STATEMENT OF JOHN A. FEDRIGO, ACTING ASSISTANT SECRETARY OF THE AIR FORCE FOR MANPOWER AND RESERVE AFFAIRS TO THE HOUSE COMMITTEE ON VETERANS' AFFAIRS, DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS SUBCOMMITTEE.

Thank you for the opportunity to provide the Department of Defense (DOD) position on H.R. 2568, Untied States Cadet Nurse Corps Service Recognition Act of 2021, which, if enacted would provide certain burial benefits to certain people who were members of the United States Cadet Nurse Corps during and after World War II. I'm also grateful for the opportunity to speak to the Departments previous determinations made in 1979 and 1993 that the activities of the Cadet Nurse Corps did not constitute active duty service as contemplated by Congress under the provisions of Public Law 95-202, G.l. Bill Improvements Act of 1977.

If enacted, H.R. 2568 would confer eligibility and entitlement to headstones, markers, and other burial benefits (excluding internment at Arlington National Cemetery) under chapters 23 and 24 of Title 38, United States Code, to any individual who served as a member of the United States Cadet Nurse Corps from July 1, 1943 through December 31, 1948 and was honorably discharged therefrom. Among other things, H.R. 2568 would direct the Secretary of Defense to issue any member who served during the noted period a discharge from such service under honorable conditions if the Secretary determines that the nature and duration of the service of the individual so warrants.

The Department of Defense opposes this legislation. Before arriving at this position, we noted that the Department has twice considered and denied applications to recognize the service of the Cadet Nurse Corps as active military service under the provisions of Public Law 95-202, The GI Bill Improvement Act of 1977. Public Law 95-202 directed the Secretary of Defense to establish a review process for making these determinations and the Civilian/Military Service Review Board (C/MSRB) was established to consider applications from civilian or contractor groups. Delegated oversight of the Board and final decision authority has been designated to the Secretary of the Air Force.

These determinations are based on the evaluation of criteria set forth in DOD Directive 1000.20, *Active Duty Service Determinations for Civilian or Contractual Groups.* First, in order to recommend that a group's service should be recognized as active duty service, the Board must conclude that the extent of control exerted over the group by the U.S. Armed Forces was similar to the degree of control exerted over military personnel. Further, the group must also be comprised of civilian employees of the U.S. government or contractors. Finally, DOD Directive 1000.20 prescribes incidents of service the Board must consider in determining whether the degree of control exerted over the civilian group by the U.S. Armed Forces was similar to that exerted over U.S. military personnel.

The evidence submitted with the Cadet Nurse Corps applications and discovered by military historians shows that the Cadet Nurse Corps met virtually none of the criteria for veteran status set out in Public Law 95-202 or in its implementing regulation DOD Directive 1000.20. (Examples of those statutory criteria are the extent of the group's military training and military capability; the extent of military discipline and control; and the extent members could resign.) After a thorough review of the evidence provided, and for the reasons noted in the written decisions provided to the Committee, the Board recommended the Group's applications for recognition be denied. The Secretary of the Air Force, as the DOD executive agent, adopted those recommendations and denied the group veterans status.

Some of the C/MSRB's lengthy findings, after thorough historical and legal analysis, illustrate the basis of DOD's opposition to this bill. These brief comments will touch upon the purpose of the Cadet Nurse Corps, composition, organization, and relation to the armed forces.

In 1943, Public Law 74 of the 78th Congress (The Bolton Act) established the Cadet Nurse Corps for "the training of nurses for the armed forces, governmental and civilian hospitals, health agencies, and war industries, through grants to institutions providing such training, and for other purposes." While engaged in civilian training activities designed primarily to aid supplying nurses for civilian hospitals in wartime, this group only indirectly aided in meeting requirements for the armed forces. Equating their training with "active military service for purposes of any law administered by the Department of Veterans Affairs" would diminish the terms "active military service" and "veteran." "As the Corps history states: 'Perhaps the strongest case for the Cadet Nurse Corps was the plea of hospital authorities that nursing care in civilian hospitals was in a desperate state.'" (*Medical Training in World War II*, Office of the Surgeon General, Department of the Army, 1974, p. 147.)

Additionally, the Cadet Nurse Corps was composed of student trainees and was not a branch of the Armed Forces or civilian personnel force of the United States Government. Under The Bolton Act, the federal government provided scholarships for students and grants-in-aid for schools of nursing, whose curricula and clinical facilities met the standards prescribed by the U.S. Public Health Service. The nurse candidates were never considered to be employees of the Federal Government in either a military or civilian capacity. The small stipend which they received was dispensed by the institution at which they were trained and was considered an allowance for personal expenses.

Moreover, the Cadet Nurse Corps were never under military direction or control; nor did the cadets have military training or accouterments. The Corps was administered by the Public Health Service under the Surgeon General of the United States, with the U.S. Civil Service Commission acting as a clearing house for applicants. Only as a Senior Cadet (last six months of training), did some of the cadets have an opportunity to train in a military hospital. Nevertheless, the ultimate responsibility for these few cadets remained with the Public Health Service.

During the development of the Senior Cadet program, the Army optimistically agreed to train 1,500 senior cadets every 6 months and agreed to limit acceptance to 50 percent of each class. Such limits and precautions proved unnecessary. As mentioned, early estimates indicated that 50 percent of the Senior Cadet Nurses could be trained in Federal hospitals; but in practice, only 15 percent enrolled, and only 6.4 percent of these were assigned to military hospitals.

Available evidence does not permit measurement of the program's impact on civilian nursing, or on military recruitment rates. Even the number of students graduated is not a measure of impact, because the Senior Cadet's promise to remain in the nursing program throughout the war was not legally binding. When the Surgeon General of the Public Health Service sought a legal interpretation of the cadet pledge, he was advised by his General Counsel as follows: "The statement of availability required of the Cadet Nurse under Section 2 of Public Law 74, Seventy-eighth Congress, that she shall be available for military or other Federal governmental services for the duration of the war, does not establish a contractual relationship between the Cadet Nurse and the United States. The pledge is purely honorary, and inability or failure to fulfill it involves no break of legal obligations."

Similarly, Cadet Nurses could withdraw from their training programs for any reason. Of the 170,000 nurses recruited between July 1943 and October 1945, nearly 56,000 Cadet Nurses withdrew during the course of the program. These 56,000 Cadet Nurses withdrew for reasons of homesickness, family obligations, or difficulty of the course, and some withdrew when the war was over. (*The United States Cadet Nurse Corps, 1943-1948*, Federal Security Agency, Public Health Service, 1950, p. 38).

While direct military recruiting was not a primary objective of the program, the Army Medical Department did make efforts to interest cadets in Army nursing. Despite these efforts, very few cadets were ultimately persuaded to remain in the service. There is no record of the number of cadets who accepted appointment, but only 93 had been commissioned by January 1, 1945. (*Medical Training in World War II*, Office of the Surgeon General, Department of the Army, 1974, p. 150).

For the reasons noted above, the Cadet Nurse Corps does not meet the established criteria for recognition because it is not a group of civilian employees or contractors and, even if it was, of control over the group was under the Public Health Service and not the U.S. Armed Forces.

We recognize that H.R. 2568 is not intended to confer recognition of Cadet Nurse Corps service for the purposes of all benefits under Title 38, United States Code, but would limit applicable benefits only to certain burial benefits. Despite this limitation, the Department believes that conferring these benefits upon members of this group is not fair or appropriate, particularly when the evidence submitted is not sufficient to conclude that Cadet Nurse Corps members were subject to the control of the U.S. Armed Forces. Additionally, despite the limitation to burial benefits, the cost of the legislation to the Department of Defense is not negligible. Due to the possible pool of cadet nurse applicants (170,000) we assume there will be administrative and personnel costs in reviewing correspondence by those claiming to be members of the Cadet Nurse Corps and trying to ascertain if their service to the Cadet Nurse Corps was honorable. Additional costs will occur in the production of discharge documents required by this legislation so the Department of Veterans Affairs can confirm entitlement to the noted burial benefits.

During its deliberations the C/MSRB was, and the Department remains, fully cognizant of the national effort and sacrifices which took place during World War II by United States citizens. However, while civilian service is a vital element of the Nation's war-fighting capability, civilian service during a period of armed conflict is not necessarily equivalent to active military service. We recommend that civilian groups, which believe their service is equivalent to active military service, continue to be evaluated and recognized under the provisions of Public Law 95-202 to ensure that all candidate groups evaluated through a fair and transparent process envisioned by Congress when it enacted Public Law 95-202.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.