



MARYLAND MILITARY COALITION

Serving Veterans through Legislative Advocacy

February 27, 2024

Honorable Joseline A. Pena-Melnyk
Chair, House Health and Government Operations Committee
Room 241 House Office Building
Annapolis, MD 21401

Subject: **Request for FAVORABLE Report**– HB0875 – Veterans – Persons Providing Veterans Services and Veterans Benefits Appeals Services – Fees and Compensation

Dear Chair Pena-Melnyk and members of the Health and Government Operations Committee:

On behalf of the members of the Maryland Military Coalition (MMC) and as its Legislative Director, I write to recommend a FAVORABLE report by the Committee on HB0875 – ***Veterans – Persons Providing Veterans Services and Veterans Benefits Appeals Services – Fees and Compensation*** sponsored by Delegate Nick Allen. This critical legislation would ban so-called “claims sharks” from preying on veterans by charging veterans to process a claim or to appeal a denial of benefits. HB0875 incorporates federal law into Maryland law by providing that no one may charge fees for claims assistance who is not accredited by the U.S. Department of Veterans Affairs (VA). The bill creates fines for violations and any collected fines are tendered to the Maryland Veterans Trust Fund.

Federal law provides that claims assistance can only be provided by **accredited agents** who are trained, tested, overseen, and, when appropriate, disciplined and punished by the U.S. Department of Veterans Affairs Office of General Counsel. Traditionally, the U.S. Department of Veterans Affairs only accredits **three types of claims representatives**:

- Claims agents
- Attorneys
- Veterans Services Organizations (VSOs), e.g., the Veterans of Foreign Wars and the American Legion

Attorneys and claims agents may charge fees but on a tightly regulated scale set by the U.S. Government. VSOs provide their services for free, as does the Maryland Department of Veterans Affairs, which employs claims agents.¹

¹ <https://www.benefits.va.gov/vso/>

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Unaccredited claims representatives are explicitly banned from “preparing, presenting or prosecuting” claims, but all penalties for violating the law were repealed in 2006. As a result, unaccredited claims sharks who illegally charge veterans for claims services entered the market. A bipartisan coalition of 44 state attorneys general, including Attorney General Anthony Brown, sent a letter to the U.S. Congress asking for reinstatement of penalties against those who illegally charge veterans for claims services.

Unscrupulous unaccredited claims sharks have engaged in a multitude of improprieties that exploit vulnerable veterans. These abuses include:

- Offering claims assistance without being accredited, in violation of federal law
- Failing to disclose that they are not accredited by the VA
- Charging fees beyond those permitted to be charged by accredited agents
- Misleadingly stating that they are only offering “consulting” services when they are in fact preparing and processing the claim
- Requiring the veterans to disclose their VA user ID and password so the claims shark can track the progress of the claim
- Requiring the veteran to disclose their online banking user ID and password so they can withdraw their fees from the veteran’s account as soon as the claim is paid

These improprieties facilitate the commission of fraud against our veterans. **Veterans reported \$350 million in total fraud losses to the Federal Trade Commission in 2023.**² Maryland ranked fifth nationally in reported fraud and other reports per 100,000 of population, and ranked 11th in identity theft reports. In Maryland, identity fraud was tied with credit bureaus, information furnishers and report users for the most prevalent form of fraud in 2023.³

We note that banning unaccredited claims sharks from providing services to veterans does not violate the First Amendment rights of claims sharks. The United States Supreme Court has repeatedly held that states may reasonably regulate commercial speech, and the Government may regulate the provision of legal advice to ensure that those who provide it meet minimum levels of competency and are sworn to uphold the system of fair administration of justice. Regulation of professional speech is subject to a lower level of scrutiny and should be struck down only when it is “unjustified or unduly burdensome.” *Zauderer v. Office of Disciplinary Counsel of Supreme Court*, 471 U.S. 626, 657 (1985).

States may regulate professional conduct, even though that conduct incidentally involves speech. “[I]t has never been deemed an abridgment of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written, or printed.” *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 502 (1949).

² [https://www.moaa.org/content/publications-and-media/news-articles/2024-news-articles/finance/scams-cost-veterans,-military-retirees-\\$350-million-in-2023/?utm_source=newsletter&utm_medium=email&utm_campaign=TMNsend&utm_content=MclNw4K/pUQA/MHJh1eJHNA==+MD+AFHRM+1+Ret+L+CC](https://www.moaa.org/content/publications-and-media/news-articles/2024-news-articles/finance/scams-cost-veterans,-military-retirees-$350-million-in-2023/?utm_source=newsletter&utm_medium=email&utm_campaign=TMNsend&utm_content=MclNw4K/pUQA/MHJh1eJHNA==+MD+AFHRM+1+Ret+L+CC)

³ https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Annual-Data-Book-2023.pdf

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Banning claims sharks does not limit the options that veterans have to obtain claims assistance. The simple solution would be for those currently providing services in violation of federal law to become accredited. Doing so is not a complicated or onerous process. The objection to obtaining accreditation is that federal law limits the fees that can be charged and claims sharks want to charge whatever they can get away with. Second, state law already regulates many professions and limits entry to those who demonstrate qualifications and agree to abide by ethical and other professional practices. Although regulating professions may limit consumer “choice,” regulation is universally accepted to protect the public from unscrupulous or unqualified actors.

The Maryland Military Coalition **strongly supports HB0875** and asks the Health and Government Operations Committee for a **FAVORABLE report**. It is time for our state to take steps to protect our veterans and reign in the perpetrators of the unscrupulous practices outlined above.

The Maryland Military Coalition is a registered non-profit, non-partisan advocacy organization comprised of prominent Maryland-based veteran and military groups, representing over 150,000 service-connected individuals, including those currently serving, veterans, retirees and their families, caregivers, and survivors.

We want to thank Delegate Nick Allen for his commitment to our veterans and the uniformed services community in Maryland.

Respectfully,



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Legislative Director

Member Organizations, Maryland Military Coalition

James P. Monahan
Air Force Sergeants Association

Step P. May
American Military Society

Elwood R. Raphael Gray
American Minority Veterans Research Project

W. A. A.
Association of the United States Navy

Lynda A. Gask
Commissioned Officers Association of the
US Public Health Service

Wilbur B. Fisher
Disabled American Veterans

Seldon H. Freedberg
Distinguished Flying Cross Association

Phyllis J. Collins
Fleet Reserve Association

Seldon H. Freedberg
Jewish War Veterans of the USA

Steve L. Bloodgood
Maryland Air National Guard Retirees'
Association

Emmett R. Robert
Maryland Veterans Chamber of Commerce

Robert J. Winton
Military Officers Association of America

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Military Order of the Purple Heart

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Montford Point Marines of America

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National Association for Black Veterans

Michael P. Hays
Naval Enlisted Reserve Association

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