



NATIONAL  
ASSOCIATION OF  
ATTORNEYS GENERAL

PRESIDENT

**Dave Yost**  
Ohio  
Attorney General

August 8, 2023

PRESIDENT-ELECT

**Ellen F. Rosenblum**  
Oregon  
Attorney General

**Via E-mail**

The Honorable Kevin McCarthy  
Speaker  
House of Representatives  
Washington, DC 20515

The Honorable Chuck Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510

VICE PRESIDENT

**John Formella**  
New Hampshire  
Attorney General

The Honorable Hakeem Jeffries  
Minority Leader  
House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

IMMEDIATE PAST  
PRESIDENT

**Josh Stein**  
North Carolina  
Attorney General

**Re: Support for Passing the G.U.A.R.D. VA Benefits Act**

**Brian Kane**  
Executive Director

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.

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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  
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William Tong  
Connecticut Attorney General



Kathleen Jennings  
Delaware Attorney General



Brian Schwalb  
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Ashley Moody  
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Christopher M. Carr  
Georgia Attorney General



Anne E. Lopez  
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Raúl Labrador  
Idaho Attorney General



Kris Kobach  
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Daniel Cameron  
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