

**STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
THE DEPARTMENT OF VETERANS AFFAIRS
HEALTH CARE SYSTEM'S
CAPACITY TO MEET CURRENT DEMAND**

JANUARY 29, 2003

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to express The American Legion's views on the Department of Veterans Affairs' (VA) health care system's capacity to meet the growing demand for health care. This hearing could not have been scheduled at a better time as veterans are being forced to wait in excess of a year to obtain an appointment to receive care within the VA health care system and the VA Secretary has been forced to terminate enrollment of new Priority Group 8 veterans. As it stands now the backlog is estimated to be between 236,000 – 300,000 veterans.

VA HEALTH CARE

The American Legion recognizes the Veterans Health Administration (VHA) as a national resource. Over the years, Congress has invested a great deal of time and effort to establish an integrated health care delivery network to care for America's veterans. VHA's primary missions are to serve the health care needs of the nation's veterans; medical research, medical education, and contingency backup to the Department of Defense's (DoD) medical service and the National Disaster Medical System. Today, there are nearly 24.5 million veterans. As more choose to use VA as their primary health care provider (over 7 million veterans enrolled or waiting to enroll), the strain on the system continues to grow.

The American Legion fully supported the enactment of Public Law (P.L.) 104-262 that authorized eligibility reform and opened enrollment in the VA health care system within existing appropriations. Until enactment of this law, many veterans were unable to receive VA health care. Veterans recognize that VHA provides affordable, quality health care.

Several other reasons influencing veterans to seek health care from VA:

- its holistic approach to health care;
- its full continuum of care, to include specialized services;
- its medical and prosthetics research;
- its affiliation with over 100 medical schools;

- its renown patient safety record;
- its pharmacy program;
- its numerous health care facilities; and
- its camaraderie atmosphere.

FY 2002 saw the astronomical growth of Priority Group 7 veterans seeking health care at their local VA medical facility and the creation of a new Priority Group 8. This unparalleled increase in enrollees into the VA health care system has resulted in 236,000 - 300,000 veterans currently waiting for medical appointments, half of which are waiting 6 months or more for an appointment.

Timely access to quality health care is a continuing struggle for veterans seeking care throughout VHA. Continued budgetary shortfalls, combined with rising medical care costs, limited number of health care professionals, and increased demand for care have resulted in unprecedented waiting times. VA estimates that there will be 4.9 million unique patients in FY 2003, versus the 3.7 million veterans projected only one year ago for FY 2002--a 31.5% increase overall. Of significance is VA's projection that while its patient population is projected to decrease, VA's number of enrollees and unique patients are projected to exceed 8 million and nearly 6 million, respectively, by 2012. Those numbers alone indicate that not only is the current system not equipped to handle the recent increase in workload, but also the health care system of the future must be shaped to adequately meet the anticipated increase of demands that will most certainly be placed upon it.

Concomitant to the real and projected growth of patient demand for health care is the continuing critical shortage of health care professionals available to treat veterans. At the top of this list are specialty doctors, psychologists, nurses and nursing personnel. The crisis of the nursing shortage is so critical that the National Commission on VA Nursing was recently chartered to address the ongoing recruitment and retention issues. The American Legion supports active recruitment of health care professionals, especially nurses, into the VA health care system.

In order for more veterans to access VA health care, additional revenue streams must be generated to supplement (not offset) annual discretionary appropriations. Annual discretionary appropriations for medical care are primarily designed to provide funding for the care of veterans assigned to Priority Groups 1-6, medical and support personnel, research, medical affiliations, its infrastructure and capital assets. The annual discretionary appropriations are distributed to Veterans Integrated Service Networks (VISN) via the Veterans Equitable Resource Allocation (VERA) formula which takes into account numerous factors; however, neither the number of enrolled Priority Group 7-8 veterans nor Medicare-eligible veterans is considered in that formula. There is no established VERA-like formula for the distribution of discretionary within the VISN to each VA medical facility.

Currently, VA is authorized to bill and collect copayments, deductibles, and third-party reimbursements, except from the nation's largest public insurance program -- Medicare. While this provides VA with much needed additional resources; these funds are unjustly scored as an offset to annual discretionary appropriations. This offset is detrimental to the overall VHA

budget because the amounts actually collected consistently fall well-short of budgetary projections. When VA does not meet its projected collection goals, the health care system experiences a budgetary shortfall, which results in limited health care services and timeliness of access for veterans seeking care. Third-party reimbursements for the treatment of nonservice-connected medical conditions of enrolled veterans primarily come from private health insurance providers. VA's collection rate of copayments far exceeds its collection rate of third-party reimbursement, especially since Medicare – the health insurance provider of most enrolled veterans – is billed, but does not have to pay for the treatment of nonservice-connected medical conditions.

PROBLEMS FACED BY VETERANS SEEKING HEALTH CARE

Backlog and Waiting Times - During the congressional hearing last September, The American Legion's National Commander, Ron Conley promised you and your colleagues he would be visiting VA medical facilities across the country. Over the last four months, National Commander Conley has visited over 25 facilities in 17 different states. So far, in the aggregate, he has found that veterans are waiting anywhere from 4 months to well over a year in some places for medical appointments. Additionally, it is very evident, from the data in surveys each facility was asked to complete, the wait times and backlog numbers are not getting any better, but rather worse. The American Legion is outraged by the unacceptable number of veterans waiting months to be treated at a VA medical facility. Clearly, VA is not meeting its own acceptable access standards.

As a result of the growing number of complaints about lengthy waits for initial doctor visits at VA medical facilities across the nation, The American Legion has launched a national program to gather personal stories about these complaints. The American Legion has launched the ***I am Not a Number*** national campaign in an effort to help lawmakers understand that behind the statistics are real veterans who need help. National Commander Conley plans to make a full report of his findings and the results of this unique, community-based campaign in the near future.

The brave men and women who are currently deployed to far off regions of the world in support of the war on terrorism must be assured that the VA health care system is capable of serving their needs when they turn to VA for care. The willingness to commit American service members to war must be tempered with a willingness to treat the wounds that result from their service.

Suspension of Category 8 Veteran Enrollment – VA Secretary Principi recently announced his decision to suspend enrollment of new Category 8 veterans. This was done in an effort to decrease the backlog of veterans waiting for health care and to ensure VA has the capacity to care for veterans in Priority Groups 1-6. Category 8 veterans are those veterans whose incomes exceed \$24,644 in 2003 for a single veteran and \$29,576 for a veteran with a single dependent and that also exceed a geographically based income threshold set by the Department of Housing and Urban Development (HUD) for public housing benefits. The American Legion disagrees with the recent decision. We believe denying veterans access to VA health care, particularly while young men and women fight the war on terrorism and prepare to do battle in Iraq, is unacceptable. By denying health care to Priority Group 8 veterans, VA is sending the message that these veterans are not welcomed, even if they have private health

insurance coverage that VA can bill for the cost of their medical treatment. This decision will exclude enrollment of new service-connected disabled veterans in Priority Group 8. These service-connected disabled veterans can receive treatment of their service-connected medical condition, but cannot receive treatment of any nonservice-connected medical condition. They will also be barred from using VA's pharmacy, except for medications for their service-connected medical condition.

While The American Legion agrees that budgetary shortfalls have led to the extreme backlog of veterans awaiting care from VA, we believe that rationing health care to America's veterans is not the best approach. Instead of squeezing the VA health care system to meet the budget, The American Legion believes the budget should be adjusted to meet the rising medical demand of ***ALL*** enrolled veterans. If the budget can be adjusted to meet this nation's war-fighting capabilities, it can surely be increased to meet the health care needs of its warriors – past, present, and future. The American Legion believes the true cost of freedom is best reflected in the cost of caring for America's freedom fighters.

Capital Asset Realignment for Enhanced Services (CARES) - The CARES program was developed in response to a March 1999 General Accounting Office (GAO) report that concluded VA could significantly save money by conducting an efficient utilization analysis of every building within VHA's infrastructure. VA initiated CARES with the goal of enhancing current and future health care services to veterans by realigning its capital assets.

The initial pilot study conducted in VISN 12 raised many concerns. The American Legion questioned the planning assumptions and the lack of involvement of veterans' service organizations. Because of disgruntled stakeholders' outcry over the pilot study and the way it was conducted, VA has undergone a restructuring of the process. Even with the restructuring of the process, The American Legion remains concerned that CARES may result in the reduction of VA expenditures under the pretext of cost-savings without regard to the needs of the patient population. Once VA capital assets are disposed of, it is nearly impossible to recoup similar assets.

Currently, Step 4 of Phase II is underway and the Market Plans are being developed by each of the remaining 20 VISNs. But inaccurate projections for enrollment and utilization in the areas of outpatient mental health, as well as future long-term and domiciliary care have resulted in those critical issues being excluded from the market plan development process. Outpatient mental health projections are currently being recalculated and will be added to the process by early February; however, VISNs are already developing their individual Market Plans. VA cannot possibly properly plan for the future needs of veterans without thoroughly considering and including such critical information. At this stage of the process excluding long-term care and domiciliary needs altogether is inefficient and only reinforces the concern that the ***Enhanced Services*** of the patient population are not truly the top priority of CARES.

The American Legion believes that many of the current underutilized or unused spaces in VHA facilities are the result of decisions that were budget-driven rather than demand-driven. Due to limited funding and a focused effort to achieve maximum efficiencies, VHA facilities

have concentrated on reducing their expenditures to meet their budget constraints rather than the growing demand for services by:

- Reducing the number of inpatient beds to include acute hospital care, subacute care, rehabilitative care, psychiatric care, nursing home care, and residential care;
- Allowing the waiting period for appointments to exceed universally acceptable access standards rather than hiring additional health care personnel;
- Contracting out services without regard to quality of care;
- Consolidating of services in regions regardless of distance patients and their families must travel for care; and
- Changing treatment philosophy, such as inpatient versus outpatient care of psychiatric patients.

While these reductions have created a lot of empty buildings previously used to meet the health care needs of its patient population, The American Legion believes there are many effective approaches to handling unused or underutilized facilities:

- P. L. 106-117, the Veterans Millennium Health Care and Benefits Act, mandates VHA to provide long-term care to service-connected veterans rated 70 percent and higher and those veterans with service-connected conditions that require long-term care. VHA has yet to fulfill the requirements of this law. As previously mentioned, long-term and domiciliary care are currently not included in CARES.
- DoD and VA could use these facilities in an effort to integrate their health care services through additional sharing agreements and joint venture opportunities. There are Reserve and National Guard medical units across the country that could use these facilities to meet their training requirements and storage of medical equipment and supplies.
- VA's medical education programs provide excellent training opportunities for health care professionals, many are full-time students living on fixed incomes and in need of affordable housing. Serious consideration should be given to renovations of unused or underutilized facilities to provide on-campus lodging for health care professional students or academic training facilities, such as, labs, classrooms, or research centers.
- Homeland Security requirements will begin at the grassroots level and many VHA capital assets may serve local, state and national needs in its role as a contingency back-up to DoD medical services and the National Disaster Medical System (NDMS) during national emergencies. However, it has been clearly stated by key personnel in the CARES process that the current Market Plan development process makes no allowance for VA's contingency role.

The American Legion is very concerned that CARES will result in the further limiting of veterans' services. We believe that any CARES recommendations should be considered in the context of a fully utilized VA health care delivery system that takes into consideration VA/DoD sharing, the Veterans Millennium Health Care and Benefit Act, VA's medical education program, and Homeland Security.

THE AMERICAN LEGION RECOMMENDATIONS

Mandatory Spending - Funding for VA health care currently falls under discretionary spending within the Federal budget. Under the rules of discretionary spending the VA health

care budget competes with other agencies and programs for limited Federal dollars each year. Unlike Medicare beneficiaries or Social Security recipients, the funding requirements of health care for service-connected disabled veterans are not guaranteed under discretionary spending. VA's ability to treat veterans with service-connected injuries is solely dependent upon congressional approved discretionary funding each year.

Under mandatory spending, however, VA health care will be provided funding by law for all enrollees who meet the eligibility requirements. Making funding for veterans health care mandatory and not discretionary would guarantee yearly appropriations for the earned health care entitlement of enrolled veterans, especially those with severely disabled, service-connected veterans.

Last Congress, Mr. Chairman, you and many of your colleagues supported H.R. 5250, the *Veterans Health Care Funding Guarantee Act* in an attempt to improve funding for VA health care. In the other body, Senator Johnson (SD) introduced a companion bill. This legislation would change VA health care from discretionary spending to mandatory spending by establishing a base funding year and calculating the average cost of a veteran using the VA health care system. Funding would then be provided based on the total number of veterans who participate in the VA health care system. That number would be indexed annually for inflation.

The American Legion believes it is disingenuous for the government to promise timely access to quality health care to veterans and then make it unattainable because of inadequate funding. Rationed health care is no way to honor America's obligation to the brave men and women who have, and continue to unselfishly put the nation's priorities in above of their own needs. Mandatory funding for VA health care will help ensure timely access to quality health care for America's veterans.

GI Bill of Health (GIBOH)- The American Legion introduced the GIBOH as a blue print for the future of VA health care. For over a decade, The American Legion has advocated for the underlying concept of the GIBOH which is to provide access to VHA for all eligible veterans either through government-funded care or through a combination of other funding streams to include, public and private health insurance. While many changes have occurred over the past several years, two major components of the GIBOH, Medicare reimbursement and premium-based health benefits packages remain. We believe enactment of these components would strengthen VA's fiscal stability and ultimately benefit the veterans' community.

Medicare Reimbursement – Under current law, VA is prohibited by Federal statute from billing the country's largest Federally mandated, pre-paid health insurance provider – Medicare. Over half of the enrolled veterans seeking health care services in VA list Medicare as their primary health insurance provider. Others list health maintenance organizations (HMO) that traditionally refuse to reimburse VA for treatment of their health care beneficiaries. Others list preferred providers organizations (PPO); however, VA is not listed as a preferred provider – therefore, cannot be reimbursed for care. Finally, many veterans list no private health care coverage at all.

The American Legion urges Congress to authorize VA to bill, collect, and retain third-party reimbursements from the Centers for Medicare and Medicaid Services (CMS) for treatment of Medicare-allowable, nonservice-connected medical conditions of Medicare-eligible veterans. Since Medicare is a Federally mandated, pre-paid health insurance program, The American Legion believes Medicare-eligible veterans should be allowed to choose their health care provider. If VA is an enrolled, Medicare-eligible veteran's health care provider of choice, then VA should be reimbursed for providing quality health care services.

Secretary Principi recently announced a plan to implement a Medicare reimbursement program based on the Medicare+Choice model, called VA+Choice. Under this model, Medicare-eligible veterans could purchase Part B coverage and choose to only seek health care within VHA. In return, CMS would reimburse VA provided Medicare access standards were met for its beneficiaries. Needless to say, The American Legion is waiting for further information on the details of this agreement between CMS and VA. The American Legion is deeply concerned since Medicare+Choice's reputation in both the public and private section is not very flattering. Many private health care plans that initially participated in Medicare+Choice now refuse to participate because on unacceptable reimbursement rates. DoD's TRICARE Senior Prime program was also based on the Medicare+Choice model and proved to be a fiscal disaster for DoD after TRICARE for Life was enacted. The American Legion believes VA+Choice could be successful provided the reimbursement rate is acceptable and there is no maintenance of effort (or level of effort) that plagued TRICARE Senior Prime. VA health care is not based on age, but rather solely on military service.

Premium-Based Health Care Plan – Ten years ago, the rules governing the type of health care services a veteran would expect to receive were very complex and confusing. The GIBOH recommended VA offer a Basic Health Benefits Package, a Complex Health Benefits Package, and Specialized Services Health Benefits Package. Each Health Benefits Package would be premium-based. Veterans rated 50 percent service-connected disabled or higher would receive the Complex Health Benefits Package and the Specialized Services Health Benefits Package at no cost to the veteran. CHAMPVA eligible dependents would receive the Basic Health Benefits Package and any Specialized Services need to meet service-connected disability needs at no cost to the dependent. Veterans rated less than 50 percent service-connected disabled would receive the Basic Health Benefits Package, but could purchase the Complex Health Benefits Package or Specialized Services Health Benefits Package on a discounted premium-basis based on the degree of disability. Economically indigent veterans would receive the Basic Health Benefits Package and Specialized Services Health Benefits Package at no cost to the veteran.

All other enrolled veterans would use their private health insurance coverage or select and purchase the VA health benefits package that would meet their individual health care needs. This coverage would have complete portability and would not change based on employer or medical condition. The cost of the coverage would probably increase, based on inflation, but would be comparable with private health insurance premiums.

CONCLUSION

Since its founding in 1919, The American Legion embraces former President Lincoln's closing remarks in his Second Inaugural Address: *With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan – to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.*

Mr. Chairman, achieving *a just and lasting peace* is the real cost of freedom. That cost includes maintaining a strong national defense, but it also includes maintaining veterans' cemeteries; veterans' compensation, retirement, and pension benefits; and timely access to quality health care for those veterans in need. The old adage – *actions speak louder than words* – is as true today as it was in 1776. The actions of the members of the Armed Forces of the United States have repeatedly spoken louder than words. That service was required personal sacrifice by a select group of Americans that accepted more than the basic obligations of citizenship to protect and defend freedom – at home and abroad.

The American Legion once again thanks the Committee for the opportunity to present its assessments and solutions concerning VA's health care system's capacity to meet the current demand for health care. We look forward to working with the Committee this year on this very important issue.

Mr. Chairman and Members of the Committee, that concludes my testimony. Thank you.