

1 A bill to be entitled
 2 An act relating to compensation for advising or
 3 assisting in veterans' benefits; creating s. 295.225,
 4 F.S.; providing a short title; providing purpose;
 5 providing definitions; prohibiting a person from
 6 receiving compensation for preparation, presentation,
 7 or prosecution of a claim or advising or assisting an
 8 individual with regard to a veterans' benefits matter
 9 except as authorized by federal law; prohibiting a
 10 person from receiving compensation for referring an
 11 individual to another person for such services;
 12 providing construction; requiring a person who
 13 receives compensation for such services to be held to
 14 certain standards in the rules regulating The Florida
 15 Bar; providing that a violation is a deceptive and
 16 unfair trade practice; providing severability;
 17 providing an effective date.

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 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Section 295.225, Florida Statutes, is created
 22 to read:

23 295.225 Advising or assisting in veterans' benefits
 24 matters; receipt of compensation.—

25 (1) This act may be cited as the "Governing Unaccredited

26 Representatives Defrauding (GUARD) VA Benefits Act."

27 (2) The purpose of this act is to provide a cause of
 28 action under the laws of this state to prevent unethical conduct
 29 and improper collection of fees by persons advising or assisting
 30 an individual with the filing of claims for disability benefits
 31 before the Department of Veterans' Affairs or the United States
 32 Department of Veterans Affairs.

33 (3) As used in this section, the term:

34 (a) "Compensation" means payment of any money, thing of
 35 value, or financial benefit.

36 (b) "Person" means an individual, corporation, business
 37 trust, estate, trust, partnership, limited liability company,
 38 joint venture, public corporation, or any other legal or for-
 39 profit commercial entity.

40 (c) "Veterans' benefits matter" means the preparation,
 41 presentation, or prosecution of any claim affecting any person
 42 who has filed or expressed an intent to file a claim for any
 43 benefit, program, service, commodity, function, or status the
 44 entitlement to which is determined under the laws and
 45 regulations administered by the Department of Veterans' Affairs
 46 or the United States Department of Veterans Affairs pertaining
 47 to veterans, their dependents, their survivors, and any other
 48 individual eligible for such benefits.

49 (4) (a) A person may not receive compensation for
 50 preparation, presentation, or prosecution of a claim or

51 advising, consulting, or assisting an individual with regard to
52 a veterans' benefits matter before the Department of Veterans'
53 Affairs or the United States Department of Veterans Affairs,
54 except as permitted under Title 38, U.S.C., and the Code of
55 Federal Regulations.

56 (b)1. A person may not receive compensation for referring
57 an individual to another person to prepare, present, or
58 prosecute a claim or advise, consult, or assist such individual
59 with a veterans' benefits matter before the Department of
60 Veterans' Affairs or the United States Department of Veterans
61 Affairs.

62 2. Notwithstanding subparagraph 1., this subsection does
63 not prohibit a division of fees between lawyers which is
64 otherwise proper pursuant to the American Bar Association's
65 Model Rules of Professional Conduct, Rule 1.5(e).

66 (5) A person who receives compensation for preparation,
67 presentation, or prosecution of a claim or advising, consulting,
68 or assisting an individual with regard to a veterans' benefits
69 matter before the Department of Veterans' Affairs or the United
70 States Department of Veterans Affairs shall be held to the same
71 ethical standards to which an attorney is held in the rules
72 regulating The Florida Bar regarding the following:

73 (a) Advertising.

74 (b) Solicitation of new clients.

75 (c) Confidentiality.

76 (d) Duty of care.
 77 (e) Duty of honesty.
 78 (f) Duty to zealously pursue what is in the best interest
 79 of his or her client.

80 (6) A violation of this section is a deceptive and unfair
 81 trade practice and constitutes a violation of the Florida
 82 Deceptive and Unfair Trade Practices Act under part II of
 83 chapter 501.

84 Section 2. If any provision of this act or the application
 85 thereof to any person or circumstance is held invalid, the
 86 invalidity does not affect other provisions or applications of
 87 the act that can be given effect without the invalid provision
 88 or application, and to this end the provisions of this act are
 89 severable.

90 Section 3. This act shall take effect upon becoming a law.