

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 978 - L.D. 1523

**An Act to Establish a Qualifying Condition Review Board to Provide Benefits to Certain Service Members**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 37-B MRSA §503, sub-§9**, as enacted by PL 2021, c. 37, §1, is repealed.

**Sec. 2. 37-B MRSA §504, sub-§4, ¶A-1**, as amended by PL 2021, c. 37, §2, is further amended by amending subparagraph (3) to read:

(3) "Program of general amnesty" does not include the process for upgrading a discharge for state law purposes under section ~~503, subsection 9~~ 517.

**Sec. 3. 37-B MRSA §517** is enacted to read:

**§517. Qualifying Condition Review Board**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means the Qualifying Condition Review Board established under this section.

B. "Gender identity" has the same meaning as in Title 5, section 4553, subsection 5-C.

C. "Sexual orientation" has the same meaning as in Title 5, section 4553, subsection 9-C.

D. "Veteran" means a person who served in the United States Armed Forces, the reserve components of the United States Armed Forces, the Maine National Guard or the Active Guard Reserve.

**2. Board established.** The Qualifying Condition Review Board is established to review applications submitted by veterans under this section.

**3. Board composition; terms; chair; compensation; meetings.** The director shall appoint 3 members to serve on the board. Board members must have clinical experience working with veterans who have been discharged or are at risk of discharge based on a circumstance listed in subsection 4. Members of the board serve a term of 3 years. The director shall appoint a member to fill a vacancy on the board. The director shall designate

one of the members as the chair of the board. The members of the board serve without compensation. The board shall meet at least monthly or as often as determined to be necessary by the chair of the board.

**4. Application.** A veteran who receives an other than honorable discharge may file an application for eligibility for rights, privileges and benefits granted to veterans under state law if the veteran believes the discharge characterization was based on:

A. The veteran's sexual orientation, gender identity or gender expression;

B. Conduct associated with a diagnosis of post-traumatic stress disorder or acquired brain injury; or

C. Conduct or circumstances relating to being a victim of military sexual assault.

A veteran filing an application under this section may include evidence supporting the veteran's claim that the discharge characterization was based on a reason described in this subsection.

The bureau shall prescribe an application form to be used for purposes of this subsection and make that form available on the bureau's publicly accessible website along with instructions for filing the application.

**5. Review of application.** The board shall review each application submitted and render a recommendation to the director as to whether the reason cited in the application was more likely than not the primary reason for the other than honorable discharge. The board shall review each application not later than the 30th day after the date the board receives the application and render a written recommendation to the director not later than the 30th day after the date of the review. The director shall issue a written decision not later than the 10th day after the date the director receives the board's recommendation, approving or denying the application. If the director approves the application, the veteran is eligible for rights, privileges and benefits granted to veterans under state law. A veteran aggrieved by the director's decision may file a request for reconsideration with the director not later than the 15th day after the date of the director's decision. The veteran may include supplemental documentation in support of the request for reconsideration. The director shall provide due consideration to the request for reconsideration and render a decision not later than the 10th day after the day the director receives the request for reconsideration. The director's decision with regard to the reconsideration is a final decision by the Maine Bureau of Veterans' Services and may be appealed by filing a complaint in the Superior Court.

**6. Rules.** The bureau may adopt rules to implement this section. Rules adopted in accordance with this subsection are routine technical rules as described under Title 5, chapter 375, subchapter 2-A.