August 10, 2016

Honorables John McCain
Chairman
Senate Committee on Armed Services
228 Russell Senate Office
Washington, DC 20510

Honorables Jack Reed
Ranking Member
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

Honorables Mac Thornberry
Chairman
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515

Honorables Adam Smith
Ranking Member
House Committee on Armed Services
2120 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen McCain and Thornberry and Ranking Members Reed and Smith:

The founding principle of VVA is, “Never again will one generation of veterans abandon another.” It is in the spirit of that founding principle that we deliver the attached letter to you on behalf a diverse coalition of organizations devoted to improving the lives of servicemembers and veterans. This coalition letter supports reforms to the military discharge review process as proposed in Sections 536 and 536A of the Senate bill, S 2943, and the supportive language from Page 148 of House Report 114-537.

We also write to inform you that we are joining our allies to hold a press event, tentatively scheduled for Tuesday, September 13th, to raise awareness for the issue of less-than-honorable discharges and to show that our coalition is united in supporting these necessary reforms. Should you have any questions or considerations, or if we can be of further assistance, please contact Kris Goldsmith, Assistant Director for Policy & Government Affairs, at (301) 585-4000 (ext. 124) or email Mr. Goldsmith at kgoldsmith@vva.org.

Thank you.

Sincerely,

John Rowan
President and CEO
Vietnam Veterans of America
Dear Chairs and Ranking Members:

We write as a diverse coalition of organizations devoted to improving the lives of servicemembers and veterans. Together, we represent millions of veterans, their family members and supporters. We have joined forces to support the Fairness for Veterans Act (HR 4683 and S 1567), legislation which would improve outcomes for veterans who were inappropriately issued “less-than-honorable” discharges and are filing appeals based on diagnoses of service-related mental health conditions. As you begin to reconcile the House and Senate versions of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, we urge you to maintain the provisions in Sections 536 and 536A of the Senate bill, S 2943, and the supportive language from Page 148 of House Report 114-537. These sections were inspired by bipartisan, bicameral, veteran-led efforts including the Fairness for Veterans Act. These initiatives seek to make improvements to the discharge review process in order to ensure that deserving veterans have access to critical, earned benefits.

As a result of the systemic under-diagnosis of post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), and other service-related illnesses and injuries such as military sexual trauma (MST), thousands of servicemembers have been unjustly discharged from the United States Armed Forces in a manner that severely limits, or even eliminates, eligibility for veterans benefits. Due to their physical and psychological symptoms and the nature of their separation from the military, veterans with less-than-honorable discharges (also known as “bad-paper”) are often socially isolated from the military and veterans communities. Consequently, they are more likely to be homeless, suffer from substance abuse, go without treatment for physical and mental injuries, become incarcerated, and die by suicide. Many of these discharges have been issued as a direct result of the symptoms of these service-related medical conditions, such as behavioral issues caused by the hyperarousal of PTSD, or excessive tardiness due to TBI related sleep-loss.
Past and present Service Secretaries have recognized the issue of problematic discharges and some have already implemented the reforms outlined in Sections 536 and 536A of S 2943 and House Report 114-537. Unfortunately, these initiatives have been applied unequally across the force. We simply seek to ensure that veterans of all branches and generations are provided the same protections and recognition of their illnesses and injuries and to make these reforms permanent so that future warfighters will benefit from these provisions.

In 2014 former Secretary of Defense Chuck Hagel issued policy guidance for Boards for Corrections of Military/Naval Records (BCM/NRs) that instructed the boards to apply “liberal consideration” when reviewing upgrade petitions when evidence indicates that PTSD might have contributed to the misconduct that led to a less-than-honorable discharge. In February 2016, former Principal Deputy Undersecretary of Defense Brad Carson redoubled efforts to ensure fairness for veterans applying to both the Discharge Review Boards (DRBs) and BCM/NRs. In June 2016, Secretary of the Navy Ray Mabus issued new guidance which immediately halted involuntary administrative separations of current sailors and Marines who have mental health diagnoses so that they could instead be referred to the Disability Evaluation System. Mabus’ directive also encouraged former sailors and Marines previously separated under circumstances possibly related to PTSD and TBI to petition to have their discharge reviewed through BCNRs and the Navy DRB under the new, fairer guidelines.

House Report 114-537 encourages the Department of Defense to extend the “liberal consideration standard...to all discharge upgrade cases considered by the Discharge Review Boards,” in addition to the BCM/NR. Section 536A of S 2943 codifies the “liberal consideration” for veterans with PTSD into law so that veterans of all branches and generations have the same protected rights which take into account modern medical science. This reform is particularly important for veterans who served before PTSD was first recognized in the Diagnostic Statistical Manual in 1980.

The Army Review Board Agency has announced that it will reinstate Traveling Review Boards outside the National Capital Region and leverage video-telephone conferencing capabilities at secure sites throughout the Continental United States as a way of helping veterans gain access to personal appeals. House Report 114-537 directs the Department of Defense and the military departments to ensure applicants before Discharge Review Boards and Boards for the Correction of Military Records receive full and fair consideration of their applications for discharge upgrades and encourages the use of off-the-shelf video telephone conferencing technologies, so that veterans of all branches will be afforded the right to testify on their own behalf.

Under current law, “in the case of a former member of the armed forces...who was diagnosed while serving in the armed forces as experiencing a mental health disorder, a [DRB]...shall include a member who is a clinical psychologist or psychiatrist, or a physician with special training on mental health disorders.” Section 536 of S 2943 would ensure that older veterans who have experienced service related conditions such as PTSD, TBI and MST, who must apply to BCM/NRs, would also have qualified mental health professionals reviewing discharge upgrade applications. In addition, Section 536 of S 2943 would correct an unintended loophole that does not guarantee survivors of MST events which occurred stateside to have the benefit of a mental health professional on DRBs.
Section 536 of S 2943 would also codify into law a requirement for Review Board Agencies to publish redacted case information from DRB hearings so that applicants and their representatives will be able to more easily perform research on previous cases. This change will improve outcomes for deserving veterans by allowing them to file more complete applications, and encourage more organizations to offer pro-bono representation for veterans by making the application process less burdensome.

We commend you for your work to ensure that veterans who have been improperly discharged are afforded the opportunity to correct their records and gain access to the benefits that are designed to help them reintegrate into society and recover from the wounds of war. Moreover, on behalf of the organizations that we represent, we express to you the gratitude not only of these veterans, but also that of their families, friends and loved ones for your on-going commitment to this most important issue.

Thank you for your consideration of this request. If we can be of assistance in this matter, please reach out to Kristofer Goldsmith, Assistant Director for Policy and Government Relations, Vietnam Veterans of America, and President of High Ground Veterans Advocacy (516-457-1260 and kgoldsmith@vva.org).

Sincerely,

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