



**TESTIMONY OF  
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National President  
Of  
THE RETIRED ENLISTED ASSOCIATION  
Before a  
JOINT HEARING**

**Of the  
HOUSE and SENATE VETERANS AFFAIRS COMMITTEES**

**On  
March 18, 2015**

## **DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS**

The Retired Enlisted Association does not currently receive, nor has it received during the current fiscal year or either of the two previous years any federal money for grants or contracts. All the Association's activities and services are accomplished completely free of any federal funding.

### **Chairmen Isakson and Miller, Ranking Members Blumenthal and Brown and distinguished members of both Committees**

It is an honor for me to speak before this Joint Committee hearing about TREA's legislative goals and concerns for, FY2016 and beyond for America's military veterans and retirees as well as their families and survivors.

This is my first chance to testify before you, but not the first time to have the honor to meet many of you and hear your plans for improving the lives of the men and women who have protected our nation's safety and freedoms. I am Larry Hyland the elected National President of The Retired Enlisted Association. TREA was created in 1963 to give a voice to the needs and ideas of the men and women who have served in America's enlisted ranks before both the federal and state governments. Our members are from all the branches of the Armed Services. They serve or have served active duty, the Reserve Components and many of their spouses and surviving spouses are members of our Auxiliary. Originally our members were only military retirees or those who were planning to serve a full military career. Recently we opened our membership to all veterans from the enlisted ranks as well as retirees. As a Veterans Service Organization with members who were Department of Defense retirees **as well as** veterans we have always worked on and studied veteran issues. Now happily enlisted veterans are also part of our membership.

We are very grateful for your Committees' unending concern and vigilance for our veterans, their families and survivors. Before going through our goals for this year we must stop, take a breath and thank you for what you were able to do last year. We were thrilled that the FY2015 Veterans Choice Act included Advanced Funding for the total VA budget. In 2009 many of you championed Advanced funding for the VA medical accounts. Then last year after more work by Chairman Miller, Senator Sanders and others Congress included advanced funding for the remaining 14% of the VA's budget. You were also able to qualify the widows and widowers of those who died on active duty after 9/11 for the Fry Scholarships. You added money to the increase requested in the Administration's proposed budget. And Congress also passed additional improvements to the Post 9/11 GI Bill including requiring that in state tuition is

charged for veterans using the bill. All these pieces of legislation were long term goals of TREA and again we thank you. Then at the start of this year and the new session of Congress you immediately revisited the Clay Hunt SAV Act which was the first bill this year signed into law. It is intended to improve the mental health care the VA provides to treat the terrible risk of veterans suicide.

But the most important piece of legislation that you crafted, passed and signed last year was a bill that none of us were talking about at last year's joint hearing. The **Veterans Access, Choice, and Accountability Act of 2014 (VACAA)** was passed by Congress and signed into law by the President in August of last year. The trigger for this much needed and quickly passed legislation was revelations first at the Phoenix VA and then in other VA facilities around the country of excessive hidden delays veterans were suffering through while waiting to see a health care provider. While veterans waiting and waited and waited (not only in Phoenix but in many other VA hospital around the country fraudulent reports were being created and submitted indicating that serves were being provided in a timely fashion. While waiting for medical care at the VA several veterans died! When depth and breadth of this scandal became clear the American public called for action at the VA and Congress passed the VACAA. Now you have the if anything harder job of seeing that the act is properly implemented and that it (and other initiatives of the VA) result in improved services to those who served the nation so well.

## **The Year of Oversight and Implementation**

After problems have been recognized and possible solutions have been crafted and put in place; it is time to see if they work. It is clear to all concerned that the Department of Veterans Affairs needs to be reorganized. It needs to improve and standardize its scheduling and reporting of healthcare throughout the country. It needs to continue to improve its quality and accuracy of initial adjudication and appellate adjudication. It needs to aggressively and enthusiastically enact the new Veterans Choice Program. It needs to successfully implement its new MyVA initiative. And it needs to do all these things in a way that is open and transparent to both the Congress and the public. **The VA must not only improve; it must be seen to improve.** The VA must rebuild veterans' trust in its services and intentions. And to do that, we are afraid that your Committees must continue to increase your oversight of the VA operations and their implementation of new programs.

TREA knows that both of your Committees have dedicated yourselves to finding out what was happening in the VA (especially its delays in healthcare) and attempting to craft ways to improve its functioning. TREA and indeed all the VSOs and MSOs were impressed and grateful for your work last year. And TREA is well aware that you know the need for continued vigilance. Indeed we realized that 2 days ago the House VA Committee held a hearing on the topic of VA transparency. So perhaps we are preaching to the choir but your continued oversight is crucial and we strongly urge you not to let up. The subjects below are of particular concern.

## **Implementation and Improvement of the Veterans Choice Program**

Last year, Congress saw the unacceptable health care treatment delays and cooked books to hide those delays. You knew something needed to be done immediately. In less than 4 months the VACAA was law. Vital to its effectiveness is the Veterans Choice Program that now provides crucial care in the private sector for veterans who cannot be seen at the VA for over 30 days and those who live at least 40 miles from the nearest VA facility. TREA is concerned that many VA facilities' personnel are not quickly referring veterans who cannot be seen within 30 days to their 2 contractors to immediately arrange for an appointment. We have heard anecdotes that they are asking veterans to accept appointment far beyond 30 days and if they kindly agree then report those appointments as ones "at the request of the veteran." We urge you to continue your close oversight on how these referrals are being made.

We know that standing up such a large program in 90 days was an enormous task for the VA and we certainly expected some glitches. We hope that problems concerning card distribution and publicizing the program have continued to improve since its November roll out. However I wish to mention that while I received my gold Choice Card my wife, who is also a military retiree enrolled in the VA has still not received her card. Additionally, one of my fellow TREA members is a retiree who has no service connected disability and is not enrolled in the VA but for some inexplicable reason has received a Gold Choice Card. So obviously there are still some distribution problems that need to be worked through.

We also hope that the program can be improved. At least three bills have been introduced that would do just that. **H.R. 572**, **H.R. 577**, and **S. 207** are bills that require the Secretary of Veterans Affairs to use existing authorities to furnish health care at non-Department of Veterans Affairs facilities to veterans who live more than 40 miles driving distance from the closest medical facility of the Department of Veterans Affairs **that furnishes the care sought by the veteran.** This is common sense legislation that should be passed immediately.

Under the Veterans Access, Choice and Accountability Act's qualification for access to non-VA provider servicers when the veteran resides more than 40 miles from the nearest VA healthcare facility did not note that the specific medical service veterans need are often not available at the nearest VA healthcare facility.

While many veterans live within 40 miles of a community-based outpatient clinic, major medical procedures often cannot be performed at these facilities, and too many veterans – many of whom are elderly or disabled – are still being forced to travel much greater distances to VA hospital to receive inpatient care. These bills would modify the distance requirement to

account for the number of miles from the veteran's residence to a VA facility actually providing the necessary medical service.

In addition, the Department of Veterans Affairs has defined the 40 miles distance as straight-line distance, not driving distance. So if the health care a veteran needs is at a VA facility within a 40 mile straight-line distance, but the driving distance is farther because of mountains, lakes or rivers, that veteran still is not eligible to be treated a close-by non-VA facility. We believe that Congress clearly meant to provide help for veterans in these situations and we urge you to support and pass bills that would make these sensible corrections.

## VA Claims Adjudication Backlog

TREA firmly believes that the claims backlog is still one of the most pressing problem facing veterans and the VA today. We have been saying that year after year. And it is still true. Obviously we are well aware of the time and effort the VA has dedicated to this issue. There has certainly been some improvement. The VA has finally automated part of the system (some veterans will still present paper claims and their cases remain important.) Adjudication of cases by creating segmenting lanes and developing the "fully developed claims" project are methods that are improving speed. But there is still at least a 400,000 case backlog. And as more and more men and women leave the service as the wars end and end strength continues to shrink the line will grow again.

In March of last year a Senate Working Group of 6 Senators from both sides of the aisle clearly outlined what needs to be done. Now, of course, the VA needs to continue to implement this and the VA's internal plans

We are aware of the tremendous effort that Chairman Miller (R-FL) and indeed the entire membership of both Committees have expended to solve this long term problem once and for all. And we are grateful. But it is still not solved. Eleven years ago we wrote articles bemoaning the backlog in our monthly magazine. And we are still writing them!

TREA is hopeful that now that we may be reaching a tipping point and that the pending case load will start to go down.

It must be remembered that while a veteran is waiting for a disability decision to be made he or she must continue to keep body and soul together; as well as support a family and hopefully start a new life or continue a productive one. It is crucial for all returning veterans, **as well as those who served in the past**, to have their claims quickly **and correctly** adjudicated. It is also critical for the faith of all Americans in our system that this problem finally be solved. There has not been the consistency of outcomes throughout the Country that is essential for a system of adjudication to be fair and to be **seen** to be fair. When the public hears about the backlog or

incorrectly decided cases everyone start to lose faith in the entire system.

## **Appellate Adjudication**

And now we are hearing complaints of an ever growing Appellate case backlog. Of course some of that is inevitable ***if*** the VA successfully shrinks the initial disability adjudication backlog.

However the appellate delays have been growing for the last 10 years. So any recent initial adjudication improvements would not explain this problem. In FY2013 it took an average of 1255 to reach a decision from the day a veteran filed his or her notice of appeal. **1255 days!** The main problem seems to be that too many appeals that go to either the Board of Veterans Appeals or the Court of Appeals for Veterans Claims are remanded for further development. (In the last 4 years 44% of claims in front of the VBA have been remanded while the Court of Appeals for Veterans Appeals has remanded a full 76% of BVA decisions back for further development. So matters go forward; go back; go forward; go back time and time again. In January of 2015 the National Veterans Legal Services Program testified before your House Subcommittee on Disability, Assistance and Memorial Affairs for the HVAC and presented several proposals that TREA thinks would help the situation. They included:"

- Authorize BVA to Develop Evidence Itself Without Having to Remand to the AMC or Regional Office
- Provide Veterans Organizations with a Right to Petition the VA General Counsel for a Binding Precedent Opinion on the Proper Interpretation of a Statute or Regulation
- Authorize the Court of Appeals for Veterans Claims to (a) Certify a Case as a Class Action on behalf of Similarly Situated VA Claimants, (b) Require the VA to Stay Proceedings on the Claims of All Similarly Situated Claimants, and (c) Once the Court Finally Decides the Case, Require VA to Apply the Decision to all of the Pending Claims That Were Stayed
- Prohibit The ROs And BVA, In A Case In Which There Is Positive Evidence Supporting the Award Of Benefits, From Developing Negative Evidence Against The Claim Unless The RO or BVA First Explains In Writing Why The Existing Record Is Not Sufficient To Award Benefits
- Require VBA To Change Its Work Credit System for RO Adjudicators So That Raters Do Not Get Work Credit For Denying A Claim Without First Obtaining The Evidence Needed To Comply With The VA Duty To Assist"

We hope Congress will implement, at least some of these suggestions to hopefully improve the appellate situation.

## **VA Construction Management**

The physical plant of the Department of Veterans Affairs (VA) is, on average, 60 years old. The usage rate of those facilities has increased from 80 percent in 2004 to 120 percent in 2011, and the rate remains at that level today. Predictably, the condition of these facilities has eroded over time as well.

It is with these statistics in mind that TREA applauds the efforts by the VA, along with the backing of both the House and Senate in the form of supportive budgets, to bring VA facilities around the country into the 21<sup>st</sup> century. However, we are very concerned with how some of these construction projects have been managed. News reports over the last several months have revealed a dire need for VA to do a much better job of managing construction projects all across the country. To that end, we are supportive of legislation in this Congress that would have the Army Corps of Engineers oversee the construction of the new medical center in Denver, Colorado.

Further, VA's major construction issues in Denver, Las Vegas and Orlando are a cause for concern to TREA. If last year's General Accountability Office (GAO) report is accurate, these projects are, on average, 3 years and \$300 million behind schedule. This is a simply stunning misuse of taxpayer money, and TREA calls on the committees of jurisdiction to exercise effective oversight while also making sure VA installs processes and policies that efficiently use resources to finish these projects on time and under budget.

It is undeniable that VA's antiquated infrastructure, with over-utilization and safety shortfalls contributed to the conditions that led to the VA's secret appointment wait lists, causing veterans to wait too long to receive the care they need and deserve. The VA has stated that it would cost \$10 billion to close current safety gaps in the system's facilities, and that it will cost between \$56 billion and \$68 billion to close the remaining 4,000 critical infrastructure gaps.

TREA is thankful that the Administration's FY 2016 budget request for the VA attempts to adequately fund facility maintenance and construction projects. Failure to keep up with these funding needs in the past has reduced the timeliness and quality of care for veterans that VA is able to provide. The \$68 billion figure for needed VA capital infrastructure investment might seem like a massive number, but VA currently manages and maintains more than 6,000 buildings and almost 34,000 acres of land with a plant replacement value of approximately \$45 billion. The fact is, VA is the largest healthcare provider in the United States, and it takes large capital investments to maintain that kind of infrastructure.

While the Strategic Capital Investment Planning (SCIP) process helps VA make more informed decisions on capital investments, it does not appear to have a comprehensive assessment of

the resources that exist outside of VA through existing contracts and sharing agreements when developing the gap analysis criteria. Unlike VA-built and leased space, contracts can be amended, cancelled, or sited differently to respond to any geographic changes and health care needs of veterans eligible for this care. This flexibility in contracting is especially important when it comes to leveraging community resources to provide accessible care to veterans in rural, remote, and underserved areas.

Finally, VA must change the method that it uses to choose which non-recurring maintenance needs are funded and which ones are not. At this time, VA makes a request, in general, non-specific dollars, and then determines which non-recurring maintenance will be funded. Instead, VA should make funding requests based on needed maintenance, not based upon on a pre-determined dollar amount. VA needs a long-term strategy to close gaps in access, utilization and safety, and they are also missing an appropriations request to match the strategy.

This is another major area where Congress' continued oversight remains critical.

## **Compliance with Americans with Disabilities Act**

Section 508 of the Americans with Disabilities Act requires that all federal government departments and agencies assure that their information be made technologically available to all Americans with disabilities. (Please see part of section 508 below) This is a requirement for both the general public and for federal employees. The Department of Veterans Affairs has still not met this sensible requirement that would be an enormous help to the blind and vision impaired.

### Section 508, Rehabilitation Act of 1973

#### **Sec. 508. Electronic and information technology**

(a) Requirements for Federal departments and agencies

(1) Accessibility

(A) Development, procurement, maintenance, or use of electronic and information technology When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology -

(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.



There are numerous screen readers in the marketplace ( ZoomText, Jaws, Open Book etc) but the VA has not changed their format to be compatible with any of them. We have spoken to veterans in the general public who have found it impossible to get the information from the VA due to this technological incompatibility when using the internet. The VA's intranet programs are also not compliant- which makes it difficult or impossible for some blind veterans to work for the VA. This needs to be corrected immediately. Of course it is a big job; but Social Security has finally accomplished this so there is no reason that the VA should not. After all it is both the law and the right thing to do.

## **VA Health Care**

Improving wait times and scheduling for medical care at the VA will mean nothing if the care itself is not first rate. In many VISNs throughout the country it is terrific. In other parts of the country it is far from it. The quality of the healthcare provided by the VA across the country must be standardized and first rate. TREA is well aware that the VA is working hard to hire top notch talent both doctors, nurses and other healthcare professionals but they are having problems. We know that this is a problem for the United States medical system not just in the VA but it is a continuing problem in the largest hospital system in the United States. It is not happening as quickly as everyone wishes. But the VA must not let up. It is a particularly acute problem when it related to mental health professions. Many Veterans are suffering from many mental health problems after 13 years of war (when one considers the years, of war, numerous tours of duty and present cuts in the size of the military) it is surprising there is not much more. Additionally there has been a dramatic increase in veterans' suicides (and not at all just among younger veterans according to the VA's own statistics a majority of these suicides occur among veterans who are at least 50 years old) and the special pressures facing women veterans it is urgent that the VA increase their corps of mental health professionals. When looking at their mental health practice the VA and DoD must try to coordinate their psychotropic drug prescribing. Presently we have heard that a warrior being treated for a mental health condition at the Department of Defense may have to deal with a dramatic change in medicine when he enters the VA system. This can cause dramatic problems that the 2 departments can avoid by coordinating their formularies or at the very least coordinating their prescribing practices..

There are also some new proposals for healthcare programs that TREA find very promising.

We are pleased to support legislation sponsored by Congressman Benishek that would establish a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces that are related to that exposure.

Not all injuries suffered by Armed Services personnel are immediately evident and wounds from exposure to toxic chemicals can have lifelong and generational effects. We are still determining today what the impact of those exposures may be.

This legislation will allow the VA to research the effect of exposure to toxic substances on the descendants of veterans. Veterans seeking care for symptoms of toxic exposure are frequently misdiagnosed due to a lack of scientific understanding, and the research the VA has conducted on suspected birth defects related to toxic exposure is severely limited.

This bill is an important piece of bi-partisan legislation that will help us keep our promise to our veterans.

Two other bills **S.564** originally sponsored by Senator Moran of Kansas and Senator Tester of Montana and **H.R. 353** sponsored by Rep. Sean Duffy of Wisconsin would improve the life of our veterans by improving their hearing by providing more hearing care. It is well known that a loss of hearing causes terrible strains to peoples' emotional health. The bills also follow the important development of allowing veterans to be treated in the private sector when care at VA facilities is not available or sufficient. The result should be happier lives for many veterans.

## **Female Veterans**

Women presently make up 15% of the active duty and 17% of the Reserve Components. By 2040 the VA projects that women will make up just under 18% of **all** living veterans. They are therefore becoming much more of a presence at the VA. The numbers keep growing. There are already over 100,000 women veterans from OIF/OEF and Operation New Dawn. 52% of these women veterans are enrolled in VA health care.

The VA is well aware that they need to modify their practices to reflect the needs of their changing beneficiary pool. In 2010 the VA Advisory Committee on Women Veterans issued a report, "Women Veterans—A Proud Tradition of Service," and we continue urge that more of their recommendations be implemented. The VA hospitals and clinics should design their facilities to be more comfortable for women. There should be more focus given to specific female medical needs and there should be areas where children can be cared for and plan while their mothers are seeing a doctor.

These past years have also revealed the serious problem of sexual assault in the military. While the Department of Defense is the present focus on how to solve this terrible problem it will quickly become a problem that the VA must deal with. This is a terrible problem that the VA must develop appropriate mental health programs to treat. These female victims (and indeed male victims as well) will be their patients. They will need help. Again and again we call on the VA to create a larger and more sophisticated mental health practice. And this is another group of patients that they must serve.

It has also been discovered that women veterans are less likely to self identify as veterans as men are. This seems to be especially true of women who did not serve in war zones. Therefore it is imperative for the VA to study different methods of outreach for women veterans who deserve and need their services.

## **Veterans Employment**

With the looming menace of sequestration and the winding down of the war in Afghanistan, hundreds of thousands of military veterans are now beginning to transition back into civilian life. TREA has long maintained that the best way to reintegrate veterans back into society is to find them jobs.

Meaningful employment can be an anchor even when a returning service member encounters obstacles such as mental illness and substance abuse. According to the Bureau of Labor Statistics (BLS), the unemployment rate for all veterans is now at 5.3 percent; for post-9/11 veterans the number fell to lower than ever before at 6.7 percent. The number for younger veterans was still higher than the 5.5 percent national average for all workers, but it was from 9.2 percent the same month a year ago and reflects a double-digit decline from previous years. We thank the Committees for their focus on this pressing issue.

As has been known for years now, the unemployment rate for veterans can fluctuate greatly among different sub-groups, and the numbers can change from month to month because of small sample sizes. Post 9/11 female veterans seem to be having a tougher time in the job market than male veterans for reasons that remain unclear. The unemployment rate for Post 9/11 female veterans stands at 7.2 percent, which is down from 9 percent last year. TREA applauds the attention and effort that Congress, the White House, the local communities, states and the private sector have paid to this important issue in past years. But it is important to remain vigilant when it comes to these volatile numbers.

One way Congress can continue to make a difference for veterans seeking employment would be to reauthorize the Work Opportunity tax credits (WOTC) for veterans in the VOW To Hire A Hero Act. The WOTC changed the meaning of a qualified veteran in the tax code and provided up to a \$5600 tax credit to employers who hire a veteran who has served over 180 days of

active service and up to \$9600 for hiring a disabled veteran who has served more than 180 days of active duty. Unfortunately, this program expired on December 31<sup>st</sup>, 2014.

The passage of the Veterans Retraining and Assistance Program (VRAP) was an important step in helping to retrain older veterans who have exhausted their standard education benefits but still needed help getting the skills to compete in a 21<sup>st</sup>-century economy. Unfortunately, Congress was unable to act to extend the program long enough to allow veterans who were in the middle of the spring semester last year to finish out the semester.

According to VA data, VA has received and processed more than 143,000 VRAP applications. Of over 126,000 approved applicants, more than 76,000 have enrolled in a training program. VA has paid more than \$886,000,000 in VRAP benefits to unemployed Veterans, age 35-60. Hopefully there will be legislation introduced this year to right that wrong and to continue this worthwhile program.

Enforcing the three-percent rule contract set aside and increasing Small Business Administration funding for new Veterans Business Development Centers and other similar programs will provide veterans with necessary training, business planning, networking, and access to capital. TREA is working with the Presidential Inter-Agency Task Force, as well as the Veteran Entrepreneurship Task Force (VET-Force) to achieve these aims as well. TREA believes that since veterans tend to hire other veterans, advancing veteran-owned businesses goes a long way towards ensuring that America successfully reintegrates the so-called "tsunami" of veterans re-entering society in the next several years.

## **Veterans Education Benefits**

TREA is very thankful to the House and Senate Veterans' Affairs Committees for their continued support of the Post 9/11 GI Bill. This legislation is arguably the greatest reminder of our country's gratitude towards the men and women who have served and sacrificed for all of us.

Changing the rules of the game after the sacrifices have been made is no way to support a strong and healthy national defense. Unfortunately, there are certain proposals floating around that would end the stipend portion of the benefit for servicemembers who have transferred their benefit to dependents. TREA is strongly opposed to changing the terms of a contract after half of the contract has already been performed.

Stories of predatory practices among some for-profit schools receiving Post-9/11 GI Bill funds have been all over the news lately. The collapse of Corinthian's for-profit school empire is a fantastic example of some of the problems within the industry. Instances like that can lead to mistaken assumptions that the entire benefit, not to mention the whole for-profit education industry is rife with fraud and abuse, and thus should be cut back.

We are skeptical of President Obama's budget request this year that seeks to end the military/veteran loophole in the so-called "90-10 Rule"—a federal law that bars for-profit schools from receiving more than 90 percent of their revenues through federal student aid, including loans and grants. Currently, the 90-10 rule excludes funding earmarked for veterans, namely financial aid through the Post 9/11 GI Bill and the Department of Defense's tuition-assistance program. Doing so could unfairly harm veterans who are wisely using the flexibility of for-profit schools to maximize their educational benefits in an efficient manner.

TREA would again like to thank the House and Senate for making in-state tuition available to every veteran using the Post 9/11 GI Bill and Fry Scholarship. These provisions were a welcome addition to The Veterans' Access, Choice and Accountability Act of 2014. The in-state tuition system is predicated on the idea that this preference is accorded to everyone by their home state; veterans and dependents who were denied in-state preference by their home state would have been ineligible for in-state tuition in every state (the Texas in-state policy only applies to active duty personnel stationed in Texas, and not after the service member transitions to civilian life).

Unfortunately, no good deed goes unpunished: the Veterans' Benefits Administration (VBA) has been warning people for some time that without an additional appropriation of as much as \$50 million, they would not be able to reprogram the automated software that they use to process education claims to be able to take into account this new legislation. So TREA calls upon the House and Senate to quickly act and to resolve this roadblock.

### **Survivors' Education Benefits**

For several years TREA has urged that spouses of those who have fallen since 9/11/01 should be qualified for the equivalent of the Fry Scholarships that their children presently can receive. **And last year you made it so.** Once again we wish to tell you how grateful we are. But even

with a wonderful new program there are always glitches. Widows and widowers have 15 years to use the program. But many of the survivors are quickly coming up to the end of that window. (It is amazing to note that we are over 13 years beyond 9/11. At the end of the 113<sup>th</sup> session of Congress Rep. Duckworth of Illinois introduce a bill to lengthen that time period and we believe that she intends to do so again this session. We hope that when she does you will support it.

A, widow/widowers of a servicemember who died on active duty before 9/11 or who died of a service connected disability qualifies for education benefits under Chapter 35 of Title 38 of the U.S. Code. Their benefits do not reflect the improvements of the Post 9/11 GI Bill. Nor has it kept up with the Montgomery GI Bill. They receive only \$ 1003.00 a month as a full time student; with no housing allowance and no book stipend.

The average cost to attend a four-year public university has reached \$14,256 per year. In 2003, the last increase for Chapter 35 benefits, the average cost of a four-year degree was \$10,674. While Chapter 35 benefits have remained the same, the cost of education has increased by 33 percent. It is time to increase the DEA's monthly stipend.

It is also time to henceforth have the DEA program be adjusted proportionally whenever Congress raises the payments for MGIB (Chapter 30) or the Post 9/11 GI Bill (Chapter 33)

## **Survivors Benefits**

A small percentage of the American people are fighting her wars, protecting her shores and preserving her freedoms. And their families and loved ones are bearing the terrible loss and loneliness when one of them dies. Of course America wants to protect and help those that are left behind. It is our duty. As President Lincoln said in his Second Inaugural address it is America's duty to "care for his widow and orphan" This same quote can be found on the front of the Department of Veterans Affairs National Headquarters. TREA is grateful for all the time and effort both Congress and the VA has spent trying to make this pledge a reality.

**SBP/DIC Offset-** TREA yet again strongly urges Congress to end the unfair SBP/DIC offset and to make DIC equivalent to other federal survivor programs. Currently the flat DIC payment is \$1,215 a month- so survivors of all but the most senior enlisted retirees never receive a dime of the SBP that was purchased either with their retired pay or with their lives on active duty. In 2009 a Special Survivor Indemnity Allowance was passed to partially deal with this obviously unfair practice. Starting at \$50 a month in 2009 and increasing in steps until reaching \$310 per month in 2017 this inequity is being partially offset. This year DIC widows are receiving \$150 a month in SSIA payments. And then the allowance **disappears**. (please see section below) This clearly does not solve the problem. There are two groups of widows (and widowers) who are harmed by this offset. The first group is made up of those whose spouses died on active duty and the second group is made up of those whose spouses died of service-connected disabilities or injuries. Both groups should be relieved of this burden.

The offset takes a dollar from the SBP payment for every dollar the widow receives from DIC. Each payment covers a different purpose and should be treated separately. The DIC is an indemnity (compensation or insurance) payment that is paid by the Department of Veterans Affairs (VA) to the survivor of a member of the military whose service directly causes his or her death. The SPB annuity, paid by the Department of Defense reflects the longevity of the service of the military member. It is ordinarily calculated at 55% of retired pay. Military retirees who elect SPB pay a portion of their retired pay to ensure that their family has a guaranteed income should the retiree die. If that retiree dies due to a service connected disability, only then would their survivor become eligible for DIC.

SBP was created as a purchased annuity- an earned employee benefit. This is a retirement plan. Qualification for SBP for an active duty death was added to stop the grim but extremely well intended practice of medical personnel keeping a lost comrade "technically alive" until he or she could be retired.

There is no offset if a federal civilian retiree dies of a service connected disability. The survivors will receive the civilian SBP and the VA's DIC without offset.) As stated above it takes into account longevity of service. The vast majority of families affected by this offset served a full career in the military. We all now accept the maxim that you recruit a member but you retain a family. This is part of the retirement package. Even the name of the Dependency Indemnity Compensation's (DIC) name makes clear that it was created for a very different reason. It is an indemnity program to compensate a family for the loss of a loved one due to his or her military service. Again, they are different programs created to fill different purposes and needs. The survivor does receive a taxable pro-rated share of the paid SBP premiums back without interest in a lump sum. But that cannot make up for the cost and difficulty paying those premiums all those years of retirement caused. If a disabled veteran earns a civilian pension as a federal civil servant the family will never lose either their survivor payment or their DIC to any offset. The service member did what he could to provide for his spouse. This is behavior the Federal Government wishes to encourage. This offset makes his attempts a failure. The offset should be abolished.

Indeed even the Military Compensation and Retirement Modernization Commission saw this as a problem that they wished would be corrected.should be correct

Year after year we (and many other VSOs and MSOs) have asked that this unfair offset be abolished. Hopefully, this may finally be the year. Of course we are well aware that the VA pays its DIC program and that correction of this problem is under the jurisdiction of the Armed Services Committees. However, we know how much your Committees care about the widows and widowers of our servicemembers and we hope that you can convince your friends and colleagues that this is an injustice that should be corrected.

**Extension and enlargement of SSIA program-** As noted above the SSIA allotment has been ameliorating the SBP/DIC offset's unfairness. However it is scheduled to end completely after

2017. TREA hopes that, at the very least, we find the money to extend and expand this urgent payment.

**DIC Equality-** Dependency and Indemnity Compensation (DIC) set a flat monthly rate regardless of rank if the service connected death occurred after January 1st 1993. It is presently \$1254.19.

TREA believes that the rate of compensation should be set at 55% of the compensation paid to a 100% VA service disabled rated veterans. This would calculate the DIC recipient benefit in the same manner as survivors of disabled federal civil service employees. In 2009 a GAO report "Military and Veterans' Benefits" (GAO 10-62) found "DIC payments are almost always less than workers' compensation payments for survivors of federal employees who die as a result of job-related injuries" This would be a fair and *rational* way to set the DIC level.

TREA urges that Congress recalculate the method of setting the DIC payment levels.

**DIC Retention at age 55-** Finally, we hope that survivors will be permitted retain DIC if they remarry at or after the age of 55. Presently a survivor may retain DIC upon remarriage if he or she is, at least, 57. Most federal survivor programs allow retention of survivors benefits after remarriage if the survivor is at least 55 years old. Indeed, the age to retain CHAMPVA upon remarriage is the normal federal program age of 55. The difference is because the two benefits were reinstated in different years and during different Congressional negotiations. There are no policy reasons for this awkward and unequal distinction and we hope that this year it can finally be corrected.

## **CHAMPVA until the Age of 26**

TREA is glad and grateful that Ranking Member Brown has taken up the fight of her predecessor to allow young adults to continue on their parent's CHAMPVA health care plan until they reach the age of 26. **H.R. 218** would put this final cohort of young Americans on the same footing as all their peers. While there continues to be disagreements over the virtues of various sections of the Affordable Care Act the entire American population approves of the idea of extending coverage to young adults on their parents' plans. Young Adults (through the age of 25) under TRICARE have this option. Young Adults on FEHBP have this option. Young Adults in all private insurance plans have this option. These young people should not be left out. We hope that finally these fine young men and women will also be covered.

## **The Non-Veteran Military Retiree**

TREA likes to say that all Military Retirees are Veterans but all Veterans are not retirees. However, that is not totally correct. While it is true for the vast sum of Military retirees, one



group is left out. Guard and Reserve retirees who have served honorably for 20 or more years but have not been called to active duty for the minimum number of days (normally at least 180 consecutive days of federal active duty) do not qualify as veterans under the current law. (Active Duty for training does not qualify a member for Veterans Status). This is true even though they were always required to be trained and prepared to be activated during their 20 years or more of service. Indeed, they may have served a great deal of time on other than Title 10 orders, including Titles 32 or 14 orders. There are 30 types of orders possible for them to be put on, but they are not designated veterans. With the dramatic changes in how our nation is using the Guard and Reserve the percentage of retirees in this situation is dropping and will continue to drop.

Still, this is an anomaly that needs to be corrected. These Military Retirees should be allowed the honor of the designation of “veterans of the Armed Forces of the United States. “

The House of Representatives has passed a bill in each of the last three sessions of Congress that would correct this situation, and for that we are very grateful. However, the Senate has yet to pass such a bill and we urge the Senate to do so this year. This is no-cost bill that has had by-partisan support in the House each session and has had bi-partisan co-sponsors in the Senate each time it has been introduced there.

The individuals covered by this legislation are, in fact, Military retirees and are eligible to receive active duty retiree benefits when they reach 60 years of age including military retirement pay and TRICARE health care. They have unlimited use of military Commissaries and Exchanges during and after their service. In short, they are recognized and compensated by the federal government as military retirees. In addition, these dedicated members of the National Guard and Reserve already qualify for many Veterans benefits including VA home loans, VA burial and memorial benefits and eligibility for SGLI and VGLI.

The members who fit into this situation by definition would not qualify for a VA disability rating and thus do not qualify for a disability payment or VA health care. Most have civilian health care insurance. Those who don't qualify for Tricare Retired Reserve and once they turned 60 they qualify for TRICARE Standard. We want to emphasize that this is not an attempt to gain additional benefits for this group of military retirees. In fact, the legislation specifically states that no new benefits will be granted to these individuals by virtue of either of these bills. As a result, the Congressional Budget Office has scored these bills as having no cost.

Until 9-11-01, in many ways members of the Guard and Reserve tended to be treated as stepchildren of the military. Now the nation has realized that our military cannot function without the Operational Guard and Reserve. Thus, the simple step of recognizing the service of those who spend twenty years or more as meriting the distinction of being called a veteran is a major issue for them, one of pride and one of having their sacrifices recognized. After all, we now have a Total Force that includes the Guard and Reserve Components. They wear the same uniforms and earn the same medals and awards. Why are they not worthy of the honor of being called “veteran?”

We want to emphasize again, these non-retiree veterans want this change for the recognition and honor—not any increase in benefits. They wish to be termed “veterans of the Armed Forces of the United States”. They volunteered to serve, served honorably, and were prepared to serve on active duty if called. TREA firmly believes that a career of military service in the reserve forces of our nation should constitute qualification for veteran status under the law. TREA urges passage of legislation by Congress to modify Title 38 to define as veterans the members of the Guard and Reserve who have served 20 or more years but who have not been activated for a qualifying length of time.

## **Conclusion**

TREA wishes to thank the Senate and House Committees on Veteran Affairs for the honor of testifying before you. We are grateful for the opportunity to speak of our concerns and legislative goals. We are also grateful for the opportunity of working with you and your terrific staffs throughout the year.

The VA is a crucial institution for helping to preserve our Nation’s freedoms by serving those who protect all from danger. TREA knows that it is a heavy burden for the members of both Committees to take on the oversight duties for such a huge, far flung, and critical Government Department. WE know that there are literally hundreds of thousands of dedicated men and women working at the VA that try every day to provide the first class care that American patriots deserve. But we also know that there is a great deal wrong with some of the systems, the business model, the coordination and yes some of the people who work there With an organization as large as the VA there are sure to be many unacceptable people. What we must all do is work to identify them and not allow them to be or stay in positions of power. (Or to keep bonuses for substandard work.)

We know that you will do all in your power to assure the continuing improvement of all aspects of the VA’s mission. We urge you along with us and our fellow VSOs to work as a team to make sure that health care improves, that waiting times drop for disability adjudication and that their accuracy increases. We hope that we will all continue to join together to help our veterans to find jobs and create businesses that will both provide them with both an adequate income and an occupation that will fill their lives with purpose. Finally that the Veterans and their families and survivors who have given so much to preserve this Union are provided the help they need and deserve. Again thank you for your attention and I would be happy to try and answer any of your questions.



Lawrence M. "Larry" Hyland enlisted the United States Air Force in Sept of 1968 and was initially assigned to Dover AFB, Delaware in 1969. He served two tours of duty at Clark Air Base in the Philippines (1970-1972 and 1973-1979). The first tour saw detachment duty with the 834<sup>th</sup> Air Division, Det. 2, Cam Rahn Bay Air Base, Vietnam in 1970, '71, and '72 and the second tour saw duty at U-Tapao Royal Thai Naval Base, Thailand in 1973, '74 and '75. In 1975, from both Clark Air Base and U-Tapao he took part in the transportation of nuclear fuel from the research reactor at Da Lat, Vietnam and in the air evacuations from Phnom Penh and Saigon. In between the Clark Air Base tours, he had a permanent change of station (PCS) move to and from Little Rock AFB, Arkansas

Upon his return stateside in 1979, he was stationed with the Strategic Air Command (SAC) and stayed with that command until his retirement in 1988. His assignments with SAC included Ellsworth AFB, South Dakota, Offutt AFB, Nebraska and then a last overseas assignment to Andersen AFB, Guam from 1986 to 1988.

His decorations include the Meritorious Service Medal with 2 Oak Leaf Clusters, Air Force Commendation Medal with 2 Oak Leaf Clusters, Air Force Achievement Medal, Air Force Presidential Unit Citation, Air Force Outstanding Unit Award with a Combat V and 1 Silver Oak Leaf, National Defense Service Medal, Vietnam Service Medal with 3 Bronze Stars, Armed

Forces Expeditionary Medal with Bronze Service Star, Humanitarian Service Medal with 2 Bronze Numerals, Philippines Presidential Unit Citation, Republic of Vietnam Gallantry Cross with Palm Unit Citation, Republic of Vietnam Campaign Medal.

Larry retired from the U.S. Air Force as a Senior Master Sergeant in September of 1988 and except for a 1-year stint in Texas, 5 years in Germany and 6 years in Virginia he has called Florida, his home, for most of his post-active duty career living in both the Florida Panhandle and Central Florida. He currently resides in Palm Bay, Florida, with his wife of 32 years, Paz - a veteran and retiree in her own right having served 14 years on active duty with the U.S. Air Force and 13 years in the U.S. Air Force Reserve. They have two children and seven grand children.

In his post military career Larry worked in several different positions within the Department of the Air Force and as well has had two small businesses, one in which he is currently involved with his wife in the wholesale and retail sale of synthetic lubricants and natural "green" fertilizers.

He is a life member of The Retired Enlisted Association (TREA), and was a chartering member of Chapter 85 in Pensacola, Florida in 1996. He served as their president from 1998-2000. Larry is currently serving as the third vice president of Chapter 58 in Tampa, FL.

An advocate for veteran issues he is also a life member of the following associations: Veterans of Foreign Wars (VFW), Vietnam Veterans of America (VVA), Non Commissioned Officer Association (NCOA)

Larry was elected to National President of TREA: The Enlisted Association at their national convention in 2014. He has previously served on the national board of directors as a director, a third vice president, and as the Senior Citizens League (TSCL) chair.