

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

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1.   Section 295.225, Florida Statutes, is created  
 22   to read:

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

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

26 Representatives Defrauding (GUARD) VA Benefits Act."

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

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

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

36 (b) "Person" means an individual, corporation, business  
37 trust, estate, trust, partnership, limited liability company,  
38 association, joint venture, public corporation, government,  
39 governmental subdivision, agency, or instrumentality, or any  
40 other legal or commercial entity.

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

50 (4) (a) A person may not receive compensation for

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

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

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

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

74 (a) Advertising.

75 (b) Solicitation of new clients.

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

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

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

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