

**1. Applicant's Name:**

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is honorable. The applicant requests a narrative reason change.

The applicant seeks relief contending, in effect, the discharge was inequitable because it was based on one isolated incident in ten years and one month of service. The applicant's commander, the same commander who recommended separation, recommended an honorable characterization of service. The applicant served the country in garrison and for 1,185 days downrange. The applicant had given back to the communities, earning a Military Outstanding Volunteer Service Medal (MOVSM). The applicant completed all the required training surrounding the incident and was still discharged. The incident in which the applicant was separated was a method of coping with post-traumatic stress disorder (PTSD). The applicant had shown signs and symptoms since 2008, after the applicant's second deployment in Iraq. The treatment was not working because the applicant was not properly diagnosed. The applicant's first alcohol-related incident was in 2008. The applicant remained in the same unit and platoon to deploy. The applicant's treatment was placed on the backburner and matters became worse. The applicant had recently divorced and the applicant's children were not in the home. The applicant was severely depressed. The applicant received treatment and became productive again. The applicant was able to interact with people who were in the same situation. The only reason the applicant drove was to take a Soldier back to base, who received a call by the Soldier's senior noncommissioned officer (NCO) at the last minute to perform duty.

In 2011, the applicant began to feel extreme discomfort in the lower back because of complications suffered in Iraq 2010. Over the course of 2011, the applicant was given three cortisone shots, which did not alleviate any pain, and the applicant finally had a radiofrequency ablation (RFA). The applicant was also given the option to be seen for a possible medical discharge, but the applicant rejected the option because of the loyalty and passion the applicant had to serve alongside fellow Soldiers. The Department of Veterans Affairs rated the applicant with 90 percent disability. The applicant has had custody of the applicant's two children since 20 August 2012. They were three and four at the time. During the applicant's enlistment, the applicant possessed a Top Secret / Sensitive Compartmented Information (TS-SCI) clearance; held two Military Occupational Specialties, graduated Senior Leaders Course, completed Structured-Self Development Level 4 and Senior Enlisted Joint Professional Military Education Course, which is now a prerequisite for the U.S. Army Sergeants Major Academy (USASMA). The applicant has experience as a Soldier and leader while in combat for a combined 40 months and a wealth of knowledge the applicant would like to share with new and upcoming Soldiers but it is hard to do with a misconduct chapter for an incident that does not exist within the civilian realm. The applicant is not saying it is ok to drive impaired or intoxicated and fully accept being responsible; however, the applicant does not believe one incident should characterize 11 years' worth of selfless service and dedication to the mission of defending this nation from its enemies, both foreign and domestic. The applicant knows the Board will make the right decision.

**b. Board Type and Decision:** In a records review conducted on 10 October 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

### 3. DISCHARGE DETAILS:

**a. Reason / Authority / Codes / Characterization:** Misconduct (Minor Infractions) / AR 635-200, Chapter 14-12a / JKN / RE-3 / Honorable

**b. Date of Discharge:** 2 September 2014

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 2 July 2014

**(2) Basis for Separation:** The applicant was informed of the following reasons: On or about 18 May 2014, the applicant drove the applicant's vehicle while drunk and the applicant was speeding, 74 miles per hour (mph) in a 55 mph zone, while in the company of one of the applicant's junior enlisted Soldiers.

**(3) Recommended Characterization:** Honorable

**(4) Legal Consultation Date:** 2 July 2014

**(5) Administrative Separation Board:** On 2 July 2014, the applicant requested consideration of the case before an administrative separation board.

On 16 July 2014, the applicant was notified to appear before an administrative separation board and advised of rights.

On 13 August 2014, the administrative separation board convened, and the applicant appeared with counsel. The board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

The separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 19 August 2014 / General (Under Honorable Conditions)

### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 20 August 2013 / 6 years

**b. Age at Enlistment / Education / GT Score:** 28 / Associate's Degree / 101

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 25E30, Electromagnetic Spectrum Manager / 11 years, 8 months, 16 days

**d. Prior Service / Characterizations:** USAR, 17 December 2002 – 28 July 2004 / HD

RA, 29 July 2004 – 13 December 2005 / HD  
RA, 14 December 2005 – 20 November 2007 / HD  
RA, 21 November 2007 – 19 August 2013 / HD

**e. Overseas Service / Combat Service:** SWA / Iraq (6 January 2005 – 2 January 2006; 15 January 2007 – 1 April 2008; 16 December 2009 – 8 December 2010)

**f. Awards and Decorations:** ARCOM-5, AAM, MUC, AGCM-3, NDSM, GWOTEM, GWOTSM, ICM-3CS, NCOPDR-3, ASR, OSR-3, MOVSM, CAB

**g. Performance Ratings:** 29 March 2012 – 28 March 2013 / Among the Best  
29 March 2013 – 13 September 2013 / Among the Best

**h. Disciplinary Action(s) / Evidentiary Record:** Liberty County Sheriff's Office (SO) Incident Report, 18 May 2014, reflects the applicant was apprehended for DUI-alcohol/controlled substance present; speeding in excess of maximum limits, state speed; and weaving over roadway. Investigation revealed a police officer observed the applicant driving at a high rate of speed, 74 mph in a 55 mph zone. The officer activated the emergency lights and siren to initiate a traffic stop, but the applicant failed to yield and swerved between lanes. When the vehicle stopped, the officer noticed a strong odor of alcohol. The applicant had a passenger in the vehicle. The applicant was unable to complete a field sobriety test. The applicant submitted two preliminary breath tests, which were positive for the presence of alcohol with readings 0.24 and 0.27. The applicant was transported to Liberty County Jail for testing and tested at .098 / .092.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Confined by Civil Authorities (CCA), effective 18 May 2014; and

From CCA to PDY, effective 19 May 2014.

Developmental Counseling Form, 20 May 2014, for being recommended for separation under Army Regulation 635-200, Chapter 14, for being arrested for DUI and speeding.

The applicant provided Army Substance Abuse Program Outpatient Discharge Summary, 6 August 2014, reflecting the applicant was command referred to the program because of receiving a DUI. The applicant was diagnosed with alcohol abuse and enrolled in the program on 9 June 2014. The applicant was released as a rehabilitation success.

Formal AR 15-6 Investigation Findings and Recommendations, 13 August 2014, reflects the administrative separation board found the allegations of wrongfully operating a motor vehicle while intoxicated and wrongfully operating a motor vehicle while speeding was supported by a preponderance of the evidence. The board found the allegation of fraternizing with a junior enlisted Soldier was not supported. The board recommended separation with a general (under honorable conditions).

**i. Lost Time / Mode of Return:** None

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** Report of Mental Status Evaluation, 5 June 2014, reflecting the applicant was cleared for administrative separation in accordance with Army Regulation 635-200, Chapter 14-12c. The applicant could understand and participate in administrative

proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The applicant tested positive for PTSD and the provider indicated the applicant may have benefited from further evaluation for PTSD. The applicant was diagnosed with alcohol abuse; adjustment disorder; obstructive sleep apnea; back pain; and hypertension (HTN).

Department of Veterans Affairs (VA) letter, 2 January 2015, and medical records reflecting the applicant was diagnosed with various medical conditions and the VA rated the applicant 10 percent for premature atrial contractions, also claimed as PACs and abnormal electrocardiogram (ECG); 50 percent for sleep apnea and reactive airway disease, also claimed as asthma; 70 percent for PTSD, depressive disorder, and alcohol use disorder, also claimed as reaction to stress; 10 percent for GERD, also claimed as epigastric pain; and 10 percent for lumbar spondylolysis with L5-S1 disc protrusion, lumbar and foraminal stenosis, L5-S1 facet arthropathy, intervertebral disc syndrome (IVDS) and degenerative joint disease (DJD). The overall or combined rating of 90 percent.

**(2) AMHRR Listed: None**

*The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 214; two DD Forms 293; self-authored statement; Enlisted Record Brief; Company Commander's memorandum; seven character references; State Court of Liberty County, Georgia, Final Disposition; ASAP Outpatient Discharge Summary; Georgia Department of Driver Services, DUI, Alcohol, or Drug Use Risk Reduction Certificate of Completion; Mothers Against Drunk Driving (MADD) Victim Impact Panel Receipt; Army Traffic Safety Program, Accident Avoidance Course for Army Motor Vehicle Dr June 2014; VA letter; Chronological Record of Medical Care; Notice of Request for Virginia Registration of a Child Custody and/or Visitation Determination from Another State; Superior Court of Liberty County, State of Georgia, Final Order of Custody, Department of the Army Photo; five Service School Academic Evaluation Reports; Disabled American Veterans Community of Heroes Certificate; ecpi University President's Award and Perfect Attendance Certificates; Bachelor of Arts Degree; Associate of Science degree; and various certifications.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant attained a bachelor's degree and an associate's degree, various certifications, and volunteered in the community.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

**a.** Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval

Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

**(2)** Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

**c.** Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

**d.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

**(1)** Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12a addresses minor disciplinary infractions, defined as a pattern of misconduct, consisting solely of minor military disciplinary infractions.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKN" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (minor infractions).

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes. RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12a, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Minor Infractions)," and the separation code is "JKN." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of

the DD Form 214, and dictates entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation further stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends PTSD and family issues affected behavior, which led to the discharge and the VA rated the applicant 90 percent disability. The applicant provided several medical documents indicating the VA rated the applicant 90 percent combined rating: 10 percent for premature atrial contractions, also claimed as PACs and abnormal ECG; 50 percent for sleep apnea and reactive airway disease, also claimed as asthma; 70 percent for PTSD, depressive disorder, and alcohol use disorder, also claimed as reaction to stress; 10 percent for GERD, also claimed as epigastric pain; and 10 percent for lumbar spondylolysis with L5-S1 disc protrusion, lumbar and foraminal stenosis, L5-S1 facet arthropathy, IVDS and DJD. The applicant provided a Report of Mental Status Evaluation, 5 June 2014, reflecting the applicant was mentally responsible and was able to recognize right from wrong. The applicant tested positive for PTSD and the provider indicated the applicant may have benefited from further evaluation for PTSD. The applicant was diagnosed with alcohol abuse; adjustment disorder; obstructive sleep apnea; back pain; and hypertension.

The applicant contends the event which led to the discharge from the Army was an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends good service, including three combat tours and volunteering in the community.

The applicant contends rejecting a medical discharge to continue serving with fellow Soldiers. The applicant did not submit any evidence, other than the applicant's statement, to support the contention.

The applicant contends attaining a bachelor's degree and an associate's degree, various certifications, and volunteering in the community. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

The third party statements provided with the application speak highly of the applicant. They all recognize the applicant's good military service.

## **9. BOARD DISCUSSION AND DETERMINATION:**

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment

Disorder, Episodic Mood Disorder, PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder and Episodic Mood Disorder and is service connected by the VA for PTSD. Service connection establishes that the PTSD also existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions do not mitigate the discharge. Given the nexus between PTSD, Episodic Mood Disorder, and self-medicating with substances, the applicant's BH conditions likely contributed to the DUI that led to the separation. However, the applicant already holds a discharge commensurate with the mitigation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Episodic Mood Disorder, or Post Traumatic Stress Disorder outweighed the applicant's discharge as the applicant already holds an honorable characterization of service with a Misconduct (Minor Infractions) narrative reason for separation.

**b. Response to Contention(s):**

(1) The applicant contends PTSD and family issues affected behavior, which led to the discharge and the VA rated the applicant 90 percent disability. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Episodic Mood Disorder, or Post Traumatic Stress Disorder outweighed the applicant's discharge as the applicant already holds an honorable characterization of service with a Misconduct (Minor Infractions) narrative reason for separation.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention but determined that the applicant's Misconduct (Minor Infractions) narrative reason for separation is proper and equitable given that the applicant's misconduct was mitigated but not fully excused.

(3) The applicant contends the event which led to the discharge from the Army was an isolated incident. The Board considered this contention but did not find that it warranted further upgrade above what was granted by a prior ADRB.

(4) The applicant contends good service, including three combat tours and volunteering in the community. The Board considered this contention but did not find that it warranted further upgrade above what was granted by a prior ADRB.

(5) The applicant contends rejecting a medical discharge to continue serving with fellow Soldiers. The Board considered this contention but did not find that it warranted further upgrade above what was granted by a prior ADRB.

(6) The applicant contends attaining a bachelor's degree and an associate's degree, various certifications, and volunteering in the community. The Board considered this contention but did not find that it warranted further upgrade above what was granted by a prior ADRB.

**c.** The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance



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hearing to address the issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

**(1)** The Board voted not to change the applicant's characterization of service as the applicant already holds an honorable characterization and further relief is not available.

**(2)** The Board voted not to change the applicant's reason for discharge or accompanying SPD code, as the reason the applicant was discharged was both proper and equitable.

**(3)** The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

**a. Issue a New DD-214 / Separation Order:** No

**b. Change Characterization to:** No Change

**c. Change Reason / SPD Code to:** No Change

**d. Change RE Code to:** No Change

**e. Change Authority to:** No Change

**Authenticating Official:**

11/13/2024

**X**

Presiding Officer, COL, U.S. ARMY

Army Discharge Review Board

**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human  
Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation  
Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral  
Health (Issues)  
OMPF – Official Military  
Personnel File  
PTSD – Post-Traumatic Stress  
Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized  
Discharge  
UOTHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs