STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
THE CARES COMMISSION REPORT
TO
THE SECRETARY OF VETERANS AFFAIRS

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Mr. Chairman and Members of the Committee:

Thank you for this opportunity to express the views of the 2.8 million members of The American Legion regarding the Capital Asset Realignment for Enhanced Services (CARES) Commission's Report to the Department of Veterans Affairs' (VA) Secretary. The CARES initiative is unprecedented when considering the broad scope of VA's mission and the effects the final recommendations will ultimately have on VA's ability to fulfill its missions. Implementation of these recommendations will greatly impact services provided, not only to veterans currently seeking timely access to quality health care, but those active-duty military members, serving in more than 130 countries worldwide, who will one day turn to VA for care.

The United States military is currently preparing for the largest troop rotation since World War II; therefore, it is imperative that the final recommendations of the CARES report lead to substantive changes for enhanced veterans' services rather than simply downsizing the VA health care system. The recommendations contained in this report will ultimately shape the future of health care delivery within VA. The implementation and integration of those recommendations into the strategic planning cycle over the next 20 years is crucial to ensuring America's veterans, present and future, receive timely access to the quality of health care they have earned through honorable military service to this country.

The CARES Commission Review and Recommendations on the Draft National CARES Plan.

After several months of open meetings, lengthy debates on the overall effect of possible recommendations and nationwide VISN specific hearings, the *CARES Commission Report to the Secretary of Veterans Affairs* was finally released in February 2004.

The American Legion is concerned with contingency language contained in the report that does not clarify certain proposed recommendations. Those recommendations that include "proposed feasibility studies" and language such as "transfer ***or*** contract inpatient surgery beds" must not be open to loose interpretation. The American Legion supports strong oversight of all the recommendations well into the implementation stages.

The American Legion applauds the distinguished members of the CARES Commission for their honest effort in analyzing this vast amount of information and assembling recommendations for a report of this magnitude.

STAKEHOLDER INVOLVEMENT - One of the biggest issues of concern during the first phase of CARES was the obvious lack of consideration by VA over stakeholder input. When CARES entered Phase II, it was important to The American Legion to ensure that the voice of the stakeholder was heard during the CARES process. The American Legion took the following measures:

- Appointed a Legionnaire in each Veterans Integrated Services Network (VISN) to serve as its CARES representative with the primary task of participating at the local level regarding the CARES initiative and passing along information pertaining to CARES.

- Appointed members to The American Legion's VA Facility Advisory Committee to the Veterans Affairs and Rehabilitation Commission of The American Legion (VAFACC). The purpose of this Committee was to review the market plans submitted by the VISN leadership and to monitor the progress of the CARES process.

- Members of The American Legion's ***A System Worth Saving*** Task Force visited the seven facilities targeted for closure between November 1, 2003 and January 1, 2004. As a result of those visits, ***A System Worth Saving: The American Legion Report on the Seven Facilities Targeted for Closure in the CARES Draft National Plan*** was released on January 26, 2004.

Through the hearing process and along with Internet communications, the CARES Commission was able to solicit stakeholder concerns, and actively sought their views. The American Legion has maintained that stakeholder input is imperative and must be taken seriously at all levels of the CARES process. The American Legion intends on maintaining its participation in this process as both a partner and stakeholder in developing the future of VA health care.

CAMPUS REALIGNMENTS AND CONSOLIDATIONS – The Draft National CARES Plan (DNCP) contained proposals to close seven VA Medical Center campuses and consolidate certain services. These proposals were introduced relatively late in the process, absent stakeholder input. The Commission's recommendations in the report to the Secretary differ slightly with the DNCP, and to the Commission's credit, stakeholder input was sought out at both the local and national level to assist them in their evaluation of the DNCP's proposals concerning the facilities.

The American Legion cannot support the closing of any VA facility and denying veterans access to health care simply for the sake of cost-saving measures. No facilities should be closed, disposed of, or downsized until the proposed transfer of services is complete and veterans are being treated in the new locations.

Canandaigua Veterans Affairs Medical Center

The American Legion disagreed with the recommendation to close the Canandaigua VAMC as proposed in the DNCP. Current services include long-term care, nursing home care, mental health care and alcohol/drug rehabilitation, respite care, the post–traumatic stress disorder clinic, the domiciliary program and the mental health intensive case management program. This facility performs an important role in its region and is critical in meeting the health care needs of the local veterans' community it serves.

The American Legion is relieved to see that the Commission did not concur with the DNCP plan to close Canandaigua VAMC. The Commission recommends that psychiatric long-term care, nursing home care, domiciliary and outpatient treatment remain at Canandaigua. The American Legion opposes any change to services at Canandaigua until accurate demand projections are accomplished. Further, we are pleased to see the recommendation by the Commission that the VISN involve stakeholders and the community to help resolve the challenges they are facing.

Livermore Veterans Affairs Medical Center

The American Legion could not support this proposal as presented in the DNCP. The Menlo Park Division is 40 miles and an hours driving time for many of the older veterans who receive their care in Livermore. The proposal to contract out nursing home care in this area is far from realistic considering the local community does not have the capacity to handle these patients. The Commission recommends retaining long-term care services (nursing home beds) at Livermore as a freestanding NHCU. The American Legion agrees.

Waco Veterans Affairs Medical Center

The American Legion disagreed with the DNCP proposal to eliminate health care services at Waco VAMC. The Commission recommends retaining the NHCU as a VA operated facility, transfer of inpatient psychiatry, blind rehabilitation and PTSD residential rehabilitation to Austin and Temple and the construction of a new multi-specialty CBOC in Waco.

Waco is a multi-VISN referral facility for chronically mentally ill patients and a national referral facility for blind rehabilitation. Again, the CARES model does not incorporate the mental health needs and projections to 2012 and 2022 for veterans. Until the mental health numbers have been included, The American Legion believes the facility should stay open with no change to its mission considered.

VA Pittsburgh Healthcare System, Highland Drive Division

The proposed closing of Highland Drive and the transfer of all services to University Drive and Aspinwall campuses would require considerable and costly construction with estimates of more than $90 million. Due largely to the very distinct veterans' population Highland Drive VAMC serves, any transition of services could prove detrimental to the veterans' population relying on the services provided. Any proposed transfer of services must be seamless with as little disruption as possible to these veterans. If any proposed transition of services were to take place, The American Legion insists that an adequate amount of time be given to allow an orderly transfer with minimal disruption to patients and families.

Leestown Veterans Affairs Medical Center

The American Legion objected to the DNCP proposal to close the Leestown Campus of the Lexington VA Medical Center. Veterans in this area are woefully underserved in the mental health care area. The closing of the Leestown campus would be a great disservice to veterans in need of mental health services. Once again, The American Legion points to the lack of accurate mental health care projections throughout the VA system. Even if VA does include projections for future mental health care, those figures will not be incorporated until the next strategic planning cycle. The American Legion agrees with the Commission recommendation to keep the Leestown VAMC open.

Brecksville Veterans Affairs Medical Center

The Commission concurred with the DNCP proposal to close this facility and transfer all services to Wade Park. This raises serious concerns that Wade Park cannot handle the influx of new patients and that many patients will have to forgo treatment. The American Legion is concerned that this facility will close before proper planning and transferring of services has taken place. The chance for disruption of services to veterans is considerable. If the Brecksville VAMC is closed, VA must ensure that facilities at Wade Park are sufficient and operational before any services are discontinued.

Gulfport Veterans Affairs Medical Center

The American Legion does not support the closing of the Gulfport VAMC as proposed in the DNCP and concurred with by The Commission. Under the plan, all services are to be transferred to Biloxi and Keesler AFB. The American Legion believes the plan relies too heavily upon future developments with no guarantee that they will come to fruition. Biloxi's capacity to handle Gulfport's patient load before 2009 is questionable. Additionally, the Department of Defense (DoD) has made no firm commitment regarding the number of beds they can or will provide at Keesler AFB. Furthermore, gaining access to the base may be restricted because of increased homeland security measures.

COMMUNITY BASED OUTPATIENT CLINICS - The VISN market plans proposed the establishment of 242 new Community Based Outpatient Clinics (CBOCs). To maintain the integrity of the system, and maintain level growth for demand of services and ensure the ability to provide quality care, the DNCP proposed the establishment of only 48 CBOCs prioritized into three groups.

The criteria for inclusion into the top 48 CBOCs:

1) an access gap;
2) projected future increases in workload; and
3) more than 7,000 projected enrollees currently residing outside of access standards per proposed CBOC.

On October 7, 2003, VA's Undersecretary of Health informed the Commission that priority groups for CBOCs were established in order to continue limiting any new enrollees to prevent any strain on the inpatient infrastructure. The Commission noted that this has the effect of limiting access to outpatient care and is contrary to the goals of CARES to better serve veterans today and in the future.

The American Legion agrees with the Commission's recommendation that new CBOCs be established without regard to the three priority groups outlined in the DNCP. The American Legion believes funding for construction of new CBOCs should come from additional discretionary construction appropriations. Currently, VISNs and facilities struggle to maintain timely access to quality health care for veterans, especially when inadequate annual VA medical care appropriations are consistently finalized well into the new fiscal year. In the FY 04 VA medical care budget, Congress will allow the transfer of $400 million for CARES recommendations. The American Legion disagrees with this budgetary practice. For several years, VA Construction, both major and minor, was under funded pending the approval of CARES recommendations. This "robbing Peter to pay Paul" approach is inappropriate budgetary shenanigans. CARES' "enhanced services" construction funding should fall under VA Construction.

LONG-TERM CARE, MENTAL HEALTH, DOMICILIARY - VA provides specialized and unique care to veterans. It has been shown that the veterans' population cannot accurately or fairly be compared to the general patient population. The VA patient community is an older population that experiences a myriad of co-morbidity issues that complicate treatment.

CARES is a data driven process. The key component is the data used to forecast the future needs of veterans. The CARES process fails to include information on long-term care, outpatient mental health and domiciliary needs of veterans. VA chose to omit these important health care needs for this assessment. The American Legion believes these critical omissions adversely impact the effectiveness of recommendations resulting from the CARES process. The exclusion of these issues in the CARES process denies a complete and accurate picture of the demand for these services.

A case in point is the disparity in demand estimates for nursing home beds in VISN 6's Northwest Market. CARES DNCP estimates held that the veterans' population in this Market is expected to decline from 53,000 in FY 2001 to 48,000 in FY 2012, and to 39,000 in FY 2022. Consequently, the CARES Commission found that "current LTC workload at Beckley WV is decreasing and does not indicate that more nursing home care beds are needed."

This would appear to contradict a 2002 Capital Effectiveness Analysis (CEA) conducted by VA's own Office of Policy and Planning in collaboration with the Geriatrics and Extended Care Strategic Healthcare Group, the Agency for Health Care Policy and Research and the University of Michigan. Also cited in the DNCP in a VISN Identified Planning Initiative, the CEA study projected "the elderly population in West Virginia to increase from 15.3 percent in 1995 to 24.9 percent in 2025, which will put a strain on the private sector nursing homes in the area." The closest State Veterans Home is 100 miles away and Beckley VAMC Extended Care and Rehabilitation Service Line management is precluded from using a majority of local nursing facilities because of patient safety and quality of care concerns. A new 120-bed nursing home was approved for Beckley and initial phases of the project are now underway. As a fait accompli, the Commission concurred with the project. It is clear, however, that if only CARES data were used to estimate NHC bed demand, current capacity would have been deemed adequate and

many aging veterans in eastern West Virginia would be denied safe, quality nursing home care in the coming years.

The example of Beckley is illustrative of problems with the CARES model as applied to long-term care where variables, such as aging trends, are not part of the equations. Similar flaws exist in demand projections for mental health services and domiciliary. The American Legion insists that decisions on services in these areas be deferred until accurate projections are available.

VACANT 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. The Draft National CARES Plan proposes to eliminate 4.9 of 8.5 million square feet of vacant space, an ambitious 42 percent, by FY 2022. The DNCP calls for divestiture and demolition early in CARES implementation as the primary methods to reduce vacant space. The Commission notes that much of VA's excess property is not contiguous, but consists of pockets of space scattered throughout campuses, making it useless for other purposes such as Enhanced Use Leasing. Many VA buildings are considered historic, further challenging VA's disposal of the properties. The American Legion agrees with the Commission's findings that separate appropriations are requested to stabilize and maintain historic property rather than rely on medical care appropriations.

The American Legion does not agree with the Commission's finding that VA "…aggressively pursue disposal of excess VA property and land." The American Legion believes a case-by-case effort should be made to consider alternative uses of any vacant space before it is eliminated, such as: services for homeless veterans, long-term care, and the expansion of existing services.

CONTRACTING CARE - The DNCP proposed extensive contracting out of care within many of the VISNs in order to meet the projected increased demand in services through the peak years. Contracting out of care is necessary in some circumstances and inevitable in others, given VA's inability to pay competitive salaries to medical professionals. The American Legion agrees with the Commission's recommendation that no services should be altered until viable services are identified in the community. Furthermore, VA must establish quality criteria for contracting and monitoring service delivery and training of staff to negotiate cost-effective contracts. Fee schedules must be reviewed and adjusted to attract qualified practitioners; otherwise Medicare/Medicaid style difficulties in retaining contract providers may be experienced by VA.

ENHANCED USE LEASE AGREEMENTS - With Enhanced Use Lease Agreements (EULs) VA can maximize returns from property that is not being fully utilized. EULs allow VA to reduce or eliminate facility development and maintenance costs. Through effective use of EULs, VA can receive cash or "in-kind" consideration (such as facilities, services goods, or equipment).

The DNCP proposed several enhanced use lease agreement projects with the public and private sectors. Uses include homeless shelters or housing, cultural arts center, cemeteries, inpatient beds, mental health services and many other veterans' service enhancing ideas. The American Legion believes that EUL agreements that result in the development of new strip malls,

commercial office buildings, or hotels come at the expense of providing real "enhanced services" to veterans.

The American Legion recognizes that the EUL process, noted by the Commission, is fraught with delays, and a lack of demonstrated confidence and insufficient expertise to attract potential investors or navigate local zoning and land use requirements, is lengthy and complex, and is subject to the ups and downs of local economic conditions. The American Legion agrees with the Commission's finding that the EUL process needs reform.

VA/DOD SHARING - There are many opportunities for sharing between VA and the Department of Defense (DoD). The DNCP contains 21 high priority collaborations/joint ventures out of the 75 proposed throughout VA. Both VA and DoD benefit from these agreements and every effort should be made to pursue this avenue in order to save money through cost avoidance, in particular pharmaceuticals, supplies and maintenance services.

Extra effort on the part of these agencies to cooperate is essential in order for sharing to be successful. There is reluctance in some parts of the country to "share" services or programs between agencies. It is imperative that these roadblocks are overcome.

The American Legion agrees with the Commission's premise that VA/DoD collaboration should be one of the first considerations in addressing health care needs in a local area. However, the focus should always be on providing quality healthcare and reasonable access to the nation's veterans. If in the VA/DoD sharing process that cannot be accomplished, other ways of providing the service must be evaluated and the one that most benefits the veterans' community is the option that should be exercised.

MEDICAL SCHOOL AFFILIATIONS - VHA conducts the largest coordinated education and training program for health care professions in the nation. Medical school affiliations allow VA to train new health professionals to meet the health care needs of veterans and the nation. Medical school affiliations are a major factor in VA's ability to recruit and retain high quality physicians and to provide veterans access to the most advanced medical technology and cutting edge research. VHA's research has made countless contributions to improve the quality of life for veterans and the general population.

VA's partnership with this country's medical schools continues to allow VHA to enhance its ability to provide quality medical care to America's veterans, to promote excellence in education and research, and to provide back-up medical care to DoD in the event of war or national emergency.

The academic medical model of integrated clinical care, education and research is universally accepted as the best means of providing high quality and state-of-the-art medical care. The American Legion affirms its strong commitment and support for the mutually beneficial affiliations between VA and the medical schools of this nation. VA medical school affiliates should be appropriately represented as a stakeholder on any national Task Force, Commission, or Committee established to deliberate on veterans' health care.

THE FOURTH MISSION – VA's fourth mission is to serve as back up to DoD in the case of a national emergency. Any recommendations that are implemented as a result of the CARES initiative must ensure that VA is capable of fulfilling the fourth mission.

IMPLEMENTATION & INTEGRATION INTO STRATEGIC PLAN

CARES will not end once the Secretary renders his decision. It is expected to continue into the future with periodic checks and balances to ensure plans are evaluated, as needed, and changes are incorporated to maintain balance and fairness throughout the health care system. Service areas such as long-term care, mental health services and domiciliary capacity, excluded from the CARES process, were to be dealt with in strategic planning. The American Legion notes that VA's July 2003 Strategic Plan 2003–2008 contains a scant two paragraphs of generalities on the subject of long-term care. The American Legion will be following these issues closely in the coming months and years.

Mr. Chairman and Members of the Committee, The American Legion has raised many concerns today. The recommendations to close VA hospitals during a time when hundreds of thousands of soldiers are being sent to foreign lands to fight a war and the assessment of long-term care, mental health and domiciliary services being pushed back to the next cycle of CARES, are serious flaws in an assessment of a system vital to the health care needs of this nation's veterans. The American Legion has strong reservations against the contracting of veterans' care. The nation is producing more and more veterans in the global fight against terrorism, a fight that promises to be lengthy and take its toll on our young men and women. Unfortunately, many of these new wartime veterans will be dependent on the VA health care delivery system for the rest of their lives due to service-connected disabilities. It is imperative that we work together to ensure a future system of health care that meets the needs of the veterans' community.

Mr. Chairman, this concludes my testimony. I again thank the Committee for this opportunity to express the views of The American Legion on the CARES Report and look forward to working with you and your colleagues to ensure that the recommendations resulting from this unprecedented initiative do indeed result in "enhanced services" for all of America's veterans and their families.