STATEMENT FOR THE RECORD OF
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OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON HEALTH
UNITED STATES HOUSE OF REPRESENTATIVES
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Mr. Chairman and members of the Committee:

Thank you for inviting the Disabled American Veterans (DAV) to submit our views for the record of this important hearing of the Subcommittee on Health. DAV is an organization of 1.2 million service-disabled veterans, and devotes its energies to rebuilding the lives of disabled veterans and their families.

Mr. Chairman, the DAV appreciates your leadership in enhancing Department of Veterans Affairs (VA) health care programs that many service-connected disabled veterans rely upon. At the Committee's request, the DAV is pleased to present our views on the bills pending before the Committee today.

H.R. 4062, the Veterans Health and Radiation Safety Act

Section 2 of this measure would require an annual report on low volume patient programs—specifically, programs with fewer than 100 participants in a calendar year—at all VA medical facilities.

Section 3 of the bill would require the VA to ensure that all health care employees, including contract employees, receive appropriate training related to the use of radioactive isotopes and on what constitutes a medical event and to whom it should be reported should such an event occur. Failure to provide such training would require the VA to stop the use of radioactive isotopes at a VA facility until such time the Department deems appropriate.

Section 4 mandates VA to establish specific requirements such as independent peer review of such services, written evaluations by the manager of the employee providing such services and evaluation review prior to extension of any existing contracts with non-government entities.

The genesis of this bill appears to be the recent finding by the VA Office of the Inspector General (OIG) related to application of prostate brachytherapy in the treatment of prostate cancer patients at the Philadelphia, Pennsylvania VA Medical Center, when the wrong strength of implanted radioactive seeds was discovered.

The OIG made five recommendations, with all of which the Veteran Health Administration (VHA) Under Secretary for Health concurred:

(1) VHA's National Director of Radiation Oncology Programs should have sufficient resources, to ensure that VHA provides one high quality standard of care for the prostate brachytherapy population. To achieve this end, VHA should standardize, to a practical extent, the privileging, delivery of care, and quality controls for the procedures required to provide this treatment.
(2) VHA should take the steps required to ensure that patients who received low radiation doses in the course of brachytherapy be evaluated to ensure that their cancer treatment plan is appropriate.
(3) VHA should review the controls that are in place to ensure that VA contracts for health care comply with applicable laws and regulations, and where necessary, make the required changes in organization and/or process to bring this contracting effort into compliance.
(4) Senior VA leadership should meet with Senior U.S. Nuclear Regulatory Commission leadership to determine if there is a way forward that will ensure the goals of both organizations are achieved.
(5) VHA should work with the OIG to develop a list of documents that should routinely be provided to the OIG when an outside agency is notified of a (possible) untoward medical event.

DAV has no specific resolution with respect to H.R. 4062, the Veterans Health and Radiation Safety Act; however, we concur with the OIG that proper training, oversight and following all mandates and established procedures for radiation therapies are necessary for VA and non-VA contracted health personnel to ensure patient safety. We ask the Committee to provide oversight to ensure VA carries out all of the recommendations made by the OIG in this case and we have no objection to passage of H.R. 4062 to ensure Congress is properly informed about smaller, "low volume" VA treatment programs and that proper training of health personnel administering radioactive isotope treatment is mandated along with appropriate training for identifying and reporting a medical event that could be harmful to veteran patients.

H.R. 4505 – To enable State homes to furnish nursing home care to parents any of whose children died while serving in the Armed Forces

Mr. Chairman, H.R. 4505 would empower State Veterans homes to furnish nursing home care to parents, any of whose children died while serving in the armed forces. Parents who lose a child to a military death are normally and generally referred to as "Gold Star Parents." In this instance, nevertheless, their losing fewer than "all" of their children to military deaths serves as a bar to their admissions to State Veterans homes under the non-veteran eligibility standards both in the law and in the regulations.

This bill would require the Secretary of Veterans Affairs to amend existing regulations (title 38, Code of Federal Regulations, Chapter 1, Part 51, Paragraph 51.210(c), with the following policy:

"In administering section 51.210(d) of title 38, Code of Federal Regulations, the Secretary of Veterans Affairs shall permit a State home to provide services to, in addition to non-veterans described in such subsection, a non-veteran any of whose children died while serving in the Armed Forces."

Mr. Chairman, DAV does not have a national resolution from our membership on the specific matter entertained by this bill; however, we believe the current statutory eligibility limitation on non-veteran admissions to State Veterans homes (not to exceed 25 percent of operating bed capacity, or 50 percent of that capacity in the case of a home that was constructed by a State without federal matching funds) is a sufficient guard to ensure that veterans receive proper priority for admission to State home residence. Therefore, while DAV would offer no objection to the passage of this bill in its current form, we ask the Committee to consider amending the bill further to subject this non-veteran population to the same limitation that applies to other non-veterans who are eligible for admission to State Veterans homes.

Draft Bill—Improve VA Outreach Act of 2010

Section 2 of this bill would require VA to establish, maintain, and annually review procedures for ensuring the effective coordination of the outreach activities within VA, state and county veterans agencies, veterans service organizations, Department of Labor, National Guard Bureau, and each of the reserve components of the Armed Forces.

Section 3 would amend title 38, United States Code, § 6306 to require VA to consult with the Department of Health and Human Services to seek to better serve veterans who receive medical care through community health centers or through facilities of the Indian Health Service.

Section 4 would establish an 11-member VA Advisory Committee on Outreach with ex officio members from the Department's Centers for Minority Veterans and Women Veterans, VHA, the Veterans Benefits Administration and the National Cemeteries Administration. The Committee would be required to provide a report to Congress with an analysis of and recommendations to improve VA's strategic plan for outreach.

Section 5 of this measure would amend title 38, United States Code, § 6302 by changing the required biennial plan to a strategic plan for outreach activities and for such plan to be reported to Congress. Rather than a summary of outreach plans VA is undertaking, the strategic plan would be a single outreach plan that includes the goals, objectives, tasks and performance measures for implementation. In addition, the strategic plan is to identify and inform eligible veterans and dependents not enrolled for benefits and services provided by the Department, and to enroll or register veterans eligible for VA benefits and services. Consultation by VA with outside entities for the purposes of developing the biennial plan would be substituted with the Department's consideration of the Advisory Committee on Outreach's analysis and recommendations of the strategic plan required under Section 4 of this draft bill.

As this Subcommittee is aware, VA has a statutory mandate to perform outreach activities to certain categories of veterans. For example, title 38, United States Code, § 2022 requires VA's Mental Health and Readjustment Counseling Service to conduct joint outreach

efforts to veterans at risk of homelessness. Title 38, United States Code, §§ 7722 and 7727 require the Veterans Benefits Administration to conduct outreach activities, which include sending letters to separating servicemembers, distributing full information about veterans' benefits to veterans and their dependents, and outreach to assist claimants with the preparation and presentation of claims for benefits.

Public Law 108-454, the Veterans Benefits Improvement Act of 2004, requires VA to prepare and submit to Congress a report containing a detailed description of the Department's outreach efforts to inform members of the uniformed services and veterans (and their family members and survivors) of the benefits and services to which they are entitled and the current level of awareness of those benefits and services. The report is also to include the results of a national survey to ascertain servicemembers' and veterans' level of awareness of VA benefits and services and whether they know how to access those benefits and services.

While this law did not address the lack of an annual strategic plan from VA to conduct its outreach activities, Public Law 109-233 added Chapter 63 to Part IV of title 38 to ensure all veterans, especially those who have been recently discharged or released from active military service, are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. In addition, the outreach services program authorized in Chapter 63 is for the purpose of charging the Department with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

This law requires a biennial plan for outreach activities by VA to identify and notify eligible veterans and dependents not enrolled for benefits and services provided by the Department. In addition, a biennial report to Congress is required that includes implementation of the biennial plan, recommendations for the improvement of VA outreach activities, and incorporation of the recommendations of the report mandated by Public Law 108-454.

DAV has had the opportunity to review the December 1, 2008, VA biennial outreach activities report to Congress. Clearly VA is conducting numerous outreach activities to veterans of all eras and has a special emphasis on veterans of Operations Enduring and Iraqi Freedom. However, we note the report lacks an overarching plan as well as any parameters or statistical evidence to determine whether outreach efforts, individually or collectively, are achieving the desired results. Strategic planning is essential for successful business operations and a full understanding of the veteran population is an important element in providing education and outreach.

The mission of VA would be incomplete and its programs would be ineffective if it only passively received applications from those who may by chance learn of benefits available to them. When veterans and their programs are brought together, utilization is optimized, economies of scale are attained, program goals are achieved, and program outcomes are improved. An essential part of VA's mission is therefore to seek out and educate veterans about the special programs created for their benefit, and incidentally, the ultimate benefit of society. Thus, VA must maintain, and adjust based on experience, an active, ongoing, and systematic

project to create awareness among potentially eligible veterans of the special benefits and services provided for them. This bill would reinforce the authority and congressional mandate for VA outreach and would benefit veterans suffering from service-related disabilities who may be unaware of the range of benefits and services available to them. DAV has no resolution from our membership to support this draft bill; however, its purpose appears beneficial, and we have no objection to the Committee's favorable consideration.

Draft Bill—To provide hearing aid devices to veterans of World War II.

Section 2 of this draft bill would allow the VA to provide a hearing aid device to any World War II era veteran diagnosed with a hearing impairment regardless of whether the veteran is entitled to VA compensation benefits.

Prior to enactment of the Veterans' Health Care Eligibility Reform Act of 1996, Public Law 104-262, VA's authority to furnish prosthetic devices and appliances to veterans on an outpatient basis was very limited. The law significantly changed the eligibility of veterans to receive hospital care and outpatient medical services, including prosthetics, medical equipment, and supplies to any veteran otherwise receiving health care services from VA. Unfortunately, sensori-neural aids, which are a type of prosthetic device including eye glasses and hearing aids, were not included when providing prosthetic devices and appliances by VA was expanded.

Section 103(a) of Public Law 104-262 provides that VA could furnish needed sensori-neural aids only in accordance with guidelines promulgated by the Secretary.[1] Subsequently, the Department published regulations (38 C.F.R. §17.149) in the Federal Register establishing such guidelines. In 2002, the VHA issued Directive 2002-039 to establish uniform policy for the provision of hearing aids and eyeglasses. This directive was revised in October 28, 2008 as VHA Directive 2008-070.

Current VHA policy on the prescription and provision of hearing aids (and eyeglasses) is to furnish such sensori-neural aids to the following veterans:

(1) Those with a compensable service-connected disability;
(2) Those who are former prisoners of war;
(3) Those awarded a Purple Heart;
(4) Those in receipt of benefits under title 38, United States Code 1151;
(5) Those in receipt of increased pension based on the need for regular aid and attendance or by reason of being permanently housebound;
(6) Those who have a visual or hearing impairment that resulted from the existence of another medical condition for which the veteran is receiving VA care, or which resulted from treatment of that medical condition;
(7) Those with a significant functional or cognitive impairment evidenced by deficiencies in activities of daily living, but not including normally occurring visual or hearing impairments; and

[1] 38 U.S.C. 1707(b)

(8) Those visually or hearing impaired so severely that the provision of sensori-neural aids is necessary to permit active participation in their own medical treatment.

Moreover, VA will furnish needed hearing aids to those veterans who have service-connected hearing disabilities rated 0 percent if there is organic conductive, mixed, or sensory hearing impairment, and loss of pure tone hearing sensitivity in the low, mid, or high-frequency range or a combination of frequency ranges which contribute to a loss of communication ability; however, hearing aids are to be provided only as needed for the service-connected hearing disability.

Clearly, veterans in Priority Groups 1-5 are eligible for hearing aids. Nonservice-connected veterans (Priority Groups 6, 7, and 8) must receive a hearing aid evaluation prior to determining eligibility for hearing aids to establish medical justification for provision of these devices. These veterans must be enrolled or exempt from enrollment for VA health care and the device must be determined to be necessary to permit the veteran's active participation in their own medical treatment

Hearing impairment is the most common body system disability in veterans. It is apparent that section 103(a) of Public Law 104–262 is aimed at reducing the cost of providing sensori-neural aids. Top-of-the-line hearing aids are costly, but that is always true of the newest technology. Conversely, the cost of hearing aids employing older technology has actually decreased over the years. For example, in 1996 when Public Law 104-262 was enacted, a top of the line two-channel digital aid cost $2,500. The equivalent two-channel behind the ear hearing aid today can be purchased for $495. For VA in 2008 (using six companies on contract for different technology), the average cost for hearing aid devices it has furnished was $355, whereas in the private sector, the cost per aid was $1,500 to $2,500.

In 2008, there were nearly 520,000 veterans that had a VA disability for hearing loss. While changes in eligibility for hearing aid services, along with the aging population, contributed to a greater than 300% increase in the number of hearing aids dispensed from 1996 to 2006, the cost of hearing aid devices has decreased. DAV has no resolution from our membership to support this draft bill; however, its purpose appears beneficial.

Mr. Chairman, this concludes my statement. Thank you for allowing the DAV to present its views before the Subcommittee today.