ROA Testimony

House Committee on Veterans' Affairs

Hearing on
"Protecting Benefits for All Servicemembers"

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Serving Citizen Warriors through Advocacy and Education since 1922

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The Reserve Officers Association of the United States, now doing business as the Reserve Organization of America is a professional association of all ranks of servicemembers, veterans, and family members of our nation's seven uniformed services.

ROA was founded in 1922 by General of the Armies John "Black Jack" Pershing, during the drastic reductions of the army after World War I. It was formed to support a strong national defense and focused on the establishment of a corps of reserve officers who would be the heart of a military expansion in the event of war. Under ROA's 1950 congressional charter, our purpose is unchanged: to promote the development and execution of policies that will provide adequate national defense. We do so by developing and offering expertise on the use and resourcing of America's Reserve Components.

The association's members include Reserve and Guard Soldiers, Sailors, Marines, Airmen, and Coast Guardsmen who frequently serve on active duty to meet critical needs of the uniformed services. ROA's membership also includes commissioned officers from the United States Public Health Service and the National Oceanic and Atmospheric Administration who often are first responders during national disasters and help prepare for homeland security.

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The ROA is a member-supported organization that has not received grants, contracts, or subcontracts from the federal government in the past three years. All other activities and services of the associations are accomplished free of any direct federal funding.

STATEMENT

ROA appreciates the opportunity to discuss issues that affect National Guard and Reserve servicemembers. ROA's focus today aligns with our congressional charter, "…to support and promote the development in execution of a military policy for the United States that will provide adequate national security."

Operational Force V. Strategic Force

The Reserve Components (RC) of America's military have long been called the nation's "strategic reserve." More than two centuries before the well-known "surge" of 2007 in Iraq, our founding fathers established a strategic force to augment America's new navy and army. The surge force came from each state's militia; when needed by the growing nation, they were ordered into a federal status, not unlike what occurs today when the National Guard is "federalized."

Over time the militia became part of the Reserve Component, comprising the National Guard and the federal reserves of the military services.

Limited wartime uses of the strategic reserve occurred through the Vietnam War. At the end of the Cold War the active component was reduced, and the RC began to be used to augment peacekeeping missions and other active-duty operational requirements.

The RC responded to the Gulf War in 1991, operations associated with support to NATO, and missions responding to terrorism. Today, 100 percent of some missions have been assigned to the reserve components.

The shift from a mainly strategic role to a role including both strategic and operational responsibilities has not occurred without problems. After 9/11, the U.S. Congress took steps to accommodate the transition; new duty statuses that codified types of mobilizations and the establishment of an updated G.I. Bill are two examples. ROA's testimony is focused on a selection of the subjects under the purview of the subcommittee.

EMPLOYMENT: Reserve Component employment and unemployment issues have continued despite the drawdown from Iraq and Afghanistan. ROA believes the focus of employment and transition from VA for servicemembers is skewed toward those in the Active Component (AC), not the RC.

EDUCATION: Many servicemembers cannot qualify for the Post-9/11 G.I. Bill education benefit because of record keeping that fails to accurately reflect their qualifying active duty time. The GI Bill is an integral part of enabling a successful civilian career. Education is a key factor for veterans to qualify for a job that enables them to support their family and a career that will move them toward financial freedom.

SCRA and USERRA: Another important employment issue is to help our RC servicemembers stay focused on their military service when called on by having Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) laws in place. We need to protect their employment while on military orders. They should be able to return without fear of civil actions that may take place as a result of their military service.

OTHER: While not under the jurisdiction of this subcommittee, servicemembers have issues in other areas in order to qualify for veteran benefits. These will be addressed at the end of the testimony.

EMPLOYMENT

A true story: An enlisted member of the New York Air National Guard (ANG) is a paid firefighter in New York. His supervisors at the fire department objected strenuously to his ANG participation and gave him a hard time about the days of fire department work that he missed to perform military duty and training.

In June 2013 the firefighter took the examination for promotion to lieutenant. His was the high score among all the firefighters who took the examination. All the candidates were interviewed for the promotion by a committee consisting of three fire department supervisors.

The firefighter stated under oath that the three committee members had raised the issue of his ANG service and had suggested that his military service disqualified him from the promotion. The city promoted two candidates to lieutenant from the June 2013 process. Of the two candidates selected, one scored third on the test and the other fourth.

Don't let anyone tell you that government at any level is free of discrimination against members of the Reserve and National Guard.

ROA has several legislative proposals on Reserve Component members employment.

Veteran Status: Change Federal Hiring Preference for Reserve Component Members

ROA urges Congress to confer veteran status for purposes of federal hiring veterans' preference on Reserve Component members after 180 "cumulative" days on active duty versus the current "consecutive" days on active duty.

Members of the Reserve and Guard meet operational requirements by performing duty on a frequent basis but often for short periods of time. Because DoD limits many mobilizations to 179 or fewer days, reservists can complete an entire career without serving the 180 consecutive days needed for veteran status per Title 5 U.S.C. 2108 – even though they may have aggregated several years of active service.

A case in point is Presidential Medal of Freedom recipient Bonnie Carroll, founder of Tragedy Assistance Program for Survivors. Bonnie retired from the military as a major, with 32 years of service in the Air National Guard and Air Force Reserve. During those three-plus decades, she did not accrue 180 or more consecutive days on active duty . . .

The ROA proposal establishes parity between the Reserve and Active Components in fulfilling a 180-day requirement for veteran status. However, this proposal does it in a manner that reflects how the services use the Guard and Reserve, for shorter periods of time to meet peacetime operations, AC augmentation, and other "surge" requirements.

In the 115th Session, the House Committee on Veterans' Affairs proposed legislation that would have supported this change but did not make it out of committee for consideration. This bipartisan proposal requires minimal administrative support *and does not require offset funding*.

This reform offers meaningful benefits, at no charge to the taxpayer, for both members of the Reserve and National Guard, and the nation that needs quality civil servants in the federal government.

Transition Assistance Program (TAP)

The Department of Defense and the Department of Veterans Affairs have built their transition program on the premise that veterans need employment and transition assistance as they leave their military service upon separation or retirement.

However, employment and transition assistance are needed by members of the RC at different times and for different reasons than those in the AC.

Reserve Component members need employment assistance throughout their military career because they also maintain a civilian career. Because National Guard and Reserve members are placed on and off military orders they are constantly "transitioning" off active duty orders every time they deploy (in turn, their employer is adjusting their work schedule and trying to accommodate their absence and the requirement for their re-employment upon return).

The Department of Defense Transition Assistance Program (DoD-TAP) provides information on a variety of subjects, access to important documents, and training to ensure servicemembers separating from active duty are prepared for their next step in life – whether pursuing additional education, finding a job in the public or private sector, or starting their own business. This redesigned TAP is the result of an interagency collaboration to offer separating servicemembers and their spouses better, more easily accessible resources and information to make their transitions more successful.

All too often RC and NG servicemembers terminate their Reserve Component service without transition assistance and/or knowledge of programs available to aid in their final transition.

We believe that due to the nature of their duty assignments, education on VA benefits must start early in their career. This will ensure they have the necessary knowledge during their final transition and will help inform during their service them about useful programs. These contacts could occur during drill weekends using a mobile van or coordinating with the Exchange to set up a manned kiosk/table.

EDUCATION

When it comes to education programs ROA believes that those who wore and those who wear the uniform have the perspicacity, given requisite information, to make sound choices with their money. We consider education benefits, once earned with service, to be "theirs" to use within law and policy.

ROA also believes that education assistance from the military should be flexible and meet the needs of servicemembers with their various goals. Not every GI Bill beneficiary wants or needs a four-year degree; many have shown us that they want a technical certification, for example, often available to them only from a for-profit "proprietary" school, of which there are many fine examples. As we will explore, other beneficiaries want to start a business or buy a franchise, both of which can – in the spirit of the GI Bill's inception – help them and the nation.

It is now commonly recognized that the portal to success is no longer necessarily a university admissions office door . . .

Post 9-11 Veteran Business Acceleration Act (proposed legislation)

This bill will establish a pilot program to allow a servicemember to elect to receive financial assistance to establish and operate a business.

Under current law, GI Bill benefits may be used for any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636 (i)(1)).

Proposals to expand the eligibility of individuals to use GI Bill benefits for entrepreneurship or starting a business have been offered over several Congressional sessions. To my knowledge, the following bills were introduced:

- H.R. 3167, The VET Act of 2011, would establish a veteran's small business entrepreneurship program allowing eligible individuals to receive up to $1,421 monthly under the Montgomery GI Bill-Active Duty or up to $17,500 annually under the Post-9/11 GI Bill to acquire or start business.
- S. 3442, The SUCCESS Act of 2012, would change the definition of qualified providers of entrepreneurship education to be only any small business development center de-

scribed in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course, as that term is defined in section 3675(c)(2).

- H.R. 179, The Franchise Education for Veterans Act, was introduced. It would permit GI Bill payments under Chapters 30, 32, 33, and 34 for franchise training at a training establishment for up to 12 months and up to $15,000 total.
- S. 938, The Franchise Education for Veterans Act of 2013, would amend Chapters 30 and 33 to allow franchise training programs as programs of education using Chapter 33 payment schedules for up to 12 months and $15,000.
- S. 1870, The Veterans Entrepreneurial Transition Act of 2015 it would amend the Small Business Act to require the Administrator of the Small Business Administration to carry out a pilot program on issuing grants to eligible veterans to start or acquire qualifying businesses.
- H.R.5193, The Veterans Business and Transition Act of 2017, this bill provides statutory authority for the Boots to Business program, which provides entrepreneurship training to individuals including veterans and active members of the Armed Forces, to be administered by the Small Business Administration.
- S. 121, Veterans Small Business Ownership Improvements Act, to establish the veterans' business outreach center program, to improve the programs for veterans of the Small Business Administration.

Some of the concerns raised regarding the use of G.I. Bill benefits to start a business (or, we would suggest, acquire an existing business) are establishing duplicative federal programs, the lack of expertise within the VA and state approving agencies to review and approve business plans, the difficulty in separating training costs from the total costs of franchising, and the high failure rate of new businesses. (Of course, a GI Bill beneficiary may spend his or her benefit on a four-year degree and never use that education, so the "value" of the use of the benefit cannot in any event be "guaranteed.")

We think, given the recognition of the value of business creation to the American economy and health of its workforce, with the cascading effects on families and communities, that these concerns can be addressed. Many servicemembers leave with advanced degrees, and with years of experience and training. Using the G.I. Bill to start or acquire a business may be the best way for them to transition from the military and use their skills, knowledge, maturity, and leadership to succeed.

Projected Education Policy 90/10

For some colleges, universities, or vocational schools, government dollars can make a huge – even a make-or-break – difference to their financial vitality. There is evidence that this situation has prompted some educational institutions – both public and "proprietary" for-profit schools – to aggressively pursue students who have federal aid, necessitating the protection of these beneficiaries. So far, the protection suggested seems to be that levied only against the proprietary sector.

The recommended protective fix is to add VA and DoD education funding assistance to the 90 side of the 90/10 ratio because they are not part of title IV. This means that, for example, a given school's hurdle to achieve the 10 percent minimum tuition revenue target would not be eased by the inflow of GI Bill money into that 10 percent bucket.

> The 90/10 rule was established by, P.L. 105-244, Amendments to the Higher Education Act of 1965, Section 102(b)(1)(F), states, '(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.— ''(1) PRINCIPAL CRITERIA.—For the purpose of this section, the term 'proprietary institution of higher education' means a school that—''(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under title IV, as determined in accordance with regulations prescribed by the Secretary.

ROA considers this biased against one educational sector; it therefore reduces veterans' choice. Any requirement associated with if and how much federal funding a school can receive should be applied to all educational institutions and linked to achievement of certain standards. For example, a metric that could be used it performance in producing students equipped to succeed (graduate with a certain GPA, get a decent job, etc. – accountably) . . .

Simply put, if an institution can show by objective metrics applied equally to both conventional and propriety institutions, it could conceivably get all its funding from federal sources. What matters isn't that a student is "putting in" ten cents of every dollar; rather, what matters is the quality of the experience vis-à-vis its likelihood to facilitate success.

If a school does not perform, then maybe corrective measures are in order – ratios or some other measure. If some ratio is necessary (we don't think it is), it should apply to everyone. The military operates on standards applied to all. If Congress determines that to safeguard quality education for GI Bill beneficiaries, it must refine standards beyond those applied by state approving agencies, those standards should be applied to the entire education sector (with exceptions as provided for by the Minority Serving Institutions Program), not just the proprietary education sector.

The reason for ROA's position also goes to the concern that many proprietary schools offer vocational training and certificates. Because military members leave service with experience, they may not want their only choice being a 4-year degree.

The effect of "moving" GI Bill benefit revenues to the 90 percent of the ratio will have effects beyond those intended by some in Congress and some advocates; we will not merely affect the few schools that have been alleged to engage in abuse.

The Department of Veterans Affairs itself estimates that "closing the loophole" will divest 66,000 GI Bill beneficiaries of their education program – essentially, schools will shut down programs or even cease to exist. How does that help these veterans? This is about ten percent of the entire GI Bill user population; *we ask Congress what other policy would it support that eliminates benefits to a tenth of the using population?*

If Congress must require a ratio, we ask that at least consistency exists between federal agencies: let's have one ratio for both VA, which is bound by 85/15, and the Department of Education, which uses 90/10. We also urge that:

- Any ratio (as well as standards) should apply across the board to private and proprietary schools.
- Legislation should include a period of time for an orderly transition to the ratio. VA believes an immediate transition (more of an "abrupt change") would dramatically affect 100 schools – and that means the GI Bill users of those 100 schools. ROA believes one year would allow schools to come into compliance and allow all affected students to complete the semester in which they are enrolled.
- VBA is neutral on the 90/10 ratio but believes any legislated changes should reduce the number of veterans that may be negatively impacted, and we of course agree.

Allocate funds to be used to provide Federal Tuition Assistance to all Reserve and National Guard Servicemembers.

Members of the Air National Guard, Navy Reserve, Marine Corps Reserve, and the Coast Guard Reserve are currently eligible for Federal Tuition Assistance under certain circumstances or duty statuses, but they do not always have access to this benefit due to lack of funding. Tuition assistance is typically available to Reserve Component members when they go on an active duty tour, but ROA found that the Marine Corps Reserve is the only branch not to receive tuition assistance when ordered to active duty.

The Department of Defense has long placed a premium on the education of the force. This emphasis is reflected in the recruitment of those with high school diplomas. Getting and growing a military force up to the national security environment's growing complexities is quite a challenge. It is also an absolute necessity.

Britain's Sir William Francis Butler, a 19th century lieutenant general, said, "The nation that makes a great distinction between its scholars and its warriors will have its thinking done by cowards and its fighting done by fools."

We need smart warriors.

In accordance with the 2017 Department of Defense study on Military Demographics, more than 683,063 enlisted reservists currently serve the U.S. military. Of them, 96.7 percent have a high school diploma or higher, 7.1 percent higher than the civilian the U.S. population aged over 25 years. Only 20 percent of enlisted reservists have an associate degree or higher.

According to the *Military Times* report from July 2018, over 23 percent of U.S. reservists currently use educational benefits. Tuition assistance could be used as a recruiting and retention incentive for all branches of the Reserve and National Guard.

America cannot attract and retain a strong Reserve force if it cannot accommodate the success of its members who must find, hold, and grow in their civilian jobs; raise families; and still serve their nation in uniform.

It is not unusual for a job to require postsecondary education. It is vital that reservists have the ability to get the education they need to ensure they remain atop the employment peak.

Further, according to Air Force Handbook 36-2618, par, 3.1.3.1, to reach the senior enlisted ranks of senior master sergeant and chief master sergeant in the Air Force, Air Force Reserve and the Air National Guard, servicemembers must hold an associate degree or higher to be eligible for promotion. Due to this requirement, all airmen should be provided tuition assistance.

We urge Congress to allocate funds to all of the Reserve Components for Federal Tuition Assistance to recruit and retain servicemembers.

SERVICE MEMBERS CIVIL RELIEF ACT

Military Service

Under 50 U.S.C. §§ 3911 (SCRA) members of the Reserve and National Guard are not protected under this act while performing training and other types of duty not included in the section below. Why not? Much of the training of Reservists and Guardsmen is in the performance of their jobs; they should be covered under SCRA. Not doing so puts the obligation of protection on the states.

The term "military service" means—

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

(i) active duty, as defined in section 101(d)(1) of title 10, and

(ii) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds;

(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

All states have passed state level protection acts but they did not include jurisdiction within the law at the state level nor is there any relief at the federal level. In most cases, it is difficult for servicemembers to find the help they need to ensure they are not unfairly treated within the court system while unavailable, such as when deployed. Members of the RC have the same training requirements as their AC counterparts and often their courses are scheduled months out. Rescheduling is difficult. They are also not protected when called to active duty for state

emergencies. State emergencies mean that Reserve and National Guard personnel are often called to duty with little or no notice.

Once a judgment has been rendered, a servicemember has 30 days to revisit the judgment. This will take a well written motion. Very few servicemembers have the ability to properly address this issue without the aid of an attorney. If the judgment is not vacated, there are two options:

1. If no final decision has been reached, the servicemember will have to request an inter-locutory appeal (this also takes a well written motion and the servicemember must prove prejudice of the court).
2. If there is a final decision, the servicemember will have to file an appeal (this is a lengthy written process that must be formatted correctly and argued appropriately).

Neither of these options are easily accomplished and usually take years of practice. Most of the time servicemembers are forced to hire an attorney. The average coast of an attorney is $350.00 per hour. An appeal of this size will take on average about 10-15 hours to complete, and that is if the attorney is familiar with the case.

The amendment to this act has allowed civil attorneys to exploit Reserve and National Guard personnel. They can bring emergency motions and schedule appearances during times of unavailability rendering a default judgment that the servicemember has little if any time (or money) to reconcile.

This amendment could have devastating consequences on RC personnel careers. Reserve Component Servicemembers put their lives on hold to meet the requirement of today's military and this amendment adds undue stress to their already stressful occupation. These patriots need to know they are taken care of at home when they leave for training.

RECOMMENDATIONS:

Amend 50 U.S.C. to include the following types of duty:

- Reserve and National Guard personnel performing Inactive Duty for training
- Reserve and National Guard personnel performing Annual Training
- Reserve and National Guard personnel attending training under 29 days
- Reserve and National Guard personnel performing service due to emergency not ordered by the President

A new amendment would also need to include a jurisdiction, i.e. a Department of Justice district attorney will write a motion to the court and explain protection.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

Forced Arbitration

Employer Support of the Guard and Reserve is very engaged with employers and has found that mediation is not always a promising route to servicemember protections.

The Department of Labor, Veterans' Employment and Training Service report stated, "During FY 2018, ESGR received 17,568 contacts by telephone and email, of which 1,655 contacts resulted in actual USERRA mediation cases. ESGR's mediation efforts covered an array of USERRA-related issues that included 1,033 complaints involving some type of military discrimination; 602 complaints involving job reinstatement; and 20 complaints involving possible retaliation or reprisal. There were 429 USERRA mediation cases in which ESGR was unable to facilitate an agreement between the employee and employer." Suffice to say employment/unemployment requires ROA's continued attention.

Under the Uniformed Services Employment Rights Act of 1994, veterans and servicemembers have some protections from discrimination based on their military service; they have the right to return to their civilian jobs once their active service ends. But, as in many other areas of employment law, federal courts have dismissed USERRA legal claims where the plaintiff has been forced to sign an agreement requiring that employment-related legal claims to go to arbitration. Arbitration is an alternate dispute resolution method that, depending on how it is used, can be very pro-employer and anti-employee.

Arbitration is a type of private proceeding that results in a decision concerning a matter in dispute between the employee and employer. Normally, the employer chooses an arbitrator or a panel of arbitrators who sit as judge and jury. This creates an incentive for arbitrators to decide in the employer's favor so they can make more money handling future cases for the employer.

Depending on the wording of the agreement, the arbitration process can present significant drawbacks for employees. In some cases, the employer pays for the arbitration, but in others, the parties could split the costs, or the party losing the case could pay for the arbitration and possibly the fees and costs incurred by the winning party. In some cases, the parties are required to keep their dispute private, so the proceedings cannot be disclosed. The ability of the parties to obtain evidence can be restricted. It can also be very difficult to have such an agreement ruled invalid by a judge or have an arbitration ruling overturned in the court system.

OTHER

Toxic Exposure: Recognition of Illnesses Caused by Hazardous Warfare Agents

ROA urges Congress to enact legislation recognizing exposure to toxins as a service-connected disability for servicemembers including, but not limited to, Korea, Vietnam, the Gulf War, Iraq, Afghanistan, Camp Lejeune, and Canada.

Military members who leave the service through separation or retirement under conditions that are other than dishonorable are eligible for a service-connected disability. While the application for disability may be long it is simply done by the service member proving they were "…disabled by an injury or illness that was incurred or aggravated during active military service."

Presumption of service connection is important because a servicemember's symptoms may not manifest until after well after their service is completed. According to the Congressional Research Service, ". . . where the manifestation of the disabling disease or condition is remote from the veteran's service and any relation between the disability and service is not readily apparent, the burden of proving service connection can be a challenge." Historically presumption has been linked to exposure to toxins.

Proving presumption of service connection is difficult because it is hard to determine the connection between exposure and the disability as there is often no documentation in the military health record. This can occur when symptoms don't appear until after the servicemember leaves the service. There can also be a situation where the symptoms are so mild at the beginning that the servicemember does not go to sick call for treatment.

ROA believes that there should be an additional approach to determining presumption which is a costly process. Rather efforts should be made to avoid presumption by beginning the collection of health issues immediately upon identification of possible toxins. While not always possible, this approach could certainly reduce the need for some presumptions.

For example, if the Department of Defense had annotated the medical records of servicemembers exposed to burn pits in OIF/OEF, then VA would have had years of data collection related to their health. Presumption is a judgment backed up with as much scientific research as possible; data capture helps enhance the integrity of that judgement.

By beginning the "presumption" process upon exposure or recognition of a health matter, DoD could then look for ways to reduce exposure, such as with OSHA standard equipment or changed processes.

Under the best of circumstances it is hard for a Reserve Component member to be recognized for service-connection but a presumption makes it near impossible.

Continuity of Care: Establish Continuous Health Care Coverage

ROA along with many other associations has supported extending TRICARE Reserve Select to military technicians as a recruiting tool for the services as well as to ensure their access to affordable health care. When we started working this with the Senate, that body decided it would only be fair to extend it to all National Guard and Reserve federal employees and not just a limited category of employees. Of course, the biggest hurdle is the appropriations offset.

TRS came about to increase the readiness of Reserve Component servicemembers during the early years of the 9/11 activations. *ROA believes that health care legislation and policy should be approached in terms of readiness for the servicemember and a benefit for the family that indirectly enhances readiness.* We also have other concerns about health care for the Reserve Components:

- Military health care records are scattered over several locations (duty station, TDY locations, civilian providers) making it hard, if not impossible, to monitor deployable standards.
- Difficulty getting annual physicals during drill weekends due to insufficient manning or personnel.
- Losing health care coverage when an individual's duty status and/or orders change, triggering a different TRICARE program.
- Length of time to complete medical evaluation boards.
- Difficulty processing lines of duty determinations, due to the complexity of the process and levels of review required and proving when the injury occurred.
- Inability to provide rapid care to injures due to processing time. This cause longer periods of nondeployability.
- Servicemembers inability to receive service-connected recognition from the VA. The lack of a centralized health record for the RC results in incomplete health records. This can occur from scattered records, as mentioned above, but it also results in medical events not being recorded.

With the well-established use of the RC as an operational force, its readiness is an imperative and the lens through which ROA appraises its health care. A proper fix to these issues, and thus an enhancement of readiness, would be to cover every participating Reserve Component member under TRICARE Prime. This would consolidate health care records into one program and increase the ability to monitor deployable standards. Any annual physicals, shots, etc. would not have to be crammed into a drill weekend, and unit administrators would not have to spend hours or days of chasing servicemembers around to ensure they are properly cared for. This would free up valuable training time. It would also ensure a medical record in its entirety is transferred to VA.

When servicemembers are injured when performing duty, it is called a "line of duty" injury. While the servicemember will be covered under TRICARE, it takes time to ensure the processes are completed correctly. An RC member's injuries must be determined to be service-connected by a line of duty determination. Until the LOD approves, the service members injuries cannot be treated by the military. As the servicemember waits for the administrative process to approve their treatment they remain undeployable and unable to train.

Depending on the injury the servicemember may not be able work in their prospective civilian employment. This can cause a huge financial burden at home. The LOD evaluation can take in excess of 1,500 days according to a senior Department of Defense advisor.

ROA agrees that maintaining deployable status requires a commitment to health care coverage and promoting wellness. We also know the eligible recruiting pool is getting smaller, so it only makes sense to keep ready those already in uniform. Time and again we hear our military's senior uniformed and civilian leaders assert that ours is a "total force." Those words have meaning. A single health care option of TRICARE Prime for the RC servicemember is the only way to ensure readiness and eliminate the readiness-sapping complications of a multi-tiered health care program.

A continuous health care program with an integrated record would help Reserve Component members be recognized for service connection.

DD Form 214: Issue upon Retirement/Separation from the Reserve Component

There is no document that includes all RC service – active and inactive. We have found that, according to VA Pamphlet 26-7, "there is no one form used by the Reserves or National Guard that is similar to a DD Form 214" that meets "Proof of Service Requirements" (Chapter 2). This complicates the ability of RC servicemembers to access VA benefits.

The current process for issuing the DD Form 214 for the National Guard and Reserve disregards transitions across the continuum of service between active and reserve duty. Gaps of months and years appear. The lack of a DD Form 214 being issued on a predictable basis inhibits RC servicemembers from claiming earned benefits and proving the full scope of their military service. Additionally, when an RC member does receive a DD Form 214 upon completion of active service after 90 cumulative days of service, or any deployment order, the form often does not include the entire spectrum of their service. This makes it difficult for RC members to show they have earned various federal and state benefits.

Due to the nature of AC and RC orders, servicemembers often do not meet the minimum requirement of 90 consecutive days of active duty necessary to receive a DD Form 214. Complicating the process further, National Guard servicemembers can transfer between states, known as Interstate Transfer, but the records don't always follow. Critical service-related documentation often remains in the issuing state. Human error and convoluted personnel system can cause orders to be incorrectly documented or not documented at all. The result of the current disaggregated personnel system results in many servicemembers receiving only a portion of their benefits.

ROA has learned that DoD is considering a halfway measure called a DD-216 to address what it recognizes as a problem. Characteristically, the Pentagon, with its AC focus, has devised a separate record for the RC, that will certainly ensure inequitable treatment of the RC within the so-called "total force."

The real solution is to make the minimal amendments to the current DD-214 to include the types of inactive duty engaged in by members of the RC. It's that simple, and the result is a unified

"total force" document that makes sense, is universally useful, and requires little bureaucratic development.

Specifically, the amendments would include service performed for inactive duty and inactive duty for training. They would need to be added to the service section.

CONCLUSION

ROA appreciates the opportunity to offer thoughts regarding these important issues. Because of the unique nature of service in the Reserve Components, its members may simultaneously receive care and benefits from VA, the Department of Labor, HHS, and DoD.

All too often military and veterans' law and policy are developed without an understanding of, or appreciation for, the important distinctions between reserve and active duty service. The members of the Reserve and Guard invariably lose out . . . and so too do their families. And thus the nation.

America is experiencing unprecedented challenges to our security and greater reliance on the Reserve and National Guard. Enhancing the readiness of these wonderful human assets as they move in and out of their military and civilian roles, from peace to war and back again, helping them gain access to care, and helping their families thrive – all these pieces of legislation directly or indirectly enhance readiness and represent an insightful and praiseworthy focus on those patriots we call our citizen-warriors.

Members of the RC are veterans, like their AC counterparts. Unlike the AC, they do not go to the VA only upon separation or retirement. They use the VA throughout their military career. We recommend VA begin their relationship with the RC long before separation or retirement. The VA should reach out to RC servicemembers during drill weekend and annual training. On education benefits, home loans, heath care/service connection, and employment, they need and have earned information, uniform standards, and broad choices.

ROA is proud to advocate for their interests, which are truly the interests of our nation.