

James M. SIMS, NATIONAL COMMANDER, MILITARY ORDER OF THE PURPLE HEART

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OF THE PURPLE HEART

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2010 ANNUAL TESTIMONY

BEFORE A JOINT HEARING OF THE  
SENATE AND HOUSE COMMITTEES ON VETERANS' AFFAIRS

MARCH 4, 2010

Chairman Akaka, Chairman Filner, ranking members Senator Burr and Mr. Buyer, Members of the Committees, ladies and gentlemen.

I am James M. Sims (Shelton, WA), National Commander of the Military Order of the Purple Heart (MOPH). It is an honor and privilege to appear before this distinguished body on behalf of the MOPH. As, I am certain you are aware, MOPH is unique among Veteran Service Organizations (VSOs) in that our membership is comprised entirely of combat wounded veterans who have, by either being wounded or, by making the ultimate sacrifice on the world's battlefield, have been awarded the Purple Heart Medal.

Under Public Law 85-761, 85th Congress, H.R. 13558, AUGUST 26, 1958, the Military Order of the Purple Heart, Inc., (MOPH) was incorporated shortly thereafter in Washington, DC.

Today, MOPH, its Auxiliary, the Ladies Auxiliary of the Military Order of the Purple Heart, Inc., (LAMOPH), and the MOPH Service Foundation of the USA, Inc. (MOPHSF) constitute an extraordinary organization of nearly 50,000 Members.

The MOPH Service Program operates a national network of 94 offices throughout the continental United States as well its US Trust Territories and Commonwealths in Guam and Puerto Rico, staffed by more than 155 trained, accredited National Service Officers (NSOs), managers and administrative assistants who, in 2009, provided more than 31,000 veterans and dependents expert representation and assistance in obtaining more than \$208,000,000 well deserved benefits from the DVA. The MOPH Service Program, funded by more than \$7million grant from its Service Foundation, is electronically supported by and operates its NSO-designed Veterans Case Management System (VCMS), a web-based client database, providing automated input to DVA Forms and reports management architecture for rapid client response and excellent case oversight.

In 2009, the MOPH Veterans Affairs Voluntary Service Program (VAVS) logged more than 96,000 voluntary hours at more than 100 sites, the equivalent of more then 50 full time Department of Veterans Affairs employees (FTE).

In conjunction with the Department of Veterans Affairs and the Department of Labor, MOPH conducted three (3) self-funded Job Fairs in 2009, leading directly to the hiring of numerous OIF/OEF Veterans in local, regional and national commercial and government positions.

In 2009, the MOPH Scholarship Program awarded more than 80 scholarship grants valued at more than \$250,000. These scholarships went to carefully selected and academically qualified recent OIF/OEF Purple Heart recipients, their spouses and to children and grandchildren of MOPH Members, including those Killed in Action (KIA).

I am accompanied today by Senior Vice Commander Clayton Jones (Nixa, MO), Junior Vice Commander William R. Hutton (Thousand Oaks, CA), National Adjutant John P. Leonard (Fairfax, VA), National Service Director Francis S. Van Hoy (Owings, MD) and National Legislative Director Hershel W. Gober (Palm Coast, FL).

I thank the members of both Committees for passing so much legislation during the first session of this Congress that has benefited so many veterans. The Advanced Funding Legislation for the Veterans' Health Administration (VHA), the Veterans Health Care Budget Reform and Transparency Act of 2009, which is now Public Law 111-81, is particularly important. It is the hope of MOPH and other VSOs that it will help to solve the challenges of timely funding faced by the VHA.

In the interest of time my oral remarks will be as brief as possible and with the understanding that my entire testimony will be entered into the record. Your Committees are extremely important to MOPH and its members. We consider you to be the highest level of advocates that veterans have on Capitol Hill and for this we thank you.

MOPH, as I am sure the members of Congress do, remains in absolute support of America's military men and women who are serving in harm's way. We believe that upon their return home that our country can never do enough for them. They should be provided with the best medical care available and any benefits they have earned should be provided in a timely manner.

Our top priorities for the remainder of the year for the 111th Congress are:

**IMPROVEMENT OF THE TIMELESSNESS AND ACCURACY OF THE DEPARTMENT OF VETERAN'S (VA) CLAIMS SYSTEM:**

MOPH believes that the backlog and the processing time for disability claims remain unacceptable. MOPH thanks Congress for holding hearings and for continuing to pursue this issue with the DVA. I also plan to attend and participate in the "Claims Summit 2010: A Call for Solutions" on March 18, this month. We also thank Congress for authorizing additional claims administrators as part of the 2010 Military Construction/VA Appropriations Act. MOPH is pleased to note that the Administration's budget request for 2011 includes an increase of \$460 million and more than 4,000 additional claims processors for Veterans benefits.

The VA continues to receive an almost overwhelming number of claims. In 2009 the VA states that they received one million and fourteen thousand claims. This is a 75 percent increase over the number of claims received in 2000. The VA faces great challenges in meeting the timely and

accuracy standards for claims processing that Veterans deserve. MOPH is in complete support of the VA as they move forward on providing earned benefits to Veterans.

Having said that, MOPH firmly believes that the only means by which the claims system can be changed to be more responsive and accurate is if the VA fully and aggressively embraces modern technology, in some cases purchased “off the shelf”. The VA must also, of course, have the trained and qualified personnel to support this technology. MOPH is aware that VA has initiated action in this regard however, MOPH requests that both of your Committees continue to closely monitor this effort and insist that the VA move rapidly.

The development of a modern technology delivery structure, using a paperless claims system, will also facilitate the goal of a “seamless” transition for disabled veterans from DOD to DVA.

#### TRAUMATIC BRAIN INJURY AND POST TRAUMATIC STRESS DISORDER (TBI/PTSD):

MOPH thanks your Committees for continuing to ensure that these two very serious disabilities remain at the forefront of the priorities of Congress. We would also like to acknowledge the improvements that the Departments of Defense and Veterans’ Affairs have undertaken in this regard.

There remains, however much to be done. A 2008 RAND study indicated that approximately twenty percent of Iraq and Afghanistan veterans screened positive for PTSD or major depression but less than half of those suffering from mental health issues are receiving sufficient medical treatment. Multiple deployments and inadequate time at home station or home base between combat deployments increases the rate of combat stress.

Troops in Iraq and Afghanistan are also facing increasing instances of neurological damage. The majority of TBI cases are evaluated and treated as mild or moderate. However, the damage is considered and reported to be widespread. When troops are in proximity to exploding ordnance the resultant blast can inflict unseen damage to the brain without leaving a visible injury. Nineteen percent of Iraq and Afghanistan veterans report a probable TBI during their deployment. Untreated mental health issues may lead to family conflicts, increased substance abuse, homelessness and possibly even suicide.

The challenge in receiving timely, adequate treatment for these disabilities is serious for all returning veterans but especially for those living in rural areas where VA facilities, or other treatment facilities, are located many miles and hours away from where the veterans lives and works. MOPH is pleased that the Administration’s 2011 budget request seeks an increase in funding to help address this issue.

MOPH urges Congress to continue to recognize the service and sacrifices of those members of the Armed Forces who are serving in harm’s way and ensure that these men and women have access to the best medical/mental treatment available upon their return home. All veterans should have available and convenient access to this earned care.

MOPH supports S. 1963 “Caregiver and Veterans Omnibus Health Services Act of 2009”. This legislation, if enacted, would provide increased training and other benefits to those dedicated

professionals who are caring for those members of the Armed Forces who experienced severe disabling injuries while serving our country. S. 1963 would be particularly beneficial to those veterans affected and living in rural areas. MOPH notes that the President's budget for 2011 is seeking an increase to strengthen access to health care for 3.2 million Veterans enrolled in the VA medical system who reside in rural areas.

#### ELIMINATION OF THE SURVIVOR BENEFIT PROGRAM (SBP) AND THE DEPENDENT INDEMNITY COMPENSATION (DIC) OFFSET:

Under current law the SBP, a Department of Defense Program, is reduced dollar for dollar by the amount of DIC compensation received from The Department of Veterans' Affairs. Members of the Armed Forces elect to voluntarily pay premiums for the SBP program (comparable to life insurance) with the understanding that their survivors would receive the benefits of this insurance program. Unfortunately this is not the case. Survivors of retirees, upon eligibility for DIC because of their veteran's service connected disabilities, lose a majority and in some cases all, of the SBP monthly annuity.

While Congress did in 2008, take some action to recognize the unfairness of the current system, this action and legislation was insignificant and did not correct the basic problems with the current law.

MOPH continues to believe that the current law codifies serious inequities. Retired Members of the Armed Services continue to pay for the SBP coverage with their own monies. This benefit should not be reduced for their survivors when their demise is due to injuries/illnesses incurred by the service member while in military service of the United States of America.

MOPH supports legislation that has been introduced to rectify this onerous situation, H. R. 775 "Military Surviving Spouses Equity Act" and S. 535 "To amend Title 10, U.S. Code, to the repeal the requirement for reduction of Survivor Annuities under the Survivor Benefit Plan by Veterans' Dependency and Indemnity Compensation", and we respectfully request that you fully support this legislation.

#### CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VA DISABILITY COMPENSATION:

Over the last several years Congress has made progress in correcting this serious miscarriage of justice by granting those military retirees with a VA disability rating of fifty percent or higher to receive both military retired pay and their VA compensation. Congressional Legislation has also included expanding Combat Related Special Compensation (CRSC) to Title 61 retirees. MOPH believes that there are no differences between a military retiree with a ten percent disability rating and a retiree with a one hundred percent rating. In other words, if the process is good for one retiree, why is it not good for all retirees regardless of that individuals retired status or percentage of VA disability?

MOPH supports S. 546 "Retired Pay Restoration Act of 2009" and H.R. 333 "Disabled Veterans Tax Termination Act" which would allow all military retirees with a VA compensable service

connected disability rating to receive both their earned military retired pay and the VA awarded service connected disability compensation.

#### PURPLE HEART PERPETUAL (FOREVER) STAMP:

MOPH has a long history of the pursuing of the issue of a “forever” Purple Heart Stamp that would recognize the service and the sacrifice of those who have been awarded the Purple Heart Medal for wounds that they received in service to the United States of America. MOPH believes that this is another, and at no cost, way that our country can continuously honor those members of the Armed Forces who have been killed or wounded in service. In light of the on-going conflicts, such action becomes not only an important undertaking, but also an honorable undertaking.

MOPH is most appreciative that on May 30, 2003 the United States Postal Service (USPS) issued the first Purple Heart Stamp. The USPS has reissued the Purple Heart Stamp on each occasion that a postal increase has occurred. While we have been assured that the Purple Heart Stamp will continue to be reissued each time that the cost of a first class stamp is increased, MOPH its 44,000 members, and many other VSOs remain steadfast in our belief that the Purple Heart stamp should be accorded the same status as the Liberty Bell Stamp that is a “Forever Stamp”. While MOPH, appreciates and is grateful for the assurances of the USPS, we are also aware that government policies in effect today may not be the policies in effect next year.

MOPH is well aware that the USPS Citizens Stamp Advisory Committee has the responsibility of recommending to the Postmaster General the issues involving the issuance of postal stamps and that the Postmaster General is the final authority. While Congress cannot legislate the issue of specific postal stamps, we do believe that passing legislation as a “sense of the Congress” could have a positive effect on the Advisory Committee. MOPH requests that members of Congress support legislation that would convey this “sense of Congress” to the USPS.

MOPH urges support of S. 572 “Perpetual Purple Heart Stamp Act” and H.R. 1305 “To provide for the issuance of a forever stamp to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart” presently before the Congress.

In addition to these five important issues, MOPH notes additional issues of concern for veterans and their families:

#### NATIONAL PURPLE HEART RECOGNITION DAY:

MOPH supports Senate Concurrent Resolution 36 and House Concurrent Resolution 168. These Resolutions would designate August 7th as a day to recognize the Purple Heart Medal, and its predecessor, the Badge of Military Merit, as the oldest military decoration in the world in present use.

It also recognizes the more than 1,535,000 recipients of the Purple Heart Medal, approximately 550,000 are still living. It calls upon the citizens of the United States to conduct appropriate ceremonies and other activities to demonstrate support for members of the Armed Forces who

have been awarded the Purple Heart Medal for wounds received while engaged with the enemy in combat.

#### SERVICE DISABLED VETERAN OWNED SMALL BUSINESSES (SDVOB) AND VETERAN OWNED SMALL BUSINESSES (VOB):

MOPH supports the Executive Order issued by the President concerning the employment of veterans in the federal government (Nov 9, 2009). MOPH commends the Executive Branch for directing Federal Departments and Agencies to establish goals for the hiring of veterans. Those who have sacrificed the most deserve the full support of the federal government in their return back into civilian life.

MOPH would like to see the provisions of Public Law 109-461 expanded to include purchases made utilizing the Federal Supply System (FSS) contracts. The current Law is only applicable to the VA acquisitions and establishes a statutory hierarchy placing SDVOB and VOB first and second respectfully in VA open market acquisitions. The vast majority of purchases in the VA utilize the FSS.

MOPH supports an amendment to Public Law 109-461 that would include purchases made utilizing the FSS.

#### STATE VETERANS HOMES:

MOPH supports for H. R. 4241 which would amend Chapter 17 of Title 38, U. S. Code to allow for increased flexibility in VA payments to state veterans' homes for care provided to eligible veterans.

#### AUTHORIZE TAX DEDUCTIONS FOR PREMIUMS PAID FOR HEALTH INSURANCE:

MOPH supports Congressional action that would allow service members, military retirees and survivors to pay health insurance premiums for TRICARE supplements and DOD TRICARE dental plans, on a pre-tax basis as is currently permitted for federal civilian employees and for those who participate in a "cafeteria plan" offered by a civilian employer.

#### COMPENSATION AND PENSION BENEFITS:

As a result of negative inflation and consumer price index decreasing over the past year the Social Security Administration (SSA) announced that there will be no COLA in 2010 for Social Security recipients.

By federal law VA's COLA cannot exceed the SSA COLA which means that VA cannot implement a COLA increase for recipients of VA benefits.

MOPH supports legislation that would link the COLA for recipients of VA compensation and pensions to the COLA increases for federal employees.

#### MEDICARE SUBVENTION:

MOPH and other VSOs have long advocated for Medicare to reimburse VA for treatment of Medicare eligible veterans for treatment of non-service connected medical conditions.

Veterans, like other citizens, have paid into the Medicare program and we believe they deserve the right to utilize their Medicare benefit in whatever medical facility they choose. Many veterans choose the VA medical system and are pleased with the care they receive. The VA spends an enormous amount of money to treat these veterans but is precluded by law from billing Medicare for the treatments.

In the mid-nineties the VA informed Medicare that they would treat Medicare eligible veterans for non-service medical conditions for less than Medicare was paying at the time. There would have been significant savings for Medicare and additionally would have provided more funds for the VA to treat more veterans. This offer was rejected. In view of the increasing costs of medical treatment MOPH believes it is time to revisit this issue.

MOPH supports H. R. 3365 “Medicare Reimbursement Act of 2009”.

#### VA EXTENDED CARE FACILITIES:

The VA has a long success record of providing quality care in their extended care facilities. Veterans in need of this service, as a general rule, prefer to be residents of a VA facility as opposed to being placed in a VA contracted civilian facility. The VA facilities provide state of the art care and the veterans are among their fellow veterans.

The Millennium Health Care and Benefits Act of 2000 redefined the parameters for the VA regarding extended care for veterans. The legislation, which is Public Law 106-117, directs the Secretary of VA to provide nursing home care, which the Secretary determines is needed to any veteran for a service connected disability or to any veteran with a service connected disability rated at 70 percent or greater.

The VA has the authority to transfer veterans from the VA managed facilities to a VA contracted commercial extended care facility within their geographical areas. Unfortunately many Combat Wounded veterans, who are not rated 100 percent disabled by the VA, find themselves being transferred to a commercial facility while other non-combat veterans with a greater VA rating are able to remain in the VA managed facility.

MOPH supports legislation that would amend the current Law to recognize that combat wounded veterans in VA extended care facilities who have a VA disability rating of 70 percent or greater would be afforded the first priority to remain in VA managed extended care facilities.

#### BURIAL BENEFITS FOR VETERANS:

MOPH supports H. R. 4045 “Veterans Burial Benefits Improvement Act of 2009” which would increase from \$300 to \$1,270 the amount of burial allowance for those veterans who die in a VA facility. It would also increase from \$2,000 to \$4,100 the allowance for those veterans who die of a service connected disability. Both allowances would be increased, from time to time, based upon increased burial cost.

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#### MILITARY VALOR ROLL OF HONOR ACT:

Over the last several years there has been an increase in the number of persons fraudulently claiming to have served in conflicts and claiming to be the recipients of military awards for valor.

Since the passage of the “Stolen Valor Act” there has been a concentrated effort by the government to bring these imposters to justice. Much success has been achieved, however it has been difficult since DOD does not maintain a database of the recipients of most of these awards.

MOPH supports H. R. 666 which would require DOD to establish and maintain a database for awards for Valor.

#### HONOR THE WISH ACT:

MOPH supports H. R. 1633 which would permit a member of the Armed Forces to designate any individual he/she chooses to determine the final disposition of his/her remains regardless of whether the individual so designated is a relative of the service member or not.

#### JENNY’S LAW:

MOPH supports H. R. 731 which would amend Title 38, U. S. Code to exclude individuals who have been convicted of certain sex offenses from receiving burial benefits and funeral honors to which other veterans are entitled.

#### POST 9/11 TROOPS TO TEACHERS ENHANCEMENT ACT:



MOPH supports H. R. 3943 and S. 1932 which would amend the Elementary and Secondary Education Act of 1965 to permit members of the Armed Forces who served on active duty on or after September 11, 2001 to be eligible to participate in the Troops-to-Teachers program.

Those members of the Armed Forces who have served 90 continuous days on active duty and who are discharged or released from military service with an honorable discharge and meet certain other requirements would be considered eligible to participate in the program.

#### CONSTITUTIONAL AMENDMENT TO PROHIBIT THE PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES:

MOPH supports Senate Joint Resolution 15 and House Joint Resolution 47 which would grant unto Congress the power to prohibit the physical desecration of the flag of the United States.

#### SPACE – A TRAVEL ACT OF 2009:

MOPH supports H. R. 4403 which would authorize space available travel on military aircraft to the un-remarried surviving spouse of a retired member of the Armed Forces on the same basis as a spouse of a living retired member.

It would further authorize an un-remarried surviving spouse who receives Dependency and Indemnity Compensation from the VA the same privilege. Dependents, accompanied by the surviving spouse, would also be eligible for Space-A travel.

#### TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES:

MOPH support S. 66 which would permit any former member of the Armed Forces that the VA has rated at one hundred percent, for a service connected disability, to travel on military aircraft in the same manner as a retired member of the Armed Forces. The travel would be on a Space Available basis.