IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JENNIFER FORD, ERIC BEARD, and BRIAN OTTERS, individually and on behalf of all others similarly situated, Plaintiffs, v. VETERANS GUARDIAN VA CLAIM CONSULTING, LLC, Defendant.	)))))))))))))	1:23-CV-756

ORDER GRANTING PARTIAL SUMMARY JUDGMENT

Catherine C. Eagles, Chief District Judge.

In this class action involving state law claims of unfair trade practices, the parties have filed cross-motions for summary judgment. Because the North Carolina legislature enacted a law defining unfair trade practices in the context of the conduct at issue effective October 1, 2025, and the undisputed facts show that Guardian acts outside that unfair trade practices definition, partial summary judgment will be entered in favor of Guardian as to claims arising between October 1, 2025, and February 9, 2026, the end of the class period.

I. Background and Context

Guardian prepares and presents disability claims for veterans like the plaintiffs, Jennifer Ford, Eric Beard, and Brian Otters, to submit to the VA, and charges fees for those services even though it is not accredited by the VA as required by federal law. In this class action, the plaintiffs contend that Guardian's violation of federal law is a basis for liability under the North Carolina Unfair and Deceptive Trade Practices Act and the North Carolina Debt Collection Act. The Court has certified three classes to prosecute these claims, each with a class period from August 23, 2019, to February 9, 2026.

All claims by the plaintiffs on behalf of the three certified classes depend on the premise that Guardian violates federal law by charging a fee for preparing and presenting disability claims to the VA on behalf of veterans without accreditation. The Court has previously granted partial summary judgment in favor of the plaintiff on that question, for reasons explained in an earlier order filed May 20, 2026. Doc. 175. That order is adopted in full by reference.

The cross-motions for summary judgment raise many other issues. This order addresses Guardian's contention that the North Carolina Military and Veteran Support Act precludes the plaintiffs' claims.

II. Relevant Undisputed Facts

The plaintiffs and class members were clients of Guardian and used Guardian's services to apply for VA benefits or for increases in VA benefits. All received either a VA disability benefit amount for the first time or an increase in their current VA disability benefit amount. Doc. 52-2 at 3, 5, 8, 11; Doc. 131 at 27. The plaintiffs and class members each received a bill from Guardian for its fee and paid all or part of the amount owed. Doc. 73-8 at ¶¶ 25, 34; Doc. 73-9 at ¶ 27; Doc. 73-10 at ¶ 25; Doc. 131 at 27.

All of Guardian's clients sign a consulting service agreement when they begin working with Guardian. Doc. 123 at ¶ 3; Doc. 52-1. The contract explains that Guardian works with clients on a contingent basis and charges a fee if and when clients receive such an increase. Doc. 52-1 at p. 5 ¶ 2(a)(6). Guardian charges a contingent fee of five times the increase in the client's monthly compensation. *Id*. at p. 9 ¶ 3(c)(1)(c).

III. The Claims

For a UDTPA claim, the plaintiffs must establish an unfair act or practice in or affecting commerce that proximately causes injury. *See Davis Lake Cmty. Ass'n v. Feldmann*, 138 N.C. App. 292, 296, 530 S.E.2d 865, 868 (2000); N.C. Gen. Stat. § 75-1.1. And "NCDCA claims require: (1) a consumer; (2) that owes a debt; (3) to a debt collector." *Onnipauper LLC v. Dunston*, 290 N.C. App. 486, 490, 892 S.E.2d 487, 491 (2023). In addition to these basic elements, an NCDCA claim requires a showing that the debt collector committed an unfair act that affects commerce and that proximately injures the consumer. *Id*.

Here, the UDTPA and NCDCA claims depend on the same alleged unfair trade practice: that Guardian charged fees not allowed under federal law.[1] Whether an act is an unfair trade practice is a question of law for the Court. *See, e.g.*, *Legacy Data Access, LLC v. MediQuant, Inc.*, No. 3:15-CV-584, 2017 WL 6001637, at *16 (W.D.N.C. Dec. 4, 2017) (citing *Ellis v. N. Star Co.*, 326 N.C. 219, 226, 388 S.E.2d 127, 131 (1990)).

"A practice is unfair when it offends established public policy as well as when the practice is immoral, unethical, oppressive, unscrupulous, or substantially injurious to

[1] Neither party specifically addresses this issue in discussing the NCDCA claim. But because the NCDCA claim depends on an unfair trade practices act and the same act is alleged, the Court considers that the issue has been raised as to both claims.

consumers." *Walker v. Fleetwood Homes of N.C., Inc.*, 362 N.C. 63, 72, 653 S.E.2d 393, 399 (2007) (cleaned up). In determining if the violation of a statute constitutes an unfair trade practice, the North Carolina Supreme Court has looked to whether the "statute at issue defined in detail" unfair methods and deceptive acts and practices in the industry, "thereby establishing the General Assembly's intent to equate a violation of that statute with the more general provision of § 75-1.1." *Id.* at 71; *see also Cross v. Ciox Health, LLC*, 438 F. Supp. 3d 572, 586 (E.D.N.C. 2020).

IV. The Military and Veteran Support Act

In 2025, the North Carolina General Assembly passed the Military and Veteran Support Act ("MVSA") that, among other things, specifically defined unfair trade practices in the context of charging fees for assisting veterans with VA claims. Guardian contends that the recent law shows North Carolina's support for paid VA claims assistance and implies that a fee less than the amount explicitly prohibited would not be unfair under North Carolina law. As to claims arising on or after the date the relevant section went into effect, the Court agrees.

The MVSA added a new statutory section titled "Compensation for services related to veterans' benefits matters" that became effective on October 1, 2025. 2025 N.C. Sess. Laws 72 § 4.(a) (added N.C. Gen. Stat. § 143B-1278, effective Oct. 1, 2025). That section, now codified at § 143B-1278, prohibits individuals who assist with VA disability claims from charging a fee "exceed[ing] five times the one-month increase in benefits," N.C. Gen. Stat. § 143B-1278(c)(1)(a), and provides that a violation of the section constitutes an unfair and deceptive trade practice. *Id.* § 143B-1278(d).

By enacting this law and specifically defining what amount of fees charged by those who assist individuals with their VA disability claims constitutes an unfair trade practice, the General Assembly has explicitly stated its "intent to equate a violation of that statute with the more general provision of § 75-1.1." *Walker*, 263 N.C. at 71. By doing so, it has clearly stated its intent that charging fees less than that amount is not an unfair trade practice in North Carolina.

It is undisputed that Guardian charges clients five times their monthly increase in benefits, Doc. 52-1 at p. 9 ¶ 3(c)(1)(c), an amount lower than the defined unfair trade practice in § 143B-1278. As of October 1, 2025, when § 143B-1278 became effective, Guardian's violation of federal accreditation law does not constitute an unfair trade practice under Chapter 75. Guardian is entitled to summary judgment on claims arising on or after that date.

The plaintiffs say that the MVSA does not apply because (1) the MVSA does not permit illegal assistance by unaccredited individuals, (2) the MVSA does not endorse conduct that is illegal under federal law, and (3) the MVSA, if relevant, is preempted by federal law. Doc. 110 at 25. Those arguments are beside the point.

Whether there is an unfair trade practice is a matter of state law. The North Carolina legislature has said that charging veterans a fee for assisting with claims is an unfair practice if the fee reaches a certain amount. Guardian's fee is below that amount. So Guardian's fees are not an unfair trade practice under state law. The plaintiffs have not pointed to anything in the relevant federal law that pre-empts a state from deciding what conduct does or does not give rise to civil liability for violating its own state laws.

Guardian contends that North Carolina courts would determine that its fee is not an unfair trade practice as to claims that predate the enactment of the statute. Doc. 125 at 25; Doc. 174 at 34. But nothing in that statute indicates that it applies retroactively to civil claims arising before its effective date, and Guardian has not pointed to any case law supporting that position. Before the effective date of § 143B-1278, the North Carolina statutes were silent on whether and when charging fees to assist individuals with VA disability claims was an unfair trade practice. The Court concludes that the MVSA does not speak to whether Guardian committed an unfair trade practice before § 143B-1278 went into effect.

Guardian's motion for summary judgment is granted in part as to all claims arising on or after October 1, 2025, the effective date of § 143B-1278.

It is **ORDERED** that:

1. The defendant's motion for summary judgment, Doc. 103, is **GRANTED in part** to the following extent: For all claims arising on or after October 1, 2025, Guardian did not commit an unfair trade practice under the North Carolina Unfair and Deceptive Trade Practices Act or the North Carolina Debt Collection Act and any such claims will be dismissed.
2. The defendant's motion for summary judgment, Doc. 103, is **DENIED in part** to the following extent: The enactment of the Military and Veteran Support Act does not preclude the claims of class members arising before October 1, 2025.

3. Whether Guardian committed an unfair trade practice before October 1, 2025, remains under advisement.
4. The remaining aspects of the summary judgment motions remain under advisement.

This the 15th day of June, 2026.

UNITED STATES DISTRICT JUDGE