

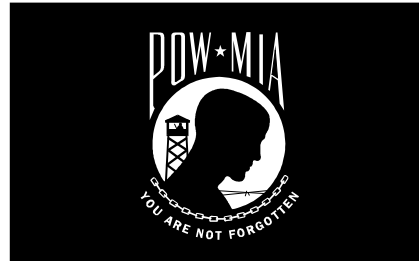


**ADJUTANT'S  
NEWSLETTER**  
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## THE DEPARTMENT OF NEW HAMPSHIRE THE AMERICAN LEGION

**TO MY LEGION FAMILY:**



### 2016 FALL CONFERENCE

This year's Fall Conference was held at Post 81, Contoocook, N.H. Thanks to Post 81 for your support in making this conference a success and for all your assistance. This year's conference concentrated on the requirement for Post incorporation. There are several Posts in the state that are still not incorporated and you are putting yourself and your membership at risk for liability if this is the case for your Post. I have checked with the state and they have listed 77 Posts that are currently incorporated. I recommend that if you feel your Post is one that is not that you verify with the State whether your Post is or not. The following information is some information that spells out the requirement for having your Post incorporated. Thanks to our Judge Advocate Doug Micklon or putting this information together.

- 1. Department Constitution Article VII**
- 2. Charter Renewal**
- 3. Insurance basics for nonprofit organizations**
- 4. NH Legal Requirements for Nonprofit Organizations**

#### 1. The American Legion Department of New Hampshire Constitution:

##### Article VII:

**Section 14.** All Posts of The American Legion within The American Legion, Department of New Hampshire, now in existence or hereafter chartered shall be incorporated under the provisions of Chapter 292, the revised Laws of the State of New Hampshire.

*"Organizations seeking tax-exempt status have several good reasons to incorporate. Since a corporation is a legal entity separate from those who own and/or control it, incorporating helps limit the liability of individuals involved with the organization and Department."*

##### 2. Charter Renewal:

New Hampshire's Voluntary Association Law, RSA 292:25, requires all New Hampshire nonprofit corporations to file a return with the New Hampshire Secretary of State, Corporation Division, each year that ends with a "5" or a "0" to renew their charter as a New Hampshire voluntary association.

Registered New Hampshire nonprofit corporations must file the return with the Secretary of State. The return form is mailed by the Secretary of State to the principal address of the nonprofit corporation and must be returned no later than December 31.

A return must include the nonprofit corporation's principal address and the name and addresses of all officers and directors of the nonprofit corporation's governing board and must be submitted along with a \$25 fee. Failure to file a return may result in repeal, revocation, or annulment of the nonprofit corporation's charter and in loss of the right to use the nonprofit corporation's registered business name. This filing requirement differs from the charitable trusts' annual report filings required under RSA 7:28.

### **3. Insurance basics for nonprofit organizations:**

This information is only intended as a general and abbreviated reference for nonprofit organizations. Because every organization's insurance needs are a little different, you are encouraged to work with a reputable agent or broker who understands your particular risk exposures and has access to insurance markets appropriate for nonprofit organizations.

#### **General liability:**

This coverage protects your organization against allegations that someone suffered bodily injury, property damage or various kinds of personal injury arising from your premises, your operations or your products, if applicable. General liability insurance is rated different ways depending on the best way to measure your organization's risk. Square footage, receipts, payroll and the number of members or participants may be used in determining a price. No matter how the coverage is rated, it is important to get quotations for at least \$1,000,000 each occurrence and \$2,000,000 policy aggregate. Higher limits may be available and affordable, and you should ask your agent to explore this. Every organization needs a general liability policy. Also, any vendors or contractors you hire should provide evidence of current coverage for general liability (and for workers' compensation, discussed below). Consider requiring that your organization be named as an "additional insured" on the vendor's or contractor's general liability policy, to protect you in the event your organization is named in a suit arising from the other party's negligence.

**Professional liability excluded** – Please keep in mind that the general liability policy provides no protection against allegations of an error or omission in your delivery of professional services. Over the years, the definition of "professional" has expanded greatly. Many nonprofit organizations that engage in counseling, vocational training and other kinds of instruction have a professional liability exposure. Professional liability insurance coverage is available. Policies are nonstandard; they are written specifically for each organization's particular risk.

**Volunteer liability** – A broadly written general liability policy includes coverage for bodily injury, property damage or personal injury by volunteers. However, many nonprofit organizations choose to insure their volunteers separately, to protect the organization's own 2 available limits of liability and its claims experience, in the event that a volunteer causes a claim.

**Directors and officers liability** - Directors and officers of nonprofit organizations face virtually the same exposures to lawsuits as do corporate directors and officers. Directors and officers can be sued for wrongful acts, or mismanagement of the organization or its resources. These wrongful acts result in financial damages, not bodily injury or property damage, so they aren't covered by general liability insurance. Among nonprofits, the most frequent allegation involving board liability is employment practices – wrongful termination, for example, or discrimination in hiring or promotion practices. This coverage can usually be added to a directors and officers liability policy; general liability insurance policies usually do not respond these matters. A broadly written directors and officers liability policy will cover allegations such as wrongful termination; failure to hire or promote; discrimination, including sexual harassment; claims alleging mental anguish and emotional distress. Other risk exposures that are covered include libel, slander or defamation; invasion of privacy; wrongful entry or eviction; false arrest; false imprisonment; malicious prosecution; and infringement of copyright, or trademark or other unauthorized use of title; and plagiarism or other misappropriation of ideas. Prior acts also are covered under a broadly written policy, and the cost of legal defense will not reduce your available limits of coverage. The standard limit of liability is \$1 million, but higher limits are available, depending on the organization's risks.

**Workers' compensation** - This insurance provides coverage for job-related injuries and illnesses your employees sustain the course of their work for the organization. Depending on your number of employees and your jurisdiction, this coverage may be required by law. Under the employer's liability section of the workers' compensation policy, you are protected in the event the employee decides to sue you for

negligence, rather than take the benefits available to them under your state's workers' compensation law. The rating basis for workers' compensation is your estimated annual payroll for each job classification in your workforce. Coverage for volunteer injuries -- State laws vary in terms of whether or not volunteers may be, or must be, covered under workers' compensation. Where state law does not require that volunteers be covered, many organizations choose to purchase an accident medical reimbursement policy to protect their volunteers in the event they are injured.

**Auto coverage** - For organizations that do not own vehicles Consider a "hired and nonowned" auto liability policy or endorsement to your general liability policy. This coverage protects the organization against third-party claims when employees or volunteers are at fault in an accident while driving their personal vehicles on behalf of the organization. It also provides protection if the organization rents or leases vehicles. The employee's or volunteer's personal auto liability insurance coverage will protect them while driving their own vehicles, but those policies won't provide coverage if your organization is sued. Hired and nonowned auto liability policies provide this protection for your organization. The "hired and nonowned" policy does not cover physical damage to the employee's or volunteer's vehicle. Physical damage for hired vehicles is an additional coverage option, however. Cost varies by region, type of organization and other factors. For organizations that own vehicles you should have a commercial automobile policy. It protects the organization when employees and volunteers (or anyone else driving the organization's vehicles with permission) are at fault in an accident while driving those vehicles. It also covers physical damage to the vehicles. The cost varies based on where the vehicles are garaged, and type of vehicle. Vans garaged in a large city, where the risk of an accident, or theft of the vehicle, are considered greater. Cars might be slightly less costly to insure. For all organizations have procedures in place to ensure that any employee or volunteer driving on behalf of the organization is a safe driver. At a minimum, check Motor Vehicle Records regularly, and require proof of current automobile liability insurance.

**Excess automobile liability coverage for volunteers** - This insurance provides liability protection above the limits of the volunteer's personal automobile coverage. Because many volunteers choose only the state mandated minimum limits of liability, they can be at risk of a large financial loss should they be at fault in a serious accident while driving on behalf of the nonprofit organization for which they volunteer. Offering this insurance can help with recruiting volunteer drivers who are concerned about their potential liability.

**Umbrella liability** -This coverage provides additional limits above those of the underlying policies – usually your general liability, the employers' liability section of your workers' compensation policy, and your business automobile policy. Umbrella policies are usually written in incremental limits of \$1 million.

**Employee/volunteer dishonesty coverage** - Every organization has a risk exposure that no one likes to think about... the situation in which a volunteer or employee embezzles fund, commits forgery or in some other way steals from the organization. Insurance company claim reports on these situations show that, quite often, the dishonest volunteer or employee was never suspected, got away with the deception for years, and was caught only by accident. Employee/volunteer dishonesty coverage makes the organization whole for these kinds of losses. Optional coverage is available for losses due to theft by a third party (as in a robbery), and disappearance or destruction of funds. Additional volunteers or employees can be covered for a minimal additional premium.

**Other coverage's** - Many organizations also own buildings, office equipment and other property that must be insured in case it is damaged or destroyed. A discussion of property insurance is beyond the scope of this document, but it is important to know that property can be insured either on a replacement-cost basis (essentially, new for old), or an actual cash value basis, which takes depreciation into account. Also, be aware that many insurance policies include "coinsurance" requirements; i.e., the insured is required to carry a limit of insurance that is equal to at least a specified percentage of the actual value of the property – usually 80%, 90% or 100%. If your limits are too low, you may incur a "coinsurance penalty" in the event of a loss. For real property (buildings), consider "building ordinance" coverage, to cover the increased cost of construction that might result from building-code changes that have occurred since the structure was built. Other risk exposures for which your organization might need or at least consider insurance protection include (to name just a few) business interruption, and extra expense associated with such an interruption; loss of stored data, including personally identifiable information, due to cyber crime; equipment breakdown (sometimes called "boiler and machinery" coverage); fiduciary liability arising out of the management of a benefit plan; loss of property during transit or while off your premises; and liquor liability for special events.

**4. NEW HAMPSHIRE NONPROFIT CHECKLIST**

**Legal Requirements for NH Nonprofit Organizations**  
(defined as all IRS 501(c)(3) entities, except religious organizations)

**For All Nonprofits**

**Annually**

- o Filing of Annual Report with NH Director of Charitable Trusts\*
- o Filing of Form 990 with NH Director of Charitable Trusts and with the IRS\*  
(if annual budget is under \$25,000 a 990 is NOT required. Form NHCT-2A should be substituted)
- o Conflict of Interest Policy and filing of annual conflict of interest statement with the NH Director of Charitable Trusts

**When Nonprofit Is Established**

- o Registration with NH Secretary of State\*  
(must be renewed every five years)
- o Minimum of five independent directors  
(see RSA 292:6-a)
- o IRS 501(c)(3) tax exempt status confirmed by IRS Exemption Letter  
501(c)(3) #: \_\_\_\_\_ Date: \_\_\_\_\_
- o Employer Identification Number (EIN) received from IRS  
EIN #: \_\_\_\_\_

\*Some NH nonprofit organizations are affiliates of regional or national organizations and are not required to be registered with the State of NH, provided the national organization has registered. In such cases a letter of explanation should be supplied.

**For Nonprofits With Revenues Over \$500,000**

(to be filed with NH director of Charitable Trusts)

- o Nonprofits with annual revenues of \$500,000-\$1,000,000 must file financial statements prepared in accordance with Generally Accepted Accounting Principals
- o Nonprofits with annual revenues over \$1,000,000 must filed an audited financial statement
- o Note: Nonprofits with endowment funds have additional requirements  
(see reverse side for resources)

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This organization (print name of org.) \_\_\_\_\_  
in compliance with all of the requirements of the NH Director of Charitable Trusts, the IRS and  
the NH Secretary of State, as listed above.

\_\_\_\_\_  
Board President/Chair – Print Name

\_\_\_\_\_  
Executive Director/CEO – Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

-----  
This form needs to be originally signed on an annual basis. Photocopies of the original are perfectly acceptable. DO NOT  
submit copies of all the documents listed here.  
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## RESOURCES

The Director of Charitable Trusts has a very helpful website, [www.doj.nh.gov/charitable](http://www.doj.nh.gov/charitable), and has also created a helpful guidebook. This guidebook may be downloaded from the above website under publications.

### References For Requirements For All Nonprofits

Copies of statutes and forms may be found at [www.doj.nh.gov/charitable](http://www.doj.nh.gov/charitable)

- Registration with NH Director of Charitable Trusts – RSA 7:19 through 7:32-1
- Conflict of Interest Policy that complies with 1997 Statute – RSA 7:19-a
- Annual Report filed with Director of Charitable Trust – RSA 7:19-a

Copies of statutes and forms may be found at [www.sos.nh.gov/corporate/forms](http://www.sos.nh.gov/corporate/forms)

- Registration with Secretary of State – RSA 292:25
- Minimum of five independent directors – RSA 292:6-a

### References for Additional Requirements for Nonprofits, Where Applicable

Copies of statutes and forms may be found at [www.state.nh.us](http://www.state.nh.us)

- Annual spending policy in compliance with Uniform Management of Institutional Funds Act – RSA 292-B
- Investment Policy that complies with Uniform Prudent Investor Act – RSA 564-A
- Uniform Trust Code – RSA 564-B

### Other Useful Websites

[www.state.nh.us](http://www.state.nh.us) – click on “Laws and NH Statutes” for full text of New Hampshire Laws

[www.guidestar.org](http://www.guidestar.org) – all IRS Form 990’s in searchable format

[www.irs.gov](http://www.irs.gov) – additional information on Federal tax laws relating to charities

[www.nhnonprofits.org](http://www.nhnonprofits.org) – information on workshops, upcoming events, and other issues of interest to New Hampshire nonprofits

[www.independentsector.org](http://www.independentsector.org) – a national coalition of leading nonprofits, foundations and corporations strengthening not-for-profit initiatives, philanthropy and citizen action

[www.boardsource.org](http://www.boardsource.org) – a national organization dedicated to building effective nonprofit boards

Also during the conference we picked the winners of the Fall Raffle. Congratulations to those winners.

James A. Cooper - \$2,500.00  
Tom & Alice Bernard - \$1000.00  
Alan M. Ciano - \$500.00  
John F. Fitzgibbon - \$200.00  
John M. Goodrich Jr. - \$200.00  
Norman Adams - \$200.00  
Ernest A Patch Sr. - \$200.00  
Charles E. Harris - \$200.00

## NEWS OF INTEREST TO VETERANS



### **2016 Veterans Day Free Meals, Events, & Offers!** **- Health Care Open Enrollment Season**

The calendar just turned to November. The World Series is going to Game 7, football season is in full swing, the Presidential election is a week away, and Veterans Day is right around the corner.

Each year we create a massive list of free meals, events, and discounts, and we're working hard to update our list again this year.

We do our best to verify each offer before publishing, and we try to make daily updates. It's a lot of work, but it's also a pleasure to serve the community!

We'll be sure to send out a full list at least one more time on or before Veterans Day. I hope this gets you started on your planning, and more importantly, I hope you are able to take some time off to reflect on your service and spend some time with your loved ones and/or fellow veterans!

As always, thank you for subscribing to our newsletter and thank you for your service!

2016 Veterans Day Free Meals:

<http://themilitarywallet.com/veterans-day-free-meals-and-discounts/>

### **Health Care Open Enrollment Season**

November 1st is the beginning of the health care open enrollment season. This might not matter much if you are on active duty or are a retiree and have access to TRICARE. But Open Enrollment is a big deal if you don't have access to health care through the military, or through your employer.

We have an in-depth article and podcast that discusses health care options after leaving the military. This includes those who are making the transition now (or will in the near future), those who are serving in the Guard or Reserves, retirees, and those who served, but didn't retire. VA health care eligibility is also covered in this article.

There are many affordable health insurance options out there for those who have served. I hope this guide will help you find something that meets your needs!

<http://themilitarywallet.com/health-care-benefits-after-separating-from-the-military/>

# 2<sup>nd</sup> Annual Manchester VA Medical Center

McIntyre Ski Area, 50 Chalet Ct. Manchester, NH

03104 <https://www.mcintyreskiarea.com/>

For more information contact Amy Brady at [amy.brady@va.gov](mailto:amy.brady@va.gov)  
or at 603-624-4366 x2780

[www.Manchester.va.gov](http://www.Manchester.va.gov)

**Purpose:** Bring together Veteran Job Seekers and local employers who support hiring Veterans in Celebration of National Career Development Month.

**Audience:** Local Employers looking to fill vacancies and Veterans Job Seekers.

## Extension to File for Gulf War Syndrome

WASHINGTON – For the next five years, veterans will have an easier time seeking benefits for illnesses linked to service in the Gulf War because of an extension issued Monday by the Department of Veterans Affairs.

Since 1994, the VA has automatically presumed a connection from Gulf War service, which included a toxic environment of oil fires and chemical weapons, to an increased risk for several illnesses. The connection enables veterans to receive a disability rating and benefits more quickly.

But the presumed connection and the ability to seek benefits was set to expire at the end of this year, after being extended four times previously. Effective Monday, the VA extended it a fifth time, to Dec. 31, 2021.

“This end date creates such an anxiety among the Gulf War veterans that gets so high as that deadline approaches,” said James Bunker, the executive director of the National Gulf War Resource Center in Topeka, Kansas. “[Secretary Bob] McDonald promised us the beginning of this year that this extension would happen.”

As justification for the extension, the VA cited a report from the National Academies of Sciences, Engineering, and Medicine in February that found veterans deployed to the Gulf War have an increased risk for chronic fatigue syndrome, functional gastrointestinal conditions and mental health disorders, as well as a myriad of symptoms including headaches, joint pain, insomnia and respiratory issues that make up Gulf War illness.

In the extension filed with the Federal Register on Monday, the VA wrote symptoms could manifest in Gulf War veterans at any point, and there was “no medical or scientific basis” for stopping veterans from seeking benefits at the end of year. The rule applies to veterans who served in Southwest Asia from 1990 to now, including ones from Operation Iraqi Freedom and Operation New Dawn.

“Currently, military operations in the Southwest Asia theater continue,” the extension read. “No end date for the Gulf War has been established by Congress or the President. If extension of the current presumptive period is not implemented, service members whose conditions manifest after Dec. 31, 2016 would be substantially disadvantaged.”

The VA is accepting comments about the extension through Dec. 16.

Bunker has a 100 percent service-connected disability rating from his time in the Gulf War, he said. He deployed with the First Infantry Division out of Fort Riley in Kansas and was medically evacuated in 1991 after struggling with respiratory and muscle problems. The VA granted Bunker service connection in 1992 for symptoms included in Gulf War illness.

Through the National Gulf War Resource Center, Bunker has appealed to Congress to eliminate the deadline permanently. The VA secretary is the only one with the authority to extend it.

“I know veterans wish the end date would be removed,” he said. “I wish we could get rid of it. Congress is the only body that can get rid of the end date, and they should do that to ease the anxiety of veterans.”

Of the 700,000 service members deployed to the Gulf War in 1990 and 1991, 36.5 percent were experiencing some symptoms of Gulf War illness in 2005, according to a previous NAS study. The federal government spent more than \$500 million on research related to Gulf War veterans from 1994 to 2014, but there’s been few findings about Gulf War illness and specific chemical agents that could be causing it, according to the NAS study from February.

Besides fighting to allow veterans to continue to seek benefits for Gulf War illness, advocates are tackling high rejection rates for Gulf War claims.

In March, the group Veterans for Common Sense issued a report stating the VA denied about 80 percent of claims filed by Gulf War veterans in the first half of 2015.

At a hearing before the House Committee on Veterans’ Affairs that month, the Veterans of Foreign Wars charged the VA was denying claims to try to rule out Gulf War illness intentionally, Stars and Stripes reported. VA officials at the hearing said its accuracy rate on Gulf War claims was about 90 percent.

“VA still has a hard time properly rating these claims,” Bunker said. “They seem to be in a constant form of denial when they do make mistakes on the benefits side.”

To find out more information about filing a claim for chronic disability related to Gulf War service, veterans can go to [benefits.va.gov](http://www.benefits.va.gov/COMPENSATION/claims-postservice-gulfwar.asp). <http://www.benefits.va.gov/COMPENSATION/claims-postservice-gulfwar.asp>

**THANKS TO ALL FOR YOUR SERVICE  
HAVE A GREAT VETERANS DAY  
AND HAPPY THANKSGIVING**

**Please Post**