



**STATEMENT FOR THE RECORD
OF
MR. COLE T. LYLE
DIRECTOR
NATIONAL VETERANS' AFFAIRS AND REHABILITATION DIVISION
THE AMERICAN LEGION**

TO THE

**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

"PENDING AND DRAFT LEGISLATION"

MARCH 5, 2025

EXECUTIVE SUMMARY

| LEGISLATION | POSITION |
|--|---|
| H.R. 1732 - Governing Unaccredited Representatives Defrauding VA Benefits Act | Support |
| H.R. 1656 - Preserving Lawful Utilization of Services for Veterans Act of 2025 | Oppose |
| Discussion Draft: To amend title 38, United States Code, 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, and for other purposes | No position pending amendments to the bill text |

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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
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ON
PENDING AND DRAFT BILLS**

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Chairman Luttrell, Ranking Member Pappas and distinguished members of the Subcommittee on Disability Assistance and Memorial Affairs; on behalf of National Commander James LaCoursiere Jr. and The American Legion, we thank you for the opportunity to offer this statement for the record on pending and draft legislation.

With approximately 3,000 representatives accredited by the Department of Veterans Affairs, we offer services to America's veteran community in the filing of VA benefits claims. In Fiscal Year 2024 alone, we helped secure \$21 billion in disability claims, \$27 million in appeals, and an additional \$12 million in debt waivers for veterans.¹ We did this with VA-accredited representatives, attorneys and claims agents, who are required by law to abide by VA Standards of Conduct to ensure veterans and their families receive quality representation throughout the claims process.²

The American Legion strongly encourages veterans to utilize free services to apply for and receive their benefits. Accredited representatives and attorneys work within the VA's legal framework and advocate for a veterans' best interest without financial incentives to provide long-term support with initial claims, appeals, and updates.

¹ Veterans Benefits Administration, POA Awards Summary, October 2024.

² "38 CFR § 14.629 - Requirements for Accreditation of Service Organization Representatives; Agents; and Attorneys.," Legal Information Institute, accessed February 6, 2025, <https://www.law.cornell.edu/cfr/text/38/14.629>.

Current Law & Protections Against Predatory Practices

Congress has long recognized that veterans are a special/protected class. This is why the VA benefits system was set up as a paternalistic, non-adversarial, pro-veteran system. Under current law, VA-accredited attorneys and agents may charge fees for their services, but only under specific conditions:³

- Fees may not be charged for filing claims.
- Fees may only be deducted from past-due benefits after successful representation (no prospective fees (from future benefits) are allowed).
- Attorneys or agents may elect to have the VA withhold and directly pay them a fee not exceeding 20% of past-due benefits. Attorneys or agents may elect to waive VA withholding and receive their fees directly from the veteran. Under no circumstances may accredited attorneys or agents charge fees exceeding 33 1/3% of past-due benefits. Taken together, this establishes a presumption of reasonable fees and is a key protection for veterans and their families
- The VA has the authority to investigate and suspend or remove accreditation from individuals who violate the VA's standards of conduct. Veterans and their families may report misconduct to VA's Office of the Inspector General, VA's Office of General Counsel, the Federal Trade Commission, or their State Attorney General.⁴

These safeguards ensure ethical assistance from accredited individuals and provide a measure of accountability for veterans and their families to ensure they receive the best assistance possible motivated by their long-term well-being.

The Rise of Predatory For-Profit Claims Companies

The 2020 COVID-19 pandemic forced many VA regional offices (VAROs) and co-located Veterans Service Organization (VSO) offices to close. During this time, some for-profit claims companies exploited gaps in Title 38 to charge exorbitant and unlawful fees without VA accreditation. Often these companies used aggressive and misleading online ad campaigns, trapped veterans in complicated contracts, and harassed veterans with collection agents for additional payments, even charging for future disability rating increases.

Because the VA lacks criminal enforcement authority, its only recourse has been issuing non-enforceable cease-and-desist letters. Without stronger enforcement mechanisms, the likelihood of

³ “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.,” Legal Information Institute, accessed February 6, 2025, <https://www.law.cornell.edu/cfr/text/38/14.636>.

⁴ “Accreditation Program Enforcement Authority,” VA Accreditation Program Enforcement Authority (Department of Veteran Affairs Office of General Counsel), accessed February 6, 2025 <https://www.va.gov/OGC/docs/Accred/EnforcementAuthority.pdf>.

veterans seeking assistance from unaccredited for-profit organizations will continue to rise, even as The American Legion successfully processes record numbers of claims.

If The American Legion charged fees at the same rate as these for-profit companies, veterans would have lost hundreds of millions of dollars last year alone. However, our mission is guided by how to best serve veterans and their families – not by profit. While we respect a veteran’s individual right to determine their own path for claims assistance based on their personal circumstances, Congress must act to strengthen VA’s enforcement authority to hold accountable, bad actors who seek to illegally collect fees from veterans.

Although The American Legion supports the GUARD Act and opposes the PLUS Act, we remain open to continued dialogue on the discussion draft with additional guard rails. However, the GUARD Act remains the most viable option as we will not support legitimizing predatory actors taking advantage of veterans.

Over the past few years, Congress has been stuck in a legislative stalemate while veterans have continued to pay the price, literally and figuratively. Predatory practices persist, and confusion permeates the veteran community on which for-profit actors are working in good faith versus the predators they want to avoid. These issues have only been exacerbated by individual state actions. Without Congressional action, the unacceptable status quo will see unethical for-profit companies continue to take advantage of veterans. We appreciate Congress’ continued efforts to come to a compromise and end the logjam.

Legislation: H.R. 1732

Governing Unaccredited Representatives Defrauding VA Benefits Act (GUARD)

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.

Sec. 2

Amends Section 5905 of title 38, United States Code (U.S.C.) to restore criminal penalties for 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.”

The American Legion supports this legislation.

Resolution No. 1: Oppose Claims Filing by Unaccredited Parties

Legislation: H.R. 1652

Preserving Lawful Utilization of Services for Veterans Act of 2025 (PLUS)

To amend title 38, United States Code, to permit certain fee agreements between claimants and agents or attorneys for the preparation, presentation, or prosecution of initial claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

The PLUS for Veterans Act of 2025 would authorize fee agreements between claimants and attorneys/agents for initial claims under Title 38 of the U.S. Code. The bill contains provisions for fee agreements, the VA recognition process, penalties and fee increases based on the Consumer Price Index.

Sec. 3

Calls for a process requiring the Secretary of VA to recognize a claims agent or attorney “on a conditional and temporary basis for a one-year period,” if the VA cannot verify whether an individual meets the qualifications in the application within a 90-day window after the application was received. Such conditional approval would be extended for additional one-year periods “until the date on which the Secretary can verify” whether the applicant satisfies VA requirements.

This section also seeks to implement a “fee agreement” allowing claims agents to collect a fee capped at the lesser of \$12,500, OR the amount “equal to the product of five and the amount of the monthly increase of benefits awarded.” Other than the profit motive, there is no justification for charging such exorbitant and unreasonable fees.

Finally, Section 3(a) proposes that any fee amounts charged by claims agents be increased yearly as indicated by the Consumer Price Index (CPI). In this way, the fees being charged would keep up with inflation or, as the Bureau of Labor Statistics puts it, the rising cost “for a representative basket of goods and services.”

The American Legion finds this proposal unreasonable. Charging veterans with fees for claims assistance is not the same as shopping at the supermarket, filling a gas tank or making a monthly mortgage payment. These for-profit companies should not be rewarded with additional price hikes base on the CPI.

Sec. 4

This section calls for the reinstatement of penalties for charging veterans unauthorized fees, except those provided in sections 5904 or 1984 of title 38, for any person or organizations that, “directly or indirectly 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, or imprisoned not more than one year, or both.”

It further includes a fine for bad actors who violate the law during conditional and temporary recognition by assessing a fine of \$50,000 and barring them from future recognition for a period of one year from the notice of a first violation and ten years for each subsequent violation.

Sec. 5

States that the proposed legislation will “supersede any State law that is inconsistent with the statutory right established by this Act...” In other words, claims agents recognized under the PLUS Act could not be prosecuted by state attorneys general or other state enforcement agencies.

The American Legion sees this provision as an unjustifiable attempt to shield claims agents from state prosecution for previous violations of the law as unaccredited representatives.

The American Legion opposes this draft legislation as currently written.

Resolution No. 1: Oppose Claims Filing by Unaccredited Parties

Discussion Draft: H.R. XXX

To amend title 38, United States Code, 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, and for other purposes.

Sec. 2

Promotes veterans being fully informed about their options when filing a claim, which would encourage veterans to apply for and access the care and benefits they have earned.

Specifically, this section requires VA to provide a veteran notice upon filing a claim that, “an accredited person may be available to the claimant for the preparation, presentation, or prosecution of such claim or supplemental claim,” and “an organization recognized under section 5902 of this title is available to the claimant for the preparation, presentation, or prosecution of such claim or supplemental claim at no cost to the claimant.” It also requires the VA to maintain a system, updated quarterly, through which a claimant may report unaccredited entities that are charging illegal fees and publish warnings with respect to fees an agent or attorney may charge.

The American Legion fully supports this provision.

Sec. 3

Section 3 calls for a new process that would require the VA Secretary to recognize a claims agent or attorney “on a conditional and temporary basis for a one-year period,” if the VA cannot verify whether an individual meets the qualifications in the application within a 180-day window after the application was received. Such conditional approval would be extended for additional one-year periods “until the date on which the Secretary can verify” whether the applicant satisfies VA requirements.

This section would also prevent the VA Secretary from refusing to recognize individuals who had previously “... charged a claimant a fee for services rendered in the preparation, presentation, or prosecution of an initial claim.”

Further, Section 3 prohibits charging fees for claims through the Benefits Delivery at Discharge (BDD) process. BDD claims are processed faster than other VA claims and conditions applied for are mostly related to active service. The American Legion fully supports this provision.

This section would also allow a veteran to terminate a claims agent prior to a decision being rendered by the VA to the claimant, which is like the protection veterans have with accredited claims agents and attorneys. This would prohibit bad for-profit actors from seeking fees for work they did not perform. The American Legion fully supports this provision.

This section would also give OGC the authority to audit agents or attorneys recognized in this bill to ensure the privacy of a veteran’s personally identifiable data and restrict claims companies from paying medical groups for appointments when the companies have a “business relationship.” The American Legion supports these provisions but believes the definition of “business relationship” needs to be more lucid to prevent circumvention of congressional intent during the regulatory process.

This section also calls for fees charged to claimants that “does not exceed the lesser of” \$10,000 or the equivalent of five times the amount of any monthly benefit increase. While the reduction of the proposed cap indicates progress from the PLUS Act, The American Legion still finds these prospective fees exorbitant and unreasonable.

For-profit companies publicly advertise the average time it takes to successfully complete a claim is three months, which means in addition to the first three months of back pay that would be paid to a claim company, the veteran would need to pay an additional two months of future benefits. If the company assesses the fee upon completion of the claim, the claimant may not have enough money to cover the cost and will likely resort to a high-interest credit card or pay-day loan, putting the veteran and their family in financial risk.

Finally, this section provides for the linking of fees charged by claims agents to the CPI, so they may be adjusted upward to compensate for inflation.

As articulated above, The American Legion does not support such a provision.

Sec. 4

This section is noteworthy in that it includes an enforcement clause for anyone who “violates any law or regulation administered by the Secretary” while under a period of conditional and temporary recognition. Should Congress decide to adopt the proposed system of temporary/conditional recognition for claims agents, The American Legion strongly recommends adoption of the enforcement measures included in this discussion draft.

While this bill addresses many concerns raised by The American Legion in previous discussions with this committee, we maintain opposition without further changes.

Because this draft text is for discussion and contains individual provisions we would support and others we would oppose, The American Legion has no official position but proposes several changes.

Resolution No. 1: Oppose Claims Filing by Unaccredited Parties

Conclusion

The American Legion’s 3,000 accredited service officers will continue to work tirelessly to assist veterans access to their earned benefits free of charge as we have done for a century. Claims assistance should not be about money—it should be about veterans and their families receiving disability benefits they have earned from VA – a government agency created to care for and protect the veteran, widow and child. The American Legion remains committed to working with Congress to find a way forward on this important issue.

Chairman Luttrell, Ranking Member Pappas, and distinguished members of this subcommittee, we thank you for your leadership and dedication to our veterans. For additional information regarding this testimony, please contact Ms. Julia Mathis, Director of The American Legion’s Legislative Division, at (202) 735-2207 or jmathis@legion.org.