

Veterans Law: Unaccredited Representatives

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Federal [law](#) prohibits an individual from charging any fee for assisting in the filing of an [initial claim](#) for VA benefits with the Department of Veterans Affairs (VA). In recent years, some Members of Congress, veteran service organizations (VSOs), and veterans have [expressed concerns](#) with certain for-profit entities charging fees for assisting veterans and other individuals seeking VA benefits. The issue has spurred [hearings](#) in Congress concerning VA's lack of enforcement authority to combat potentially illicit practices. Numerous [states](#) have also enacted legislation to regulate the practice. These state-enacted laws have led to litigation in federal courts that may affect how Congress might choose to respond to this issue.

Background on Representing VA Claimants

Congress has long enacted legislation to ensure that the substantial funds appropriated to veterans' programs are not redirected to attorneys and other individuals who may help veterans navigate the claims process. Since at least the Civil War, Congress has sought to protect veterans benefit claimants from "[unscrupulous lawyers](#)" that might charge unfair fees. For example, in the 1860s, Congress established a [ten-dollar cap on fees](#) that attorneys could charge veterans benefit claimants for assisting in filing claims. Although Congress ultimately repealed that cap when it enacted the [Veterans' Judicial Review Act of 1988](#), federal law still [regulates](#) who can assist or represent VA claimants applying for benefits and the fees that representatives can charge.

Under [federal law](#), "no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim" for VA benefits "unless such individual has been recognized for such purposes by the [VA] Secretary." Pursuant to VA regulations implementing this statute, an individual must receive [accreditation](#) to have legal authority to assist claimants in the "preparation, presentation, or prosecution of any claim" for VA benefits. The VA Office of General Counsel has provided [guidance](#) on the meaning of the phrase "preparation, presentation, or prosecution of any claim," which includes "giving advice to a claimant or potential claimant," "gathering evidence," and "filling out VA forms." Under this broad definition, a person needs accreditation from VA prior to assisting claimants with developing their claims.

Under [VA regulations](#), three types of individuals may receive accreditation: (1) representatives of VA-recognized VSOs, (2) claims agents, and (3) attorneys. An individual or organization must satisfy VA's accreditation requirements before representing a VA claimant. These include proof of "good moral character" and reputation, minimum levels of education and training, and—for attorneys and claims agents—continuing education requirements. Although the accreditation process is beyond the scope of

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this Legal Sidebar, CRS Report R46428, *Veterans Accredited Representatives: Frequently Asked Questions*, provides further information on the [requirements](#) that each representative must meet to receive accreditation.

[Federal law](#) also restricts how accredited representatives may charge fees for their services. Representatives from VSOs are [not permitted to charge claimants any fees](#) in connection with their claims or appeals. Only accredited agents and attorneys may receive fees for providing such services. Further, federal law and [regulations](#) provide that accredited agents and attorneys may not charge fees for assisting with the [initial filing](#) of a claim. Agents and attorneys may only charge fees for “representation provided after an agency of original jurisdiction has issued notice of an initial decision on the claim”—that is, fees are only permissible in connection with an appeal of an initial determination on a claim for VA benefits. Any [fee charged](#) must be [reasonable](#), and VA may review [a fee agreement](#) for reasonableness. A fee may be a fixed amount, an hourly rate, a percentage of past-due benefits awarded, or a combination of the three. VA may remit payment of the fee directly to the attorney or agent representing the veteran. In 2026, VA began [posting](#) the amount of money it disbursed directly to representatives to “[show](#) Veterans where this money goes, why VA pays it and the amount we pay,” to help ensure “Veterans have the tools and information they need to make the best decisions regarding their claims.”

Unaccredited VA Claim Consultants

[News outlets](#) have reported that numerous entities are advertising services that include assistance with filing initial VA claims, such as completing forms and providing advice to VA claimants. These entities are reportedly not accredited by VA, and they appear to charge fees for these services. Both actions appear to violate federal law. Some [VSOs warn](#) that these organizations take advantage of a vulnerable population while breaking the law. [Others](#), however, have noted that these organizations help claimants navigate a potentially overwhelming VA claims process.

Although federal law prohibits unaccredited representatives from assisting VA claimants, there are currently no criminal penalties in place that specifically seek to punish violations of these laws. Congress, in enacting the [Veterans Benefits, Health Care, and Information Technology Act of 2006](#)—the law that imposed many of the requirements for obtaining accreditation to represent VA claimants—repealed a provision previously codified at [38 U.S.C. § 5905 \(2000\)](#) that imposed criminal penalties for charging prohibited fees. Absent such penalties, there appear to be limited means for VA to enforce the prohibitions discussed in the above sections. For example, although VA can punish an [accredited](#) representative for charging impermissible fees [by taking away their accreditation](#), VA has [reported](#) an inability to enforce these rules against [unaccredited](#) representatives that charge impermissible fees.

During April 2022 congressional hearings, VA’s Deputy General Counsel for Veterans Programs [stated](#) that VA has limited enforcement capabilities because “there are no criminal penalties under federal law specific to unlawfully charging a fee for assisting a claimant with an application for VA benefits.” In the same testimony, the Deputy General Counsel noted that VA will often report unaccredited representatives to other federal, state, or local entities that may be able to take actions related to unfair business practices or fraud, such as the Federal Trade Commission (FTC). VA and the FTC have issued warning letters to unaccredited organizations that have charged fees for assisting veterans in filing initial claims; according to a [2025 Government Accountability Office report](#), VA “sent cease-and-desist letters to 35” unaccredited representatives in 2024.

State-Level Response

In the absence of federal enforcement mechanisms, states have taken differing approaches to addressing the issue. Some states have enacted laws providing state-level enforcement mechanisms to deter

individuals from charging fees in contravention of federal law. Other states have enacted laws that regulate permissible fee amounts for assistance with initial claims.

California, Maine, and New Jersey have enacted laws prohibiting individuals and organizations from charging for or providing services in contravention to federal law and VA regulations. The Maine statute, for example, provides that it shall be a violation of the [Maine Unfair Trade Practices Act](#) if a person receives “compensation for preparation, presentation or prosecution of, or advising, consulting or assisting an individual with, a veterans’ benefits matter, except as permitted under federal law.” Meanwhile, Louisiana enacted legislation that would regulate the amount that can be charged for assisting a VA claimant. Instead of a state-level prohibition on charging for services in contravention of federal law, the [Louisiana Preserving Lawful Utilization of Services for Veterans Act](#) (Louisiana PLUS Act) imposes limits on the fees that may be charged for assisting a VA claimant. Although, as discussed below, a federal district court in February 2026 determined that the law is preempted by federal statute, other states are considering legislation similar to the Louisiana law. The Kansas legislature, in March 2026, approved a [bill](#) that would limit the amount that can be charged for assisting with a VA claim; the state’s governor [vetoed](#) the legislation in early April 2026.

Both types of state laws—those providing deterrence from charging fees in contravention of federal law and those capping fees—have also imposed disclosure requirements on agents and attorneys that represent VA claimants. The [New Jersey law](#), for example, requires any person seeking compensation for advising or assisting on VA benefits claims to communicate to the prospective client “both orally and in writing” that “[o]ther organizations, including but not limited to . . . federally chartered veterans service organizations, may be able to provide you with this service free of charge.” Similarly, the [Louisiana law](#) requires service providers to advise prospective clients that claim assistance is available for free from federally chartered VSOs.

Litigation over State Laws

Parties on both sides of the issue have initiated suits challenging state laws. The resulting litigation, though directly addressing only the state laws, may nonetheless provide insights into legal issues that could be raised in relation to the federal regulation of VA representation.

Veterans Guardian VA Claim Consulting LLC v. Platkin

In New Jersey, an unaccredited claim consultant [filed suit](#) in federal court to block enforcement of the New Jersey statute that penalizes individuals who offer VA claim assistance in contravention of federal law. That [law](#) provides that “[n]o person shall receive compensation for advising or assisting any individual with regard to any veterans benefits matter, except as permitted under federal law.” Violations are penalized as an unlawful practice under the state’s [Consumer Fraud Act](#). In the pending suit, the plaintiff consultant alleges that the New Jersey statute violates its First Amendment rights by unlawfully burdening speech. The [district court](#) denied a motion for a preliminary injunction seeking to preclude enforcement of the statute, holding that the claim consultant’s activities did not constitute speech for First Amendment purposes as, in the court’s view, the law “regulates *conduct*, not speech.” On appeal, however, the U.S. Court of Appeals for the Third Circuit (Third Circuit) [reversed](#) this decision and remanded for further proceedings.

The Third Circuit determined that the claim consultant is likely to succeed in showing that the services in question constitute speech and that the prohibition on charging for the services imposed a burden on that speech. The appellate court [stated](#): “[the plaintiff] delivers professional services by speaking and writing. It advises clients about how to claim benefits: what disabilities to claim, what evidence to include, and how to fill out forms. That advice is likely speech.” The court further [declared](#) that, “[b]y barring payment for speech, New Jersey’s law burdens the right to speak.” The Third Circuit vacated the lower court’s

judgment and remanded the case to the district court to determine whether this burden on the plaintiff's speech amounts to a First Amendment violation. The circuit court also [stated](#) that it had "serious[] doubt[s]" as to the constitutionality of the provision of New Jersey's law restricting the charging of fees until after VA makes an initial determination.

Although *Veterans Guardian* challenges the validity of the New Jersey law that regulates representation before VA, the Third Circuit's decision on the preliminary injunction may raise questions with regard to federal regulation of VA claimant representatives. That is, if the Third Circuit has "serious[] doubt[s]" with regard to the constitutionality of New Jersey's prohibition on charging fees for assistance with an initial application for VA benefits, then the federal law's prohibition on the same activity is necessarily implicated. The appellate court itself called the federal prohibition into [question](#): "[Plaintiff] does not challenge the federal scheme, and we take no position on whether it is valid. But states cannot immunize their laws from constitutional scrutiny by pointing to a federal scheme that may suffer the same constitutional defects." The decision on the merits of whether the New Jersey statute complies with the First Amendment could foreshadow challenges to the federal scheme from either unaccredited or accredited agents or attorneys.

The Supreme Court has previously upheld caps on attorneys' fees related to VA claims in *Walters v. National Association of Radiation Survivors*. In that case, VA claimants [challenged](#) the long-standing \$10 fee cap (discussed above) as violating the Due Process Clause of the Fifth Amendment, and the First Amendment, because it denied claimants "the opportunity to retain counsel of their choice in pursuing their claims." The Supreme Court held that VA claimants' due process rights were not violated simply because they could not pay fees to receive their desired representation. Following the factors set forth in *Mathews v. Eldridge* to determine whether procedural due process requirements were satisfied, the Court [emphasized](#) that the VA claims process is "nonadversarial" and that the government interest in maintaining an informal, nonadversarial process was substantial enough to outweigh the potential improvement in error rate in the VA benefits system that paying an attorney might provide. In the decision, the Court only [briefly addressed](#) the VA claimants' First Amendment claims, stating that "at base, [they] are really inseparable from their due process claims." Reiterating that the existing process allows claimants to make a meaningful presentation of their claim, the Court stated that "appellees' First Amendment claim has no independent significance."

Federal courts do not appear to have ruled on challenges by attorneys and agents to the prohibition on charging fees for assisting claimants during the initiation of an application for VA benefits. Although the Supreme Court in *Walters* addressed a First Amendment claim related to restrictions on charging fees, it is arguably distinguishable from the present case related to the New Jersey law. *Walters* centered on whether the fee cap violated claimants' First Amendment rights—it did not address the burden on *attorneys'* or *agents'* speech rights. Though a court may find the *Walters* decision persuasive with regard to the government interests at stake, claimants and their representatives appear to have distinct speech interests and burdens in relation to the restriction on compensation for assisting with filing initial claims. If, on remand, the district court in *Veterans Guardian* determines that New Jersey's prohibition on charging fees for assisting with an initial application for VA benefits violates the First Amendment, Congress may desire to amend the current federal prohibition on the same activity.

Military-Veterans Advocacy, Inc. v. Landry

The [Louisiana PLUS Act](#), which regulates fees charged by agents and attorneys, has also faced legal challenge. VA-accredited agents and attorneys [challenged the law](#) claiming that (1) the state law is preempted by the federal scheme regulating fees related to VA representation and (2) the disclosure provision that requires agents and attorneys to advise prospective clients that a VSO would provide the same services for free violated the plaintiffs' First Amendment rights related to compelled speech. The plaintiffs challenged the law because the statute not only regulates the amount of fees that unaccredited

representatives can charge but also puts a cap on the fees that *accredited* VA representatives can charge. In February 2026, the federal district court [granted the plaintiffs'](#) motion for summary judgment, holding that the Louisiana PLUS Act fee caps were preempted by federal law and that the mandatory disclosure requirement violated the plaintiffs' First Amendment rights. Louisiana appealed the decision to the U.S. Court of Appeals for the Fifth Circuit.

In *Military-Veterans Advocacy*, the district court found that the law's fee cap conflicted with federal law and was preempted. Under the doctrine of [conflict preemption](#), a federal law will [preempt](#) state law (1) if it is impossible to comply with both federal and state law or (2) when "the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." Though the district court acknowledged that it is not *impossible* for the plaintiffs to comply with both laws (e.g., plaintiffs could abide by the state fee cap without violating any federal requirements), the court found that the state law [frustrated Congress's objective](#) of ensuring "that veterans have access to authorized qualified private representatives to assist them in pursuing claims for VA benefits." The court determined that, due to the state fee cap, attorneys and agents may be forced to decline more complex cases affecting VA claimants that require substantial time and effort. This, in turn, would limit claimants' ability to receive qualified representation, as desired by Congress. Thus, the court held that the Louisiana PLUS Act was unconstitutional and [enjoined](#) Louisiana from "enforcing the Act as written."

With regard to the First Amendment challenge, the district court applied the [Central Hudson test](#) concerning the regulation of commercial speech. That [test asks](#): "(1) whether the commercial speech at issue concerns unlawful activity or is misleading; (2) whether the governmental interest is substantial; (3) whether the challenged regulation directly advances the government's asserted interest; and (4) whether the regulation is no more extensive than necessary to further the government's interest." The court [advised](#) that the latter three questions "'must be answered in the affirmative for the regulation to be found constitutional.'" After determining that the state had not offered [any evidence](#) "to support the effectiveness of the disclosure" and failed to show that "the disclosure is not more extensive than is necessary," the court held that the disclosure requirement "violates Plaintiffs' rights under the First Amendment and is therefore unconstitutional as applied to Plaintiffs." The court [emphasized](#) that the state only put forth conclusory statements in support of the law without any supporting evidence. Although this portion of the decision only applies to the parties to the litigation (i.e., a court could reach a different conclusion with regard to a different plaintiff in separate litigation if the state were to provide evidence that the disclosure is effective and "not more extensive than is necessary"), as discussed above, the court enjoined the state from enforcing the Louisiana PLUS Act against any party due to it being preempted.

Because the court found that the Louisiana PLUS Act is preempted by federal law, only the federal laws discussed above apply in Louisiana with respect to fees for representing VA claimants. If other courts determine that similar state laws are preempted by federal law, then any significant decisions on whether and how to enforce the current rules would likely fall to Congress.

Congressional Proposals

Congress has considered legislative proposals that would address the current gap in federal enforcement authorities. There have been at least two different approaches proposed to resolve these issues. One approach, contained in the [Governing Unaccredited Representatives Defrauding VA Benefits Act](#) (GUARD VA Benefits Act), would reinstate criminal penalties for charging VA claimants unauthorized fees. The bill would provide that any person who "solicits, contracts for, charges, or receives . . . any fee or compensation with respect to the preparation, presentation, or prosecution of any claim" for VA benefits without complying with the laws and regulations governing the representation of VA claimants "shall be fined as provided in title 18" of the *U.S. Code*. According to the [bill's sponsors](#), the legislation would "discourage for-profit companies from operating outside the bounds of federal law" and would "give VA and other agencies an additional tool to protect veteran claimants from predatory practices." The

bill would not alter the manner in which parties could represent claimants or charge for services; instead, it would provide an explicit federal enforcement mechanism to discourage illegal conduct.

A second approach, contained in the [Preserving Lawful Utilization of Services for Veterans Act](#) (PLUS for Veterans Act), would also reinstate criminal penalties for charging fees in contravention of VA laws and regulations. Unlike the GUARD VA Benefits act, this approach would also remove restrictions on agents and attorneys from charging fees for helping VA claimants file initial claims. Under this proposal, any person seeking to represent or assist a VA claimant would still have to be accredited through VA, but such accredited individuals would be permitted to charge fees for assisting with filing initial claims. Those fees would be capped at “the lesser of” (1) \$12,500 or (2) five times “the amount of the monthly increase of benefits awarded to the claimant pursuant to the claim.” Proponents [state](#) that the market for these services is strong and that this act would “protect Veterans’ right to seek private assistance when seeking benefits if they so choose” while “incorporating these [claim consultant] businesses into the VA accreditation system.” In addition, the PLUS for Veterans Act would impose [disclosure requirements](#) on any individual charging fees for services: any agreement would be required to explicitly advise the prospective client that VSOs or other entities are available to provide free services.

Congress may decide to reestablish federal enforcement mechanisms, allow the states to implement their own enforcement schemes, authorize representatives to charge fees for initial claims, or maintain the status quo. If Congress desires to amend the current laws, it could consider potential implications that the state-level litigation, discussed above, may have for potential federal legislation. For example, both *Veterans Guardian* and *Military-Veterans Advocacy* implicate First Amendment concerns regarding regulating VA representatives and could foreshadow challenges to similar provisions currently under consideration by Congress, such as the disclosure requirements found in the [PLUS for Veterans Act](#). Similarly, if the restriction on charging fees for assisting with an initial claim is found to be an undue burden on speech in *Veterans Guardian*, Congress may consider amending the current approach to restricting fees for VA representation.

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