe the State of North Dakota should join Washington, Iowa, Michigan, New York, Illinois, Nevada, New Jersey, Maine and Massachusetts addressing the Predatory Practices of Claim Sharks and other unscrupulous individuals who are attempting to defraud and scam Veterans of their owed benefits. These States seem to care that their Veterans can claim their earned benefits without having others attempting to profit from their disabilities.

One of the worst steps allowing unaccredited agents to charge up to five (5) months of earned benefits to do the process of applying for the Veterans Benefits is you put the Veteran in debt to receive his earned and deserving benefits while there are multiple VSO groups who do the jobs for Free and are trained to accomplish this while following the law.

Please ensure our Veterans are given the protection that they deserve.

Bill Tuff VFW NCOA





# DON'T FEED THE SHARKS



DontFeedTheSharks.org

## What is a "Claim Shark"?

- A Claim Shark is an individual or company that charges hefty fees to "assist" or "consult" veterans with filing their VA benefit claims – this practice is illegal!
- Claim Sharks are not VA accredited, meaning they aren't required to adhere to the well-established professional and ethical standards of VA accreditation, so their advice can often be misleading or even fraudulent.
- Like a "Loan Shark," once you're in, you can't get out, and may be subject to new and hidden fees whenever you get a new rating, no matter who does the work.

## Some of their predatory practices are:

- Promising or guaranteeing an increased disability rating or percentage increase.
- Advertising expedited VA claims decisions.
- Requesting login credentials to access a veteran's personal information through secure VA websites like eBenefits or VA.gov.
- Using confusing tactics or ambiguous language to mislead claimants or coerce them into signing a contract.
- Telling veterans to forego VA exams and offering health consultations within their own network of doctors.

## Who are the Claim Sharks?

- |                      |                         |
|----------------------|-------------------------|
| ✦ Trajector Medical  | ✦ Patriot Angels        |
| ✦ Vet Benefits Guide | ✦ Veteran Care Services |
| ✦ Veterans Guardian  | ✦ VetComm               |
| ✦ VA Claims Insider  | ✦ VA Claims Academy     |
| ✦ Telemedica         | ✦ Vet Assist            |

## Veterans can protect themselves by:

- Always working with VA accredited representatives.
- Attending all exams ordered by VA.
- Not signing contracts.
- Not agreeing to fees or payments from future benefits.
- Not agreeing to pay for medical consultations or opinions.
- Not providing access to Protected Health Information or Personal Identifiable Information.

## Who is NOT a Claim Shark?

- VA accredited veterans service organization representatives, like the VFW
- VA accredited claims agents
- VA accredited attorneys
- Attorneys assisting with Camp LeJeune lawsuits who do not charge excessive fees

**VFW**  
VETERANS OF FOREIGN WARS.

25.0410.02002  
Title.

Prepared by the Legislative Council  
staff for Senator Marcellais  
March 11, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1169

Introduced by

Representatives J. Olson, Grindberg, Klemin, Lefor, Marschall, Pyle, M. Ruby, Schauer  
Senators Axtman, Bekkedahl, Cory, Roers

- 1 A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota
- 2 Century Code, relating to compensation for veterans' benefits; and to provide a penalty.

### 3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 **SECTION 1.** A new section to chapter 37-14 of the North Dakota Century Code is created
- 5 and enacted as follows:

#### 6 Compensation for advising on veterans' benefits prohibited - Limitations - Penalty.

- 7 1. As used in this section:
- 8 a. "Compensation" means payment of any money, thing of value, or financial
- 9 benefit.
- 10 b. "Veterans' benefits matter" means the preparation, presentation, or prosecution
- 11 of any claim or appeal affecting an individual who has filed or expressed an intent
- 12 to file a claim for a benefit, program, service, commodity, function, status, or an
- 13 entitlement which is determined under the laws and regulations administered by
- 14 the United States department of veterans affairs or the United States department
- 15 of defense pertaining to a veteran, a veteran's dependent or survivor, or any
- 16 other individual eligible for such benefit.
- 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 under federal law.



- 1        b. Receive compensation for referring an individual to another person to advise or  
2        assist the individual with any veterans' benefits matter.
- 3        b-c. Guarantee to an individual a specific veterans' benefit, including any level,  
4        percentage, or amount of veterans' benefit, either directly or by implication.
- 5        e-d. Receive excessive or unreasonable fees, as provided under title 38, Code of  
6        Federal Regulations, part 14, section 636, as compensation for advising or  
7        assisting an individual with a veterans' benefits matter.
- 8        3. A person seeking to receive compensation for advising or assisting an individual with a  
9        veterans' benefits matter shall memorialize all terms regarding the individual's  
10       payment of fees for services rendered in a written agreement in accordance with  
11       title 38, Code of Federal Regulations, part 14, section 636, before rendering services.
- 12       4. A person seeking to receive compensation for advising or assisting an individual with a  
13       veterans' benefits matter shall provide the following disclosure at the outset of the  
14       business relationship:
- 15       ———— This business is not sponsored by, or affiliated with, the United States department  
16       of veterans' affairs or the state department of veterans' affairs, or any other  
17       federally chartered veterans' service organization. Other organizations including  
18       the state department of veterans' affairs, a local veterans' service organization,  
19       and other federally chartered veterans' service organizations may be able to  
20       provide you with this service free of charge. Products or services offered by this  
21       business are not necessarily endorsed by any of these organizations. You may  
22       qualify for other veterans' benefits beyond the benefits for which you are  
23       receiving services here.
- 24       ———— 5. The written disclosure under subsection 4 must appear in at least twelve-point font in  
25       an easily identifiable location in the person's agreement with the individual seeking  
26       services. The individual shall sign the document in which the written disclosure  
27       appears to represent an understanding of these provisions. The person offering  
28       services shall retain a copy of the written disclosure while providing veterans' benefits  
29       services for compensation to the individual and for at least one year after the date on  
30       which the service relationship terminates.

- 1 ~~6. A person seeking to receive compensation for advising or assisting a veteran in~~  
2 ~~connection with an initial claim for benefits may not:~~
- 3 ~~a. Receive any compensation for any services rendered in connection with any~~  
4 ~~claim filed within a one-year presumptive period of active-duty release, unless the~~  
5 ~~veteran acknowledges by signing a waiver that the veteran is within this period~~  
6 ~~and chooses to deny free services available to the veteran.~~
- 7 ~~b. Receive compensation that is not purely contingent on an increase in benefits~~  
8 ~~awarded or which exceeds five times the amount of the monthly benefits~~  
9 ~~awarded.~~
- 10 ~~c. Receive initial or nonrefundable fees.~~
- 11 ~~d. Use international call centers or data centers for processing veterans' personal~~  
12 ~~information.~~
- 13 ~~e. Use a veteran's personal login, username, or password information to access a~~  
14 ~~veteran's medical, financial, or government benefits information.~~
- 15 ~~f. Allow an individual access to a veteran's medical or financial information until the~~  
16 ~~individual successfully completes a background check. The background check~~  
17 ~~must be conducted by a reputable source and include identity verification and a~~  
18 ~~criminal records check.~~
- 19 ~~7. A violation of this section is an unlawful practice in violation of section 51-15-02 and~~  
20 ~~subject to a civil penalty under section 51-15-11.~~



**Senate Agriculture and Veterans Affairs Committee**  
**69<sup>th</sup> Legislative Session**  
**Senator Luick-Chair**

Chairman Luick and Senate Agriculture and Veterans Affairs Committee,

Please accept this testimony in OPPOSITION of HB 1169 version 25.0410.02000 as written and propose amending back to pre-session version 25.0410.01000.

**Intent of original bill 25.0410.01000:** (see attached: Bill 25.0410.01000 & Amendment)

1. Ensure North Dakota's veterans receive qualified, competent, and accredited representation on their benefit claims.
2. Require claim agents & attorneys to comply with Federal Laws.
3. Provide a penalty.

Initial Bill version **25.0410.01000** as *approved by the ND Veterans Legislative Council and ACOVA* would...

- Define "Compensation" and "Veterans benefits matter"
- Establish restrictions per Federal Laws.
  - Compensation or fees only as allowed by federal law Title 38, Code of Federal Regulation (CFR) part 14 section 636. (See attached: NDCC USC & CFR)
  - Require agents and attorneys to be accredited with VA Office of General Council (OGC) in preparing, presenting or prosecuting any benefit claim or appeal for veterans and dependents.
  - Prohibit referral fees.
  - Prohibit guarantee of results.
- Require written agreements which comply with Title 38 CFR part 14 section 636
- Establish penalty.
  - Up to \$5,000 civil penalty under NDCC 51-15-11
  - Other remedies in NDCC 50-22, 51-12, 51-13, 51-14, 51-16.1, or 51-18

**Background:**

- Federal VA has 3 categories of accreditations 38 USC Ch. 59 section 5902 (See attached: NDCC USC & CFR)
- Representative (ND has over 70 accredited reps)
  - Veteran Service organizations (Federally recognized)
    - ND has American Legion, DAV, VFW
  - State agencies
    - NDDVA
  - County & Tribal Veteran Service Officers
    - NDCC 37-14-18 currently requires all county veteran service officers (government employees) to be accredited as representatives through the federal VA OGC.
    - Wait time for appointment with CVSO's: 0-15 days.
  - VA representatives are not allowed to charge fees for any services.

- Agents (ND has 3)
  - Independent persons or organizations-not part of a federally recognized Veteran Service Organization
  - Collect fees as allowed by Federal Law
    - Not to exceed 20% of retroactive payments.
- Attorneys (ND has 1)
  - Collect Fees as allowed by Federal law
    - Up to 33% of retroactive payments.

**Need for bill version 25.0410.01000:**

- Claims agents are breaking federal law.
- **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).
- **38 USC Chapter 59 P §5901. Prohibition against acting as claims agent or attorney**
  - (a) In General.—Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Secretary unless such individual has been recognized for such purposes by the Secretary.
    - **Note:** Feb 13, 2025, at 11:19AM ND Assistant Attorney General testified to the House GVA on HB 1169 that accreditation is required to assist in preparation of claims to VA.
  - **§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.
- Accreditation requires 3 simple steps. (See attached: “How to apply for Va accreditation)
- Only Accredited claims agents and attorneys may charge fees under 38 CFR Ch. I Subsection 14.636. (See attached)

- In 2006 Public Law. 109-461 amended Section 5905 penalties for violating those laws impeding VA OGC ability to regulate unscrupulous representation of veterans' claims.
  - G.A.U.R.D. Act: Federal bills of 118<sup>th</sup> Congress: HR 1139 and SB 740 which were attempting to address the issue of "claim sharks". Bills would have reinserted into section 5905: *"(b) CHARGING OF UNAUTHORIZED FEES.—Except as provided in sections 5904 or 1984 of this title, whoever solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation with respect to the preparation, presentation, or prosecution of any claim for benefits under the laws administered by the Secretary shall be fined as provided in title 18."* (see attached: Congress bills)
    - National Association of Attorneys General of the US states and territories supported, 44 states signed including ND. (see attached: Congress bills)
    - Bills are being reintroduced in 2025 (119<sup>th</sup> Congress)
- Vulnerable Veterans and dependents are targets for financial exploitation of these VA Benefits.
  - Unqualified and unaccredited representatives charge fees for services and can capture portions of VA benefits from veterans and dependents which exceed amounts allowed by Federal law.
  - Increasing reports of fraudulent actions
    - Gaining access to bank accounts of vulnerable veterans and dependents.
    - Access to veterans VA username and password.
    - Claim agents referring veteran's medical records to Dr's out of state for opinions.
  - With other states passing and currently implementing laws claim agents will concentrate on states that do not have these protective laws.
    - Ads in just 15 minutes on Facebook after viewing (not clicking) one ad...

The collage displays several Facebook advertisements:

- Dynamic Legal Advocates:** "PFAS lawsuit settlements could have a value of around \$150,000 to \$375,000... See more".
- Veteran Debt Relief:** "Veterans Struggling with \$20,000+ in Debt? This Could Help! We Help Veterans Owing \$20,000 or more in Credit Card, Non-VA Medical... See more".
- Victory Disability:** "Those who served could receive extra... See more".
- REE Medical:** "If you're a service-connected Veteran looking to increase your current VA Rating, our... See more".
- Veterans Guardian VA Claim Consulting:** "Stuck with a low VA rating?... See more".
- SSDI For Vets:** "VA BENEFITS NOT ENOUGH? Veterans over 55 are doubling their VA benefits with this pr...".
- VA Benefits Solutions:** "Behind every service member is a story of sacrifice. Your sacrifice deserves recognition."
- Veterans Benefits Evaluations:** "Just took another Veteran from 90% to 100% in 30 days! That's approx. \$4,098.87 per month or \$49,186 per year. They owe nothing of their award or backpay. They would have owed over \$14,000 to the claim shark companies."
- Veteran Debt Order:** "NEW ORDER TO AFFECT VETERANS IN HEAVY DEBT - EFFECTIVE FEB 20 2025. Qualifying Veterans can now get Relief if they owe more than \$20,000 in total on their Credit Card, Medical or Personal Loans!"
- Veteran Nexus:** "VA Claims Insider... Frustrated and uncertain? You're not alone. We help Veterans INCREASE Their Tax-Free Monthly Compensation FASTER! \$!"
- Benefits.com:** "Veterans: Find out if you meet the standards for a 100% VA Disability rating! (TDIU)... See more".
- Veterans: Don't let the VA tell you your disability isn't service connected. Here's how to prove it is.**
- startbenefits.com:** "Free TDIU Medical Screening".
- Veterans Benefits Evaluations:** "Just took another Army Veteran from 0% to 100% in 30 days! That's approx. \$4,098.87 per month or \$49,186 per year. They owe nothing of their award or backpay. They would have owed over \$14,000 to the claim shark companies."

- Claim Predators are creating financial burdens
  - Lawsuits involving Claim agents appearing across the US
    - 2/10/2025 search showed Veterans Guardian VA Claim Consulting alone was involved in 11 active lawsuits across the US-from Maine to Montana.
  - VA spending millions to warn veterans with letters, brochures, website information, online reporting center, social media flyers, and letter dated 1/14/2025. (See attached: VA and VSO Efforts)
  - Veteran Service Organizations are conducting national campaigns warning veterans of claim predators. See attached. (See attached: VA and VSO Efforts)
  - Veterans Benefit Guide (VBG) is currently in many states, including ND, fighting legislative efforts to require compliance with federal laws.
    - VBG is not a registered business with ND Secretary of State.
  - ND DVA is receiving reports and requests for help from ND Veterans.
    - Receiving large bills for services beyond what was understood.
    - Lack of response from claim predators once agreements signed or fees paid.
    - Veterans seeking representation from POA's to appeal and correct claims that were denied or improperly developed by claim agents.
      - Difficult to determine if outside claim agent has POA, we should not advise veterans who are represented by others.
    - Paying for medical opinions from out of state providers they have never visited with.

**Outcome of bill version 25.0410.01000:**

- Ensure North Dakota's veterans receive qualified, competent, and accredited representation on their benefit claims.
- Require claim agents & attorneys to comply with Federal Laws.
- Provide a penalty.

**Outcome of bill version 25.0410.02000** (current bill)

- This version removed from first version the key verbiage from lines 18-19 of page 1.
  - 2. A person may not:
    - a. Receive compensation for advising or assisting an individual regarding any federal or state veterans' benefits matter, except as allowed under federal law.
- Provides Claim Agents and Attorneys authority to violate federal law through the NDCC.
- Does not reference federal laws or requirements.
- Allows unaccredited agents and attorneys to charge fees for services not allowed by federal law.
- Section 1 (2) (C) Prohibits excessive or unreasonable fees but does not define excessive or unreasonable.
- Does not provide any government oversight of the claim agents.
- Does not provide legal ramifications for failing to comply with federal laws.
- Encourages unscrupulous claim sharks to target and exploit ND Veterans and dependents.

**Fiscal note:**

No state general funds. Cost to veterans and dependents is unattainable.

**Conclusion:**

Allowing unaccredited representation will hurt ND veterans and will only benefit out of state unaccredited claim predators who do not register in ND or answer to any agency in ND.

The ACOVA respectfully requests that the Senate Agriculture and Veterans Affairs Committee amend the current version of HB 1169 to the 25.0410.01000 version and recommend a do pass.

If the Senate Agriculture and Veterans Affairs Committee does not amend, we respectfully request that HB 1169 gets a “DO NOT PASS” recommendation.

Thank you for your consideration.

Lonnie Wangen  
Commissioner-NDDVA



Party Search Results

**Search Criteria:** Party Search; Last Name: [Veterans Guardian VA]  
**Result Count:** 11 (1 page)  
**Current Page:** 1

Party Name	Case Number	Case Title	Court	Date Filed	Date Closed
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC (dft)	<a href="#">1:2023cv00756</a>	FORD v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC	North Carolina Middle District Court	09/01/2023	
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC (dft)	<a href="#">1:2023cv00762</a>	PATTERSON et al v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC et al	North Carolina Middle District Court	09/08/2023	10/31/2024
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC (dft)	<a href="#">1:2023cv01080</a>	BEARD v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC	North Carolina Middle District Court	12/08/2023	10/31/2024
Veterans Guardian VA Claim Consulting LLC	<a href="#">0:2024cv01097</a>	Veterans Guardian VA Claim Consulting LLC, et al v. Matthew J. Platkin	U.S. Court Of Appeals, Third Circuit	01/19/2024	
VETERANS GUARDIAN VA CLAIM CONSULTING LLC (pla)	<a href="#">1:2024cv00290</a>	VETERANS GUARDIAN VA CLAIM CONSULTING LLC et al v. FREY	Maine District Court	08/09/2024	
VETERANS GUARDIAN VA CLAIM CONSULTING PAC (dft)	<a href="#">1:2023cv00762</a>	PATTERSON et al v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC et al	North Carolina Middle District Court	09/08/2023	10/31/2024
Veterans Guardian VA Claim Consulting, LLC (dft)	<a href="#">1:2024cv00014</a>	Young et al v. Veterans Guardian VA Claim Consulting, LLC	Montana District Court	02/02/2024	10/29/2024
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC (dft)	<a href="#">1:2024cv01021</a>	YOUNG et al v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC	North Carolina Middle District Court	12/05/2024	
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC (dft)	<a href="#">1:2020cv00784</a>	THE UNITED STATES OF AMERICA v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC et al	North Carolina Middle District Court	08/27/2020	
VETERANS GUARDIAN VA CLAIM CONSULTING, LLC (pla)	<a href="#">3:2023cv20660</a>	VETERANS GUARDIAN VA CLAIM CONSULTING, LLC et al v. PLATKIN	New Jersey District Court	09/25/2023	09/19/2024
Veterans Guardian VA Claims Consulting, LLC (am)	<a href="#">3:2024cv00446</a>	Military-Veterans Advocacy, Inc. et al v. Landry et al	Louisiana Middle District Court	06/05/2024	

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## ACCREDITATION, DISCIPLINE, & FEES PROGRAM OFFICE OF GENERAL COUNSEL HOW TO APPLY FOR VA ACCREDITATION

### WHAT AN APPLICANT SHOULD KNOW ABOUT APPLYING FOR DEPARTMENT OF VETERANS AFFAIRS (VA) ACCREDITATION AS AN ATTORNEY OR CLAIMS AGENT

#### What is the VA accreditation program?

- The VA accreditation program exists to ensure that Veterans and their family members receive appropriate representation on their VA benefits claims. VA accreditation is for the sole and limited purpose of preparing, presenting, and prosecuting claims before VA.

#### When is VA accreditation required?

- An individual generally must first be accredited by VA to assist a claimant in the preparation, presentation, and prosecution of a claim for VA benefits—even without charge.<sup>1</sup> VA accredits three types of individuals for this purpose:
  - Representatives of VA-recognized veterans service organizations (VSO)<sup>2</sup>
  - Attorneys (accredited in their individual capacity, not through a law firm)
  - Claims agents (accredited in their individual capacity, not through an organization)

#### How do I apply to become a VA-accredited attorney or claims agent?

##### **Step 1: > Complete VA Form 21a**

- Be sure to fill out all portions of the form.

##### **Step 2: > It is recommended that you attach any necessary documents to VA Form 21a**

- We recommend that you attach a recently dated certificate of good standing from all state bars, courts, or Federal or state agencies to which you are admitted. (This applies to both attorneys and claims agents).
- On VA Form 21a, if you answer “yes” to question 13A, 14A, 15A, 16, 17, 18, 20, 22, 23A or 24A, please attach a detailed explanation of the surrounding circumstances.

##### **Step 3: > Submit your VA Form 21a and any attachments to OGC** (Please only choose 1 method of submission):

- Mail: Office of the General Counsel (O22D), 810 Vermont Avenue, NW, Washington, DC20420.
- Fax: (202) 495-5457.

<sup>1</sup> VA regulations allow a one-time exception to this general rule, which allows VA to authorize a person to prepare, present, and prosecute one claim without accreditation. The assistance must be without cost to the claimant, is subject to the laws governing presentation, and may not be used to evade the accreditation requirements.

<sup>2</sup> To apply for accreditation as a VSO representative, please contact the organization’s certifying official.



## FAQs

*Q1: How long will it take to process my application?*

A1: Attorney applications generally take between 60 to 120 days from submission. Because there are more steps involved with claim agent applications, those applications take, on average, 1 year to process.

*Q2: If I am accredited as an attorney or claims agent, what must I do to maintain my VA accreditation?*

A2: You must: (1) Complete 3 hours of qualifying continuing legal education (CLE) requirements during the first 12-month period following the date of initial accreditation by VA, and an additional 3 hours no later than 3 years from the date of your accreditation, and every 2 years thereafter; (2) Provide a copy of your training certificate or certify in writing to VA's Office of the General Counsel your completion of the qualifying CLE, including the CLE title, date, time, and provider; (3) Submit an annual certification of good standing for any court, bar, or Federal or State agency to which you are admitted to practice.

*Q3: Can I be accredited to help veterans with their claims if I am a federal employee?*

A3: No. An employee of the Federal government generally cannot provide representational services before VA. However, if you are currently serving in a Reserve component of the Armed Forces, you are not considered a Federal employee as long as you are not on active duty or active duty for training.

*Q4: May an accredited attorney or claims agent charge fees for preparing an initial VA claim?*

A4: No. An accredited attorney or claims agent may generally charge claimants a fee only **after** an agency of original jurisdiction (e.g., a VA regional office) has issued a decision on a claim, a notice of disagreement has been filed, and the attorney or agent has filed a power of attorney and a fee agreement with VA.

*Q5: If I advise veterans and their family members on VA benefit claims but do not file their applications for them, do I need to be accredited?*

A5: Yes. You must be accredited to aid in the preparation, presentation, or prosecution of a VA benefit claim. Advising a claimant on a specific benefit claim or directing the claimant on how to fill out the application, even if you never put pen to paper, is considered claims preparation.

*Q6: Can I use my VA accreditation to as a method to advertise or promote my other business interests?*

A6: No. VA accredits individuals solely for purposes of ensuring VA claimants receive responsible, qualified representation when preparing presenting and prosecuting claims before the Department. You may not use your VA accreditation for promoting any other businesses, including financial services, referral businesses, or homecare businesses. If VA determines that an accredited agent or attorney is using VA accreditation for an improper purpose, VA may suspend or cancel the individual's accreditation. VA may also collaborate with state law enforcement authorities in the event that it is suspected that the individual's actions may have implications under State laws.

*Q7: Are there standards of conduct that I must follow as an accredited individual?*

A7: Yes. You must abide by the standards of conduct listed in 38 C.F.R. § 14.632 and summarized on the fact sheet labeled "How to File a Complaint Regarding Representation."

*Q8: If I violate the standard of conduct or engage in any other unlawful or unethical conduct, what will happen?*

A8: If VA determines that an accredited individual has violated the standard of conduct, VA may suspend or cancel his or her accreditation. VA is authorized to report the suspension or cancellation of VA accreditation to other bar associations, courts, or agencies to which you are admitted as well as employing entities. In addition, VA may collaborate with state law enforcement authorities in the event that it is suspected that the individual's actions may have implications under State laws.

*Q9: What if I have questions regarding my VA accreditation?*

A9: You may submit inquiries regarding VA accreditation to [ogcaccreditationmailbox@va.gov](mailto:ogcaccreditationmailbox@va.gov).



Introduced by

Representative J. Olson

1 A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota  
2 Century Code, relating to compensation for veterans' benefits, and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 37-14 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Compensation for advising on veterans' benefits prohibited - Limitations - Penalty.**

7 1. As used in this section:

8 a. "Compensation" means payment of any money, thing of value, or financial  
9 benefit.

10 b. "Veterans' benefits matter" means the preparation, presentation, or prosecution  
11 of any claim or appeal affecting an individual who has filed or expressed an intent  
12 to file a claim for a benefit, program, service, commodity, function, status, or an  
13 entitlement which is determined under the laws and regulations administered by  
14 the United States department of veterans affairs or the United States department  
15 of defense pertaining to a veteran, a veteran's dependent or survivor, or any  
16 other individual eligible for such benefit.

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 under federal law.

20 b. Receive compensation for referring an individual to another person to advise or  
21 assist the individual with any veterans' benefits matter.

22 c. Guarantee to an individual a specific veterans' benefit, including any level,  
23 percentage, or amount of veterans' benefit, either directly or by implication.

- 1           d. Receive excessive or unreasonable fees as provided under title 38, Code of
- 2           Federal Regulations, part 14, section 636, as compensation for advising or
- 3           assisting an individual with a veterans' benefits matter.
- 4        3. A person seeking to receive compensation for advising or assisting an individual with a
- 5           veterans' benefits matter shall memorialize all terms regarding the individual's
- 6           payment of fees for services rendered in a written agreement in accordance with
- 7           title 38, Code of Federal Regulations, part 14, section 636, before rendering services.
- 8        4. A violation of this section is an unlawful practice in violation of section 51-15-02 and
- 9           subject to a civil penalty under section 51-15-11.

Sixty-ninth  
Legislative Assembly  
of North Dakota**PROPOSED AMENDMENTS TO****HOUSE BILL NO. 1169**

Introduced by

Representatives J. Olson, Grindberg, Klemin, Lefor, Marschall, Pyle, M. Ruby, Schauer

Senators Axtman, Bekkedahl, Cory, Roers

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11 of any claim or appeal affecting an individual who has filed or expressed an intent  
12 to file a claim for a benefit, program, service, commodity, function, status, or an  
13 entitlement which is determined under the laws and regulations administered by  
14 the United States department of veterans affairs or the United States department  
15 of defense pertaining to a veteran, a veteran's dependent or survivor, or any  
16 other individual eligible for such benefit.

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1 b. Receive compensation for referring an individual to another person to advise or  
2 assist the individual with any veterans' benefits matter.

3 b.c. Guarantee to an individual a specific veterans' benefit, including any level,  
4 percentage, or amount of veterans' benefit, either directly or by implication.

5 e.d. Receive excessive or unreasonable fees, as provided under title 38, Code of  
6 Federal Regulations, part 14, section 636, as compensation for advising or  
7 assisting an individual with a veterans' benefits matter.

8 3. A person seeking to receive compensation for advising or assisting an individual with a  
9 veterans' benefits matter shall memorialize all terms regarding the individual's  
10 payment of fees for services rendered in a written agreement in accordance with  
11 title 38, Code of Federal Regulations, part 14, section 636, before rendering services.

12 4. A person seeking to receive compensation for advising or assisting an individual with a  
13 veterans' benefits matter shall provide the following disclosure at the outset of the  
14 business relationship:

15 This business is not sponsored by, or affiliated with, the United States department  
16 of veterans' affairs or the state department of veterans' affairs, or any other  
17 federally chartered veterans' service organization. Other organizations including  
18 the state department of veterans' affairs, a local veterans' service organization,  
19 and other federally chartered veterans' service organizations may be able to  
20 provide you with this service free of charge. Products or services offered by this  
21 business are not necessarily endorsed by any of these organizations. You may  
22 qualify for other veterans' benefits beyond the benefits for which you are  
23 receiving services here.

24 5. The written disclosure under subsection 4 must appear in at least twelve point font in  
25 an easily identifiable location in the person's agreement with the individual seeking  
26 services. The individual shall sign the document in which the written disclosure  
27 appears to represent an understanding of these provisions. The person offering  
28 services shall retain a copy of the written disclosure while providing veterans' benefits  
29 services for compensation to the individual and for at least one year after the date on  
30 which the service relationship terminates.



- 1 ~~6. A person seeking to receive compensation for advising or assisting a veteran in~~  
2 ~~connection with an initial claim for benefits may not:~~
- 3 ~~a. Receive any compensation for any services rendered in connection with any~~  
4 ~~claim filed within a one-year presumptive period of active-duty release, unless the~~  
5 ~~veteran acknowledges by signing a waiver that the veteran is within this period~~  
6 ~~and chooses to deny free services available to the veteran.~~
- 7 ~~b. Receive compensation that is not purely contingent on an increase in benefits~~  
8 ~~awarded or which exceeds five times the amount of the monthly benefits~~  
9 ~~awarded.~~
- 10 ~~c. Receive initial or nonrefundable fees.~~
- 11 ~~d. Use international call centers or data centers for processing veterans' personal~~  
12 ~~information.~~
- 13 ~~e. Use a veteran's personal login, username, or password information to access a~~  
14 ~~veteran's medical, financial, or government benefits information.~~
- 15 ~~f. Allow an individual access to a veteran's medical or financial information until the~~  
16 ~~individual successfully completes a background check. The background check~~  
17 ~~must be conducted by a reputable source and include identity verification and a~~  
18 ~~criminal records check.~~
- 19 ~~7. A violation of this section is an unlawful practice in violation of section 51-15-02 and~~  
20 ~~subject to a civil penalty under section 51-15-11.~~

## NORTH DAKOTA 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.

## CHAPTER 51-15 UNLAWFUL SALES OR ADVERTISING PRACTICE

### 51-15-02. Unlawful practices - Fraud - Misrepresentation - Unconscionable.

The act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is declared to be an unlawful practice. The act, use, or employment by any person of any act or practice, in connection with the sale or advertisement of any merchandise, which is unconscionable or which causes or is likely to cause substantial injury to a person which is not reasonably avoidable by the injured person and not outweighed by countervailing benefits to consumers or to competition, is declared to be an unlawful practice.

### 51-15-11. Civil penalties.

The court may assess for the benefit of the state a civil penalty of not more than five thousand dollars for each violation of this chapter or for each violation of chapter 51-12, 51-13, 51-14, or 51-18. The penalty provided in this section is in addition to those remedies otherwise provided by this chapter or by chapter 50-22, 51-12, 51-13, 51-14, 51-16.1, or 51-18.

## **38 USC Ch. 59: AGENTS AND ATTORNEYS**

### **From Title 38—VETERANS' BENEFITS**

#### **PART IV—GENERAL ADMINISTRATIVE PROVISIONS**

### **CHAPTER 59—AGENTS AND ATTORNEYS**

Sec.	
5901.	Prohibition against acting as claims agent or attorney.
5902.	Recognition of representatives of organizations.
5903.	Recognition with respect to particular claims.
5904.	Recognition of agents and attorneys generally.
5905.	Penalty for certain acts.
5906.	Availability of legal assistance at Department facilities.

#### **EDITORIAL NOTES**

#### **AMENDMENTS**

**2021**—Pub. L. 116–283, div. A, title V, §548(a)(2), Jan. 1, 2021, 134 Stat. 3618, added item 5906.

**1991**—Pub. L. 102–40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3401 to 3405 as 5901 to 5905, respectively.

### **§5901. Prohibition against acting as claims agent or attorney**

(a) **IN GENERAL.**—Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Secretary unless such individual has been recognized for such purposes by the Secretary.

(b) **WARNINGS ABOUT POTENTIAL PREDATORY PRACTICES.**—(1) The Secretary shall ensure that, each time a claimant under a law administered by the Secretary logs in to a website or online tool of the Department, such website or online tool issues to the claimant, in plain language—

(A) a warning about individuals who seek to act in violation of this chapter;

(B) a link to an online tool of the Department through which the claimant may report such an individual;

(C) a link to an online tool of the Department through which the claimant may search for a recognized agent, attorney, or other entity recognized by the Secretary for the preparation, presentation, or prosecution of any claim under laws administered by the Secretary; and

(D) a link to a website or an online tool of the Department providing final decisions on discipline of agents, attorneys, and entities, described in subparagraph (C), by the Secretary for violations of this chapter.

(2) The Secretary shall provide all information under paragraph (1) in the following languages:

(A) English.

(B) Spanish.

(C) Tagalog.

(D) The seven other languages most commonly spoken in the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1238, §3401; Pub. L. 91–24, §12(a), June 11, 1969, 83 Stat. 34; Pub. L. 99–576, title VII, §701(79), Oct. 28, 1986, 100 Stat. 3298; renumbered §5901, 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. 118–21, §3(a), Nov. 13, 2023, 137 Stat. 110.)

#### **EDITORIAL NOTES**

#### **AMENDMENTS**

**2023**—Pub. L. 118–21 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**1991**—Pub. L. 102–40 renumbered section 3401 of this title as this section.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

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



**1986**—Pub. L. 99-576 substituted "such individual" for "he".

**1969**—Pub. L. 91-24 substituted "Except as provided by section 500 of title 5, no individual may act" for "No individual may act".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### IMPLEMENTATION

Pub. L. 118-21, §3(b), Nov. 13, 2023, 137 Stat. 110, provided that: "The Secretary of Veterans Affairs shall carry out subsection (b) of such section, as added by subsection (a) of this section—

"(1) after consulting with stakeholders (including veterans service organizations recognized under section 5902 of such title) regarding the wording of the warning under such subsection; and

"(2) not later than one year after the date of the enactment of this Act [Nov. 13, 2023]."

### §5902. Recognition of representatives of organizations

(a)(1) The Secretary may recognize representatives of the American National Red Cross, the 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 section 5104 of this title with respect to the case shall file a copy of any fee agreement between them with the Secretary pursuant to regulations prescribed by the Secretary.

(3)(A) The Secretary may, upon the Secretary's own motion or at the request of the claimant, review a fee agreement filed pursuant to paragraph (2) and may order a reduction in the fee called for in the agreement if the Secretary finds that the fee is excessive or unreasonable.

(B) A finding or order of the Secretary under subparagraph (A) may be reviewed by the Board of Veterans' Appeals under section 7104 of this title.

(C) If the Secretary under subsection (b) suspends or excludes from further practice before the Department any agent or attorney who collects or receives a fee in excess of the amount authorized under this section, the suspension shall continue until the agent or attorney makes full restitution to each claimant from whom the agent or attorney collected or received an excessive fee. If the agent or attorney makes such restitution, the Secretary may reinstate such agent or attorney under such rules as the Secretary may prescribe.

(4) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.

(d) **PAYMENT OF FEES OUT OF PAST-DUE BENEFITS.**—(1) When a claimant and an agent or attorney have entered into a fee agreement described in paragraph (2), the total fee payable to the agent or attorney may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim.

(2)(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the agent or attorney—

(i) is to be paid to the agent or attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.

(B) For purposes of subparagraph (A), a claim shall be considered to have been resolved in a manner favorable to the claimant if all or any part of the relief sought is granted.

(3) To the extent that past-due benefits are awarded in any proceeding before the Secretary, the Board of Veterans' Appeals, or the United States Court of Appeals for Veterans Claims, the Secretary may direct that payment of any fee to an agent or attorney under a fee arrangement described in paragraph (1) be made out of such past-due benefits. In no event may the Secretary withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Secretary, the Board of Veterans' Appeals, or Court of Appeals for Veterans Claims making (or ordering the making of) the award.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1238, §3404; Pub. L. 99–576, title VII, §701(80), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100–687, div. A, title I, §104(a), Nov. 18, 1988, 102 Stat. 4108; renumbered §5904 and amended Pub. L. 102–40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 102–405, title III, §303(a), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 103–446, title V, §504(a), Nov. 2, 1994, 108 Stat. 4663; Pub. L. 105–368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 109–461, title I, §101(a)(1), (b), (c)(1), (d)–(f), Dec. 22, 2006, 120 Stat. 3405, 3407, 3408; Pub. L. 115–55, §2(n), Aug. 23, 2017, 131 Stat. 1110.)

#### EDITORIAL NOTES

#### AMENDMENTS

**2017**—Subsec. (c)(1), (2). Pub. L. 115–55 substituted "claimant is provided notice of the agency of original jurisdiction's initial decision under section 5104 of this title" for "notice of disagreement is filed".

**2006**—Subsec. (a). Pub. L. 109–461, §101(a)(1)(A), inserted heading.

Subsec. (a)(1). Pub. L. 109–461, §101(a)(1)(A)–(C), designated existing provisions as par. (1), substituted "Except as provided in paragraph (4), the Secretary may recognize" for "The Secretary may recognize", and struck out last sentence which read as follows: "The Secretary may require that individuals, before being recognized under this section, show that they are of good moral character and in good repute, are qualified to render claimants valuable service, and otherwise are competent to assist claimants in presenting claims."

Subsec. (a)(2) to (6). Pub. L. 109–461, §101(a)(1)(D), added pars. (2) to (6).

Subsec. (b). Pub. L. 109–461, §101(b)(1), inserted heading.

Subsec. (b)(6) to (9). Pub. L. 109–461, §101(b)(2)–(4), added pars. (6) to (9).

Subsec. (c)(1). Pub. L. 109–461, §101(e)(1), substituted "paragraph (4)" for "paragraph (3)".

Pub. L. 109–461, §101(c)(1), substituted "a notice of disagreement is filed with respect to" for "the Board of Veterans' Appeals first makes a final decision in", struck out "Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date." before "The limitation", and inserted "fees charged, allowed, or paid for" after "does not apply to".

Subsec. (c)(2). Pub. L. 109–461, §101(d), substituted "after a notice of disagreement is filed with respect to the case" for "after the Board first makes a final decision in the case" and "with the Secretary pursuant to regulations prescribed by the Secretary" for "with the Board at such time as may be specified by the Board" and struck out at end: "The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or order of the Board under the preceding sentence may be reviewed by the United States Court of Appeals for Veterans Claims under section 7263(d) of this title."

Subsec. (c)(3), (4). Pub. L. 109–461, §101(e)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 109–461, §101(f)(1), inserted heading.

Subsec. (d)(1). Pub. L. 109–461, §101(f)(2), (3), inserted "agent or" before "attorney" in two places and struck out "of this subsection" after "paragraph (2)".

Subsec. (d)(2)(A). Pub. L. 109–461, §101(f)(2), inserted "agent or" before "attorney" in introductory provisions and in cl. (i).

Subsec. (d)(2)(B). Pub. L. 109-461, §101(f)(4), struck out "of this paragraph" after "subparagraph (A)".  
Subsec. (d)(3). Pub. L. 109-461, §101(f)(5), substituted "fee to an agent or attorney" for "attorneys' fee" and struck out "of this subsection" after "paragraph (1)".

1998—Subsecs. (c)(2), (d)(3). Pub. L. 105-368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals" wherever appearing.

1994—Subsec. (d)(2)(A). Pub. L. 103-446 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "A fee agreement referred to in paragraph (1) of this subsection is one under which (i) the amount of the fee payable to the attorney is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim, and (ii) the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant."

1992—Subsec. (c)(1). Pub. L. 102-405, §303(a)(1), substituted "Except as provided in paragraph (3), in" for "In".

Subsec. (c)(3). Pub. L. 102-405, §303(a)(2), added par. (3).

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3404 of this title as this section.

Subsec. (a). 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".

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

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" in introductory provisions and in par. (4).

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

Subsec. (c)(1). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

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

Subsec. (c)(2). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Pub. L. 102-40, §402(d)(1), substituted "7263(d)" for "4063(d)".

Subsec. (d)(2)(A), (3). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsecs. (c), (d). Pub. L. 100-687 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: "The Administrator shall determine and pay fees to agents or attorneys recognized under this section in allowed claims for monetary benefits under laws administered by the Veterans' Administration. Such fees—

"(1) shall be determined and paid as prescribed by the Administrator;

"(2) shall not exceed \$10 with respect to any one claim; and

"(3) shall be deducted from monetary benefits claimed and allowed."

1986—Subsec. (b). Pub. L. 99-576 substituted "the Administrator" for "he" in introductory text.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-55 applicable to all claims for which the Secretary of Veterans Affairs provides notice of a decision under section 5104 of this title on or after the later of 540 days after Aug. 23, 2017, or 30 days after the date on which the Secretary submits to Congress a certification of certain capabilities of the Department of Veterans Affairs to carry out the new appeals system established by Pub. L. 115-55 and to address appeals of decisions on legacy claims, with provision for early applicability of the new appeals system to certain claims, see section 2(x) of Pub. L. 115-55, set out as a note under section 101 of this title, and bracketed note thereunder.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-461, title I, §101(h), Dec. 22, 2006, 120 Stat. 3408, provided that: "The amendments made by subsections (c)(1) and (d) [amending this section] shall take effect on the date that is 180 days after the date of the enactment of this Act [Dec. 22, 2006] and shall apply with respect to services of agents and attorneys that are provided with respect to cases in which notices of disagreement are filed on or after that date."

Pub. L. 109-461, title I, §101(i), Dec. 22, 2006, 120 Stat. 3408, provided that: "No assessments on fees may be collected under paragraph (6) of section 5904(a) of title 38, United States Code (as added by subsection (a)(1)(D) of this section), until the date on which the Secretary of Veterans Affairs prescribes



the regulations [regulations prescribed effective June 23, 2008, see 73 F.R. 29851] required by the amendments made by this section [amending this section and sections 5902, 5903, and 5905 of this title]."

#### **EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

#### **EFFECTIVE DATE OF 1994 AMENDMENT**

Pub. L. 103-446, title V, §504(b), Nov. 2, 1994, 108 Stat. 4664, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act [Nov. 2, 1994]."

#### **EFFECTIVE DATE OF 1992 AMENDMENT**

Pub. L. 102-405, title III, §303(b), Oct. 9, 1992, 106 Stat. 1985, provided that: "Paragraph (3) [now (4)] of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act [Oct. 9, 1992]."

#### **EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as an Effective Date note under section 7251 of this title.

#### **FEE AGREEMENTS**

Subsec. (d) of this section not to prevent award of fees and expenses under section 2412(d) of Title 28, Judiciary and Judicial Procedure, but subsec. (d) of this section inapplicable to such award where fees for the same work are received under both sections and claimant's attorney refunds to claimant amount of smaller fee, see section 506(c) of Pub. L. 102-572, set out as a note under section 2412 of Title 28.

#### **APPLICABILITY TO ATTORNEYS' FEES**

Pub. L. 100-687, title IV, §403, Nov. 18, 1988, 102 Stat. 4122, which provided that the amendment to subsec. (c) of this section by section 104(a) of Pub. L. 100-687 applied only to services of agents and attorneys in cases in which a notice of disagreement was filed with the Department of Veterans Affairs on or after Nov. 18, 1988, was repealed by Pub. L. 107-103, title VI, §603(b), Dec. 27, 2001, 115 Stat. 999.

[Repeal of section 403 of Pub. L. 100-687, formerly set out above, applicable to any appeal filed with the United States Court of Appeals for Veterans Claims on or after Dec. 27, 2001, or before that date but in which a final decision has not been made under section 7291 of this title as of that date, see section 603(d) of Pub. L. 107-103, set out as a note under section 7251 of this title.]

### **§5905. Penalty for certain acts**

Whoever wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due to the claimant or beneficiary, shall be fined as provided in title 18, or imprisoned not more than one year, or both.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239, §3405; Pub. L. 99-576, title VII, §701(81), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100-687, div. A, title I, §104(b), Nov. 18, 1988, 102 Stat. 4109; renumbered §5905 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 109-461, title I, §101(g), Dec. 22, 2006, 120 Stat. 3408.)

#### **EDITORIAL NOTES**

#### **AMENDMENTS**

**2006**—Pub. L. 109-461 struck out "(1) directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 5904 or 1984 of this title, or (2)" after "Whoever".

**1991**—Pub. L. 102-40 renumbered section 3405 of this title as this section and substituted "5904" for "3404".

Pub. L. 102-83 substituted "1984" for "784".

**1988**—Pub. L. 100-687 substituted "shall be fined as provided in title 18, or imprisoned not more than one year, or both" for "shall be fined not more than \$500 or imprisoned at hard labor for not more than two years, or both".

**1986**—Pub. L. 99-576 substituted "to the claimant or beneficiary" for "him".

STATUTORY NOTES AND RELATED SUBSIDIARIES

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as an Effective Date note under section 7251 of this title.

**§5906. Availability of legal assistance at Department facilities**

(a) IN GENERAL.—Not less frequently than three times each year, the Secretary shall facilitate the provision by a qualified legal assistance clinic of pro bono legal assistance described in subsection (c) to eligible individuals at not fewer than one medical center of the Department of Veterans Affairs, or such other facility of the Department as the Secretary considers appropriate, in each State.

(b) ELIGIBLE INDIVIDUALS.—For purposes of this section, an eligible individual is—

- (1) any veteran;
- (2) any surviving spouse; or
- (3) any child of a veteran who has died.

(c) PRO BONO LEGAL ASSISTANCE DESCRIBED.—The pro bono legal assistance described in this subsection is the following:

- (1) Legal assistance with any program administered by the Secretary.
- (2) Legal assistance associated with—
  - (A) improving the status of a military discharge or characterization of service in the Armed Forces, including through a discharge review board; or
  - (B) seeking a review of a military record before a board of correction for military or naval records.
- (3) Such other legal assistance as the Secretary—
  - (A) considers appropriate; and
  - (B) determines may be needed by eligible individuals.

(d) LIMITATION ON USE OF FACILITIES.—Space in a medical center or facility designated under subsection (a) shall be reserved for and may only be used by the following, subject to review and removal from participation by the Secretary:

- (1) A veterans service organization or other nonprofit organization.
- (2) A legal assistance clinic associated with an accredited law school.
- (3) A legal services organization.
- (4) A bar association.
- (5) Such other attorneys and entities as the Secretary considers appropriate.

(e) LEGAL ASSISTANCE IN RURAL AREAS.—In carrying out this section, the Secretary shall ensure that pro bono legal assistance is provided under subsection (a) in rural areas.

(f) DEFINITION OF VETERANS SERVICE ORGANIZATION.—In this section, the term "veterans service organization" means any organization recognized by the Secretary for the representation of veterans under section 5902 of this title.

(Added Pub. L. 116-283, div. A, title V, §548(a)(1), Jan. 1, 2021, 134 Stat. 3617.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

**PILOT PROGRAM TO ESTABLISH AND SUPPORT LEGAL ASSISTANCE CLINICS**

Pub. L. 116-283, div. A, title V, §548(b)–(e), Jan. 1, 2021, 134 Stat. 3618, provided that:

"(b)(1) PILOT PROGRAM REQUIRED.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Veterans Affairs shall establish a pilot program to assess the feasibility and advisability of awarding grants to eligible entities to establish new legal assistance clinics, or enhance existing legal assistance clinics or other pro bono efforts, for the provision of pro bono legal assistance described in subsection (c) of section 5906 of title 38, United States Code, as added by subsection (a), on a year-round basis to individuals who served in the Armed Forces, including individuals who served in a reserve component of the Armed Forces, and who were discharged or released therefrom, regardless of the conditions of such discharge or release, at locations other than medical centers and facilities described in subsection (a) of such section.

"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to limit or affect—

"(i) the provision of pro bono legal assistance to eligible individuals at medical centers and facilities of the Department of Veterans Affairs under section 5906(a) of title 38, United States Code, as added by subsection (a); or

"(ii) any other legal assistance provided pro bono at medical centers or facilities of the Department as of the date of the enactment of this Act.

"(2) ELIGIBLE ENTITIES.—For purposes of the pilot program, an eligible entity is—

"(A) a veterans service organization or other nonprofit organization specifically focused on assisting veterans;

"(B) an entity specifically focused on assisting veterans and associated with an accredited law school;

"(C) a legal services organization or bar association; or

"(D) such other type of entity as the Secretary considers appropriate for purposes of the pilot program.

"(3) LOCATIONS.—The Secretary shall ensure that at least one grant is awarded under paragraph (1) (A) to at least one eligible entity in each State, if the Secretary determines that there is such an entity in a State that has applied for, and meets requirements for the award of, such a grant.

"(4) DURATION.—The Secretary shall carry out the pilot program during the five-year period beginning on the date on which the Secretary establishes the pilot program.

"(5) APPLICATION.—An eligible entity seeking a grant under the pilot program shall submit to the Secretary an application therefore at such time, in such manner, and containing such information as the Secretary may require.

"(6) SELECTION.—The Secretary shall select eligible entities who submit applications under paragraph (5) for the award of grants under the pilot program using a competitive process that takes into account the following:

"(A) Capacity of the applicant entity to serve veterans and ability of the entity to provide sound legal advice.

"(B) Demonstrated need of the veteran population the applicant entity would serve.

"(C) Demonstrated need of the applicant entity for assistance from the grants.

"(D) Geographic diversity of applicant entities.

"(E) Such other criteria as the Secretary considers appropriate.

"(7) GRANTEE REPORTS.—Each recipient of a grant under the pilot program shall, in accordance with such criteria as the Secretary may establish, submit to the Secretary a report on the activities of the recipient and how the grant amounts were used.

"(c) REVIEW OF PRO BONO ELIGIBILITY OF FEDERAL WORKERS.—

"(1) IN GENERAL.—The Secretary of Veterans Affairs shall, in consultation with the Attorney General and the Director of the Office of Government Ethics, conduct a review of the rules and regulations governing the circumstances under which attorneys employed by the Federal Government can provide pro bono legal assistance.

"(2) RECOMMENDATIONS.—In conducting the review required by paragraph (1), the Secretary shall develop recommendations for such legislative or administrative action as the Secretary considers appropriate to facilitate greater participation by Federal employees in pro bono legal and other volunteer services for veterans.

"(3) SUBMITTAL TO CONGRESS.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary shall submit to the appropriate committees of Congress—

"(A) the findings of the Secretary with respect to the review conducted under paragraph (1); and

"(B) the recommendations developed by the Secretary under paragraph (2).

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the status of the implementation of this section.

"(e) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means

—  
"(A) the Committee on Veterans' Affairs and the Committee on Appropriations of the Senate; and

"(B) the Committee on Veterans' Affairs and the Committee on Appropriations of the House of Representatives.

"(2) VETERANS SERVICE ORGANIZATION.—The term 'veterans service organization' means any organization recognized by the Secretary for the representation of veterans under section 5902 of title 38, United States Code."

## 5 U.S. Code § 500 - Administrative practice; general provisions

(a) For the purpose of this section—

(1) “agency” has the meaning given it by section 551 of this title; and

(2) “State” means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.

(b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(d) This section does not—

(1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding;

(2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency;

(3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or

(4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.

(e) Subsections (b)–(d) of this section do not apply to practice before the United States Patent and Trademark Office with respect to patent matters that continue to be covered by chapter 3 (sections 31–33) of title 35.

(f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient.

(Added Pub. L. 90-83, § 1(1)(A), Sept. 11, 1967, 81 Stat. 195; amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(b)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A-583.)



#### § 14.636

Under Secretary for Health, respectively.

(Authority: 38 U.S.C. 501(a), 5902)

[53 FR 52423, Dec. 28, 1988. Redesignated and amended at 57 FR 4104, Feb. 3, 1992; 68 FR 8547, Feb. 24, 2003; 82 FR 6272, Jan. 19, 2017]

**§ 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.**

(a) *Applicability of rule.* The provisions of this section apply to the services of accredited agents and attorneys with respect to benefits under laws administered by VA in all proceedings before the agency of original jurisdiction or before the Board of Veterans' Appeals regardless of whether an appeal has been initiated.

(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.

(c) *Circumstances under which fees may be charged.* Except as noted in paragraph (d) of this section, agents and attorneys may only charge fees as follows:

(1)(i) Agents and attorneys may charge claimants or appellants for representation provided after an agency of original jurisdiction has issued notice of an initial decision on the claim or claims if the notice of the initial decision was issued on or after the effective date of the modernized review system as provided in § 19.2(a) of this chapter, and the agent or attorney has complied with the power of attorney requirements in § 14.631 and the fee agreement requirements in paragraph (g) of this section. For purposes of this paragraph (c)(1)(i), an initial decision on a claim

#### 38 CFR Ch. I (7-1-19 Edition)

would include an initial decision on an initial claim for an increase in rate of benefit, an initial decision on a request to revise a prior decision based on clear and unmistakable error (unless fees are permitted at an earlier point pursuant to paragraph (c)(1)(ii) or paragraph (c)(2)(ii) of this section), and an initial decision on a supplemental claim that was presented after the final adjudication of an earlier claim. However, a supplemental claim will be considered part of the earlier claim if the claimant has continuously pursued the earlier claim by filing any of the following, either alone or in succession: A request for higher-level review, on or before one year after the date on which the agency of original jurisdiction issued a decision; a supplemental claim, on or before one year after the date on which the agency of original jurisdiction issued a decision; a Notice of Disagreement, on or before one year after the date on which the agency of original jurisdiction issued a decision; a supplemental claim, on or before one year after the date on which the Board of Veterans' Appeals issued a decision; or a supplemental claim, on or before one year after the date on which the Court of Appeals for Veterans Claims issued a decision.

(ii) Agents and attorneys may charge fees for representation provided with respect to a request for revision of a decision of an agency of original jurisdiction under 38 U.S.C. 5109A or the Board of Veterans' Appeals under 38 U.S.C. 7111 based on clear and unmistakable error if notice of the challenged decision on a claim or claims was issued on or after the effective date of the modernized review system as provided in § 19.2(a), and the agent or attorney has complied with the power of attorney requirements in § 14.631 and the fee agreement requirements in paragraph (g) of this section.

(2)(i) Agents and attorneys may charge claimants or appellants for representation provided: After an agency of original jurisdiction has issued a decision on a claim or claims, including any claim to reopen under 38 CFR 3.156(a) or for an increase in rate of a

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benefit; the agency of original jurisdiction issued notice of that decision before the effective date of the modernized review system as provided in § 19.2(a) of this chapter; a Notice of Disagreement has been filed with respect to that decision on or after June 20, 2007; and the agent or attorney has complied with the power of attorney requirements in § 14.631 and the fee agreement requirements in paragraph (g) of this section.

(ii) Agents and attorneys may charge fees for representation provided with respect to a request for revision of a decision of an agency of original jurisdiction under 38 U.S.C. 5109A or the Board of Veterans' Appeals under 38 U.S.C. 7111 based on clear and unmistakable error if notice of the challenged decision was issued before the effective date of the modernized review system as provided in § 19.2(a); a Notice of Disagreement was filed with respect to the challenged decision on or after June 20, 2007; and the agent or attorney has complied with the power of attorney requirements in § 14.631 and the fee agreement requirements in paragraph (g) of this section.

(3) In cases in which a Notice of Disagreement was filed on or before June 19, 2007, agents and attorneys may charge fees only for services provided after both of the following conditions have been met:

(i) A final decision was promulgated by the Board with respect to the issue, or issues, involved in the appeal; and

(ii) The agent or attorney was retained not later than 1 year following the date that the decision by the Board was promulgated. (This condition will be considered to have been met with respect to all successor agents or attorneys acting in the continuous prosecution of the same matter if a predecessor was retained within the required time period.)

(4) Except as noted in paragraph (i) of this section and § 14.637(d), the agency of original jurisdiction that issued the decision referenced in paragraph (c)(1) or (2) of this section shall determine whether an agent or attorney is eligible for fees under this section. The agency of original jurisdiction's eligibility determination is a final adju-

dicative action that may only be appealed to the Board.

(d) *Exceptions*—(1) *Chapter 37 loans*. With respect to services of agents and attorneys provided after October 9, 1992, a reasonable fee may be charged or paid in connection with any proceeding in a case arising out of a loan made, guaranteed, or insured under chapter 37, United States Code, even though the conditions set forth in paragraph (c) of this section are not met.

(2) *Payment of fee by disinterested third party*. (i) An agent or attorney may receive a fee or salary from an organization, governmental entity, or other disinterested third party for representation of a claimant or appellant even though the conditions set forth in paragraph (c) of this section have not been met. An organization, governmental entity, or other third party is considered disinterested only if the entity or individual does not stand to benefit financially from the successful outcome of the claim. In no such case may the attorney or agent charge a fee which is contingent, in whole or in part, on whether the matter is resolved in a manner favorable to the claimant or appellant.

(ii) For purposes of this part, a person shall be presumed not to be disinterested if that person is the spouse, child, or parent of the claimant or appellant, or if that person resides with the claimant or appellant. This presumption may be rebutted by clear and convincing evidence that the person in question has no financial interest in the success of the claim.

(iii) The provisions of paragraph (g) of this section (relating to fee agreements) shall apply to all payments or agreements to pay involving disinterested third parties. In addition, the agreement shall include or be accompanied by the following statement, signed by the attorney or agent: "I certify that no agreement, oral or otherwise, exists under which the claimant or appellant will provide anything of value to the third-party payer in this case in return for payment of my fee or salary, including, but not limited to, reimbursement of any fees paid."

(e) *Fees permitted.* Fees permitted for services of an agent or attorney admitted to practice before VA must be reasonable. They may be based on a fixed fee, hourly rate, a percentage of benefits recovered, or a combination of such bases. Factors considered in determining whether fees are reasonable include:

- (1) The extent and type of services the representative performed;
- (2) The complexity of the case;
- (3) The level of skill and competence required of the representative in giving the services;
- (4) The amount of time the representative spent on the case;
- (5) The results the representative achieved, including the amount of any benefits recovered;
- (6) The level of review to which the claim was taken and the level of the review at which the representative was retained;
- (7) Rates charged by other representatives for similar services;
- (8) Whether, and to what extent, the payment of fees is contingent upon the results achieved; and
- (9) If applicable, the reasons why an agent or attorney was discharged or withdrew from representation before the date of the decision awarding benefits.

(f) *Presumptions and discharge.* (1) Fees which do not exceed 20 percent of any past-due benefits awarded as defined in paragraph (h)(3) of this section shall be presumed to be reasonable if the agent or attorney provided representation that continued through the date of the decision awarding benefits. Fees which exceed 33 $\frac{1}{3}$  percent of any past-due benefits awarded shall be presumed to be unreasonable. These presumptions may be rebutted through an examination of the factors in paragraph (e) of this section establishing that there is clear and convincing evidence that a fee which does not exceed 20 percent of any past-due benefits awarded is not reasonable or that a fee which exceeds 33 $\frac{1}{3}$  percent is reasonable in a specific circumstance.

(2) With regard to a fee agreement in which the amount of the fee is contingent on the claimant receiving an award of benefits, a reasonable fee for an agent or attorney who is discharged

by the claimant or withdraws from representation before the date of the decision awarding benefits is one that fairly and accurately reflects his or her contribution to and responsibility for the benefits awarded. The amount of the fee is informed by an examination of the factors in paragraph (e) of this section.

(g) *Fee agreements.* All agreements for the payment of fees for services of agents and attorneys (including agreements involving fees or salary paid by an organization, governmental entity or other disinterested third party) must be in writing and signed by both the claimant or appellant and the agent or attorney.

(1) To be valid, a fee agreement must include the following:

- (i) The name of the veteran,
- (ii) The name of the claimant or appellant if other than the veteran,
- (iii) The name of any disinterested third-party payer (see paragraph (d)(2) of this section) and the relationship between the third-party payer and the veteran, claimant, or appellant,
- (iv) The applicable VA file number, and
- (v) The specific terms under which the amount to be paid for the services of the attorney or agent will be determined.

(2) Fee agreements must also clearly specify if VA is to pay the agent or attorney directly out of past due benefits. A direct-pay fee agreement is a fee agreement between the claimant or appellant and an agent or attorney providing for payment of fees out of past-due benefits awarded directly to an agent or attorney. A fee agreement that does not clearly specify that VA is to pay the agent or attorney out of past-due benefits or that specifies a fee greater than 20 percent of past-due benefits awarded by VA shall be considered to be an agreement in which the agent or attorney is responsible for collecting any fees for representation from the claimant without assistance from VA.

(3) A copy of a direct-pay fee agreement, as defined in paragraph (g)(2) of this section, must be filed with the agency of original jurisdiction within 30 days of its execution. A copy of any fee agreement that is not a direct-pay fee agreement must be filed with the

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Office of the General Counsel within 30 days of its execution by mailing the copy to the following address: Office of the General Counsel (022D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Only fee agreements that do not provide for the direct payment of fees, documents related to review of fees under paragraph (i) of this section, and documents related to review of expenses under § 14.637, may be filed with the Office of the General Counsel. All documents relating to the adjudication of a claim for VA benefits, including any correspondence, evidence, or argument, must be filed with the agency of original jurisdiction, Board of Veterans' Appeals, or other VA office as appropriate.

(h) *Payment of fees by Department of Veterans Affairs directly to an agent or attorney from past-due benefits.* (1) Subject to the requirements of the other paragraphs of this section, including paragraphs (c) and (e), the claimant or appellant and an agent or attorney may enter into a fee agreement providing that payment for the services of the agent or attorney will be made directly to the agent or attorney by VA out of any past-due benefits awarded in any proceeding before VA or the United States Court of Appeals for Veterans Claims. VA will charge and collect an assessment out of the fees paid directly to agents or attorneys from past-due benefits awarded. The amount of such assessment shall be equal to five percent of the amount of the fee required to be paid to the agent or attorney, but in no event shall the assessment exceed \$100. Such an agreement will be honored by VA only if the following conditions are met:

(i) The total fee payable (excluding expenses) does not exceed 20 percent of the total amount of the past-due benefits awarded.

(ii) The amount of the fee is contingent on whether or not the claim is resolved in a manner favorable to the claimant or appellant, and

(iii) The award of past-due benefits results in a cash payment to a claimant or an appellant from which the fee may be deducted. (An award of past-due benefits will not always result in a cash payment to a claimant or an ap-

pellant. For example, no cash payment will be made to military retirees unless there is a corresponding waiver of retirement pay. (See 38 U.S.C. 5304(a) and 38 CFR 3.750)

(2) For purposes of this paragraph (h), a claim will be considered to have been resolved in a manner favorable to the claimant or appellant if all or any part of the relief sought is granted.

(3) For purposes of this paragraph (h), "past-due benefits" means a non-recurring payment resulting from a benefit, or benefits, granted on appeal or awarded on the basis of a claim readjudicated after a denial by a VA agency of original jurisdiction or the Board of Veterans' Appeals or the lump sum payment that represents the total amount of recurring cash payments that accrued between the effective date of the award, as determined by applicable laws and regulations, and the date of the grant of the benefit by the agency of original jurisdiction, the Board of Veterans' Appeals, or an appellate court.

(i) When the benefit granted on appeal, or as the result of the readjudicated claim, is service connection for a disability, the "past-due benefits" will be based on the initial disability rating assigned by the agency of original jurisdiction following the award of service connection. The sum will equal the payments accruing from the effective date of the award to the date of the initial disability rating decision. If an increased evaluation is subsequently granted as the result of an appeal of the disability evaluation initially assigned by the agency of original jurisdiction, and if the agent or attorney represents the claimant or appellant in that phase of the claim, the agent or attorney will be paid a supplemental payment based upon the increase granted on appeal, to the extent that the increased amount of disability is found to have existed between the initial effective date of the award following the grant of service connection and the date of the rating action implementing the appellate decision granting the increase.

(ii) Unless otherwise provided in the fee agreement between the claimant or appellant and the agent or attorney, the agent's or attorney's fees will be

determined on the basis of the total amount of the past-due benefits even though a portion of those benefits may have been apportioned to the claimant's or appellant's dependents.

(iii) If an award is made as the result of favorable action with respect to several issues, the past-due benefits will be calculated only on the basis of that portion of the award which results from action taken on issues concerning which the criteria in paragraph (c) of this section have been met.

(4) As required by paragraph (g)(3) of this section, the agent or attorney must file with the agency of original jurisdiction within 30 days of the date of execution a copy of the agreement providing for the direct payment of fees out of any benefits subsequently determined to be past due.

(i) *Motion for review of fee agreement.* Before the expiration of 120 days from the date of the final VA action, the Office of the General Counsel may review a fee agreement between a claimant or appellant and an agent or attorney upon its own motion or upon the motion of the claimant or appellant. The Office of the General Counsel may order a reduction in the fee called for in the agreement if it finds by a preponderance of the evidence, or by clear and convincing evidence in the case of a fee presumed reasonable under paragraph (f) of this section, that the fee is unreasonable. The Office of the General Counsel may approve a fee presumed unreasonable under paragraph (f) of this section if it finds by clear and convincing evidence that the fee is reasonable. The Office of the General Counsel's review of the agreement under this paragraph will address the issues of eligibility under paragraph (c) of this section and reasonableness under paragraph (e) of this section. The Office of the General Counsel will limit its review and decision under this paragraph to the issue of reasonableness if another agency of original jurisdiction has reviewed the agreement and made an eligibility determination under paragraph (c) of this section. Motions for review of fee agreements must be in writing and must include the name of the veteran, the name of the claimant or appellant if other than the veteran, and the applicable VA file number.

Such motions must set forth the reason, or reasons, why the fee called for in the agreement is unreasonable and must be accompanied by all evidence the moving party desires to submit.

(1) A claimant's or appellant's motion for review of a fee agreement must be served on the agent or attorney and must be filed at the following address: Office of the General Counsel (022D), 810 Vermont Avenue, NW., Washington, DC 20420. The agent or attorney may file a response to the motion, with any relevant evidence, with the Office of the General Counsel not later than 30 days from the date on which the claimant or appellant served the motion on the agent or attorney. Such responses must be served on the claimant or appellant. The claimant or appellant then has 15 days from the date on which the agent or attorney served a response to file a reply with the Office of the General Counsel. Such replies must be served on the agent or attorney.

(2) The Deputy Chief Counsel with subject-matter jurisdiction shall initiate the Office of the General Counsel's review of a fee agreement on its own motion by serving the motion on the agent or attorney and the claimant or appellant. The agent or attorney may file a response to the motion, with any relevant evidence, with the Office of the General Counsel (022D), 810 Vermont Avenue, NW., Washington, DC 20420, not later than 30 days from the date on which the Office of the General Counsel served the motion on the agent or attorney. Such responses must be served on the claimant or appellant.

(3) The Office of the General Counsel shall close the record before the Office of the General Counsel in proceedings to review fee agreements 15 days after the date on which the agent or attorney served a response on the claimant or appellant, or 30 days after the claimant, appellant, or the Office of the General Counsel served the motion on the agent or attorney if there is no response. The Deputy Chief Counsel with subject-matter jurisdiction may, for a reasonable period upon a showing of sufficient cause, extend the time for an agent or attorney to serve an answer or for a claimant or appellant to serve a reply. The Deputy Chief Counsel shall



forward the record and a recommendation to the General Counsel or his or her designee for a final decision. Unless either party files a Notice of Disagreement, the agent or attorney must refund any excess payment to the claimant or appellant not later than the expiration of the time within which the Office of the General Counsel's decision may be appealed to the Board of Veterans' Appeals.

(j) In addition to whatever other penalties may be prescribed by law or regulation, failure to comply with the requirements of this section may result in proceedings under §14.633 of this chapter to terminate the agent's or attorney's accreditation to practice before VA.

(k)(1) *Decisions issued before the effective date of the modernized review system.* Notwithstanding provisions in this section for closing the record before the Office of the General Counsel at the end of the 30-day period for serving a response or 15 days after the date on which the agent or attorney served a response, appeals of decisions issued before the effective date of the modernized review system as provided in §19.2(a) of this chapter, shall be initiated and processed using the procedures in 38 CFR parts 19 and 20 applicable to legacy appeals. Nothing in this section shall be construed to limit the Board's authority to remand a matter to the General Counsel under 38 CFR 20.904 for any action that is essential for a proper appellate decision or the General Counsel's ability to issue a Supplemental Statement of the Case under 38 CFR 19.31.

(2) *Decisions issued on or after the effective date of the modernized review system.* Notwithstanding provisions in this section for closing the record before the Office of the General Counsel at the end of the 30-day period for serving a response or 15 days after the date on which the agent or attorney served a response, appeals of decisions issued on or after the effective date of the modernized review system as provided in §19.2(a) of this chapter, shall be initiated and processed using the procedures

in 38 CFR part 20 applicable to appeals under the modernized system.

(Authority: 38 U.S.C. 5902, 5904, 5905)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0605.)

[73 FR 29875, May 22, 2008, as amended at 80 FR 81193, Dec. 29, 2015; 82 FR 26754, June 9, 2017; 84 FR 175, Jan. 18, 2019]

**§14.637 Payment of the expenses of agents and attorneys in proceedings before Agencies of Original Jurisdiction and before the Board of Veterans' Appeals.**

(a) *Applicability of rule.* The provisions of this section apply to the services of accredited agents and attorneys with respect to benefits under laws administered by VA in all proceedings before the agency of original jurisdiction or before the Board of Veterans' Appeals regardless of whether an appeal has been initiated.

(b) *General.* Any agent or attorney may be reimbursed for expenses incurred on behalf of a veteran or a veteran's dependents or survivors in the prosecution of a claim for benefits pending before VA. Whether such an agent or attorney will be reimbursed for expenses and the method of such reimbursement is a matter to be determined by the agent or attorney and the claimant or appellant in the fee agreement filed with the Office of the General Counsel or the agency of original jurisdiction under §14.636 of this part. Expenses are not payable directly to the agent or attorney by VA out of benefits determined to be due to a claimant or appellant.

(c) *Nature of expenses subject to reimbursement.* "Expenses" include non-recurring expenses incurred directly in the prosecution of a claim for benefits on behalf of a claimant or appellant. Examples of such expenses include expenses for travel specifically to attend a hearing with respect to a particular claim, the cost of copies of medical records or other documents obtained from an outside source, and the cost of obtaining the services of an expert witness or an expert opinion. "Expenses" do not include normal overhead costs of the agent or attorney such as office rent, utilities, the cost of obtaining or



NATIONAL  
ASSOCIATION OF  
ATTORNEYS GENERAL

PRESIDENT

**Dave Yost**

Ohio  
Attorney General

PRESIDENT-ELECT

**Ellen F. Rosenblum**

Oregon  
Attorney General

VICE PRESIDENT

**John Formella**

New Hampshire  
Attorney General

IMMEDIATE PAST  
PRESIDENT

**Josh Stein**

North Carolina  
Attorney General

August 8, 2023

**Via E-mail**

The Honorable Kevin McCarthy  
Speaker

House of Representatives  
Washington, DC 20515

The Honorable Hakeem Jeffries  
Minority Leader

House of Representatives  
Washington, DC 20515

The Honorable Chuck Schumer  
Majority Leader

United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader

United States Senate  
Washington, DC 20510

**Re: Support for Passing the G.U.A.R.D. VA Benefits Act**

Dear Congressional Leaders:

The undersigned Attorneys General write to express our strong support for the passage of bipartisan legislative proposals included in, *H.R. 1139* and *S. 740*, both cited as the *Governing Unaccredited Representatives Defrauding VA Benefits Act* and otherwise referred to as the *G.U.A.R.D. VA Benefits Act*.

The history of the service and sacrifice of our nation's veterans is long and storied. This country and the freedoms we enjoy were built on those sacrifices. Our nation has long recognized its obligation to provide support and care for those veterans and their families as compensation for their many sacrifices. This nation has long provided that support and care through various VA benefits. However, some of those benefits make the veterans who have earned them targets for financial exploitation.

1850 M Street NW  
12th Floor  
Washington, DC 20036  
(202) 326-6000  
[www.naag.org](http://www.naag.org)

**Brian Kane**

Executive Director

To ensure veterans received "responsible, qualified representation"<sup>1</sup> and assistance when applying for those benefits, federal laws were created requiring anyone who assists them in preparing, presenting, or prosecuting those claims to be properly accredited through the VA Office of General Counsel (OGC).<sup>2</sup> Those same laws govern whether, when, and how much veterans can be charged for that assistance.

In 2006, the criminal penalties for violating those laws were removed<sup>3</sup>, leaving the OGC virtually powerless to enforce the law against anyone except those who *voluntarily* followed those laws and became accredited. That left the door open for unaccredited, often unscrupulous, actors to swoop in and turn what had been created as a benefit for veterans into profitable businesses that targeted those veterans and their benefits. Over the years, those unaccredited actors have proliferated throughout the VA benefits claims system at all levels.

Unaccredited actors advertise their services as superior to the free services offered by accredited actors, like veteran service officers, claims agents, and attorneys, who are trained, tested, supervised, regulated, or otherwise held accountable. They boast quicker response times and better or even guaranteed results, neither of which is based in fact or even remotely quantifiable.

Assisting or representing veterans and their families in preparing, presenting, and prosecuting claims for VA benefits is governed by federal statute and requires VA accreditation. So unaccredited actors advertise their services as "coaching" or "consultation" instead of assistance or representation to avoid oversight or accountability. Many use language in their advertising and their contracts indicating that the veteran will be doing all the work that requires accreditation and that the unaccredited actors are only there to answer questions or advise. In fact, they typically do everything except sign the claim. Conversely, other unaccredited actors do absolutely nothing except point the veteran to DIY websites and online videos that the veteran could have found themselves.

Regardless of how much or how little assistance unaccredited actors actually provide a veteran in preparing and presenting their claim, they all abandon those veterans when it comes to representation. At that point, often a critical one, those veterans are entirely on their own. Accredited actors stay with the veteran throughout the process and are accountable for their work.

Since they do not have access to the veteran's VA claim files, unaccredited actors sometimes require the veteran to share their VA system logins and passwords so they can

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<sup>1</sup> 38 CFR 14.626.

<sup>2</sup> 38 USC 5904.

<sup>3</sup> P.L. 109-461.



monitor the claims process, know when benefits decisions are made, and know the amounts of those benefits so that they can calculate their cut. Additionally, they might have the veteran give them access to the checking or savings account where the benefits will be direct deposited, so that the company can immediately withdraw their fees from the account, sometimes before the veteran even learns that the money had been deposited.

With the recent passage and signing into law of the PACT Act, there is an expectation of a significant increase in filing applications or claims for benefits. In the first six months after the PACT Act became law, the VA received 124,127 completed PACT Act related claims for VA benefits, 122,130 from veterans and 1,999 from survivors. In just the first five months, there were 161,659 new enrollees in the Veterans Health Administration (VHA) system, representing an almost fifteen percent increase in the number of new enrollees over the same five-month period from the year before.<sup>4</sup> Unaccredited actors see this potential influx of claims, especially those associated with the long list of new presumptive conditions, as a target-rich environment and an opportunity to further exploit veterans and their families without fear of punishment or reprisal, as evidenced by a recent and continuing barrage of internet, social media and even television advertisements referencing the recently enacted PACT Act and the Camp Lejeune Justice Act.

Any argument that the GUARD VA Benefits Act will take away a veteran's right to choose who they want to represent them or somehow limit their choices of representation is without merit.

While its opponents argue that the Act impinges upon veteran's right to choose who they wish to consult with or to represent them in the preparation, presentation, or prosecution of their attempts to obtain VA benefits, whether that be initial claims, claims for increases, or appeals of adverse decisions, on the contrary, it merely removes the ability of unaccredited, unregulated, and often unscrupulous actors to target and prey upon those veterans with impunity. It holds them accountable not just to the law but also to the veterans and their families by giving them options for redress when they find themselves victims of those same actors.

We urge the members of Congress, therefore, to reinstate those criminal penalties and to protect our veterans, and their families, from unaccredited predatory actors who seek to profit from veterans' service and sacrifice with total disregard for the laws designed to protect those veterans and their benefits. Our veterans deserve to be honored, not disproportionately targeted for financial victimization.

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<sup>4</sup> [VA PACT Act Performance Dashboard](#)

The four co-sponsors of this letter, the attorneys general of California, Illinois, Ohio, and Tennessee, are joined by the undersigned attorneys general across the U.S. states and its territories.

Respectfully,



Rob Bonta  
California Attorney General



Kwame Raoul  
Illinois Attorney General



Dave Yost  
Ohio Attorney General



Jonathan Skrmetti  
Tennessee Attorney General



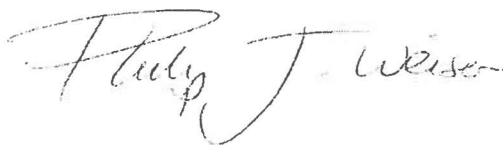
Treg R. Taylor  
Alaska Attorney General



Fainu'ulelei Falefatu Ala'ilima-Utu  
American Samoa Attorney General



Kris Mayes  
Arizona Attorney General



Phil Weiser  
Colorado Attorney General



William Tong  
Connecticut Attorney General



Kathleen Jennings  
Delaware Attorney General



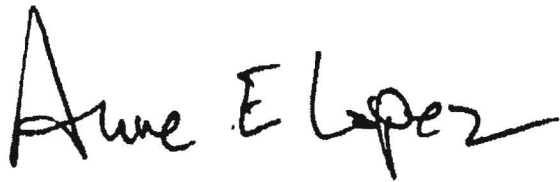
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District of Columbia Attorney General



Ashley Moody  
Florida Attorney General



Christopher M. Carr  
Georgia Attorney General



Anne E. Lopez  
Hawaii Attorney General



Raúl Labrador  
Idaho Attorney General



Kris Kobach  
Kansas Attorney General



Daniel Cameron  
Kentucky Attorney General



Jeff Landry  
Louisiana Attorney General



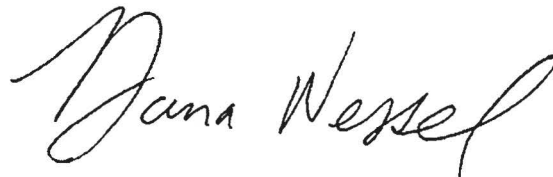
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Anthony G. Brown  
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Minnesota Attorney General



Lynn Fitch  
Mississippi Attorney General



Aaron D. Ford

Nevada Attorney General



John M. Formella

New Hampshire Attorney General



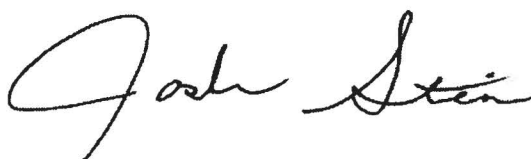
Matthew J. Platkin

New Jersey Attorney General



Letitia James

New York Attorney General



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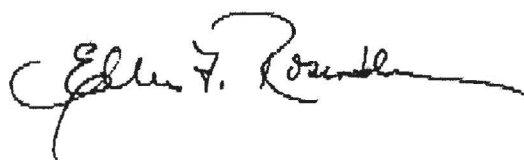
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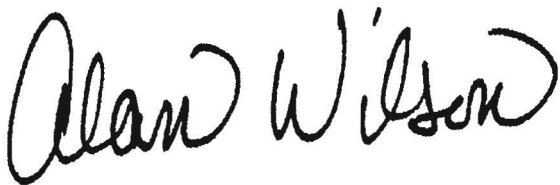
Michelle Henry

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Marty Jackley

South Dakota Attorney General



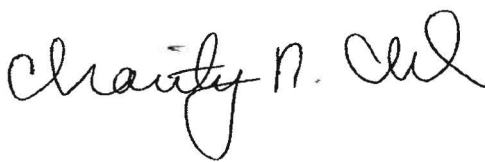
Angela Colmenero

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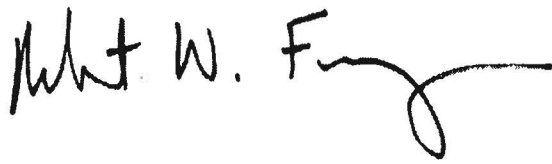
Charity Clark

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Bridget Hill  
Wyoming Attorney General



118TH CONGRESS  
1ST SESSION

# H. R. 1139

To amend title 38, United States Code, to reinstate penalties for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 2023

Mr. PAPPAS (for himself, Mrs. RADEWAGEN, Mr. FITZPATRICK, Mr. VAN DREW, Mr. ALLRED, Ms. BROWNLEY, Mr. CICILLINE, Ms. DEAN of Pennsylvania, Mrs. DINGELL, Mr. FINSTAD, Mr. KEATING, Mr. KIM of New Jersey, Mr. PETERS, Ms. STRICKLAND, Ms. HOULAHAN, Mr. SABLAN, Mr. FOSTER, Ms. DELBENE, Ms. NORTON, Mr. COSTA, Ms. BARRAGÁN, Mr. VALADAO, Ms. STEFANIK, Mr. CARSON, Mr. COHEN, Mr. WITTMAN, Mr. LYNCH, Ms. BONAMICI, Mrs. McBATH, Ms. PORTER, Ms. TOKUDA, Ms. WILD, Ms. TITUS, Ms. KELLY of Illinois, Ms. SCANLON, Ms. UNDERWOOD, Mr. GROTHMAN, Mr. LIEU, Mr. NEGUSE, Mr. VICENTE GONZALEZ of Texas, Ms. LEE of California, Mr. HERN, Mr. LAMALFA, Mr. KRISHNAMOORTHY, Mr. VEASEY, Mr. BOYLE of Pennsylvania, Mr. JOHNSON of Ohio, Mr. STANTON, Mr. GOTTHEIMER, Mr. MCGOVERN, Ms. SIERRILL, Mr. BACON, Mr. CASE, Mr. MOULTON, Ms. DAVIDS of Kansas, Mr. CASTEN, Mr. COURTNEY, Mr. GARBARINO, Mrs. FLETCHER, Mr. KELLY of Mississippi, Mr. CONNOLLY, Mr. PHILLIPS, Mr. CUELLAR, Ms. JACOBS, Ms. ROSS, Ms. PINGREE, Ms. LOFGREN, Mr. OBERNOLTE, Mr. WEBSTER of Florida, and Ms. BUDZINSKI) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 38, United States Code, to reinstate penalties

for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Governing  
5 Unaccredited Representatives Defrauding VA Benefits  
6 Act" or the "GUARD VA Benefits Act".

7 **SEC. 2. REINSTATEMENT OF PENALTIES FOR CHARGING**  
8 **VETERANS UNAUTHORIZED FEES RELATING**  
9 **TO CLAIMS FOR BENEFITS UNDER LAWS AD-**  
10 **MINISTERED BY THE SECRETARY OF VET-**  
11 **ERANS AFFAIRS.**

12 Section 5905 of title 38, United States Code, is  
13 amended—

14 (1) in the section heading, by striking "**Pen-**  
15 **alty**" and inserting "**Penalties**" (and conforming  
16 the table of sections at the beginning of chapter 59  
17 of such title accordingly);

18 (2) by inserting "(a) WITHHOLDING OF BENE-  
19 FITS.—" before "Whoever"; and

20 (3) by adding at the end the following new sub-  
21 section:

1       “(b) CHARGING OF UNAUTHORIZED FEES.—Except  
2 as provided in sections 5904 or 1984 of this title, whoever  
3 solicits, contracts for, charges, or receives, or attempts to  
4 solicit, contract for, charge, or receive, any fee or com-  
5 pensation with respect to the preparation, presentation, or  
6 prosecution of any claim for benefits under the laws ad-  
7 ministered by the Secretary shall be fined as provided in  
8 title 18.”.

○

118TH CONGRESS  
1ST SESSION

# S. 740

To amend title 38, United States Code, to reinstate criminal penalties for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9, 2023

Mr. BOOZMAN (for himself, Mr. BLUMENTHAL, Mr. TESTER, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

## A BILL

To amend title 38, United States Code, to reinstate criminal penalties for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Governing  
5 Unaccredited Representatives Defrauding VA Benefits  
6 Act of 2023" or the "GUARD VA Benefits Act of 2023".

1 **SEC. 2. REINSTATEMENT OF PENALTIES FOR CHARGING**  
2 **VETERANS UNAUTHORIZED FEES RELATING**  
3 **TO CLAIMS FOR BENEFITS UNDER LAWS AD-**  
4 **MINISTERED BY THE SECRETARY OF VET-**  
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10 the table of sections at the beginning of chapter 59  
11 of such title accordingly);

12 (2) by striking “Whoever” and inserting the fol-  
13 lowing:

14 “(a) WITHHOLDING OF BENEFITS.—Whoever”; and

15 (3) by adding at the end the following new sub-  
16 section:

17 “(b) CHARGING OF UNAUTHORIZED FEES.—Except  
18 as provided in sections 5904 or 1984 of this title, whoever  
19 directly or indirectly solicits, contracts for, charges, or re-  
20 ceives, or attempts to solicit, contract for, charge, or re-  
21 ceive, any fee or compensation with respect to the prepara-  
22 tion, presentation, or prosecution of any claim for benefits  
23 under the laws administered by the Secretary shall be  
24 fined as provided in title 18, or imprisoned not more than  
25 one year, or both.”.



# Department of Veterans Affairs

EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444

January 14, 2025

In reply, refer to file number:  
[REDACTED]

[REDACTED]

[REDACTED]

The Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxins Act of 2022, known as the PACT Act, expands and extends eligibility for health care and benefits to Veterans exposed to burn pits and other toxic substances. The law enables the Department of Veterans Affairs (VA) to provide generations of Veterans and their survivors with the care and benefits they have earned and deserve. Unfortunately, since the PACT Act was passed, claims predators have increasingly targeted Veterans – via emails, phone calls, or text messages – and tried to take some portion of their PACT Act-related and VA benefits. VA defines claims predators as "bad actors" who try to unlawfully charge Veterans to "help" process their claims with VA. These claims predators are not accredited by VA and are charging Veterans improper and exorbitant fees to help prepare, consult on, or file their initial benefits claims. VA claimants should **never** pay a fee to file or receive help in filing an initial claim for benefits. It is **unlawful** for these bad actors to charge fees for preparing, or helping to prepare, an initial claim. VA employees, as well as Veterans Service Organizations (VSOs) and VA accredited representatives, are available to help Veterans file their initial claims.

## What Are Some Signs an Entity May Be a Claims Predator?

- **They Are Not Accredited by VA:** Beware of claims predators asserting they don't need to be accredited by VA or they are qualified to help in some other way. Don't believe them!
- **They Downplay VA Accreditation:** Beware of claims predators downplaying the quality of help Veterans and their family members can receive from VA accredited VSOs for free.
- **They Charge High Fees:** Beware of claims predators charging absurd fees or requesting a portion of your VA benefits payments. Never pay anyone a fee to file an initial claim for benefits.
- **They Make Dishonest Promises:** Do not trust anyone who claims they can help accelerate the claims process and obtain a 100% disability benefits evaluation. Only VA has the authority to determine disability evaluations.
- **They Require Contracts:** Never sign a contract agreeing to pay an unaccredited individual or company a fee in exchange for assistance in filing a VA initial claim, to include a percentage of or flat fee from future benefit payments.



### **What Is VA Doing?**

Fraud poses a real threat to benefits and services, as fraudsters' schemes are constantly evolving. VA is committed to safeguarding your benefit payments by employing industry-leading fraud prevention techniques and partnering with federal agencies and other stakeholders to create a united front in protecting Veterans. There is a devoted team within VA that works diligently to proactively stop fraud before it occurs, create robust educational communication tools, and remediate financial losses if fraud does occur.

### **Where Can You Find More Fraud Prevention Information?**

You can protect your benefits against claims predators by either applying for benefits in person at any VA regional office or securely online at: [www.benefits.va.gov/BENEFITS/Applying.asp](http://www.benefits.va.gov/BENEFITS/Applying.asp). VA will help gather the evidence needed to support your claims. If you choose to seek assistance outside of VA, you can find a VA accredited representative by visiting [www.va.gov/get-help-from-accredited-representative/find-rep/](http://www.va.gov/get-help-from-accredited-representative/find-rep/). If your claim is denied and you want a further review without submitting additional evidence, you can request a higher-level review. If your claim is denied and you want to submit new evidence, you can either file a supplemental claim or appeal the decision to the Board of Veterans' Appeals.

For more information about claims predators fraud prevention resources, scan the below QR code or go to [www.digital.va.gov/outreach-toolkits/claims-predators](http://www.digital.va.gov/outreach-toolkits/claims-predators).



### **How To Report Fraud?**

If you suspect a representative has acted unlawfully or unethically while helping file a VA benefits claim, you can report these claims predators at [www.vsafe.gov](http://www.vsafe.gov) or by calling 833-38V-SAFE.

Our goal is to empower you with tools to recognize claims predators and avoid their deceptive tactics. Every day at VA, we are working to fulfill our mission and our duty to honor the sacrifices you and your families have made.



## **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](http://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)**. 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.





## *Tips on Fee Agreements for Veterans Claims*

**1. Don't charge a fee too early.** An attorney or a claims agent may never charge a claimant or receive a fee or a gift from a claimant for assistance with preparing and filing an initial VA benefits claim. 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).

**2. Ensure your fee is reasonable.** A fee for representation on a veteran's benefits claims must be reasonable at all times. 38 C.F.R. § 14.636(e) ("[f]ees permitted for services of an agent or attorney admitted to practice before VA must be reasonable"). Pursuant to VA's standards of conduct for accredited individuals, it is a VA-accredited attorney or agent's responsibility to ensure that he or she does not "enter into an agreement for, charge, solicit, or receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation." 38 C.F.R. § 14.632(c)(5). It is important to remember that in most instances the onus is on the attorney or the claims agent to assess whether the fee is reasonable.

When an attorney or claims agent has a contingency fee agreement that does not exceed 20-percent and provides continuous representation from the date of the agreement through the date of the decision awarding benefits, the fee called for in the fee agreement is presumed to be reasonable in the absence of clear and convincing evidence to the contrary. 38 U.S.C. § 5904(a)(5); 38 C.F.R. § 14.636(f); *see also Scates v. Principi*, 282 F.3d 1362, 1365 (Fed. Cir. 2002) (explaining that even if a fee agreement provides for a fee of 20 percent of past-due benefits awarded, implicit in that arrangement is the understanding that the attorney or agent's right to receive the full 20-percent fee only arises if the attorney or agent continues as the veteran's representative until the case is successfully completed). In contrast, an attorney or agent with a 20-percent contingency fee agreement whose representation of the claimant ends before the case is completed, may still be eligible for a fee, but the full amount of the fee stated in the agreement generally would not represent a reasonable fee for that attorney or agent. Rather a reasonable fee for a discharged agent or attorney would be limited to the amount of the "fee that fairly and accurately reflects [the attorney or agent's] contribution to and responsibility for the benefits awarded." *Scates*, 282 F.3d at 1366.

**3. Choose your fee payment arrangement wisely.** Two different types of fee payment arrangements are permitted on VA benefits claims. The parties may choose either, but not both. Most fee agreements filed with VA are direct-payment fee agreements, under which the claimant and the attorney or claims agent agree that the fee is to be paid to the agent or attorney by VA directly from any past-due benefits awarded to the claimant. In these types of arrangements, the total fee may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim and the fee must be entirely contingent on the claimant receiving a favorable result on the claim. 38 C.F.R. § 14.636(h).

With the other type of fee arrangement, commonly referred to as a non-direct payment fee arrangement, the attorney or claims agent is responsible for collecting any fees for representation from the claimant without assistance from VA. Under this type of arrangement an attorney may charge reasonable fees based on a fixed fee, an hourly rate, a percentage of benefits recovered, or a combination of such bases. While there is not an absolute cap on the amount of fees that may be charged under these arrangements, if the fee charged



exceeds 33 1/3 percent of past-due benefits awarded, the attorney or agent must provide VA with clear and convincing evidence that such a fee is reasonable before receiving payment.

**4. Mixed-type fee agreements and the direct payment of fees, don't mix.** Fees may be based on a fixed fee, hourly rate, a percentage of benefits recovered, or a combination of such bases. 38 C.F.R. § 14.636(e). But, in order to receive direct payment of a fee by VA, the fee must be wholly contingent on favorable resolution of the claim. 38 C.F.R. § 14.636(h)(1)(ii). VA will not provide direct payment for any fee agreements that mixes a contingent fee with a fixed or hourly rate. Moreover, if an attorney or claims agent were to receive a direct payment fee of 20 percent in addition to another fee, that individual would be in violation of 38 C.F.R. § 14.632(c)(5) and could potentially risk losing his or her VA-accreditation.

**5. Make sure that your fee agreement is clear.** Any ambiguity in a written fee agreement will be resolved against the lawyer. Beatty v. NP Corp., 581 N.E.2d 1311, 1315 (Mass. App. Ct. 1991).

**6. Know what to include and not to include in your fee agreement.** It is not proper for a fee agreement to purport to restrict VA from contacting a veteran. A fee agreement is between a client and attorney or claims agent; it does not bind VA and cannot restrict VA from contacting a veteran. *Equal Employment Opportunity Comm'n v. Waffle House, Inc.*, 534 U.S. 279, 294 (2002) ("It goes without saying that a contract cannot bind a nonparty."). Please make sure that you are using the fee agreement for its intended purpose. In addition, a fee agreement should never purport to eliminate a claimant's right to terminate the attorney-client relationship or dispute a fee. Veterans have a *legal right* to terminate an attorney at any time and to dispute an attorney's eligibility to a fee or question the reasonableness of a fee. See 38 C.F.R. §§ 14.631(f)(1) ("A power of attorney may be revoked at any time, and an agent or attorney may be discharged at any time); 14.636(i) ("[T]he Office of the General Counsel may review a fee agreement . . . upon its own motion or the claimant or appellant."). Finally, with regard to termination clauses in contingent fee agreements specifically, a contingent fee agreement that penalizes the client for discharging the lawyer is impermissible. See, e.g., *Guy Bennett Rubin PA v. Guettler*, 73 So. 3d 809 (Fla. Dist. Ct. App. 2011) (finding a termination clause in contingent-fee contract requiring client to pay hourly rate for work done before discharge chills client's right to switch lawyers or to abandon case); *In re Lansky*, 678 N.E.2d 1114 (Ind. 1997) (finding an agreement guaranteeing a lawyer 40 percent of the client's gross recovery if the lawyer is discharged before the resolution of case to be unreasonable); *Hoover Slovacek LLP v. Walton*, 206 S.W.3d 557 (Tex. 2006) (finding a retainer provision that entitles an attorney to the full value of a contingent fee if the attorney is discharged before the contingency occurs violates public policy and is unenforceable); Va. Ethics Op. 1812 (2005) (determining it to be impermissible to include a provision stating that if client terminates agreement, "reasonable value of Attorney's services shall be valued at \$200 per hour," or alternative provision that lawyer may, "where permitted by law, elect compensation based on the agreed contingent fee for any settlement offer made to Client prior to termination").

**7. Explain the scope of your representation and any limitations.** Sometimes an attorney's or claim agent's representation of a claimant is limited in the scope of representation to a specific claim on appeal, or to a particular stage of the adjudicatory process (e.g., an attorney may limit representation of the claimant only before the Court of Appeals for Veterans Claims). An attorney or agent may limit the scope of engagement, but the limitation must be reasonable under the circumstances and the claimant should consent to the limited scope. See 38 C.F.R. § 14.632(c)(9) (an attorney or agent shall not engage in acts or behavior prejudicial to the fair and orderly conduct of administrative proceedings before VA); MRPR, 1.2(c). For the attorney and agent's protection, it is best to memorialize the limitations and consent in writing. See Wong v.



Michael Kennedy, P.C., 853 F. Supp. 73, 80 (E.D.N.Y. 1994) (explaining that an attorney who drafts a fee agreement stands in a fiduciary relationship to the client and has the burden of showing that the agreement is fair, reasonable, and fully understood by the client). Remember that on the VA Form 21-22a, Appointment of Individual as Claimant's Representative, Item 23 allows an attorney or agent to list any limitations on representation.

**8. Beware of making mid-representation changes to the fee agreement.** Attorneys face additional scrutiny when they change fee arrangements mid-representation. Having assumed representation of the client, the lawyer now owes fiduciary duties to his or her client. Courts and regulators are often concerned that a lawyer may take advantage of a vulnerable client. Therefore, particularly if the lawyer receives a larger fee under the new arrangement, the lawyer may face disciplinary charges or invalidation of the new fee arrangement.

The American Bar Association, Model Rule 1.8(a) as well as the rules of most States provide that a lawyer shall not enter into a business transaction with a client unless: (1) the transaction is objectively fair and reasonable; (2) fully disclosed in writing and in terms that are understandable to the client; and (3) the client is provided an opportunity to have the transaction reviewed by outside counsel and agrees to the transaction in writing. MODEL RULES OF PROF'L CONDUCT (MPRC) r. 1.8(a) (AM. BAR ASS'N 1983). See also RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 126 (2000) (showing the protections in MRPC Rule 1.8 are consistent with the common law governing the attorney-client relationship); RESTATEMENT (THIRD) OF AGENCY § 8.03 (2006) (showing that the protections are also consistent with the law of agency). Although this particular rule would not generally apply to an ordinary fee agreement between an attorney and a client, States have applied it to situations in which the attorney modifies an existing fee agreement during the course of representation to tip the scale in the attorney's favor. See e.g., *In re Corcella*, 994 N.E.2d 1127 (Ind. 2013) (lawyer switched fee type from an hourly rate to a contingency fee without complying with Indiana Professional Conduct Rule 1.8(a)); *In re Curry*, 16 So. 3d 1139 (La. 2009) (revising a fee agreement to more favorable terms for the attorney violated Louisiana Rules of Professional Conduct 1.8(a)). To avoid such problems, if an attorney or agent must change their fee arrangement mid-representation, he or she ensure that the new arrangement is fair to the client, inform the client of the new agreement in writing, and recommend that the client seek independent counsel on the fee agreement and provide the client an opportunity to do so.

**9. Know where to file your fee agreement.** Fee agreements should be filed with VA in only one location—that location is determined by whether the fee agreement calls for VA to directly pay the attorney fees from the claimant's award of past-due benefits. A direct-payment fee agreement must be filed with the Veteran Benefits Administration at the Evidence Intake Center within 30 days of its execution. In contrast, a non-direct payment fee agreement must be filed with OGC within 30 days of its execution.

**10. Provide competent, diligent representation.** A contract providing for the direct payment of fees from the claimant's past-due benefits could be perceived as creating a perverse incentive for attorneys and claims agents to provide subpar representation—effectively encouraging attorney and agents to try to provide the least amount of representation as they can and still collect fees, if past-due benefits are awarded to the claimant. However, under 38 C.F.R. § 14.632(b)(1), attorneys and claims agents are required to provide competent representation before VA. Competent representation requires the knowledge, skill, thoroughness, and preparation necessary for the representation. Competent representation also requires the attorney and claims agent to know and understand the issues of fact as well as the law. Section 14.632(b)(2) requires an attorney and a claims agent to act with reasonable diligence and promptness in representing claimants. This means promptly responding to VA's requests for information as well as returning your client's phone calls and emails. Accordingly, it is wise to make sure that you do not spread yourself too thin when handling veterans



claims so you can ensure that each of your clients is receiving the competent and diligent representation that is required by VA's standards of conduct.

**11. Communication is key.** We recommend that at the onset of representation that you discuss with the claimant how you will communicate about the claim and how often. One of the biggest complaints that claimants have in challenging the reasonableness of a fee is that they were unable to reach their attorney or agent and were not provided regular updates on their claim.

**12. Document your work and record your time, it may be helpful later.** The best time to document your work is when you are doing it. Even if you typically work for a contingency fee, having a record of the work you completed and the time you spent on a case may come in handy if there is a dispute over your fee.

**13. Do not rely on OGC to review your fee for reasonableness.** VA's Office of General Counsel does not review every fee for reasonableness, and simply because you were determined eligible for a fee does not mean you should accept or keep the funds dispersed to you. Pursuant to VA's standards of conduct for accredited individuals, it is a VA-accredited attorney or agent's responsibility to ensure that he or she does not "receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation." 38 C.F.R. § 14.632(c)(5). It is important to remember that in the majority of VA claims, just like in many other areas of the law, the onus is primarily on the attorney or the claims agent to assess whether the fee is reasonable.

The only time that OGC always reviews a fee for reasonableness is when more than one attorney or agent is involved in a case, and the fee agreements call for the direct-payment of fees to be made by VA from the claimant's past-due benefits. When a claimant retains more than one attorney or agent through a direct payment fee agreement during the course of the case, the total amount of the funds that VA can direct to the attorneys and agents collectively under 38 U.S.C. § 5904(d) is capped at 20 percent of the claimant's past-due benefits awarded. *Scates*, 282 F.3d at 1365-66. Thus, VA is unable to disperse the withheld funds based on an attorney or agent's eligibility for the direct-payment of fees alone. See 38 C.F.R. § 14.636(c), (g)-(h). In order to effectuate payment, OGC, on its own motion, exercises its authority to review the fees to determine the reasonable share to be issued to each attorney and/or agent.

**14. Waiving fees may be the right thing to do.** Generally, it is your responsibility to waive your right to fees if you did no work, or an insignificant amount of work, that contributed to the Claimant's award. See 38 C.F.R. § 14.632(c)(5); see also, e.g., *In re Cleaver-Bascombe*, 892 A.2d 396 (D.C. 2006) (explaining that it is by definition "unreasonable" to charge for work that was not done); *In re Powell*, 953 N.E.2d 1060 (Ind. 2011) (explaining that terms of a contingent fee agreement may have been reasonable at outset, but because the matter quickly resolved, the lawyer should have realized that his fee had become unreasonable); *In re Sinnott*, 845 A.2d 373 (Vt. 2004) (holding that it was unreasonable for a lawyer to charge a client for negotiations that the client ended up doing herself). To waive entitlement to the fee called for in your fee agreement with the claimant, please submit a written response indicating that you have elected to do so to the regional office and the Office of General Counsel.

**15. If a matter is with OGC for the review of the reasonableness of a fee, settlement may be an option.** VA encourages the informal resolution of fee matters. In our experience, attorneys, agents, and claimants, have been able to settle these matters in a fair and timely manner. Accordingly, we encourage attorney and



agents to consider the applicable law and communicate with the other parties—whether it be with the claimant, another agent or attorney, or both—regarding the possibility of proposing a settlement agreement.

If you were the only attorney or agent of record, you should advise the claimant, in writing, to seek independent advice and counsel prior to reaching an agreement. Under ABA Model Rule 1.8(h)(2), “[a] lawyer shall not . . . settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.” In Comment 15 to Model Rule 1.8(h)(2), the ABA states that “[a]greements settling a claim or a potential claim for malpractice are not prohibited by this Rule” but, “in view of the danger that a lawyer will take unfair advantage of an unrepresented client or former client, the lawyer must first advise such a person in writing of the appropriateness of independent representation in connection with such a settlement.” Additionally, the attorney must “give the client or former client a reasonable opportunity to find and consult independent counsel.” *Id.* The failure of an attorney to properly advise a client to seek independent advice in such matters may subject the attorney to bar discipline. See, e.g., *Kentucky Bar Ass’n v. Keating*, 405 S.W.3d 462, 464 (Ky. 2013) (accepting board of governors 18-month suspension recommendation for attorney who settled a potential malpractice claim “without advising [the client] in writing of the desirability of seeking, and giving her a reasonable opportunity to seek, the advice of independent legal counsel in connection therewith”); *Attorney Grievance Comm’n of Maryland v. Butler*, 44 A.3d 1022, 1030 (Md. 2012) (affirming 60-day suspension of attorney who “plainly limited his liability for his mismanagement” of a case without presenting evidence that he “advised the clients to seek independent counsel”).

If there is more than one attorney or agent of record, you and the other eligible attorney or agent should submit a written response to our office, indicating that you are proposing that this matter be resolved through agreement by the representatives, and attach the signed agreement. The consent of the claimant may be necessary depending on your state rules of professional conduct and the situation at hand. Your response should include all pertinent details concerning the terms of the proposed settlement agreement, such as an explanation as to the portion of the fees that should be paid to each representative and, if appropriate, the Claimant. Upon receipt of the settlement agreement, OGC may opt to withdraw this motion to review the fee matter and instruct that fees be paid in accordance with the terms of the settlement agreement. A settlement agreement that does not secure the consent of the claimant would not preclude the claimant from filing, or OGC from acting upon, a motion from the claimant requesting a review of the reasonableness of the fees pursuant to section 14.636(i)(1) within the regulatory time period.

**16. Think, before accepting a big fee.** Before you celebrate over a windfall of fees coming your way, you should first pause and consider whether the fee is reasonable, from both your perspective and the claimant’s perspective. It is important to be aware of the consequences an attorney or agent may face for accepting an unreasonable fee. The reasonableness review process under 38 C.F.R. § 14.636(i) can lead to the suspension or cancellation of accreditation under 38 C.F.R. § 14.633(c)(6), which specifically refers to “[c]harging excessive or unreasonable fees for representation as determined by VA.” However, equally important, outside of the reasonableness review process, violation of the standard of conduct at 38 C.F.R. § 14.632(c)(5)—providing that an attorney shall not “enter into an agreement for, charge, solicit, or receive a fee that is clearly unreasonable or otherwise prohibited by law or regulation”—could lead to the suspension or cancellation of accreditation under 38 C.F.R. § 14.633(c)(1), which specifically refers to “[v]iolation of or refusal to comply with the laws administered by VA or with the regulations governing practice before VA including the standards of conduct in § 14.632.” The bottom line is that you should never accept a fee that is not reasonable.





KEEPING OUR PROMISE TO  
AMERICA'S VETERANS

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**No veteran should have to pay to file a claim under any circumstance. Period.**

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## THE SITUATION

- The VA Office of General Counsel requires representatives to be **accredited**, like DAV, to provide veterans and their families with claims assistance.
- Predatory claims practitioners are **unaccredited** individuals or companies, not recognized by VA, that charge excessive fees for filing VA benefits claims, or consulting with veterans.
- Predatory claims practices aren't just wrong—they are **illegal!** Under 38 U.S.C. § 5904, **accredited** representatives are the only entities authorized to charge fees, but only **after** the VA has issued an initial decision on the claim.
- Predatory claims companies are using Social Media, email, pop-up ads, and other means to reach veterans.
- Predatory claims companies are attempting to get legislation passed at the state and federal levels that will allow them to charge exorbitant fees for initial claims.
- While a pathway for these for-profit companies to become accredited exists, they have continually refused, which shows they are driven by greed rather than simply looking to improve veteran's lives.

## WHAT YOU CAN DO

- Don't sign a contract. They are often unfair and can charge large fees or a percentage of benefits.
- Don't pay upfront fees for claim help. DAV claims work is always free.
- Don't give out your VA.gov passwords.
- Check to see if an individual/organization is accredited at [va.gov/ogc/accreditation.asp](http://va.gov/ogc/accreditation.asp).
- Contact your local NSO office. You can find the nearest at [benefitsquestions.org](http://benefitsquestions.org).
- Call your elected officials to support the GUARD VA Benefits Act, federal legislation that would reinstate criminal penalties, ensuring predatory claims companies can no longer continue their illegal practices. DAV supports this bill through DAV Resolution No. 324 to protect claimants from unnecessary fees.

### **If a veteran feels he or she has fallen victim to Predatory Claims Practices, they should**

- Report the issue to the VA Office of General Counsel at 202-461-7699;
- Report to the VA Office of Inspector General hotline at 1-800-488-8244;
- File a complaint with their State Attorney, and
- File a complaint with the Federal Trade Commission.





# DON'T FEED THE SHARKS



## What is a "Claim Shark"?

- A Claim Shark is an individual or company that charges hefty fees to "assist" or "consult" veterans with filing their VA benefit claims – this practice is illegal!
- Claim Sharks are not VA accredited, meaning they aren't required to adhere to the well-established professional and ethical standards of VA accreditation, so their advice can often be misleading or even fraudulent.
- Like a "Loan Shark," once you're in, you can't get out, and may be subject to new and hidden fees whenever you get a new rating, no matter who does the work.

## Some of their predatory practices are:

- Promising or guaranteeing an increased disability rating or percentage increase.
- Advertising expedited VA claims decisions.
- Requesting login credentials to access a veteran's personal information through secure VA websites like eBenefits or VA.gov.
- Using confusing tactics or ambiguous language to mislead claimants or coerce them into signing a contract.
- Telling veterans to forego VA exams and offering health consultations within their own network of doctors.

## Who are the Claim Sharks?

- |                      |                         |
|----------------------|-------------------------|
| ✦ Trajector Medical  | ✦ Patriot Angels        |
| ✦ Vet Benefits Guide | ✦ Veteran Care Services |
| ✦ Veterans Guardian  | ✦ VetComm               |
| ✦ VA Claims Insider  | ✦ VA Claims Academy     |
| ✦ Telemedica         | ✦ Vet Assist            |

## Veterans can protect themselves by:

- Always working with VA accredited representatives.
- Attending all exams ordered by VA.
- Not signing contracts.
- Not agreeing to fees or payments from future benefits.
- Not agreeing to pay for medical consultations or opinions.
- Not providing access to Protected Health Information or Personal Identifiable Information.

## Who is NOT a Claim Shark?

- VA accredited veterans service organization representatives, like the VFW
- VA accredited claims agents
- VA accredited attorneys
- Attorneys assisting with Camp LeJeune lawsuits who do not charge excessive fees

**VFW**  
VETERANS OF FOREIGN WARS

# 2025 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

HB 1169

3/20/2025

A bill relating to compensation for veterans' benefits; and to provide a penalty.
---

2:39 p.m. Chairman Luick opened the hearing.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

### Discussion Topics:

- Veteran Benefit Guide
- US Department of Veterans Affairs
- Non-federally accredited companies
- Technical cleanup

2:39 p.m. Amy Cleary, Director of Public Affairs, GA Group, Represent Benefits Guide, answered the committee's questions.

2:43 p.m. Senator Myrdal moved to adopt Amendment LC# 25.0410.02003.

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Randy D. Lemm	Y
Senator Richard Marcellais	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

2:45 p.m. Senator Myrdal moved a Do Pass as Amended.

2:45 p.m. Senator Weston seconded the motion.

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Randy D. Lemm	Y
Senator Richard Marcellais	N
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 5-1-0.

Senator Myrdal will carry the bill.

2:46 p.m. Chairman Luick closed the hearing.

*Audrey Oswald, Committee Clerk*

CO  
3/20/25  
10F3

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1169

Introduced by

Representatives J. Olson, Grindberg, Klemin, Lefor, Marschall, Pyle, M. Ruby, Schauer

Senators Axtman, Bekkedahl, Cory, Roers

- 1 A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota  
2 Century Code, relating to compensation for veterans' benefits; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1.** A new section to chapter 37-14 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Compensation for advising on veterans' benefits prohibited - Limitations - Penalty.**

7 **1. As used in this section:**

8 **a. "Compensation" means payment of any money, thing of value, or financial**  
9 **benefit.**

10 **b. "Veterans' benefits matter" means the preparation, presentation, or prosecution**  
11 **of any claim or appeal affecting an individual who has filed or expressed an intent**  
12 **to file a claim for a benefit, program, service, commodity, function, status, or an**  
13 **entitlement which is determined under the laws and regulations administered by**  
14 **the United States department of veterans affairs or the United States department**  
15 **of defense pertaining to a veteran, a veteran's dependent or survivor, or any**  
16 **other individual eligible for such benefit.**

17 **2. A person may not:**

18 **a. Receive compensation for referring an individual to another person to advise or**  
19 **assist the individual with any veterans' benefits matter.**

- 1            b. Guarantee to an individual a specific veterans' benefit, including any level,  
2            percentage, or amount of veterans' benefit, either directly or by implication.
- 3            c. Receive excessive or unreasonable fees as compensation for advising or  
4            assisting an individual with a veterans' benefits matter.
- 5        3. A person seeking to receive compensation for advising or assisting an individual with a  
6        veterans' benefits matter shall memorialize all terms regarding the individual's  
7        payment of fees for services rendered in a written agreement.
- 8        4. A person seeking to receive compensation for advising or assisting an individual with a  
9        veterans' benefits matter shall provide the following disclosure at the outset of the  
10       business relationship:
- 11            This business is not sponsored by, or affiliated with, the United States department  
12            of veterans' affairs or the state department of veterans' affairs, or any other  
13            federally chartered veterans' service organization. Other organizations including  
14            the state department of veterans' affairs, a local veterans' service organization,  
15            and other federally chartered veterans' service organizations may be able to  
16            provide you with this service free of charge. Products or services offered by this  
17            business are not necessarily endorsed by any of these organizations. You may  
18            qualify for other veterans' benefits beyond the benefits for which you are  
19            receiving services here.
- 20        5. The written disclosure under subsection 4 must appear in at least twelve-point font in  
21        an easily identifiable location in the person's agreement with the individual seeking  
22        services. The individual shall sign the document in which the written disclosure  
23        appears to represent an understanding of these provisions. The person offering  
24        services shall retain a copy of the written disclosure while providing veterans' benefits  
25        services for compensation to the individual and for at least one year after the date on  
26        which the service relationship terminates.
- 27        6. A person seeking to receive compensation for advising or assisting a veteran in  
28        connection with an initial claim for benefits may not:
- 29            a. Receive any compensation for any services rendered in connection with any  
30            claim filed within a one-year presumptive period of active-duty release, unless the

- 1                    veteran acknowledges by signing a waiver that the veteran is within this period
- 2                    and chooses to deny free services available to the veteran.
- 3                    b. Receive compensation that is not purely contingent on an increase in benefits
- 4                    awarded or which exceeds five times the amount of the monthly benefits
- 5                    awarded.
- 6                    c. Receive initial or nonrefundable fees.
- 7                    d. Use international call centers or data centers for processing veterans' personal
- 8                    information.
- 9                    e. Use a veteran's personal login, username, or password information to access a
- 10                   veteran's medical, financial, or government benefits information.
- 11                   f. Allow an individual access to a veteran's medical or financial information until the
- 12                   individual successfully completes a background check. The background check
- 13                   must be conducted by a reputable source and include identity verification and a
- 14                   criminal records check.
- 15                   7. This section may not be construed to apply to, limit, or expand the requirements
- 16                   imposed on agents, attorneys, or the representatives accredited and regulated by the
- 17                   United States department of veterans' affairs.
- 18                   8. A violation of this section is an unlawful practice in violation of section 51-15-02 and
- 19                   subject to a civil penalty under section 51-15-11.



# 2025 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

HB 1169

3/27/2025

A bill relating to compensation for veterans' benefits; and to provide a penalty.
---

10:45 a.m. Chairman Luick opened the hearing.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

### Discussion Topics:

- Federal Veterans Affairs statues
- Additional language
- Accreditation with the Federal VA
- Preapplication work
- The Plus Act and The Safe Act
- Pre-application assistance and requirements
- Veteran choice and free market solutions
- Service-connected injuries
- Accreditation steps and online training
- Attorney General's Office

10:46 a.m. Lonnie Wangen, Commissioner, ND Department of Veterans Affairs, testified in favor of his proposed amendment testimony #44564.

10:47 a.m. Senator Myrdal moved to reconsider.

10:47 a.m. Senator Weston seconded the motion.

10:48 a.m. Voice Vote - Motion Passed.

10:48 a.m. Lonnie Wangen, Commissioner, ND Department of Veterans Affairs, testified in favor of his proposed amendment.

11:07 a.m. Amy Cleary, Director of Public Affairs, GA Group ND, on behalf of Veteran Benefits Guide, testified in opposition to the proposed amendment and answered the committee's questions.

11:13 a.m. Lonnie Wangen, Commissioner, ND Department of Veterans Affairs, answered the committee's questions.

11:14 a.m. Mark Openshaw, Assistant Attorney General, Veterans Affairs, answered the committee's questions and testified in neutral.

11:22 a.m. Senator Myrdal moved a Do Pass As Amended.

11:22 a.m. Senator Weston seconded the motion.

<b>Senators</b>	<b>Vote</b>
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Randy D. Lemm	Y
Senator Richard Marcellais	N
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 5-1-0.

Senator Myrdal will carry the bill.

11:27 a.m. Chairman Luick closed the hearing.

*Audrey Oswald, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
HB 1169**

**Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman)** recommends **AMENDMENTS** ([25.0410.02003](#)) and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1169 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

HB 1169

North Dakota Department of Veterans Affairs  
Lonnie Wangen-Commissioner

3/27/2025

**Senate Agriculture and Veterans Affairs Committee**  
**69<sup>th</sup> Legislative Session**  
**Senator Luick-Chair**

Chairman Luick and Senate Agriculture and Veterans Affairs Committee,

Please accept this testimony request to amend HB 1169

**Intent of amendment:**

Require an entity or person assisting ND residents with claims to the Federal VA to follow Federal Laws.

Verbiage to add to lines 18-19 of page 1. After: 2. A person may not:

a. Receive compensation for advising or assisting an individual regarding any federal or state veterans' benefits matter, except as allowed under federal law.

**Fiscal note:**

No state general funds. Cost to veterans and dependents is unattainable.

**Conclusion:**

These are Federal Programs with Federal funds being expended and Federal laws apply.

Thank you for your consideration.

Lonnie Wangen  
Commissioner-NDDVA

**2025 CONFERENCE COMMITTEE**

**HB 1169**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
4/17/2025  
Conference Committee

Relating to compensation for veterans' benefits; and to provide a penalty.
--

11:00 a.m. Madame Chair C. Brown opened the meeting.

Members present: Madame Chair C. Brown, Representatives Satrom, Vetter, Senators Myrdal, Lemm, Marcellais

### Discussion Topics:

- Allowance of entities to serve veterans
- Protections for Veterans with the open market

11:00 a.m. Madame Chair C. Brown distributed proposed amendments, #45065.

11:02 a.m. Senator Myrdal introduced the Senate amendment, LC#25.0410.03000, #45066.

11:07 Jackie Hall, citizen, testified and answered questions.

11:24 a.m. Amy Cleary, GA Group, testified and answered questions, #45386.

11:33 a.m. Madame Chair C. Brown adjourned the meeting.

*Jackson Toman, Committee Clerk*



25.0410.03000

Sixty-ninth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1169  
with Senate Amendments**

**HOUSE BILL NO. 1169**

Introduced by

Representatives J. Olson, Grindberg, Klemin, Lefor, Marschall, Pyle, M. Ruby, Schauer

Senators Axtman, Bekkedahl, Cory, Roers

- 1 A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota  
2 Century Code, relating to compensation for veterans' benefits; and to provide a penalty.

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5 and enacted as follows:

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7 1. As used in this section:

8 a. "Compensation" means payment of any money, thing of value, or financial  
9 benefit .

10 b. "Veterans' benefits matter" means the preparation, presentation, or prosecution of  
11 any claim or appeal affecting an individual who has filed or expressed an intent to  
12 file a claim for a benefit, program, service, commodity, function, status, or an  
13 entitlement which is determined under the laws and regulations administered by  
14 the United States department of veterans affairs or the United States department  
15 of defense pertaining to a veteran, a veteran's dependent or survivor, or any other  
16 individual eligible for such benefit.

17 2. A person may not:

18 a. Receive compensation for referring an individual to another person to advise or  
19 assist the individual with any veterans' benefits matter.

20 b. Guarantee to an individual a specific veterans' benefit, including any level,  
21 percentage, or amount of veterans' benefit, either directly or by implication.

1           c. Receive excessive or unreasonable fees as compensation for advising or  
2           or assisting an individual with a veterans' benefits matter.

3       3. A person seeking to receive compensation for advising or assisting an individual with a  
4       veterans' benefits matter shall memorialize all terms regarding the individual's  
5       payment of fees for services rendered in a written agreement.

6       4. A person seeking to receive compensation for advising or assisting an individual with a  
7       veterans' benefits matter shall provide the following disclosure at the outset of the  
8       business relationship:

9           This business is not sponsored by, or affiliated with, the United States department  
10          of veterans' affairs or the state department of veterans' affairs, or any other  
11          federally chartered veterans' service organization. Other organizations including  
12          the state department of veterans' affairs, a local veterans' service organization,  
13          and other federally chartered veterans' service organizations may be able to  
14          provide you with this service free of charge. Products or services offered by this  
15          business are not necessarily endorsed by any of these organizations. You may  
16          qualify for other veterans' benefits beyond the benefits for which you are  
17          receiving services here.

18       5. The written disclosure under subsection 4 must appear in at least twelve-point font in  
19       an easily identifiable location in the person's agreement with the individual seeking  
20       services. The individual shall sign the document in which the written disclosure  
21       appears to represent an understanding of these provisions. The person offering  
22       services shall retain a copy of the written disclosure while providing veterans' benefits  
23       services for compensation to the individual and for at least one year after the date on  
24       which the service relationship terminates.

25       6. A person seeking to receive compensation for advising or assisting a veteran in  
26       connection with an initial claim for benefits may not:

27           a. Receive any compensation for any services rendered in connection with any  
28           claim filed within a one-year presumptive period of active-duty release, unless the  
29           veteran acknowledges by signing a waiver that the veteran is within this period  
30           and chooses to deny free services available to the veteran.

- 1            b. Receive compensation that is not purely contingent on an increase in benefits  
2            awarded or which exceeds ~~the guidelines outlined in 38 CFR 14.636.~~ five  
3            ~~times the amount of the monthly benefits awarded.~~  
4            c. Receive initial or nonrefundable fees.  
5            d. Use international call centers or data centers for processing veterans' personal  
6            information.  
7            e. Use a veteran's personal login, username, or password information to access a  
8            veteran's medical, financial, or government benefits information.  
9            f. Allow an individual access to a veteran's medical or financial information until the  
10           individual successfully completes a background check. The background check  
11           must be conducted by a reputable source and include identity verification and a  
12           criminal records check.  
13           7. This section may not be construed to apply to, limit, or expand the requirements  
14           imposed on agents, attorneys, or the representatives accredited and regulated by the  
15           United States department of veterans' affairs. ~~However, to protect Veterans, all~~  
16           ~~persons shall follow the compensation guidelines set forth in 38 CFR 14.636.~~  
17           8. A violation of this section is an unlawful practice in violation of section ~~5102~~ and  
              subject to a civil penalty under section ~~5131~~.

25.0410.02003  
Title.03000

Adopted by the Senate Agriculture and  
Veterans Affairs Committee  
March 20, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1169

Introduced by

Representatives J. Olson, Grindberg, Klemin, Lefor, Marschall, Pyle, M. Ruby, Schauer

Senators Axtman, Bekkedahl, Cory, Roers

- 1 A BILL for an Act to create and enact a new section to chapter 37-14 of the North Dakota  
2 Century Code, relating to compensation for veterans' benefits; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1.** A new section to chapter 37-14 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Compensation for advising on veterans' benefits prohibited - Limitations - Penalty.**

7 1. As used in this section:

8 a. "Compensation" means payment of any money, thing of value, or financial  
9 benefit.

10 b. "Veterans' benefits matter" means the preparation, presentation, or prosecution  
11 of any claim or appeal affecting an individual who has filed or expressed an intent  
12 to file a claim for a benefit, program, service, commodity, function, status, or an  
13 entitlement which is determined under the laws and regulations administered by  
14 the United States department of veterans affairs or the United States department  
15 of defense pertaining to a veteran, a veteran's dependent or survivor, or any  
16 other individual eligible for such benefit.

17 2. A person may not:

18 a. Receive compensation for referring an individual to another person to advise or  
19 assist the individual with any veterans' benefits matter.

- 1           b. Guarantee to an individual a specific veterans' benefit, including any level,  
2           percentage, or amount of veterans' benefit, either directly or by implication.
- 3           c. Receive excessive or unreasonable fees as compensation for advising or  
4           assisting an individual with a veterans' benefits matter.
- 5       3. A person seeking to receive compensation for advising or assisting an individual with a  
6       veterans' benefits matter shall memorialize all terms regarding the individual's  
7       payment of fees for services rendered in a written agreement.
- 8       4. A person seeking to receive compensation for advising or assisting an individual with a  
9       veterans' benefits matter shall provide the following disclosure at the outset of the  
10       business relationship:
- 11           This business is not sponsored by, or affiliated with, the United States department  
12           of veterans' affairs or the state department of veterans' affairs, or any other  
13           federally chartered veterans' service organization. Other organizations including  
14           the state department of veterans' affairs, a local veterans' service organization,  
15           and other federally chartered veterans' service organizations may be able to  
16           provide you with this service free of charge. Products or services offered by this  
17           business are not necessarily endorsed by any of these organizations. You may  
18           qualify for other veterans' benefits beyond the benefits for which you are  
19           receiving services here.
- 20       5. The written disclosure under subsection 4 must appear in at least twelve-point font in  
21       an easily identifiable location in the person's agreement with the individual seeking  
22       services. The individual shall sign the document in which the written disclosure  
23       appears to represent an understanding of these provisions. The person offering  
24       services shall retain a copy of the written disclosure while providing veterans' benefits  
25       services for compensation to the individual and for at least one year after the date on  
26       which the service relationship terminates.
- 27       6. A person seeking to receive compensation for advising or assisting a veteran in  
28       connection with an initial claim for benefits may not:
- 29           a. Receive any compensation for any services rendered in connection with any  
30           claim filed within a one-year presumptive period of active-duty release, unless the

- 1                    veteran acknowledges by signing a waiver that the veteran is within this period  
2                    and chooses to deny free services available to the veteran.
- 3            b.   Receive compensation that is not purely contingent on an increase in benefits  
4                    awarded or which exceeds five times the amount of the monthly benefits  
5                    awarded.
- 6            c.   Receive initial or nonrefundable fees.
- 7            d.   Use international call centers or data centers for processing veterans' personal  
8                    information.
- 9            e.   Use a veteran's personal login, username, or password information to access a  
10                   veteran's medical, financial, or government benefits information.
- 11           f.   Allow an individual access to a veteran's medical or financial information until the  
12                   individual successfully completes a background check. The background check  
13                   must be conducted by a reputable source and include identity verification and a  
14                   criminal records check.
- 15           7.   This section may not be construed to apply to, limit, or expand the requirements  
16                   imposed on agents, attorneys, or the representatives accredited and regulated by the  
17                   United States department of veterans' affairs.
- 18           8.   A violation of this section is an unlawful practice in violation of section 51-15-02 and  
19                   subject to a civil penalty under section 51-15-11.



Good evening, House Conferees,

Thank you for your continued deliberation on HB 1169 today. During today's afternoon conference committee, from my perspective in the audience, it appeared that the Senate attempted to remove their amendment and agree to the exact version of HB 1169 that passed the House chamber on February 24. However, that motion failed.

With the procedural questions clouding the discussion—at least for me—it appeared the House Conferees rejected the position approved by the House in February 24. Am I understanding your position correctly?

I plan to ask the Senate to further clarify their position with the formal motion to accede to the House's version of the bill from February. If they do so, we hope you would consider supporting the bill that passed the House on February 24. Thank you for your continued consideration, and please don't hesitate to call me at any time with any questions or clarifications you might be able to provide.

Many thanks!

Amy Cleary

GA Group, PC

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
4/17/2025  
Conference Committee

Relating to compensation for veterans' benefits; and to provide a penalty.
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4:29 p.m. Madame Chair C. Brown opened the meeting.

Members present: Chairman Schauer, Representatives Satrom, Vetter, Senators Myrdal, Lemm, Marcellais

### Discussion Topics:

- Possible Amendment Language
- Committee action

4:29 p.m. Madame Chair C. Brown explains language for amendment.

4:30 p.m. Senator Lemm moved that the Senate Reject its amendment, subsection 7 on page 3, taking the bill back to the 2000 version.

4:30 p.m. Senator Myrdal seconded the motion.

4:30 p.m. Roll call vote.

4:31 p.m. Motion failed 2-4-0.

4:44 p.m. Representative Satrom moved to verbally amend by striking out line 2 of page 3, page 2 line 15, change "to protect veterans" to "all persons" in place of the Senate Amendment.

4:45 p.m. Senator Marcellais seconded the motion.

Roll Call Vote.

4:46 p.m. Motion failed 3-3-0.

4:48 p.m. Madame Chair C. Brown closed the meeting.

*Jackson Toman, Committee Clerk by Risa Berube*

# HB 1169 041725 1630 PM Roll Call Vote

## Final Recommendation

**HB 1169**

**Date Submitted:** April 17, 2025, 4:30 p.m.

**Recommendation:** Reject

**Amendment LC #:** Pending LC #

**Engrossed LC #:** N/A

**Motioned By:** Lemm, Randy D.

**Seconded By:** Myrdal, Janne

**House Carrier:** N/A

**Senate Carrier:** N/A

**Emergency Clause:** None

**Vote Results:** 2 - 4 - 0

**Description:** N/A

Rep. Brown, Collette	Nay
Rep. Vetter, Steve	Nay
Rep. Satrom, Bernie	Nay
Sen. Myrdal, Janne	Yea
Sen. Lemm, Randy D.	Yea
Sen. Marcellais, Richard	Nay

# HB 1169 041725 1636 PM Roll Call Vote

## Final Recommendation

**HB 1169**

**Date Submitted:** April 17, 2025, 4:36 p.m.

**Recommendation:** In Place Of

**Amendment LC #:** Pending LC #

**Engrossed LC #:** N/A

**Motioned By:** Satrom, Bernie

**Seconded By:** Marcellais, Richard

**House Carrier:** N/A

**Senate Carrier:** N/A

**Emergency Clause:** None

**Vote Results:** 3 - 3 - 0

**Description:** reference to federal law

Rep. Brown, Collette	Yea
Rep. Vetter, Steve	Nay
Rep. Satrom, Bernie	Yea
Sen. Myrdal, Janne	Nay
Sen. Lemm, Randy D.	Nay
Sen. Marcellais, Richard	Yea

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1169  
4/18/2025  
Conference Committee

Relating to compensation for veterans' benefits; and to provide a penalty.
--

11:00 a.m. Madame Chair C. Brown opened the meeting.

Members present: Madame Chair C. Brown, Representatives Satrom, Vetter, Senators Myrdal, Lemm, Marcellais

### **Discussion Topics:**

- Committee action

11:00 a.m. Representative Satrom discussed the bill.

11:03 a.m. Representative Vetter further discussed the bill.

11:04 a.m. Representative Vetter moved to accept the Senate Amendment.

11:05 a.m. Senator Lemm seconded the motion.

11:06 a.m. Motion passed 4-2-0.

Representative C. Brown and Senator Myrdal will carry the bill.

11:06 a.m. Madame Chair C. Brown adjourned the meeting.

*Jackson Toman, Committee Clerk*

# HB 1169 041825 1105 AM Roll Call Vote

## Final Recommendation

**HB 1169**

**Date Submitted:** April 18, 2025, 11:05 a.m.

**Recommendation:** Accept

**Amendment LC #:** 25.0410.02003

**Engrossed LC #:** N/A

**Description:**

**Motioned By:** Vetter, Steve

**Seconded By:** Lemm, Randy D.

**House Carrier:** Brown, Collette

**Senate Carrier:** Myrdal, Janne

**Emergency Clause:** None

**Vote Results:** 4 - 2 - 0

Rep. Brown, Collette	Yea
Rep. Vetter, Steve	Yea
Rep. Satrom, Bernie	Nay
Sen. Myrdal, Janne	Yea
Sen. Lemm, Randy D.	Yea
Sen. Marcellais, Richard	Nay

**REPORT OF CONFERENCE COMMITTEE  
HB 1169**

Your conference committee (Sens. Myrdal, Lemm, Marcellais and Reps. C. Brown, Vetter, Satrom) recommends the **HOUSE ACCEPT** the Senate amendments ([25.0410.02003](#)) to HB 1169.

HB 1169 was placed on the Seventh order of business on the calendar.