STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
VETERANS' HEALTH CARE LEGISLATION

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Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present The American Legion's views on S. 613, the Veterans' New Fitzsimons Health Care Facilities Act of 2003; S. 1156, the Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003; S. 1213, the Filipino Veterans' Benefits Act of 2003 and S. 1283 a bill requiring advance notice of actions under VA's Capital Asset Realignment for Enhanced Services.

In the wake of the ongoing Medicare Prescription Drug Benefit debate, it is important for Congress to focus on the nation's Senior Citizens and equally important to include military veterans in that forum. While America struggles to provide comprehensive health care services for all of its citizens, Congress cannot shirk its duty to provide those services to the men and women who have served this nation in its armed services.

S. 1156, Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003

This legislation provides for certain improvements and enhancements to VA's Long-Term Care program.

Section 101 amends title 38, USC, section 1701(a)(10) to extend authorization for noninstitutional long-term care services, as part of VA "medical services," from December 31, 2003 to December 31, 2008. This bill amends section 1710A to require VA to provide nursing home care to those veterans rated 50 percent or more disabled for a service connected disability through December 31, 2008. Section 102 of the bill would provide VA with enhanced agreement authority to utilize non-VA nursing home facilities in furnishing eligible veterans' nursing home or adult day health care.

The American Legion consistently advocates the need to improve VA's ability to meet the increasing demand for long-term care. We strongly supported the enactment of PL 106-117, the "Veterans' Millennium Health Care and Benefits Act", which included a number of provisions

that were intended to ensure veterans rated 70 percent or more disabled for a service-connected disability would be provided long-term care through VA. The American Legion is disappointed in VA's inability to meet its current mandate to provide care for veterans rated 70 percent disabled or higher. While The American Legion supports the provision within this bill to require VA to provide long-term care for those veterans rated 50 percent disabled and higher, it is imperative that VA meet the long-term care needs of those veterans currently provided for in title 38, USC.

Section 201 would authorize specific major medical construction projects in Lebanon, Pennsylvania and Beckley, West Virginia. The American Legion is supportive of these initiatives. They will help bring much needed improvement in the medical care and services provided by these facilities.

Section 301 would expand the list of positions within the Veterans Health Administration (VHA) that are considered necessary for the medical care of veterans in title 38, USC, Section 7401, to include a variety of specialists and other health care professionals. It would also authorize additional pay for these individuals. The American Legion has no objection to this proposal, since it will enable VHA to recruit and retain essential medical care personnel necessary to provide high quality medical care.

Section 302 amends title 38, USC, Section 7802 to provide that employees of the VA Canteen Service may be considered for appointment to Department positions in the same manner as Department employees are considered for transfer to such positions.

Section 303 establishes effective dates for computation of the annuity for part-time service performed by certain health care professionals, who retired after April 7, 1986, as provided by PL 107-135. The American Legion has no objection to this amendment.

Section 304 provides VA with permanent authority to use contract physicians to conduct disability examinations. PL 104-275 authorized VA to conduct a pilot program of contract disability examinations. Beginning in 1997, VA established an initial five-year contract with QTC, a medical group analysis firm who conducted Compensation and Pension (C&P) disability examinations at 13 sites around the nation. The contract was renewed late last year. The American Legion believes that the contract exam program has proven itself to be an important adjunct to the traditional C&P exams performed at VA medical centers. QTC, up to this point, has been the only company engaged in this type of service for VA. With permanent authority, VA will have the flexibility to explore and expand the use of such contract providers and part of the overall effort to improve both the quality and timeliness of veterans' claims processing. The American Legion supports making VA's authority to establish such contracts permanent.

S. 1213, Filipino Veterans' Benefits Act of 2003

This legislation provides long-needed improvements in certain benefits for former members of the Philippine Commonwealth Army and New Philippine Scouts, who are residing in the United States and are U.S. citizens or legal aliens. It authorizes VA to provide these veterans with hospital care, nursing home care, and medical services. It also equalizes rates of payment of VA

disability compensation and dependency and indemnity compensation as well as providing entitlement to VA burial benefits, including burial in a National Cemetery, to those former New Philippine Scouts who reside in the United States. It also authorizes the continued operation of the VA Regional Office in Manila until 2008.

Mr. Chairman, The American Legion urges Congress to recognize the selfless contributions of these brave men during World War II and redress the longstanding inequity in the benefits provided these veterans. The American Legion fully supports this bill.

S. 613 Veterans' New Fitzsimons Health Care Facilities Act of 2003

This legislation authorizes the VA Secretary, under 38 USC, Section 8104, to carry out major medical facility projects at the site of the former Fitzsimons Army Medical Center. Projects, selected by the Secretary, may include inpatient and outpatient facilities providing acute, sub–acute, primary and long term patient care services. Project costs shall not exceed $300 million, if a combination of direct construction by VA, and capital leasing is selected or no more than $30 million per year, if capital leasing alone is selected.

The American Legion supports the relocation of the Denver Veterans Affairs Medical Center (VAMC) to Fitzsimons. The Fitzsimons Redevelopment Authority has begun converting the site of the former Army medical center to a Bio-Science Park, with the anchor tenant to be the University of Colorado Health Science Center (UCHSC). UCHSC has begun implementing its long-range plan to relocate its existing facilities, including its hospital to Fitzsimons. The Denver VAMC has had a longstanding, synergistic relationship with UCHSC and a move to Fitzsimons would facilitate sharing, unite the Eastern Colorado Health Care System with the university, and ultimately improve the timeliness and quality of health care provided to the enrolled veterans of the Denver area.

The core space of the current VAMC is 50 years old and undersized for its mission. Its support systems are inadequate for modern health care and it is reaching a non-recovery condition. A state-of-the-art facility would create flexible space and facilitate patient treatment in a modern day health care setting. The American Legion is pleased to support this legislation.

While the legislation we have discussed are solid efforts to address the challenges facing the Veterans Health Administration and its mission to provide health care services, they do not go far enough.

Until health care funding is provided in a consistent and timely manner, VA cannot grow to meet the future demands nor adapt to the changing face of the veterans' community. The demand and funding mismatch must be resolved in order to enhance health care delivery for the nation's veterans. The American Legion supports mandatory funding for VA's medical care.

S. 1283, advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs regarding the Capital Asset Realignment initiative.

The veterans' health care delivery system was designed when inpatient care was the primary focus, long inpatient stays were common and access was open to any veteran in need of care. As demand for services increased, budgetary constraints forced Congress and VA to take steps to restrict access to health care with the enactment of complex rules and regulations to limit both care and services.

Throughout the 1990s to the present, efforts have been made in the public and private sectors to control the cost of health care delivery through efficiencies and cost cutting. VA has changed from a hospital-based health care system into an integrated health care delivery network. In 1996, landmark legislation opened enrollment to all veterans within existing appropriations.

In 1999, a Government Accounting Office (GAO) report found that VA spent approximately $1 million a day on unused or underutilized space. GAO recommended, and VA agreed, that these funds could be better spent on improving the delivery of services and treating more veterans at more locations. In response to the GAO report, VA developed a process to provide the right care, at the right place, in the right setting.

The Capital Asset Realignment for Enhanced Services (CARES) was initiated in October 2000. The pilot program was completed in Veterans integrated Services Network (VISN) 12 in June 2001 with the Secretary announcing the final decision in February 2002. The remaining 20 VISNs were to be assessed in Phase II that began in June 2002.

During the pilot program in VISN12, stakeholders played no major role in the planning process. As a major stakeholder, The American Legion wants to ensure objectivity and inclusion of veterans' perspectives in the outcomes of CARES Phase II. To that end, The American Legion National Commander, Ronald F. Conley, authorized the creation of the Veterans Affairs Facility Advisory Committee on CARES (VAFACC). The committee's charge was to review the VISN market plans, planning initiatives and VA Facility Assessment Reports relating to the CARES process, keeping in mind VISNs were tasked to cut 10 percent of their vacant space by 2004 and 30 percent by 2005.

The committee raised the following concerns:

Funding – Clearly, billions of dollars in discretionary appropriations will be needed to accomplish the new construction and approved renovations. CARES is an ongoing process, and incremental changes are anticipated. With the proposed consolidations and transferring of services, it is imperative that no veteran experience any delays in access to the delivery of quality health care, and patient safety must not diminish. No VA medical facilities should be closed, sold, transferred or downsized until the proposed movement of services is complete and veterans are being treated in the new locations.

Veteran's Population – There is some concern that the projected veterans' population is underestimated. Indeed, it might be underestimated based on the war on terrorism. Certainly with regard to long-term care, mental health, domiciliary and other specialized care populations, the CARES process has yet to incorporate projections.

Long-Term Care- A spent close to $3.3 billion on long-term care in fiscal year (FY) 2002. With the enactment of the Millennium Healrh Care Act, demand will most likely increase due to the aging of the veteran population over the next decade. VA estimates that the number of veterans most in need of long-term care, those veterans 85 and older, will more than double to about 1.3 million in 2012. Yet, even with these numbers, veterans long-term care needs and projected growing demand are not included in Phase II of the CARES process.

Mental Health – Due to several factors concerning the initial projections, the National CARES Planning Office (NCPO) and several other experts are reviewing the mental health inpatient and outpatient projections. Because of the questionable decline of demand in several markets, networks were instructed to plan for increase in mental-health services only. Stakeholders were very concerned about the mental-health projections and expressed dissatisfaction with the model.

Unutilized Space – According to VA's office of Facilities Management (OFM), VA facility assets include 5,300 buildings; 150 million square feet of owned and leased space; 23,000 acres of land; and a total replacement value estimated at 38.3 billion. OFM assessed and graded 3,150 buildings for a total of 135 million square feet with correction costs estimated at $4.5 billion.

More development is needed by the VISNs to more effectively utilize this unused space instead of just selling or demolishing these buildings. Once the buildings are gone, there will be no way of getting them back. Before any unutilized space is sold, transferred, destroyed or otherwise disposed of, the CARES process must consider alternative uses of that space to include: services for homeless veterans, long-term care and the expansion of existing services.

Contracting Care – Throughout the VA health-care system, contracting out of care is prevalent. While contracting may be necessary in some circumstances, the wholesale use of this health care delivery tool should be used with caution. Contracting out of care was extensive in the VISN proposals. Some VISNs made the blanket statement that care would be contracted out to meet excess demand in 2012 and 2022. Considering that extensive research and cost analysis that will have to be done concerning available resources (if they are available) within each community, The American Legion does not believe that is much of a plan.

Enhanced Use Lease Agreements – Through the use of EU leases, VA can receive cash or "in-kind" consideration (such as facilities, services, goods, or equipment). Several of the VISNs proposed enhanced-use lease agreements with the public and private sectors. VA should continue to seek opportunities in the area of enhanced use leasing. It can certainly have a positive impact on service delivery to veterans and local communities.

VA/DoD Sharing - There are many opportunities for sharing between VA and the Department of Defense (DoD). Both VA and DoD benefit from these agreements, and every effort should be made by the VISNs to pursue this avenue in order to save money through cost avoidance, in particular pharmaceuticals, supplies and maintenance services.

The American Legion intends to remain an active partner with VA during this critical process of realigning the agency's capital assets to better serve American's veterans. Recent developments

in the CARES process serve to reinforce our concerns outlined in this testimony. The Undersecretary for Health sent back the market plans to 15 VISNs and 20 facilities with instructions to develop other options and look at further consolidating inpatient services in many of the facilities. Additionally, the CARES Commission hearings, after being postponed for 60 days are due to start August 12, 2003. These hearings concern the National Cares Plan, which no one has seen yet, and won't until at least August 1, 2003. That gives no lead time for stakeholders to study the plan before written statements are due for the initial hearings. The delays have given rise to many questions and concerns on the part of the stakeholders. We will continue to be vigilant in monitoring the progress in CARES. Indeed, the CARES process may require congressional oversight given the above concerns.

I thank you again for your commitment to veterans and look forward to working with you and the Committee on these important issues.