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Statement of the

Commissioned Officers' Association of the U.S. Public Health Service (COA)

Regarding the

Post-9/11 Veterans' Educational Assistance Improvement Act of 2010

Committee On Veterans' Affairs, United States Senate

Senator Daniel K. Akaka, Chair

Presented by

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21 July 2010

Good morning, Mr. Chairman and members of the Committee. My name is Gerard Farrell. I am a retired Navy Captain. For the past nine years, I have served as Executive Director of the Commissioned Officers Association of the U.S. Public Health Service (COA). I am pleased and honored to be able to speak to you today on behalf of active-duty and retired officers of the PHS Commissioned Corps.

I will confine my remarks to one part of S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act of 2010. I refer to Section 6 and the proposal to extend the transferability entitlement to the Commissioned Corps of the U.S. Public Health Service (USPHS) and the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA).

This provision would permit PHS and NOAA officers to transfer their unused educational benefits to dependent family members. This is attractive to PHS officers because they generally cannot take advantage of their GI Bill educational benefits. They join the service having already earned bachelors' degrees and, in most cases, advanced and terminal degrees as well.

Introduction and Background

In the original Post-9/11 GI bill, approved by Congress and signed into law by the President in 2008, the PHS Commissioned Corps and the NOAA Corps were left out. This oversight was partially rectified in 2009 during the development of implementing regulations. The Veterans Administration, citing law and precedent, observed that PHS and NOAA officers had always been entitled to GI Bill benefits. But because of the wording about transferability in the Post-9/11

statute, the VA could not fix the problem through rulemaking. So these two uniformed services remained left out of the transferability entitlement.

I want to thank Chairman Akaka for meeting personally with me and retired Assistant Surgeon General Dr. Jerrold Michael in September of 2008 to discuss this matter. We thank him for listening and for ultimately deciding to rectify this situation in the context of proposed overall improvements to the Post-9/11 GI bill.

S. 3447 would extend the transferability entitlement to PHS and NOAA officers. The bulk of my statement today is intended to reinforce the fact that this is absolutely the right thing to do. Maintaining public health security is a critical element of national security. The U.S. Government recognized this fact in 1889 when it created the Public Health Service Commissioned Corps as a uniformed service. The relationship of public health to national security has only grown more important over time.

I also want to offer a snapshot of the PHS Commissioned Corps, which has been serving the nation since 1889. It is the second-smallest of the seven federal uniformed services, with an active-duty force of 6,500 health professionals under the command of the U.S. Surgeon General. The PHS Commissioned Corps is not well-known to the general public, and sometimes not even to policymakers. The PHS Commissioned Corps is well-known and highly regarded by its sister services. PHS officers train with their military colleagues, participate in joint missions, and even serve alongside them in Iraq and Afghanistan. (I will say more about this later in my statement.)

Finally, I will comment briefly on the proposed change in funding of the transferability entitlement. If I read the bill correctly, transferability would no longer be funded by the Veterans Administration, but by the service members' various agencies. In the case of the PHS Commissioned Corps, that would be the Department of Health and Human Services.

Clearly, this would make transferability far less appealing to those agencies. Such a change now seems particularly unfair to PHS and NOAA, the two small uniformed services so far excluded from this entitlement. Further, shifting of funding responsibility for a veteran's entitlement to agencies other than the Veteran's Administration would set a strange precedent as well as adding still more complexity to the program's administration – exactly the opposite of the intended effect of S. 3447. The practical result would be to severely reduce an extremely popular veterans' benefit and restrict the ability of all the uniformed services to retain key mid-career professionals.

A better approach might be to establish funding caps and return to the original idea behind the transferability benefit, which was "to focus, laser-like" on retaining mid-career service members with highly valued skills that are in short supply.

Legal Precedent

As a matter of law and precedent, PHS and NOAA officers have always been entitled to all GI Bill benefits. This has been the case for more than 60 years. The single exception has been the transferability entitlement in the Post-9/11 GI Bill. The provision in S. 3447 that would extend

the transferability entitlement to PHS and NOAA officers would bring the Post-9/11 GI Bill into conformance with Title 42, Section 213(d) of the U.S. Code.

This section reads as follows:

Active service deemed active military service with respect to laws administered by Secretary of Veterans Affairs. Active service of commissioned officers of the [Public Health] Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Secretary of Veterans Affairs (except the Servicemen's Indemnity Act of 1951) and section 417 of this title.

In its final rule issued on March 31, 2009 implementing the Post 9/11 GI Bill, the Department of Veteran's Affairs was unequivocal in certifying that Title 42, all previous legal opinions, and precedent did, in fact, entitle the PHS Commissioned Corps to all programs administered by the Department of Veteran's Affairs. The pertinent section of that document reads as follows:

We agree that commissioned officers of PHS and NOAA are eligible for benefits under the Post-9/11 GI Bill. In a digested opinion from 1985, our General Counsel read the provisions of 42 U.S.C. 213 regarding PHS and 33 U.S.C. 857-1 and 857-3 (now in 33 U.S.C. 3002 and 3072, respectively) regarding NOAA as expanding the definition of 'Armed Forces' in 38 U.S.C. 101(10) to also include PHS and NOAA for purposes of benefits administered by VA. See VADIGOP, 6-26-85 (8-28 Reentry in Active Service). Therefore, service as a commissioned officer of PHS or NOAA meets the 'active duty in the Armed Forces' service requirement in section 3311 of title 38, U.S.C.

The implementing regulations thus made clear that PHS and NOAA officers are entitled to Post-9/11 GI Bill benefits. But at the same time, the VA regulation-writers felt stymied by the statutory language on transferability. The statute mentioned the Secretaries of Defense, Army, Navy, Air Force and Homeland Security, but did not mention either the Secretary of Health and Human Services or the Secretary of Commerce. These two departments are the parent agencies of the PHS Commissioned Corps and the NOAA Corps. S. 3447 would remove that restrictive language and thereby extend the transferability benefit to PHS and NOAA officers.

The PHS Commissioned Corps and the Military

While the mission of the PHS Commissioned Corps is undeniably and appropriately different and distinct from those of the other uniformed services, the character of their service is the same. While other services may deploy for long periods once every few years, PHS officers routinely deploy for several weeks at a time, many times in any given year. PHS officers also deploy, albeit in small numbers, consistent with the overall size of the Corps, alongside the other uniformed services around the world.

Most recently, PHS officers have deployed, and are deployed today, for both long and short tours in Iraq and Afghanistan. Two PHS officers deployed to Afghanistan for a year in 2009 were awarded the Bronze Star Medal for their service.

There is a long history of the PHS Commissioned Corps serving shoulder-to-shoulder with the other uniformed services. The Corps was militarized during World War II and remained so through the Korean Conflict. PHS officers were killed and wounded during those wars. In the last decade PHS interoperability with DoD has again been growing as DoD becomes increasingly re-aware of the inextricable link between public health security and national security. PHS officers deploy regularly and routinely as part of the Navy's annual health diplomacy deployments; with the Army and Air Force in the annual Arctic exercises in Alaska, and elsewhere around the world. PHS officers were among the first uniformed service members deployed to Haiti in the wake of the earthquake earlier this year.

The PHS Commissioned Corps at Home

On the home front, PHS officers are deployed as needed across the United States. They serve in remote and sparsely populated areas, providing comprehensive health care to underserved populations. They help staff the health and regulatory agencies with the Department of Health and Human Services (FDA, NIH, CDC, and HRSA, among others) and they also serve in the Department of Homeland Security and the Bureau of Prisons.

PHS officers are stationed in nearly all states and the District of Columbia, with a significant presence in Alaska, Arizona, Georgia, Maryland, Minnesota, New Mexico, North Carolina, Ohio, Oklahoma, Texas, Virginia, and Washington State.

Let me cite North Carolina as an example: Nearly 500 PHS officers are stationed there. They are spread out across the state – from Asheville, Durham, Raleigh, Greensboro, Elizabeth City, and Research Triangle Park, to Butner, Cherokee, and Manteo.

Some PHS officers are detailed to the Defense Department, and are working at Womack Army Medical Center at Fort Bragg. Others are assigned to the Traumatic Brain Injury clinic at Camp LeJeune. These PHS officers are doctors, nurses, physicians' assistants, mental health specialists, and physical therapists, and they are treating and rehabilitating severely injured soldiers and Marines returning from Iraq and Afghanistan.

Other PHS officers are assigned to the Coast Guard Integrated Support Command in Elizabeth City. Not everyone realizes that PHS officers provide nearly all health care for all U.S. Coast Guard personnel. They wear Coast Guard uniforms.

The Cherokee Indian Hospital in Cherokee, North Carolina, is staffed by two dozen PHS physicians, dentists, and nurses who are part of the Indian Health Service. Still other PHS officers stationed in North Carolina work for federal health agencies, including the Food and Drug Administration, National Institutes of Health, and Centers for Disease Control. PHS officers are also assigned to the Environmental Protection Agency, Department of Homeland Security, and even the National Park Service.

One hundred and thirty PHS officers stationed in North Carolina work for the federal Bureau of Prisons. They staff the prison system's Federal Medical Center in Butner. They are physicians, dentists, nurses, pharmacists, psychologists, social workers, and physical and occupational therapists.

The North Carolina contingent of PHS officers also includes research scientists, toxicologists and radiologists, sanitary engineers, biostatisticians and epidemiologists.

I like to point out that the Commissioned Corps of the U.S. Public Health Service is among the most diverse of federal workforces in terms of ethnicity, race, and gender. Collectively, PHS officers in North Carolina are fluent in 14 languages, and some officers speak three or four languages in addition to English. In a field where cultural sensitivity is a key requirement in providing effective care, the PHS Commissioned Corps is unsurpassed in operational effectiveness.

Public Health Workforce Needs

There is a well-documented need to retain public health service officers in service to the nation's health. This matter can be addressed in part by the inclusion of those officers as eligible for the full provisions of the Post-9/11 GI Bill.

The Public Health Service Commissioned Corps has seen a precipitous decline in the number of physicians and dentists over the last five years. Requirements for nurses, pharmacists, engineers, and mental health professionals remain unfilled. The need is especially acute in the Indian Health Service. PHS officers are needed to support DoD treatment plans for mental health issues arising from the ongoing wars in Iraq and Afghanistan.

There is a critical need to retain and to recruit additional PHS officers in service to the nation. There is also a critical need to underscore the seamless relationship among all seven uniformed services. These facts militate for inclusion of the PHS Commissioned Corps in Post 9/11 GI Bill transferability.

In recognition of the crisis in the federal public health workforce, the Patient Protection and Affordable Care Act contains provisions specifically aimed at strengthening and enhancing the role of the PHS Commissioned Corps. The Patient Protection Act, when fully implemented, will significantly improve the ability of the PHS Commissioned Corps to recruit future officers in the key professions; but the Corps has an immediate and urgent need to improve retention of key mid-career professionals now. Transferability of the Post 9/11 GI Bill entitlement will meet that need.

Even in the best of economic times, qualified public health physicians, dentists and nurses who are willing to commit to public service careers are in short supply. The transferability entitlement in the Post-9/11 GI Bill offers the Department of Health and Human Services a potentially valuable tool for recruiting and retaining these scarce health professionals. This tool will be even further enhanced by retaining the funding as it currently exists – in the Department of Veteran's Affairs.

For all these reasons, I ask all members of this committee to support the provision within S. 3447 that would, at last, extend Post-9/11 GI Bill transferability to the PHS Commissioned Corps and the NOAA Corps. I appreciate your time, attention and consideration. I will be pleased to answer any questions you might have. Thank you.