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The Honorable Tina Liebling and Peggy Scott, Co-Chairs
Judiciary, Finance, and Civil Law Committee
Minnesota House of Representatives
75 Rev Dr Martin Luther King Jr Blvd
St Paul, Minnesota 55155

March 25, 2025

Dear Co-Chair Liebling, Co-Chair Scott, and Members of the Committee,

As one of the founding members of United Veteran Benefits Agency, LLC a majority-Veteran owned and operated organization, I am writing in opposition of Minnesota HF 1855.

Attempting to protect Veterans is an honorable endeavor that we all share; unfortunately, HF 1855 misses the mark and would not only deny a Veteran the right to choose how they pursue their own claim, but they also fail to address the full spectrum of the issues at hand. The bills as sold also fail to address critical issues including: providing additional oversight and protections for the Veteran while preserving their Constitutional rights to petition their government in a manner they see fit, and ensuring Veterans have access to diverse options and effective solutions for decades to come.

United Veteran Benefits Agency LLC, as I mentioned above, is a Veteran owned and operated organization. Our staff is comprised 100% of Veterans, Veteran spouses and family, and spouses and family members of active-duty service members who understand the medical and mental health difficulties Veterans live with and the complexities of the VA disability process. We have a success rate of 90%, which means fewer appeals bogging down the system. Our goal is to do it right the first time, keeping the process moving through the VA system efficiently, preventing appeals and providing the Veteran with the benefits they have earned in a timely fashion. Passing MN HF 1855 will only inflate the backlog that occurs within the VA system and as stated before, strip away a Veteran's choice in how they pursue their VA disability claims.

As a consulting firm, our goal is to assist every Veteran who comes to us requesting help in a manner that is tailored to them and their family. We ensure the Veterans we work with understand their options including free services. And, if they choose to go in that direction, but aren't sure where to go, we help provide them with the service that is nearest to them. Since the inception of our business, we have served over 3500 Veterans. Many of them have

called us crying from joy and relief after receiving their new VA disability rating stating they've been trying to navigate the system for months with no success. Others have written to us stating we "changed their lives".

Rather than purposely restrict a Veteran's right to choose how they pursue their claim as HF 1855 does, a better approach is to implement necessary reforms that must take place to ensure the integrity of the systems and to protect Veterans from potentially bad actors. Some of these reforms include, but are not limited to:

- o Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- o Prohibiting any initial or non-refundable fees;
- o Mandating that presumptive period Veterans be referred to a VSO of their choice;
- o Getting written confirmation from the Veteran they have been informed of their free options;
- o Prohibiting private companies from having doctors on the payroll performing secondary medical exams;
- o Prohibiting the use of international call centers or data centers for processing Veteran's personal information.
- o Prohibiting aggressive and direct solicitation;
- o Prohibiting advertising or guaranteeing a successful outcome.

These are true protections that will ensure the Veteran is not taken advantage of, while still preserving their rights to seek expert claims support.

UVBA also supports Veterans' rights to choose reliable and expert assistance, whether through private entities or traditional Veterans Service Organizations. Veterans deserve the freedom to access the support they need without undue restriction or compromise, and these amendments serve as an important step in that direction.

The demand for current services in this space is far too vast for the government and VSOs to handle on their own. This highlights the need for an enhanced system that provides an expanded pathway for accreditation and enhanced oversight. HF 1855 does the exact opposite, and we encourage you to oppose this legislation as it denies Veteran's choice and keeps them trapped in the current broken system.

Thank you for your dedication to Minnesota's Veterans.

Sincerely,

A handwritten signature in cursive script that reads "Connie Jones".

Connie Jones
A Founding and Managing Member



BLACK VETERANS EMPOWERMENT COUNCIL INC.

909 Rose Ave. Suite 400 North Bethesda, Maryland 20852

www.bvecinc.org

The Honorable Tina Liebling and Peggy Scott, Co-Chairs
Judiciary, Finance, and Civil Law Committee
Minnesota House of Representatives
75 Rev Dr Martin Luther King Jr Blvd
St Paul, Minnesota 55155

March 25, 2025

Dear Co-Chair Liebling, Co-Chair Scott, and Members of the Committee,

On behalf of Black Veterans Empowerment Council (BVEC), one of the Nation's largest Black Veterans groups, I am writing to respectfully express **opposition to Minnesota HF 1855.**

Attempting to protect Veterans is an honorable endeavor that we all share; unfortunately, HF 1855 misses the mark and would not only deny a Veteran the right to choose how they pursue their own claim, but they also fail to address the full spectrum of the issues at hand. The bills as sold also fail to address critical issues including: providing additional oversight and protections for the Veteran while preserving their Constitutional rights to petition their government in a manner they see fit, and ensuring Veterans have access to diverse options and effective solutions for decades to come.

Additionally, nearly identical legislation is currently being challenged in other states on First Amendment grounds, including Veterans' right to petition their government – a right they were willing to give their lives for.

Rather than purposely restrict a Veteran's right to choose how they pursue their claim as HF 1855 does, a better approach is to implement necessary reforms that must take place to ensure the integrity of the systems and to protect Veterans from potentially bad actors. Some of these reforms include, but are not limited to:

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Sincerely,

A handwritten signature in black ink, appearing to read 'S. Deadwiler', with a long horizontal line extending to the right.

Shawn L. Deadwiler
Chairman of the Board and President



March 25, 2025

The Honorable Tina Liebling and Peggy Scott, Co-Chairs
Judiciary, Finance, and Civil Law Committee
Minnesota House of Representatives
75 Rev Dr Martin Luther King Jr Blvd
St Paul, Minnesota 55155

Dear Co-Chair Liebling, Co-Chair Scott, and Members of the Committee,

On behalf of Purple Heart Homes (PHH), a North Carolina-based 501(c)(3) nonprofit dedicated to serving Veterans across the nation, we are writing to express our opposition to Minnesota HF 1855.

Purple Heart Homes was founded in 2008 by Veterans John Gallina and the late Dale Beatty, both of whom served together in Iraq and returned with life-altering injuries. Inspired by the unwavering support of their community, they established PHH to honor fellow Veterans. Today, PHH provides housing solutions to service-connected, disabled, and aging Veterans of all eras across the United States, reflecting our core commitment to supporting Veterans and their rights.

Attempting to protect Veterans is an honorable endeavor that we all share; unfortunately, MN HF 1855 misses the mark and would not only deny a Veteran the right to choose how they pursue their own claim, but they also fail to address the full spectrum of the issues at hand. The bills as sold also fail to address critical issues including: providing additional oversight and protections for the Veteran while preserving their Constitutional rights to petition their government in a manner they see fit, and ensuring Veterans have access to diverse options and effective solutions for decades to come.

Rather than purposely restrict a Veteran's right to choose how they pursue their claim as HF 1855 does, a better approach is to implement necessary reforms that must take place to ensure the integrity of the systems and to protect Veterans from potentially bad actors. Some of these reforms include, but are not limited to:

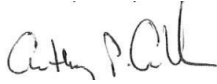
- o Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- o Prohibiting any initial or non-refundable fees;
- o Mandating that presumptive period Veterans be referred to a VSO of their choice;
- o Getting written confirmation from the Veteran they have been informed of their free options;
- o Prohibiting private companies from having doctors on the payroll performing secondary medical exams;
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These are true protections that will ensure the Veteran is not taken advantage of, while still preserving their rights to seek expert claims support.

PHH also supports Veterans' rights to choose reliable and expert assistance, whether through private entities or traditional Veterans Service Organizations. Veterans deserve the freedom to access the support they need without undue restriction or compromise, and these amendments serve as an important step in that direction.

The demand for current services in this space is far too vast for the government and VSOs to handle on their own. This highlights the need for an enhanced system that provides an expanded pathway for accreditation and enhanced oversight. HF 1855 does the exact opposite, and we encourage you to oppose this legislation as it denies Veteran's choice and keeps them trapped in the current broken system.

Thank you for your dedication to Minnesota's Veterans.

A handwritten signature in black ink, appearing to read "Paul Cockerham".

Paul Cockerham
Chief Development Officer
Purple Heart Homes



Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters

Tony D. Cardwell
President

Dale E. Bogart, Jr.
Secretary-Treasurer

March 25,, 2025

The Honorable Tina Liebling and Peggy Scott, Co-Chairs
Judiciary, Finance, and Civil Law Committee
Minnesota House of Representatives
75 Rev Dr Martin Luther King Jr Blvd
St Paul, Minnesota 55155

Dear Co-Chair Liebling, Co-Chair Scott, and Members of the Committee,

On behalf of The Teamsters Rail Conference, the Brotherhood of Maintenance of Way Employees (BMWED-IBT), and our Veteran members in Minnesota, I write today to **oppose HF 1855.**

The BMWED-IBT is proud to offer and encourage private expert support to our Veteran members. Our members are armed with all the information available to them and appreciate the ability to make the best choice for them and their families. We have been working closely with Veterans Guardian to educate our members on the full range of options available free of charge and for a fee. We are proud to ensure that our Minnesota Veteran members and brothers and sisters nationwide are well-informed and choose the best options for them.

As a Veteran myself and the Director of Government Affairs for the BMWED-IBT, I used Veterans Guardian to help me achieve an increase in my rating. Unfortunately, years of navigating the complicated Veterans Affairs process frustrated me. I tried the free services offered by Veteran Service Organizations, but while well-intentioned, they failed to meet my needs. Free doesn't always mean better, and I have the choice to decide who helps me with my claim.

Minnesota HF 1855 might be well-intentioned, but this issue has nuances and complications that require far more understanding.

Minnesota Veterans deserve a choice, and the BMWED members in Minnesota deserve the option to use companies like Veterans Guardian.

This bill is trying to accomplish a noble effort. Unfortunately, it takes away important options for the hard-working, dedicated brothers and sisters of the BMWED-IBT. I strongly urge you to vote against Minnesota HF 1855.

Sincerely,

Jeff Joines
Director of Government Affairs



VETERANS GUARDIAN
VA CLAIM CONSULTING

March 25, 2025

The Honorable Tina Liebling and Peggy Scott, Co-Chairs
Judiciary, Finance, and Civil Law Committee
Minnesota House of Representatives
75 Rev Dr Martin Luther King Jr Blvd
St Paul, Minnesota 55155

Dear Co-Chair Liebling, Co-Chair Scott, and Members of the Committee,

On behalf of Veterans Guardian VA Claim Consulting LLC (Veterans Guardian), the largest Veteran-owned and operated Veteran disability benefits company in the country, we write respectfully in **opposition to Minnesota HF 1855**.

Attempting to protect Veterans is an honorable endeavor that we all share; unfortunately, HF 1855 misses the mark and would not only deny a Veteran the right to choose how they pursue their own claim, but they also fail to address the full spectrum of the issues at hand. The bills as sold also fail to address critical issues including: providing additional oversight and protections for the Veteran while preserving their Constitutional rights to petition their government in a manner they see fit, and ensuring Veterans have access to diverse options and effective solutions for decades to come.

Additionally, nearly identical legislation is currently being challenged in other states on First Amendment grounds, including Veterans' right to petition their government – a right they were willing to give their lives for.

Veterans Guardian is a private Veteran disability claim consulting company owned and operated by Veterans, spouses of Veterans, and spouses of active-duty service members. We fully support the goal of ensuring Veterans have access to a diverse set of options to help them secure the benefits they have earned. We proudly serve more than 30,000 Veterans annually. We assist Veterans with receiving the disability benefits they have earned through their honorable service, achieving a success rate of greater than 90%, in an average of 85 days. This is far below the Veterans Administration average processing time of 150 days.

Trapping Veterans in a backlogged appeals system only benefiting a handful of attorneys is something Veterans Guardian aims to avoid by focusing on getting claims done correctly the first time. The current US Department of Veterans' Affairs (VA) disability benefits system is at best cumbersome and adversarial, and at worse broken to a point where it harms the Veterans for the benefit of a small number of powerful boutique law firms. In fact, in recent US Congressional testimony, Kenneth Arnold, Acting Chairman of the Board of Veterans' Appeals testified under oath:

"The [VA] courts clerk annually approved 6,500 to 7,300 attorney fee requests each year, almost all for remanded cases. **This generates \$45 to \$50 million in attorney's fees each year, with the majority going to a small number of boutique law firms with relatively few Veterans receiving any increase in their monthly compensation.**"

If passed, HF 1855 will only exacerbate the problems with the current system and will add to the ever growing backlog of claims processed through VSOs and perversely incentivized attorneys. HF 1855 would rob Veterans of the opportunity to seek expert help with a wide variety of claims and would force them into the Veterans Administration appeals trap.

According to the VA's publicly available data on accredited service officers and agents, the entire state of **Minnesota has only 288 VSO representatives to provide assistance to the over 285,734 Veterans** who currently reside in the state. This equates to **each representative being responsible for handling the affairs of 992 Veterans**. Even the hardest working and most efficient volunteer would be pressed to give the best possible service to that many Veterans. This further demonstrates how harmful HF 1855 will be by forcing Minnesota's Veterans to rely on a system that is already overloaded and ineffective.

This is why over 70% of Veterans Guardian clients have turned to us for help after trying the other options available – they, not us, are telling you they prefer our expertly trained professional staff and the services we offer.

There is momentum building at the federal level in the United States Congress to reform the accreditation process for third party actors, like Veterans Guardian, that help Veterans achieve the full disability benefits they have earned. There are more than 18 million Veterans in America, but only 5 million have a disability rating. While actors such as VSOs and law firms also serve Veterans, more options, not less, are needed to effectively meet the demand of American Veterans.

Rather than purposely restrict a Veteran's right to choose how they pursue their claim as HF 1855 does, a better approach is to implement necessary reforms that must take place to ensure the integrity of the systems and to protect Veterans from potentially bad actors. Some of these reforms include, but are not limited to:

- o Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- o Prohibiting any initial or non-refundable fees;
- o Mandating that presumptive period Veterans be referred to a VSO of their choice;
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- o Prohibiting aggressive and direct solicitation;
- o Prohibiting advertising or guaranteeing a successful outcome.

These are true protections that will ensure the Veteran is not taken advantage of, while still preserving their rights to seek expert claims support.

The demand for current services in this space is far too vast for the government and VSOs to handle on their own. This highlights the need for an enhanced system that provides an expanded pathway for accreditation and enhanced oversight. HF 1855 does the exact opposite, and we encourage you to oppose this legislation as it denies Veteran's choice and keeps them trapped in the current broken system.

I would encourage you or your staff to contact me at Brian.Johnson@vetsguardian.com to set up a meeting to discuss this matter further.

Sincerely,



Brian M. Johnson
Vice President, Government & Public Affairs
Washington, DC Office



VETERANS GUARDIAN

VA CLAIM CONSULTING

Co-Chair Liebling, Co-Chair Scott, and Members of the House Judiciary, Finance, and Civil Law Committee. Thank you for allowing me to submit testimony regarding Veterans Guardian's views on several important pieces of legislation.

Thank you for the opportunity to provide testimony on HF 1855, a bill that would significantly impact how Veterans in Minnesota can access support for their VA disability claims.

My name is John Blomstrom, and I serve as the Manager of Government and Public Affairs for Veterans Guardian VA Claim Consulting, LLC. I am also a United States Marine Corps Veteran who proudly served in Operation Enduring Freedom and Operation Iraqi Freedom.

Like many service members, when I transitioned out of the Marine Corps, I struggled to navigate the VA disability benefits system. The process was cumbersome, confusing, and inaccessible. Unfortunately, too many Veterans still face these same challenges today. This is why organizations like Veterans Guardian exist—to help Veterans receive the benefits they are entitled to while navigating a complex, inefficient, and often failing system.

Veterans Guardian's Mission and Impact in Minnesota

For these reasons and more, we founded Veterans Guardian. I am proud of the work that we do and the way that we do it. Veterans Guardian employs a staff of veterans, spouses of veterans, or spouses of active-duty service members. We have been recognized by the Department of Labor by receiving the HIRE Vets platinum or gold award five years in a row. We have received the BBB Torch Award for Marketplace Ethics every year since 2020. We were most recently named the Military Family Brands company of the year in 2023. We are the national presenting sponsor for Irreverent Warriors and support more than 60 national and local charities, including support to local chapters of many of the organizations that have also been invited to engage in this important discussion today.

Veterans Guardian's mission is to provide the best possible service to our veteran clients to ensure that they receive all the benefits that they are owed based on injuries that occurred during their time of honorable service to our nation. We do that by offering a transparent, effective, and efficient option to help veterans navigate a complex and oftentimes failing system.

We are a complimentary capability to the other services available to veterans, and we make sure that our clients know that. My trained and expert staff inform every veteran that there are free options and services available to them in the form of county and state Veteran Service Officers, the Veteran Service Organizations, and their local Congressional offices. We also connect them directly to these services if they choose.

We are up front about our process and fee structure, and about who we are, and who we are not. We tell our clients that we are not accredited, and our clients acknowledge their understanding of our status as well as the free options available to them when they sign our consulting agreement and the “Your Claim, Your Choice” affidavit. Because of these policies, we can be confident that our veterans are choosing to utilize our services from a position of knowledge. In fact, our data shows that over 70% of the time, our veteran clients come to us after having used some of the free services at their disposal. That tells me that veterans are not unaware of the free services available to them, they are coming to Veterans Guardian because those free services are not meeting their needs or their standards.

Veterans make a fully informed choice to use our services for a multitude of reasons, including easy access and responsiveness; our experience and knowledge developed and refined over tens of thousands of claims; our specific method, in which experts are involved at each stage of the process; our ability to help develop medical and lay evidence with a network of independent external doctors; and our competence in developing claims for secondary conditions. Those skills and capabilities translate to results for our veterans. I am proud to say that we have assisted tens of thousands of veterans with an over 90 percent success rate in an average of 85 days or less. And the veterans themselves have made clear that we are providing an important and necessary service—veterans consistently give us positive reviews and refer their friends, loved-ones, and fellow veterans to us to assist with their claims. In fact, over 50 percent of our new clients each month are referred from previous or current clients. The thousands of positive reviews and direct referrals that we receive are a direct testament to the importance we place on client care. We have also received extensive outside validation for our work, including eleven awards from AMVETS NC, National AMVETS, Department of Labor HIREVETS – Gold and Platinum Medallion awards, the Better Business Bureau – Ethics Awards three years in a row, Military Friendly Employer, and Military Spouse Friendly Employer.

Those accolades reflect what we don’t do as well as the services we provide. We don’t have doctors on our payroll doing medical exams, nor do we have automated or international call centers. We don’t collect any fee unless the Veteran achieves an increase in their VA benefits, and we don’t have access to a Veteran’s financial or e-benefits accounts. Any fee that a Veteran pays us comes from new benefits we have helped them secure, and no Veteran is financially disadvantaged from where they were before they utilized our services. Our veterans are paying a one-time fee for assistance while receiving a lifetime of benefits. Included in our written submission for the record is a detailed description of our fee structure.

Given the enormous volume of veterans that need assistance, it should be no surprise that there continues to be a backlog of more than 350,000 disabled veterans seeking benefits. Although the VA says otherwise, that number proves that the current system is not working. We simply do not have enough representatives or a level of service sufficient to meet the needs of our veterans. To address those shortcomings, we should be giving our veterans more options and more help, not less. In short, veterans should be able to pursue their claims in the manner that best serves them, with full knowledge of all available providers (including county and state

employees, VSOs, lawyers, claims agents, and companies like Veterans Guardian) who can assist them at any step in the process.

In short, at Veterans Guardian:

- We do not solicit the Veteran, they come to us; 50% of our clients are referrals,
- We never promise or guarantee an increase,
- We never gain access to the Veteran's VA E-Benefit log in or bank account log in information,
- We do not have overseas call or data centers, or other employees,
- We do not have doctors on our pay-roll performing medical examinations,
- We do not charge up-front or initial consultation fees,
- We inform every Veteran of their free options (in fact, 70% of our clients have tried the VSOs and choose to hire us),
- We ensure every Veteran knows we are not accredited currently by the VA (we are working with Congress, HR 1656, to provide a pathway to accreditation for our company and our operations model – one currently does not exist),
- We inform every client of our fee structure, up front, in writing, with their signed consent, before we even begin the onboarding process,
- We are transparent, ethical, and our results speak for themselves.

The Problem

The perversely incentivized federal system permits accredited agents and attorneys to accept compensation only after the agency issues an initial decision in a veteran's case. Veterans Guardian focuses on getting claims right the first time around, so no appeal is needed. Accordingly, Veterans Guardian cannot be accredited under the current system. Veterans Guardian conducts its business in a way that comports with federal law because it limits its activities to consulting services and does not act as a veteran's "agent." We are transparent with our clients that we are not accredited, and our clients acknowledge their understanding of our status as well as the free options available to them.

But we know that the system could work better. The current US Department of Veterans' Affairs (VA) disability benefits system is at best cumbersome and adversarial, and at worst broken to a point where it harms the veterans for the benefit of a small number of powerful boutique law firms. In fact, in recent US Congressional testimony, Kenneth Arnold, Acting Chairman of the Board of Veterans' Appeals testified under oath:

"The [VA] courts clerk annually approved 6,500 to 7,300 attorney fee requests each year, almost all for remanded cases. This generates \$45 to \$50 million in attorney's fees each year, with the majority going to a small number of boutique law firms with relatively few veterans receiving any increase in their monthly compensation."

As our business model has shown, we are strong supporters of improving the process by which Veterans obtain their disability benefits. Our goal should be to expand good options for our Veterans, not restrict them; to improve oversight and ensure Veterans are receiving competent, timely assistance; and to provide our Veterans the freedom to make an informed decision regarding how they want to pursue their disability claims. We have continued to be strong supporters of accreditation reform on the federal level, including increasing knowledge requirements and scrutiny of applicants for accreditation.

Those efforts are underway, and we expect that they will result in bi-partisan legislation that opens the tent to accreditation for companies like Veterans Guardian, which endeavor every day to help veterans secure the benefits they are owed as a result of their honorable service.

Minnesota HF 1855

HF 1855 is well intended, but poorly executed. Instead of giving Veterans more options, HF 1855 limits them to ONLY VSOs and attorneys. Instead of preserving Veteran choice, HF 1855 denies the Veteran the use of private claims experts. Similar bills to HF 1855 have been either defeated, withdrawn, or tabled in 20 states in 2024.

• There are 285,734 Minnesota Veterans with only 288 Accredited Veteran Service Officers (VSOs) meaning there is 1 VSO for every 992 Veterans (a significant caseload, making it difficult for VSOs to assist every Veteran in a timely manner).

We expect that some individuals and entities who benefit from the broken system in which veterans are denied the benefits they are owed for years as appeals wind through the VA's backlog would argue that HF 1855 forces our business to close its doors. Those actors would make that argument based on a reading of federal law that is unfaithful to its text and raises significant First Amendment concerns. But they would make it nonetheless and that alone is reason for us to seek critical change of this bill.

Therefore, we write in opposition to HF 1855 as drafted, however we are committed to working with the sponsor and this Committee to make necessary changes.

Legal Concerns with HF 1855

Although apparently well-intended, HF 1855 as substituted, is fundamentally misguided. The Bill would prohibit the services of reputable companies like Veterans Guardian and infringe the First Amendment rights of our company and our clients.

HF 1855 appears designed to add an enforcement mechanism to the federal statutory scheme governing assistance to veterans by accredited agents and attorneys. But the bill in fact deviates from the federal statutory scheme in material and damaging ways. Under federal law, the restrictions on providing assistance to veterans apply only to those who "act as an agent or attorney." That qualifier appears in the foundational rule set out in section 5901 of title 38, which provides that "no individual may act as an agent or attorney in the preparation, presentation, or

prosecution of any claim under laws administered by the [VA] unless such individual has been recognized for such purposes by the Secretary.” 38 U.S.C. § 5901(a) (emphasis added). And it appears in the provision establishing the fees that may be charged for assistance with claims. See *id.* § 5904(c)(1) (“[I]n connection with a proceeding . . . with respect to benefits under laws administered by the Secretary, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which a claimant is provided notice of the agency of original jurisdiction’s initial decision”) (emphasis added). The same section goes on to say that fees may be charged by “[a] person who, acting as agent or attorney . . . represents a person before the Department or the Board of Veterans’ Appeals after a claimant is provided notice of the agency of original jurisdiction’s initial decision” *Id.* § 5904(c)(2) (emphasis added). The implementing regulations are no different. See 38 C.F.R. § 14.629(b)(1) (“No individual may assist claimants in the preparation, presentation, and prosecution of claims for VA benefits as an agent or attorney unless he or she has first been accredited by VA”); *id.* § 14.636(a) (rule governing fees “appl[ies] to the services of accredited agents and attorneys . . . in all proceedings before the agency of original jurisdiction or before the Board of Veterans’ Appeals”); *id.* § 14.636(c) (“agents and attorneys may only charge fees” in particular circumstances, including “for representation provided after an agency of original jurisdiction has issued notice of an initial decision on the claim”) (emphasis added).

Veterans Guardian does not act as an “agent or attorney,” it simply provides advice and assistance to veterans as they file their own claims. For that reason, our services are not affected by the federal restrictions on claims assistance, and its activities are fully compliant with federal law.

HF 1855 eliminates the “agent or attorney” qualifier and therefore goes beyond federal law to prohibit all advice and assistance to veterans by unaccredited entities. In particular, as amended by HF 1855, section 2599 (a)(4) prohibits advice and assistance to veterans prior to a notice of disagreement being filed, under the threat of substantial civil penalties (see section 2599A, as amended). That means that reputable companies like Veterans Guardian, which consistently help their clients to achieve a successful result the first time around, and therefore obviating any need for a notice of disagreement, are precluded from charging for their services. Accordingly, Veterans Guardian and other reputable companies will cease to exist in Minnesota, leaving veterans at the mercy of a backlogged system where their claims can languish for years before they might see relief.

By putting Veterans Guardian (and other companies) out of business in Minnesota and preventing veterans from working with consultants they believe will give them the best chance of vindicating their rights before the VA, HF 1855 violates the First Amendment. The Supreme Court and the Third Circuit have made clear that the advice Veterans Guardian provides is speech. See *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010); *King v. Governor of New Jersey*, 767 F.3d 216, 225–26 (3d Cir. 2014). And the fact that HF 1855 prohibits the Company from receiving compensation rather than restricting speech directly doesn’t excuse the constitutional violation. As then-Judge Alito has explained, “If the government were free to

suppress disfavored speech by preventing potential speakers from being paid, there would not be much left of the First Amendment.” *Pitt News v. Pappert*, 379 F.3d 96, 106 (3d Cir. 2004).

HF 1855 also infringes veterans’ right to petition the government. Veterans undoubtedly have a First Amendment right to petition the VA for benefits owed them. *Borough of Duryea v. Guarnieri*, 564 U.S. 379, 387 (2011) (“This Court’s precedents confirm that the Petition Clause protects the right of individuals to appeal to courts and other forums established by the government for resolution of legal disputes.”). Moreover, the First Amendment protects the “right to associate for the purpose of engaging in those activities protected by the First Amendment” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 618 (1984). HF 1855 would deprive the Veterans Guardian’s clients of effective claims-assistance services, thereby undermining the veterans’ likelihood of success before the VA and infringing their right to associate with an entity they believe will help them vindicate their rights.

Attempting to protect veterans is an honorable endeavor that we all share; unfortunately, HF 1855 misses the mark: It fails to address the full spectrum of issues at hand, which are pending at the federal level, and would be weaponized by some actors intent on denying veterans their right to choose how they pursue their own claims.

A Better Path Forward

There are more than 18 million veterans in America, but only 5 million have a disability rating. While actors such as VSOs and law firms also serve veterans, more options, not less, are needed to effectively meet the demand of American veterans.

Our alternative proposal is law in Louisiana, is being sent to the Governor in South Dakota to sign, and has passed at least one Committee or Chamber in at least a dozen states.

Rather than handing a weapon to those who would restrict a veteran’s right to choose how they pursue their claim, as HF 1855 does, a better approach is to implement necessary reforms that must take place to ensure the integrity of the systems and to protect veterans from potentially bad actors.

Some of these reforms include, but are not limited to:

- Mandating any fees are purely contingent upon a successful outcome and are not to exceed 5x the monthly increase;
- Prohibiting any initial or non-refundable fees;
- Mandating that presumptive period veterans be referred to a VSO of their choice;
- Getting written confirmation from the veteran they have been informed of their free options;
- Prohibiting private companies from having doctors on the payroll performing secondary medical exams;

- Prohibiting the use of international call centers or data centers for processing veteran's personal information.
- Prohibiting aggressive and direct solicitation;
- Prohibiting advertising or guaranteeing a successful outcome.

These are true protections that will ensure the veteran is not taken advantage of, while still preserving their rights to seek expert claims support.

The demand for current services in this space is far too vast for the government and VSOs to handle on their own. This highlights the need for an enhanced system that provides an expanded pathway for accreditation and enhanced oversight. HF 1855 does the exact opposite, and we encourage you to amend this legislation to protect veteran choices and options.

Conclusion

I look forward to remaining engaged and working with you and your staff as we continue to develop solutions for this and other important issues facing our nation's Veterans. Thank you for the opportunity to submit this testimony.



United Veterans Leadership Council, Inc
Veterans Service Building
20 West 12th Street
St. Paul, MN 55155
(612) 325-3340

March 24, 2025

Minnesota House Judiciary Committee
Minnesota State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
Room G 23
St. Paul, MN 55155

Re: OPPOSITION TO HF 1855 AND REQUEST TO TESTIFY

Dear Co-Chairs Rep. Liebling and Scott, Members of the Committee:

United Veterans Leadership Council (UVLC) opposes HF 1855 as written. While the bill seeks to protect veterans from fraudulent claims companies, it fails to address actual bad actors and instead imposes unconstitutional restrictions on federally accredited attorneys, limiting veterans' right to legal representation in the State of Minnesota.

The bill as written does not adequately address claim sharks due to vague and illusory language within the underlying statute, Minn. Stat. § 197.6091, that was not amended within the HF 1855.

Underserving Minnesota Veterans

This testimony is submitted on behalf of the United Veterans Legislative Council (UVLC) by Benjamin Krause, a VA-accredited attorney, investigative journalist, and long-standing advocate for veterans' rights. A disabled veteran and graduate of the University of Minnesota Law School, Mr. Krause has devoted his legal career to representing veterans who have been wrongly denied benefits they earned through military service.

Mr. Krause is one of only 10 VA-accredited attorneys in Minnesota with a dedicated Veterans Benefits Law focused practice, according to data gathered through a recent preliminary UVLC statewide survey. While over 290,000 veterans reside in Minnesota, there are only 46 VA-accredited attorneys in the entire state who are authorized to represent veterans in appeals before the U.S. Department of Veterans Affairs. Of those, only 10 have a full or primary focus

on this area of law based on available data—and at least 3 of those 10 no longer actively accept Minnesota veterans as clients due to the chilling effect of Minn. Stat. § 197.6091.

Despite living and working in Minnesota, Mr. Krause is no longer actively taking in veteran clients for appeals. Since 2017, the Minnesota Department of Veterans Affairs (MDVA) has interpreted Minn. Stat. § 197.6091 as granting it authority to regulate federally accredited attorneys, contrary to federal law and separation of powers pursuant Minnesota Statutes Chapters 480-494 for the Judiciary regulating Attorneys-at-Law. As a result, he declines representation requests from disabled veterans referred to him by local County Veterans Service Officers (CVSOs).

Importantly, Minn. Stat. § 197.6091 was enacted without a timely referral to or review by the Minnesota State Bar Association (MSBA)—a key safeguard when laws affect the regulation of legal professionals. The current proposal, HF 1855, was likewise introduced in 2025 without the bill's supporters first presenting it to MSBA to allow the organization the opportunity to timely consider and address its implications for attorney speech and veterans' access to counsel.

Despite the setbacks in his home state, Mr. Krause has built a national legal practice focused on Veterans Benefits Law. He is the only VA-accredited attorney in the United States with a blended focus on:

- Veteran Readiness and Employment appeals (e.g., Chapter 31/VR&E), helping veterans become lawyers, doctors, professors, and other professionals; and,
- Complex disability compensation appeals, including claims involving traumatic brain injury (TBI) and related neuropsychiatric conditions—the signature disabilities of the Iraq and Afghanistan wars; while,
- Regularly addressing shortcomings of law and policy through news media outlets and individual contributions.

Mr. Krause would like to stop turning away Minnesota veterans. However, until Minn. Stat. § 197.6091 is repealed or reformed, he and other qualified attorneys must continue to turn away Minnesota veterans, even as demand for specialized legal representation continues to grow across the state.

The Real Issue: Who Can Provide Veterans Benefits Representation?

Minnesota veterans would benefit from clear legal and functional distinctions between the types of individuals and organizations offering veterans benefits assistance. Currently, confusion exists between legal representation, administrative assistance, and unaccredited claims services. Below is a breakdown of the key categories:

• **Unaccredited Companies**

- Not accredited by the U.S. Department of Veterans Affairs (VA)
- Typically for-profit businesses, not law firms
- Charge veterans unauthorized or excessive fees, often for help with initial claims—despite VA rules prohibiting such fees
- Not subject to federal VA oversight or VA fee agreement review
- Frequently fail to deliver promised services, leaving veterans unprotected and without recourse

• **County Veterans Service Officers (CVSOs)**

- Required to be honorably discharged veterans
- Receive training in the first year, but are not attorneys (no academic degree is needed)
- Cannot provide legal advice or representation in court
- Cannot represent veterans before the U.S. Court of Appeals for Veterans Claims or other courts
- Do not charge for services, but are government employees funded by taxpayer dollars
- In Minnesota, CVSOs are not currently required to inform veterans of the limitations of their authority, including that they are not licensed to practice law

• **VA-Accredited Attorneys**

- Must be **licensed attorneys** in good standing with a state bar after completing an undergraduate degree, juris doctor, ethics testing, background checks, and passing the multi-day state bar examination
- Must complete VA accreditation and ongoing continuing legal education (CLE)
- Authorized to **represent veterans at all stages** of the VA claims process, including:
 - Initial claims
 - Supplemental claims
 - Higher-level reviews
 - Board of Veterans' Appeals

- U.S. Court of Appeals for Veterans Claims
- Can provide legal advice, draft legal briefs, draft and execute affidavits, conduct depositions, develop evidence, work with medical and vocational experts, and hold VA accountable through court appeals or writs
- Subject to federal oversight by the VA Office of General Counsel, Board of Veterans Appeals and state bar ethics rules
- Cannot charge fees for assistance with initial claims; fees are only permitted after an initial decision is issued and only for appeals-related legal work pursuant 38 U.S.C. §§ 5901-5904, and 38 C.F.R. §§ 14.629-14.636

Why HF 1855 Is Fundamentally Flawed

In 2017, the Minnesota Association of County Veterans Service Officers (MACVSO) successfully lobbied for the passage of Minn. Stat. § 197.6091. Although the statute directly affects legal advertising and attorney-client communication, it was enacted **without prior review by the MSBA**—a critical oversight. HF 1855 repeated this same mistake, seeking to expand a constitutionally problematic statute without MSBA input.

Importantly, the fraudulent conduct that HF 1855 aims to address is already prohibited under Minn. Stat. § 481.02, which bars the unauthorized practice of law, including unlicensed claims services and misleading advertising. Rather than narrowly targeting these bad actors, HF 1855 adopts language that blurs the line between federally regulated legal services and the administrative assistance provided by CVSOs, sweeping both into the same category of “veterans benefits services.” This conflation risks misinforming veterans and suppressing their access to qualified legal representation.

The bill, as written, maintains and expands a regulatory framework that remains deeply flawed for the following reasons:

- **Fails to regulate actual claim sharks:** The bill lacks a clear, enforceable definition of the types of services it intends to regulate, leaving bad actors free to exploit loopholes while imposing unnecessary burdens on legitimate providers.
- **Blurs the line between legal and non-legal services:** HF 1855 does not clearly distinguish between the legal services provided by licensed, VA-accredited attorneys and

the administrative functions of CVSOs or VSOs. It conflates “veterans benefits services” and “veterans benefits appeal services” without legal clarity.

- **Retains vague advertising disclosure requirements:** The bill fails to correct overly broad and impracticable disclosure mandates that are incompatible with digital platforms like Google, Facebook, and mobile advertising tools.
- **Intrudes on federally regulated legal services:** Without expressly naming attorneys, the bill attempts to regulate appellate-level representation in federal benefits claims—an area preempted by federal law and governed by the U.S. Department of Veterans Affairs.
- **Confuses consumers by implying service equivalency:** The bill maintains a requirement that attorneys must inform clients in writing that services provided for pay may be “available at no cost” from a CVSO—falsely suggesting legal services are equivalent to administrative assistance.
- **Raises consumer protection concerns:** Requiring VA-accredited attorneys to promote state-sponsored services as comparable to their own legal representation may violate the **Minnesota Consumer Fraud Act (Minn. Stat. § 325F.69)** by compelling misleading or deceptive statements in the Disclosure form.
- **Fails to reflect current federal law:** HF 1855 does not update its language to align with the **Appeals Modernization Act of 2019**, which significantly restructured how veterans’ appeals are categorized, processed, and adjudicated under federal law.

Legal and Constitutional Concerns

- **Federal Preemption** – Veterans benefits law is governed by Title 38 of the U.S. Code. It has been long established that states like Minnesota cannot regulate federal veterans’ legal representation—this bill conflicts with federal law.
- **Separation of Powers Violation** – The bill attempts to redefine legal services from a licensed VA-accredited attorney as “veterans benefits services” and “veterans benefits appeal services,” infringing on the Minnesota Supreme Court’s authority over attorney regulation.
- **Consumer Fraud Act Conflict** – By forcing attorneys to promote non-legal CVSO services, the bill itself may be deceptive under Minn. Stat. § 325F.69.

- **Regulatory Vagueness** – Fails to clearly define what services require VA accreditation, leading to confusion and potential misapplication.
- **Missing Evidence** – When asked for certain evidence as to how MDVA complied with the underlying Disclosure law, MDVA indicated relevant correspondence to and from former Commissioner Larry Shellito was destroyed.

Impact on Minnesota Veterans

- **Restricts veterans' access to legal representation** by compelling VA-accredited attorneys to deliver misleading disclosures, discouraging legal consultation in complex benefits disputes.
- **Overloads an already strained state-run claims system**, forcing veterans into limited-capacity public services that cannot provide legal advice or representation in federal appeals.
- **Fails to adequately target unaccredited or fraudulent actors**, instead placing burdens on federally regulated attorneys who already operate under strict ethical and legal oversight.
- **Prevents Minnesota veterans from accessing nearby legal counsel**, especially those who may benefit from in-person consultation with a local attorney familiar with VA claims and appeals processes.

Conclusion

HF 1855, as drafted, fails to protect Minnesota veterans. Instead of targeting the real threat—unaccredited and predatory claims companies—it imposes unconstitutional restrictions on federally accredited attorneys and undermines veterans' access to legal representation. To truly support veterans, the bill must be revised to:

1. Directly regulate unaccredited and fraudulent claims service providers, who operate without federal oversight.
2. Protect VA-accredited attorneys' ability to advertise and serve clients without compelled or misleading speech.
3. Eliminate provisions that force attorneys to promote government-run services, which may not meet the legal needs of individual veterans.

03/24/2025

Page 7 of 7

Minnesota veterans deserve accurate information, qualified representation, and protection from fraud—not legislation that confuses their rights and limits their legal options.

Sincerely,

Benjamin Krause

Benjamin Krause, Esq.
UVLC Chairman

Attachments

- MDVA Admission of Record Destruction
- MDVA Disclosure
- UVLC Preliminary Report on Minnesota Veterans Legal Access
- VA OGC Accreditation Directory



MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

20 W 12th St, St Paul, MN 55155
Phone: 651-296-2562 • Fax: 651-296-3954
MinnesotaVeteran.org • 1-888-LinkVet

March 7, 2025

Attn: Mr. Benjamin Krause
United Veterans Leadership Council
UVLC Chairman
(612) 325-3340

From: Dan Seburg, DPCO of MDVA
20 W. 12th St.
St. Paul, MN 55155
Daniel.Seburg@state.mn.us

Re: Your request for legal opinions, etc.; meeting minutes, agendas, attendance records; past enforcement actions, challenges, and correspondence related to Minn. Stat. § 197.6091; promotional pamphlet that referenced HF 1209 in 2017; and Commissioner communications that referenced the disclosure statement between 01/01/2017 and 01/01/2019

Attn: Benjamin Krause for UVLC

This letter serves as a follow up to the acknowledgment letter that MDVA sent to you on February 28, 2025, in regards to the request as described above that UVLC submitted on the evening of February 26, 2025.

Below is the cost estimate of the estimated dollar charge that reflects the amount of staff time necessary to search for and retrieve responsive public data that corresponds to your request, broken down by each category of data that was requested.

For request items #1 and #3, the estimated staff search and retrieval time is a combined 7.5 hours with a total cost estimate of \$ 478.18 (four hundred seventy-eight dollars and 18 cents).

For request item #2 (meeting minutes, agendas, attendance records), the estimated staff search and retrieval time is 1.25 hours with a total cost estimate of \$ 89.78 (eighty-nine dollars and 78 cents).

For request item #4 ("Any records that reference HF 1209 including the pamphlet Ben Johnson circulated at the Military and Veterans Affairs Section of the Minnesota State Bar Association May 2017"), the estimated staff search and retrieval time is 3.5 hours with a total cost estimate of \$ 284.58 (two hundred and eighty-four dollars and 58 cents).

For request item #5 ("Disclosure Statement Records o Copies of communications between MACVSO and the Commissioner where the disclosure statement was discussed 01/01/2017 to 01/01/2019"), there are no responsive public data. After looking into this, MDVA determined the Commissioner during that time span was Larry Shellito. The MDVA does not have or maintain former Commissioner Larry Shellito's e-mails or general correspondence, because they have been securely destroyed in accordance with the agency's retention period for e-mails.

Please let us know if you wish to proceed with any of the above request items. If you decide to proceed with all of them for this specific data request consisting of the four (4) items above, the total estimated \$ cost is: \$ 852.54 (eight hundred and fifty-two dollars and 54 cents). Please note, as mentioned in MDVA's February 28, 2025 letter to you on behalf of UVLC, MDVA requires pre-payment of the estimated costs before we will further process your data request. If the costs are agreeable to you,

Serving Minnesota Veterans and Their Families

MDVA is a Veteran-friendly, equal opportunity and affirmative action employer and service provider. This document can be made available in alternate formats. Contact MDVA's Diversity, Equity and Inclusion Line at 612-548-5961 or your preferred telecommunications relay service.



MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

20 W 12th St, St Paul, MN 55155
Phone: 651-296-2562 • Fax: 651-296-3954
MinnesotaVeteran.org • 1-888-LinkVet

MDVA requires a check (personal or certified) made out to the Minnesota Department of Veterans Affairs in the amount listed in the estimate above. A check can be mailed to the General Counsel's Office, Veteran Services Building, 20 West 12th Street, Suite 200, Saint Paul, MN 55155. Once payment is received and has cleared, any responsive data will be retrieved, and MDVA will move forward with processing your request for public data.

Finally please note, if the actual search and retrieval processing time for your request item(s) takes longer than anticipated and estimated above, MDVA reserves the right to pause (before incurring additional search and retrieval time) on further processing the request until an agreement is reached with you to receive your payment for any additional estimated costs greater than the original estimate above, and in that event, MDVA would resume processing your request after the additional payment from UVLC has been received and has cleared.

If you have any further questions, requests, or concerns, or if you wish to narrow the scope of your public data requests in order to speed up the response time or reduce the estimated costs of data retrieval for fulfillment of your requests, please do not hesitate to correspond with me directly at Daniel.Seburg@state.mn.us or at dpc0.mdva@state.mn.us.

Thank you for your correspondence.

Sincerely,

/s/ Dan Seburg

Dan Seburg

Serving Minnesota Veterans and Their Families

MDVA is a Veteran-friendly, equal opportunity and affirmative action employer and service provider. This document can be made available in alternate formats. Contact MDVA's Diversity, Equity and Inclusion Line at 612-548-5961 or your preferred telecommunications relay service.

Disclosure Notice

BEFORE YOU PAY FOR HELP OBTAINING VETERANS BENEFITS

Please carefully read:

Veterans benefits services are offered at **no cost** by federally chartered Veteran Service Organizations, the Minnesota Department of Veterans Affairs and by the Minnesota County Veteran Service Officers.

This disclosure notice is being provided to you pursuant to Minn. Stat. 197.6091

The Minnesota Department of Veterans Affairs, Veterans Service Organizations, and Minnesota County Veterans Service Officers urge you to consider contacting these free resources before paying for services.

If you need help locating a Veteran Service Organization, county or state office, or have questions about obtaining Veterans benefits, please contact:

Minnesota Department of Veterans Affairs
Veterans Service Building
20 West 12th Street
Saint Paul, MN 55155
(651) 296-2562 or 1-888-LinkVet (546-5838)
www.minnesotaveteran.org

You must sign this form if you wish to pay for services that you could receive at no cost from a Veterans Service Organization, the Minnesota Department of Veterans Affairs or Minnesota County Veterans Service Officer. Do not sign this form or sign any agreement to pay for services if you wish to contact no cost help first.

Remember:

- You are not required to pay for assistance in obtaining veterans benefits.
- You are not required to sign this form in order to obtain your veterans benefits.

By my signature below, I acknowledge that I have read and understand this document.

Signature: _____ Date: _____

Print name: _____

Appendix 1

Minnesota Veterans Legal Access

A 2025 Preliminary Online Review of VA-Accredited Attorneys and Practice Capacity

Prepared by: United Veterans Legislative Council (UVLC)

Date: March 2025

Purpose

This report provides an overview of the availability of legal representation for Minnesota veterans pursuing U.S. Department of Veterans Affairs (VA) disability claims and appeals. The review combines publicly available online data, state and federal directories, and professional knowledge gathered in early 2025. Its goal is to assess the current legal capacity in Minnesota to support veterans with VA benefits-related legal needs, particularly in complex or denied claims.

Methodology

The review is based on:

- A non-exhaustive survey of the **VA Office of General Counsel (OGC) Accreditation Directory**;
- Public-facing information from **law firm websites**;
- Independent knowledge of active attorney practices from within the veterans advocacy and legal services community in Minnesota.

This approach captures both visible and verified-but-not-publicly-listed legal services. The data reflects conditions as of March 2025.

Key Findings

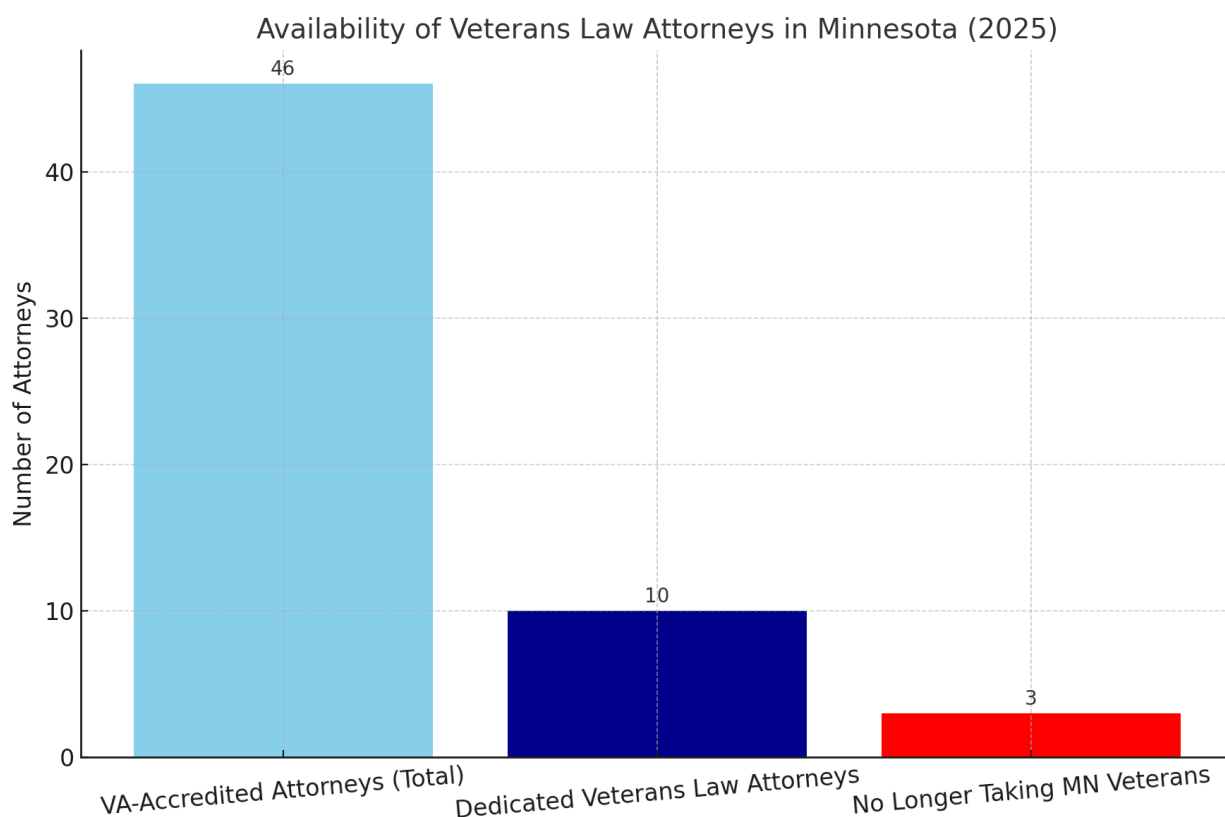
1. Veteran Population

Minnesota is home to approximately **294,000 veterans**, many of whom require legal or representative assistance with VA benefits, particularly following denial of claims or in appeals involving disability ratings, extra-schedular TDIU, and Special Monthly Compensation.

1. Total Attorneys in Minnesota

There are an estimated 30,000 licensed attorneys in Minnesota.¹

2. Total VA-Accredited Attorneys in Minnesota



A total of **46 VA-accredited attorneys** were identified in Minnesota through the VA Office of General Counsel.²

¹ Bench & Bar of Minnesota, "Remaining Active: A Tutorial on Law License Statuses," Vol. 80, No. 7 (August 2023), <https://mnbars.org/?pg=BenchBarofMinnesota&pubAction=viewIssue&pubIssueID=49569&pubIssueItemID=309645>.

² U.S. Department of Veterans Affairs, Office of General Counsel. (n.d.). *VA Accreditation Search Directory*. Retrieved March 23, 2025, from <https://www.va.gov/ogc/apps/accreditation/>

3. Attorneys with Dedicated Veterans Benefits Law Practice

Only **10 attorneys** were found to maintain a **dedicated focus on veterans benefits law**, as demonstrated by:

- Publicly listed practice areas,
- Website content specific to VA claims or appeals, or
- Independent confirmation through client referrals or known casework.

Of these 10:

- **7 may actively represent Minnesota veterans** as of March 2025,
- **3 have withdrawn** from representing Minnesota veterans for profit due to the impact of **state-level regulatory requirements**, including the MDVA-mandated disclosure form.

4. Veterans Law Firms with Online Visibility

Only **8 law firms** in Minnesota publicly advertise veterans benefits law as a dedicated practice area. One additional firm with an active practice was included based on offline verification, despite not maintaining a public-facing website.

5. Remaining VA-Accredited Attorneys

Among the remaining **36 VA-accredited attorneys**, the majority:

- Focus on **commercial law, estate planning, elder law, or general practice**, and
- Do not appear to handle veterans benefits appeals as an ongoing or primary service.

Several mention veterans or VA accreditation but lack substantive content or demonstrated activity in VA-related representation.

Implications

- Minnesota veterans face a critical shortage of attorneys with VA-specific legal experience.
- There is **roughly one dedicated veterans law attorney for every 42,000 veterans** in the state.
- The **mandatory disclosure form** issued by the Minnesota Department of Veterans Affairs (MDVA) has led to a **30% reduction** in available legal capacity by discouraging or dissuading qualified attorneys from taking Minnesota veterans as clients.

- Veterans with complex legal needs—such as PTSD claims, vocational rehabilitation denials, or malpractice-related appeals—may be left with **no access to appropriately qualified legal counsel** in the state.

Conclusion

The findings confirm a severe gap in legal representation for Minnesota veterans seeking assistance with VA benefits. While the number of VA-accredited attorneys may appear adequate on paper, the reality is that very few are actively practicing veterans benefits law—and even fewer remain available due to regulatory deterrents imposed at the state level. Legislative action is needed to restore legal access, remove unnecessary regulatory burdens, and align state policy with federal protections and veterans' rights.

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS



Accredited Attorneys, Agents and Representatives Search Results

[Search Again](#)

Name	City	State	Zip	Phone
Beckendorf, Rhiannon Camille	Minneapolis	MN	55402	612-766-7635
Berg, Jasper D	Edina	MN	55424	651-689-3401
Bornstein, William	Minnesota	MN	55415	612-336-9103
Breitenbach, Erik H	Minneapolis	MN	55402	609-477-8051
Fink, Lauren L	Richfield	MN	55423	952-925-4147
Fishman, Fay E	Minneapolis	MN	55405	612-827-8123
Frasier, Allison J	Minneapolis	MN	55423	952-925-4147
Fredrickson, Kathryn R	Coon Rapids	MN	55433	763-780-8500
Galvin, Brenna M	Richfield	MN	55423	952-925-4147
Graham, Katherine Z	Roseville	MN	55113	612-643-0930
Hagen, Thomas K	Mankato	MN	56002	507-593-4098
Hallgren, Paul David	Minneapolis	MN	55402	6122609019
Hamlin, Thomas Leonard	Minneapolis	MN	55402	612-349-8575
Hedlund, Jeffrey David	Minneapolis	MN	55402	612-766-8218
Hermanson-Albers, Bobbi Jo	Coon Rapids	MN	55433	763-783-5156
Hughes, Hannah Camilleri	Minneapolis	MN	55402	507-250-0720
Jacobsen, Cassandra M	Minneapolis	MN	55402	612-260-9079
Jacobson, Mark Alan	Minneapolis	MN	55402	612-396-0103
Kappelman, Ben D	Minneapolis	MN	55402-1498	612-492-6744
Koenig, Jonathan L	Duluth	MN	55806	402-917-5303
Kradle, Christopher Johnson	Richfield	MN	55423	651-895-6541
Krause, Benjamin L	Woodbury	MN	55125	612-888-9567
Larsen, Joshua Isaac	Minneota	MN	56264	507-872-6234
Lewis, Brian Keith	Woodbury	MN	55125	651-829-1503
Loscheider, John Paul	Minneapolis	MN	55402	320-232-9274
Mahowald, Kammey M	Minneapolis	MN	55402	612-746-5844
McGrath, Paul R	Roseville	MN	55113	615-225-5185
Mogensen, Samuel Eric	Minneapolis	MN	55402	612-260-9064
Morrison III, Stephen Davis	Minneapolis	MN	55402	612-217-8913
Nelson, Peggy L	St Louis Park	MN	55426	612-816-6864
Perry, Joshua L	Richfield	MN	55423	937-475-1827
Peterson, Dennis L	Minneapolis	MN	55405	612-827-8123
Peterson, John Thomas	Buffalo	MN	55313	763-682-4550
Pozo, Miguel Alexander	Minneapolis	MN	55402	917-755-4333
Reher, Cathryn D	Minneapolis	MN	55416	952-929-0622
Rephan, David A	Minneapolis	MN	55401	612-339-7300
Saubert, Jill M	Minneapolis	MN	55435	
Schramm, Tracy Ann	Duluth	MN	55802	218-940-1603
Scott, Timothy J	Bloomington	MN	55431	952-215-4707
Shapiro, Alex Taylor	Minneapolis	MN	55415	415-295-2416
Sicheneder, Sarah Beth	Richfield	MN	55423	952-925-4147
Thompson, Navy Alex	Minneapolis	MN	55402	218-791-6931
Trisko, Curt Norbert	Minneapolis	MN	55402	612-260-9035
Vandelist, Sarah Ellen	Minneapolis	MN	55402	612-766-6853
Walsh, Janet Christine	St Paul	MN	55102	651-571-2515
White, Francis H	Woodbury	MN	55125	
Wick, David Warrington	Edina	MN	55435	651-238-5551
Youngren, Emilie Marie	Champlin	MN	55316	651-389-1662

Zylstra, Nathaniel John	Minneapolis	MN	55402	612-766-6908
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Search Again

U.S. Department of Veterans Affairs - 810 Vermont Avenue, NW - Washington, DC 20420

FRANCIS WHITE LAW PLLC

8362 TAMARACK VILLAGE, SUITE 119-220, WOODBURY, MN 55125

PHONE: (651) 829-1503 FAX: (651) 714-7119

brian.lewis@franciswhitelaw.com

March 24, 2025

VIA E- MAIL ONLY

anna.borgerding@house.mn.gov

Reps. Peggy Scott & Tina Liebling, Co-Chairs
Minnesota House Judiciary Finance and Civil Law Committee
Centennial Office Building, 5th Floor
658 Cedar Street
St. Paul, MN 55155

Re: **OPPOSITION TO HF 1855 AND REQUEST TO TESTIFY**

Committee Members:

We are a Woodbury, Minnesota, based law firm. The members of our firm practice in veterans claims appeals and military law. Our firm's named partner is a retired U.S. Air Force Master Sergeant. Our other partner is a former Navy Petty Officer Third Class.

Our firm agrees that every person who wants to represent a veteran or assist them with their claim in any capacity should be accredited.¹ The current federal statutes and regulations prohibit organizational accreditation unless such an organization is recognized as a Veterans Service Organization.² Their relief lies with Congress, not the Minnesota Legislature.

Every member of our firm is accredited to practice before the Department of Veterans Affairs.³ Until 2017, this firm represented Minnesota veterans who needed to appeal a decision of the Department of Veterans Affairs denying a claim for benefits. This firm still represents veterans outside the State of Minnesota who need to appeal a decision of the Department of Veterans Affairs denying a claim for benefits. However, due to prior bills passed into law by the Minnesota Legislature, this firm no longer accepts Minnesota veterans who have been wrongly denied their earned VA benefits as clients.⁴

House File 1855 is deliberately designed to address and negatively impact the practice of law in the State of Minnesota. Such a bill is within the jurisdiction of this Committee.

¹ See 38 U.S.C. §5904 (2017).

² 38 U.S.C. §5904(a)(1); 38 C.F.R. §14.629(b)(1) (acknowledging only individuals can be accredited unless such an organization is a Veterans Service Organization).

³ MSgt White's VA Accreditation Number is 34156. Mr. Lewis' VA Accreditation Number is 41828.

⁴ See Minn. Stat. §197.6091.

I. Lack of Resources for Minnesota Veterans

There are currently 49 accredited attorneys and 4 accredited claims agents who list their office address as in Minnesota as of March 17, 2025.⁵ There are 304 accredited VSO's who list their office address as in Minnesota as of March 17, 2025.⁶ As of 2019, the Department of Veterans Affairs listed 321,809 veterans in Minnesota.⁷ Minnesota veterans need more access to accredited representatives in order to access their earned benefits. As Veterans Guardian's testimony before the Senate Veterans Subcommittee noted, excluding licensed attorneys and accredited claims agents, "there is 1 VSO for every 350 Veterans (a significant caseload, making it difficult for VSOs to assist every Veteran in a timely manner)."⁸

The existing statute, and HF 1855, are pushing legal resources out of this market and not into this market. If the Minnesota Legislature continues pushing attorneys out of representing Minnesota veterans, the net effect will be to harm Minnesota veterans instead of helping them. In essence, this bill is protectionist. It seeks to establish VSOs as the only representation for veterans' claims appeals in Minnesota. At the Minnesota Senate Committee on Judiciary and Public Safety hearing regarding the Senate version of this bill, the Executive Director of the Minnesota County Veterans Service Officers testified that "to represent a veteran for an appeals case, you don't need to be a licensed attorney in Minnesota. A veteran can reach across state lines and hire any attorney that they need."⁹ Kristy Janigo, Ph.D., similarly testified that "those of us who do this work at no cost to the veteran are not motivated by profits. ... there's no surprise that in this work I've had to debunk misinformation that claims sharks have perpetuated about the speed of the claim with veterans believing a for-profit attorney or private business could get them through it faster and to a hundred percent rating."¹⁰ It thus appears that the official position of the Minnesota Association of County Veterans Service Officers, The American Legion Department of Minnesota, and potentially the Minnesota Department of Veterans Affairs is that attorneys in Minnesota should not be permitted to represent Minnesota veterans with VA claims appeals.

⁵ U.S. Department of Veterans Affairs, Office of the General Counsel, Accreditation Report website showing accredited attorneys and claims agents restricted to Minnesota. Available at: <https://www.va.gov/ogc/apps/accreditation/index.asp> (last accessed Mar. 18, 2025).

⁶ U.S. Department of Veterans Affairs, Office of the General Counsel, Accreditation Report website showing accredited attorneys and claims agents restricted to Minnesota. Available at: <https://www.va.gov/ogc/apps/accreditation/index.asp> (last accessed Mar. 18, 2025).

⁷ https://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_Minnesota.pdf (last accessed Mar. 17, 2025).

⁸ Statement of John Blomstrom before the Senate Subcommittee on Veterans. March 3, 2025. Available at: https://assets.senate.mn/committees/2025-2026/3136_Agriculture_Veterans_Broadband_and_Rural_Development_Subcommittee_on_Veterans/SF-1894-Oppose-VG.pdf (last accessed Mar. 18, 2025).

⁹ Testimony of Mr. John Baker, Esq., Minnesota Senate Committee on Judiciary and Public Safety, March 21, 2025. Available at: <https://www.youtube.com/watch?v=T7QhwyCkKyo&t=7071s> at 1:57:15 – 1:57:25 (last accessed Mar. 24, 2025).

¹⁰ Testimony of Kristy Janigo, Ph.D., Minnesota Senate Committee on Judiciary and Public Safety, March 21, 2025. Available at: <https://www.youtube.com/watch?v=T7QhwyCkKyo&t=7071s> at 1:54:37 – 1:55:15 (last accessed Mar. 24, 2025).

II. Issues with HF 1855 and Minn. Stat. §197.6091.

The sole reason our firm no longer accepts Minnesota veterans as clients for VA claims appeals is we cannot ethically make the statement required by statute that VSOs can do the same job as attorneys.¹¹ We are also not aware of any other Minnesota attorneys who do accept Minnesota veterans as clients for VA claims appeals for that same reason. The harsh reality is that VSOs cannot perform the same services that a licensed, and VA accredited, attorney can provide. The United States Court of Appeals for the Federal Circuit was very clear in its holding that “the assistance provided by [VSO’s] is not the equivalent of legal representation. ... Indeed, even if [a veteran receives] more significant assistance from [a VSO], representation by an organizational aide is not equivalent to representation by a licensed attorney.”¹² The reason is very simple: “VSO’s are ‘not generally trained or licensed in the practice of law.’”¹³ Indeed, the United States District Court for the District of Minnesota held that Minn. Stat. §197.6091, and potentially this bill amending that statute, “appears to cross the line into compelled advocacy on a controversial issue (specifically, whether the free services provided to veterans are equivalent to the services provided for a fee.)”, in violation of the First Amendment to the United States Constitution.¹⁴

Senator Bruce Anderson asked the Minnesota Department of Veterans Affairs in the Senate Subcommittee on Veterans hearing “how many numerous cases that Mr. [Quade] brought up are there? Are there documentations other than the one story that was told? And what court, was it district court, was it supreme court? I don’t know what cases you [are] referencing. You brought up one story, and I’m just wondering, who are the VSO’s that were involved with those numerous cases?”¹⁵

Mr. Quade responded to that question and testified that:

What I was referring to was one story about an individual in the State of Minnesota that we were referencing to and their experience in engaging with non-accredited individuals, or an individual that was not accredited, an organization or an individual. That example that I gave was one of many, there’s no way for me to put a number on how many individuals that we know at the agency, and I’m also going to step out and speak on behalf of the Minnesota Association of County Veterans Service Officers when I say that we hear these stories also from counties, that individuals are being approached, even in some cases in terms of advertisement in the State of Minnesota, from individuals that are within the state and individuals

¹¹ See Minn. R. Prof. Cond.4.1.

¹² *Comer v. Peake*, 552 F.3d 1362, 1369 (Fed. Cir. 2009).

¹³ *Comer v. Peake*, 552 F.3d 1362, 1369 (Fed. Cir. 2009) (citing *Cook v. Brown*, 68 F.3d 447, 451 (Fed. Cir. 1995)).

¹⁴ *Jewell v. Herke*, 526 F. Supp. 3d 459, 468 (D. Minn. 2021) (citing references omitted).

¹⁵ Senator Bruce Anderson, Senate Subcommittee on Veterans Hearing. Available at: <https://www.youtube.com/watch?v=EgQPvkwO6qk&t=3180s> at 55:15 – 55:45 (last accessed Mar. 24, 2025).

and organizations that are outside of the State of Minnesota and they're seeking to engage with those individuals and have them sign agreements, fee agreements, that lock them into paying for these services and the services are subpar, they are just subpar, and these are from individuals that have no access to VA systems, they have no access to VA information, or the case information that would be referenced to, to do even an appropriate job at representing those individuals and their claims with the federal government.¹⁶

Senator Bruce Anderson then noted that the Minnesota Department of Veterans Affairs doesn't have the statistics to back up the assertion that these supposed things are happening to Minnesota veterans.¹⁷ Instead of then providing the requested statistics to the respective House and Senate committees, the Minnesota Department of Veterans Affairs instead arranged for one more personal story at the House Veterans and Military Affairs Division hearing on House File 1855.¹⁸ Thus, this Legislature is legislating at this point with a blank slate and unsupported statements at best.

Mr. Quade is a currently accredited Veterans Service Officer.¹⁹ He is also a State of Minnesota employee who serves as the Minnesota Department of Veterans Affairs Director of Veterans Services. He testified that "[a]ccredited attorneys and claims agents can only take 20% of a backpay of an appeal. Anything more than that is considered an unreasonable fee under 38 C.F.R. §14.636(e) and likewise (f)."²⁰ That statement is incorrect, and Mr. Quade knew, or reasonably should have known, that such statement was wrong.²¹

Mr. Quade also testified that:

"there are two primary access points that come with VA accreditation that are critical when representing veterans claims before VA. First, systems access to view the veteran's claims file. All accredited VSOs, attorneys, and claims agents may receive a PIV card or Personal Identification Card, which allows access into VA systems, mainly the Veterans Benefit Management System. There are many VA systems, but the primary one is VBMS. ...

¹⁶ Ron Quade, Response to Question at Senate Subcommittee on Veterans hearing (available at: <https://www.youtube.com/watch?v=EqQPvkwO6qk&t=3180s> at 55:50 – 57:20 (last accessed Mar. 17, 2025)).

¹⁷ Sen. Bruce Anderson statement at Senate Subcommittee on Veterans hearing. March 3, 2025. Available at: <https://www.youtube.com/watch?v=EqQPvkwO6qk&t=3180s> at 59:42-59:50. (last accessed Mar. 18, 2025).

¹⁸ See Testimony of Ross LaCourt, GySgt, USMC (Ret.), House Veterans and Military Affairs Division hearing of Mar. 19, 2025. Available at: <https://www.youtube.com/watch?v=IIUhgXQUIvI&t=3259s> at 1:27:12 – 1:31:35. (last accessed Mar. 24, 2025).

¹⁹ VA Accreditation Number 6983.

²⁰ See Ron Quade testimony before the Senate Subcommittee on Veterans Hearing, March 5, 2025. Available at: <https://www.youtube.com/watch?v=EqQPvkwO6qk&t=3180s> at 13:10 – 13:29 (last accessed Mar. 17, 2025)).

²¹ See 38 C.F.R. §14.636(f)(1) ("Fees which exceed 33 1/3 percent of any past-due benefits awarded shall be presumed to be unreasonable.").

Without this access, an individual cannot, cannot, effectively represent a veteran's claim."²²

Mr. Quade's last sentence is wrong. Neither attorney at this firm currently has a PIV card. Yet, we competently represent veterans and have achieved success on veteran claims. Additionally, a recent decision of the United States Court of Appeals for the Federal Circuit held that the VA Rules of Behavior that Minnesota Veterans Service Officers apparently routinely sign exceeded the scope of VA's authority to promulgate.²³ Indeed, one of our attorneys signed an affidavit in support of Military-Veterans Advocacy's challenge to the VBMS access provisions because he could not sign the required VA documents as the VA search provisions would violate his ethical duty to maintain the confidentiality of client documents.²⁴ At the minimum, Mr. Quade's statement highlights a distinct difference between VSOs and attorneys. Attorneys have ethical duties to their clients to maintain the confidentiality of documents.²⁵ A VSO does not.

III. Lack of training

At the Subcommittee on Veterans hearing, Senator (MAJ) Duckworth stated that "I think one of the most interesting questions, probably the most pertinent question we should be asking ourselves is 'why do these veterans even feel the need to be pursuing these organizations to help them in the first place?'"²⁶ To partly answer Senator (MAJ) Duckworth's question, part of the reason veterans are abandoning their VSO's is the lack of training required for VSOs, including Minnesota County Veterans Service Officers. Dr. Kristy Janigo testified that:

While I do have a terminal degree, I did not go to school for this, because you can't. My initial eligibility for my current position is the DD 214 I received from my Army service in the early 2000's. Once hired, I started to take some online VA modules called TRIP training, which takes about two full business days to complete if you're really focused. After that, I had to be sponsored by someone at the Veteran Benefits Administration to come down to the VA Regional Office at the federal building on Fort Snelling to apply for my Personal Identity Verification card, or PIV card. It is how I can access the Veterans Benefits Management System, VBMS, to assist a veteran with tracking their claims. I also receive training from the Minnesota Department of Veterans Affairs, who you just heard from, and my

²² Senate Subcommittee on Veterans Hearing Mar. 5, 2025 (available at: <https://www.youtube.com/watch?v=EgQPvkwO6qk&t=3180s> at 9:27 – 10:23 (last accessed Mar. 17, 2025)).

²³ *Military-Veterans Advocacy, Inc. v. Sec'y of Vet. Aff.*, 2025 WL 715263 (Fed. Cir. Mar. 6, 2025).

²⁴ *Military-Veterans Advocacy, Inc. v. Sec'y of Vet. Aff.*, 2025 WL 715263 at n.3 (Fed. Cir. Mar. 6, 2025).

²⁵ See Minn. R. Prof. Cond. 1.6.

²⁶ Senator (MAJ) Zach Duckworth statement before the Senate Subcommittee on Veterans hearing. Available at: <https://www.youtube.com/watch?v=EgQPvkwO6qk&t=3710s> at 50:38 – 50:50 (last accessed Mar. 17, 2025)).

national professional association, the National Association of County Veterans Service Officers.²⁷

Dr. Janigo's statement alone demonstrates a large part of the problem, which is the lack of training provided to organizational aides to assist veterans with their claims. Dr. Janigo's statement that a person cannot go to school to help veterans with their claims is highly wrong. Dr. Janigo is correct that she has a terminal doctorate, a Ph.D. in Sustainable Design from the University of Minnesota. Our firm's attorneys, by contrast, have a professional doctorate, the Juris Doctor degree, to learn how to help veterans with their legal issues, such as VA claims. Then our firm members received a license to practice law from the Minnesota Supreme Court that demonstrates their proficiency in legal knowledge and application of law. Our firm's lawyers are required to regularly take Continuing Legal Education in veterans claims from accredited Continuing Legal Education providers.²⁸ Dr. Janigo next mentioned that she took an online VA training module, called TRIP training, before she started helping veterans in her current position at the Hennepin County Veterans Service Office. So, from her statement, we glean that all it takes to start assisting veterans from the perspective of the Minnesota Association of County Veterans Service Officers position is a 16-hour online training. By contrast, licensed attorneys have three years of graduate education specifically designed to teach interpretation and application of statutes and regulations and case law to factual circumstances. The two are not remotely equivalent.

Indeed, Dr. Janigo's Senate Subcommittee on Veterans statement is supported by the statement of the Veterans of Foreign Wars at the recent House Committee on Veterans Affairs Disability Assistance and Memorial Affairs hearing regarding federal bills designed to address this problem. Mr. Pat Murray, Acting Executive Director, Washington Office, Veterans of Foreign Wars of the United States, stated that "as VSO's, we have to go through 40 hours of training, a lot of it now can be done self-paced online, need to pass a test with a certain percentage correct, and then pass a background check. That's just the process for Veterans Service Organizations."²⁹ This openly acknowledged lack of training might be a causal factor in why so many cases go on appeal and why so many veterans seek to not use their VSO.

It appears that Dr. Janigo cannot even keep straight what training she received. In front of the House Veterans and Military Affairs Division, she contradicted her previous testimony in front of the Senate Subcommittee on Veterans by asserting that "[w]e have many rigorous initial training requirements and then are steeped in exposure to the work. Awareness of VA procedures in the

²⁷ Dr. Kristy Janigo. Senate Subcommittee on Veterans hearing (available at: <https://www.youtube.com/watch?v=EqQPvkwO6qk&t=3710s> at 19:15 – 20:07 (last accessed Mar. 17, 2025)).

²⁸ See 38 C.F.R. §14.629(b)(1)(iv) (requiring attorneys to submit proof of Continuing Legal Education focused on veterans claims).

²⁹ Testimony of Pat Murray before the House Committee on Veterans Affairs Subcommittee on Disability Assistance and Memorial Affairs, Mar. 5, 2025. Available at: <https://www.youtube.com/watch?v=vsfwi5YJbaE&t=6914s> at 1:30:24 – 1:30:41 (last accessed Mar. 18, 2025).

M21 and 38 Code of Federal Regulations.”³⁰ Stephen Whitehead, Past National Commander and the Department Adjutant for the Disabled American Veterans of Minnesota, stated that “I was taken back by the claim that our representatives are untrained. I’ll tell you every one of our service officers, before they even can start representing a veteran, go through a 16-month training, which includes college courses, to ensure that they are fully trained and educated to make sure they represent the veterans to the best of the veteran’s ability.”³¹ It appears that education and training may be very loose words where Veterans Service Organizations are concerned. Indeed, there is no federal requirement that Veterans Service Officers must receive continuing training.³²

Much has been made in other Minnesota Legislature committee hearings about how accreditation equals accountability. Nothing could be further from the truth. In at least one case before the United States Court of Appeals for Veterans Claims, a Veterans of Foreign Wars Veterans Service Officer placed a statement in the Claims File that an Independent Medical Examiner retained by the veteran should be assigned a lower probative weight.³³ In that case, the Court of Appeals for Veterans Claims was “troubled by the submissions from a purported accredited representative who accepts the responsibility to advocate for the veteran; however, neither the Board nor this Court establishes and maintains the standards for representatives.”³⁴

IV. “Guarantee of Benefits”

Part of the reasons people hire attorneys is for our expertise in analyzing and interpreting law. This bill prohibits us from using that expertise. For instance, if one of our firm’s attorneys look at a veteran’s rating decision, compare that rating to the medical evidence the veteran provided that attorney, then compare that to the VA Rating Table, and then say to a potential Minnesota client “based on what you’ve given me, I think you should be rated at 70%,” did our firm just violate this bill?³⁵

V. Requirement for fee agreements

The Minnesota Bar does not require fee agreements between clients and attorneys before representation can take place.³⁶ Indeed, the Department of Veterans Affairs only requires a fee agreement be filed with them if the attorney or claims agent wishes to be paid, either by the veteran

³⁰ Testimony of Kristy Janigo, Ph.D., before the House Military and Veterans Affairs Division hearing, Mar. 19, 2025. Available at: <https://www.youtube.com/watch?v=IIUhgxQUIvI&t=3259s> at 15:10 – 15:20 (last accessed Mar. 24, 2025).

³¹ Testimony of Stephen Whitehead, Minnesota House Veterans and Military Affairs Division, Mar. 19, 2025. Available at: <https://www.youtube.com/watch?v=IIUhgxQUIvI&t=3259s> at 30:17 – 30:45 (last accessed Mar. 24, 2025).

³² See 38 C.F.R. §14.629(a)(2) (requiring only County or Tribal VSO’s to either receive regular supervision and monitoring or annual training).

³³ *Clay v. Gibson*, 2014 WL 3378645 at *3 (Vet. App. Mem. Decision July 11, 2014).

³⁴ *Clay v. Gibson*, 2014 WL 3378645 at *3 (Vet. App. Mem. Decision July 11, 2014).

³⁵ HB 1855 at subd. 3b.

³⁶ Susan M. Humiston, Office of Lawyers Professional Responsibility. “Ethical Fee Agreements.” Available at: <https://lprb.mncourts.gov/articles/Articles/Ethical%20fee%20agreements.pdf> (last accessed Mar. 24, 2025).

or by the Department of Veterans Affairs through withholding.³⁷ However, in some situations, our firm has taken clients *pro bono*. Therefore, neither the veteran nor the Department of Veterans Affairs is paying a fee to an attorney. In that case, Minnesota would be overstepping the U.S. Department of Veterans Affairs by requiring additional documentation over and above what the Secretary of Veterans Affairs has determined is necessary in fact to be provided.³⁸

The fact that the Minnesota Department of Veterans Affairs does not see this bill as a burdensome is irrelevant. The fact that members of the Senate Subcommittee on Veterans did not see this bill, or the existing statute, as driving out options for veterans, is similarly irrelevant. What is happening on the ground is that accredited attorneys are refusing to assist Minnesota veterans because we cannot meet the requirements of the existing law or this new bill.

VI. The existing statute and this bill are preempted.

Even if this bill, as amended, passes and is signed by Governor Walz, all that is being accomplished is costing Minnesota more money by requiring the Attorney General's Office to defend a piece of legislation that is preempted by federal law.

In 2021, United States Chief District Judge Patrick J. Schiltz held that “there is a strong argument that [Minn. Stat. §197.6091] effectively regulate the ability to practice before VA, as they attach substantial conditions to the exercise of federal authorization and back up those conditions with significant financial penalties.”³⁹ State statutes can be either conflict preempted or field preempted. Conflict preemption occurs “when it is impossible to comply with both state and federal law or when ‘the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.’”⁴⁰ Field preemption occurs when Congress “intends [for the field] to be governed exclusively by federal law. Congress’s intent to occupy the field may be inferred when there is a comprehensive federal regulatory scheme that leaves no room for state regulation or where the federal interest is ‘so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.’”⁴¹ This bill and this Legislature is attempting to violate both. Congress’s regulation of veterans’ benefits is so pervasive that it demonstrates Congress’s intent for states to stay out of the area. It also becomes impossible for attorneys to comply with both state and federal law on the topic of this bill and this section of state law.

VII. Lack of VA Accredited Attorney Representation

³⁷ See 38 C.F.R. §14.636(g).

³⁸ See 38 U.S.C. §511(a).

³⁹ Jewell v. Herke, 526 F. Supp. 3d 459, 466-67 (D. Minn. 2021).

⁴⁰ Jewell v. Herke, 526 F. Supp. 3d 459, 465 (D. Minn. 2021) (citing references omitted).

⁴¹ Jewell v. Herke, 526 F. Supp. 3d 459, 465 (D. Minn. 2021) (citing references omitted).

During consideration of this bill, and the attempts to fix the problems with legislation surrounding this issue, one group of stakeholders have been systematically left out of the discussion: VA accredited attorneys.

Indeed, the Senate companion bill's author, Senator Aric Putnam, denied another Minnesota based VA accredited attorney, Benjamin Krause, permission to attend a "workshop" held on March 7, 2025, at 3:30 P.M., attended by Dr. Kristy Janigo, Mr. Grady Harn, and Mr. Trent Dilks, among others, to address faults with this bill. None of the people listed as attending are VA accredited attorneys. This may be one reason why the amendment to HF 1855 is ineffectual and does nothing to address the core problems of HF 1855.

Next, SF 1894 was introduced on February 27, 2025. This bill's initial hearing took place in the Subcommittee on Veterans on March 5, 2025. Senator (MAJ) Zach Duckworth noted the rapidity of action on this bill. Subcommittee Senator Aric Putnam noted that:

"Now, the five days' notice on this, I think is a little bit curious because I know that you met with people about two weeks ago, two or three weeks ago, about this issue. A lot of us have been talking about this for a lot longer than the bill point of introduction. So, I hesitate to endorse the sense that this is rushed in any sense because we have been having meetings about this for a month and a half, two months now. I appreciate that it still needs some more work, and I'm committed to doing that work. I've already discussed this issue with a bunch of advocates today, about going back to work on some of the definitions. And our friends who brought us the bill at MDVA and the Commanders Task Force are totally aware that we have some tweaking to do here and there."⁴²

Despite the month or two of "work" on SF 1894, and apparently HF 1855, not a single VA accredited, and Minnesota licensed, attorney appears to have been consulted about this bill. While the Executive Director of the Minnesota Association of County Veteran Service Officers testified before the House Veterans and Military Affairs Division that he is an attorney and has been involved with this process from the start, he is not accredited by the VA to practice before the agency.⁴³ Just because a lawyer is licensed to practice in Minnesota does not mean he is an expert in all fields of the law.

VIII. Conclusion

Both MSgt White and Mr. Lewis request the opportunity to testify in-person at the Division hearing scheduled for March 25, 2025, at 10:15 a.m., during the consideration of this bill. Our

⁴² Statement of Senator Aric Putnam, Senate Subcommittee on Veterans Hearing (available at: <https://www.youtube.com/watch?v=EgQPvkwO6qk&t=3710s> at 53:12 – 53:52 (last accessed Mar. 17, 2025)).

⁴³ Testimony of John Baker, Esq., before the House and Military Affairs Division on Mar. 19, 2025. Available at: <https://www.youtube.com/watch?v=IIUhgxQUIvI&t=3259s> at 55:05 – 55:10 (last accessed Mar. 24, 2025).

firm has unique perspectives on HF 1855 due to the nature of our practice and being two of the 46 VA accredited attorneys in this state.

In view of the foregoing, our firm is OPPOSED to HF 1855 as currently drafted. Far better, in our view, would either be an amendment to this bill striking Minn. Stat. §197.6091 in its entirety or an amendment to this bill stating, in subdivision 5, that “the provisions of this section shall not apply to VA claims agents and attorneys accredited pursuant to Title 38 of the United States Code.” We ask this Committee to vote not to approve HB 1855.

We look forward to answering your questions.

Sincerely,

/s/Francis Herbert White, III

Francis Herbert White, III, Esq.

MSgt, USAF (Ret.)

MN Atty. Reg. No. 0396779

/s/Brian K. Lewis

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