

1 AN ACT relating to the protection of veterans' benefits.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔ SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) For the purposes of this section:

6 (a) "Compensation" means any money, thing of value, or economic benefit
7 conferred on, or received by, any person in return for services rendered, or
8 to be rendered, by himself or herself or another;

9 (b) "Person" means any natural person, corporation, trust, partnership,
10 incorporated or unincorporated association, or any other legal entity; and

11 (c) "Veterans' benefits matter" means the preparation, presentation, or
12 prosecution of any claim affecting any person who has filed or expressed an
13 intent to file a claim for any benefit, program, service, commodity, function,
14 status, or entitlement to which is determined to pertain to veterans, their
15 dependents, their survivors, or any other individual eligible for such
16 benefits under the laws and regulations administered by the United States
17 Department of Veterans Affairs or the Kentucky Department of Veterans'
18 Affairs.

19 (2) A person shall not receive any compensation for referring any individual to
20 another person to advise or assist the individual with any veterans' benefits
21 matter.

22 (3) A person shall not receive any compensation for any services rendered in
23 connection with any claim filed within the one (1) year presumptive period of
24 active duty release unless the veteran signs a waiver stating the veteran:

25 (a) Acknowledges he or she is in the presumptive period;
26 (b) Acknowledges there are free benefits claims services available during this
27 period;

(c) Waives the use of the free services; and

(d) Agrees to pay for assistance with the veterans' benefits matter.

(4) A person seeking to receive compensation for advising, assisting, or consulting any individual with any veterans' benefits matter shall, before rendering any services, memorialize all terms regarding the individual's payment of fees for services rendered in a written agreement signed by both parties that specifies:

(a) No initial or nonrefundable fee shall be charged; and

(b) Fees for representation or assistance shall not include interest and shall not exceed five (5) times the one (1) month increase in benefits, not to exceed twelve thousand five hundred dollars (\$12,500).

(5) A person seeking to receive compensation for advising, assisting, or consulting any individual with any veterans' benefits matter or engaging in the preparation of an initial claim for a fee shall not:

(a) Utilize international call centers or data centers for processing any veterans' personal information;

(b) Aggressively or directly solicit business regarding any veterans' benefit matter; or

(c) Gain direct access to any personal medical, financial, or government benefits log-in, username, or password information.

(6) A person seeking to receive compensation for advising, assisting, or consulting any individual with any veterans' benefits matter may utilize an independent medical professional for a medical exam but shall not utilize a medical professional with whom the person has an employment or business relationship.

(7) A person shall not advertise or guarantee, either directly or by implication, that any individual is certain to receive specific veterans' benefits or that any individual is certain to receive a specific level, percentage, or amount of veterans' benefits.

1 (8) (a) A person shall not advise, assist, or consult for compensation any individual
2 concerning any veterans' benefits matter without clearly providing at the
3 outset of the business relationship the following disclosure both orally and
4 in writing:

5 "This business is not sponsored by, or affiliated with, the United States
6 Department of Veterans Affairs or the Kentucky Department of Veterans'
7 Affairs, or any other federally chartered veterans' service organization.
8 Other organizations, including but not limited to the Kentucky Department
9 of Veterans' Affairs, a local veterans' service organization, and other
10 federally chartered veterans' service organizations, may be able to provide
11 you with this service free of charge. Products or services offered by this
12 business are not necessarily endorsed by any of these organizations. You
13 may qualify for other veterans' benefits beyond the benefits for which you
14 are receiving services here."

15 (b) The written disclosure in paragraph (a) of this subsection shall appear in at
16 least twelve (12) point font and shall appear in a readily noticeable and
17 identifiable place in the person's agreement with the individual seeking
18 services. The individual shall verbally acknowledge understanding of the
19 oral disclosure and sign the document in which the written disclosure
20 appears to represent understanding of these provisions. The person offering
21 services shall retain a copy of the written disclosure while providing
22 veterans' benefits services for compensation to the individual and for at
23 least one (1) year after the date on which the service relations terminate.

24 (9) A person that receives compensation for advising, assisting, or consulting any
25 individual with any veterans' benefits matter for the individual's initial disability
26 claims shall report annually by December 1 to the Kentucky Department of
27 Veterans' Affairs identifying information of the person to include the:

1 (a) Name or names under which the person conducts business; and
2 (b) Address of principal place of business and address of any office maintained
3 in Kentucky;

4 (10) A person that receives compensation for advising, assisting, or consulting any
5 individual with any veterans' benefits matter for the individual's initial disability
6 claims shall, within one hundred twenty (120) days of the request by Kentucky
7 Department of Veterans' Affairs, submit a report for the reporting year, with the
8 following information:

9 (a) Aggregate number of veterans served in Kentucky;
10 (b) Number of veterans' benefits claims approved, denied, and pending;
11 (c) Average claim return time; and
12 (d) Number of veterans who received a successful increase who have a
13 previously-assigned agent of record in a veterans' benefits matter.

14 Data provided shall exclude any items of personal financial, medical, or other
15 data deemed confidential, business privileged, or HIPPA-protected information.

16 (11) The Kentucky Department of Veterans' Affairs may, by administrative regulation
17 promulgated in accordance with KRS Chapter 13A, create and display on its
18 website a form to assist persons in providing the information required in
19 subsections (9) and (10) of this section.

20 (12) A violation of any provision of this section shall constitute an unfair, false,
21 misleading, or deceptive act or practice in the conduct of trade or commerce
22 under KRS 367.170.

23 (13) Notwithstanding this section, an attorney or law firm seeking to receive
24 compensation for advising, assisting, or consulting any individual with any
25 veterans' benefits matter shall be governed by the limitations set forth in 38
26 C.F.R. sec. 14.636.