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MEMORANDUM

September 6, 2005

TO: Legislative Oversight Committee on State and Veterans Nursing Homes

FROM: Lauren Sisneros and Geoffrey Johnson, Legislative Council Staff

SUBJECT: Background Material on Colorado's State and Veterans Nursing Homes

This memorandum provides background materials related to Colorado's state and veterans nursing homes. It describes Colorado's veterans nursing home facilities, describes the composition and roles of study groups that have been appointed to examine the veterans nursing homes, and identifies regulatory entities that oversee operation of the homes. In addition, a folder that includes background information on Colorado's State and Veterans Nursing Homes is provided.

Background on Colorado's State and Veterans Nursing Homes

There are six state and veterans nursing homes operating in Colorado, five of which are specifically for veterans. The homes are located in Aurora, Florence, Monte Vista, Rifle, Trinidad, and Walsenburg. Currently, Colorado's State and Veterans Nursing Homes has a total capacity of 665 beds and has a total of 616 residents.

Fitzsimons. The Colorado State Veterans Nursing Home at Fitzsimons, located in Aurora, is a 180-bed facility. The nursing home currently has a capacity of 159 beds and has 152 residents. The facility opened in 2002.

Florence. The Colorado State Veterans Nursing Home at Florence (McCandless State Veterans Home) is a 100-bed facility that includes a 14-bed Special Care Unit providing care for residents with Alzheimer's Disease and similar conditions. The facility, which opened in 1976, currently has 98 residents.

Homelake. The Colorado State Veterans Center at Homelake, located near Monte Vista, is a 60-bed nursing facility and 46-bed domiciliary. The domiciliary provides an "assisted living" type environment with individual housing cottages. The facility currently has 77 residents. The veterans center has existed for 110 years.

Rifle. The Colorado State Veterans Nursing Home at Rifle is a 100-bed facility that includes a 16-bed Special Care Unit. The facility currently has 78 residents. The facility opened in 1987.

Trinidad. The Trinidad State Nursing Home opened in 1957 and is a 158-bed facility open to all eligible Colorado residents in addition to veterans. The nursing home currently has a capacity of 126 beds and has 97 residents, including 11 veterans.

Walsenburg. The Colorado State Veterans Home at Walsenburg is a 120-bed facility that includes a 18-bed Special Care Unit. The facility opened in 1992 and currently has 114 residents. The Walsenburg facility is owned by the State of Colorado, but is not operated by the state. The facility also has an attached 24-bed acute care community hospital.

Eligibility for admission to state and veterans nursing homes. Residents are admitted to the Colorado state veterans nursing homes at Fitzsimons, Florence, Homelake, Rifle, and Walsenburg in the following order of priority:

- (1) Colorado resident veterans;
- (2) Nonresident veterans; and
- (3) Colorado resident spouses of veterans, surviving spouses of veterans, parents of veterans all of whose children died while serving in the armed forces of the United States. Up to 25 percent of the residents may fall in this category.

The Colorado State Nursing Home at Trinidad has open admission, but gives preference to Colorado residents.

Regulation of Colorado State and Veteran Nursing Homes

State regulation. All six facilities discussed above are licensed by the Colorado Department of Public Health and Environment (CDPHE). The Department of Human Services (DHS), Division of State and Veterans Nursing Homes, is responsible for overseeing the operation of the homes. The State Board of Human Services adopts rules for the management, control and supervision of the state and veterans nursing homes.¹

Powers and duties of the Department of Human Services. Pursuant to section 26-12-112, C.R.S., the DHS is authorized to:

¹ Section 26-12-103, C.R.S.

- establish, construct, operate, maintain, and improve nursing home facilities;
- regulate record-keeping by each state nursing home and identify records that must be submitted to the department;
- allocate funding for the payment of anticipation warrants issued for the construction or improvement of nursing home facilities; and
- accept grants from federal agencies, as well as gifts to be used for state nursing homes.

Federal regulation of state and veterans nursing homes. The U.S. Department of Veterans Affairs (VA) participates in two grant-in-aid programs for state veterans nursing homes: the state home construction grant program, and a per-diem grant program. The VA provides up to 65 percent of the cost of construction or acquisition of state veterans nursing homes, domiciliaries, and renovation of existing state homes. The VA also provides per-diem payments to states for the care of eligible veterans in state homes. The Secretary of Veterans Affairs may adjust these rates each year. The current per-diem rate is \$63.40 per day for nursing home and hospital care for each eligible veteran receiving care in a state home. There are currently 119 state veterans nursing homes in 47 states and Puerto Rico. In addition, the VA conducts annual inspections, and audits to assure that VA standards of care are met.

Study Groups Appointed to Examine Colorado's State and Veterans Nursing Homes

Legislative Oversight Committee on State and Veterans Nursing Homes. House Bill 05-1336 created the Legislative Oversight Committee on State and Veterans Nursing Homes. The purpose of the committee is to evaluate the quality of care provided to veterans and their families at the state and veterans nursing homes located in Monte Vista, Florence, Trinidad, Rifle and Aurora, Colorado. The committee must:

- meet at least once before September 30, 2005, and at such other times as the committee chair deems necessary;
- oversee the work of the State and Veterans Nursing Home Commission and submit a final report to the General Assembly regarding the findings and recommendations of the committee; and
- recommend legislative changes to the General Assembly.

The committee is directed to:

- study the expertise, accountability systems, and resources necessary to effectively manage the state and veterans nursing homes to assure the ongoing provision of a high quality of care;
- consider options for the administration of the veterans nursing homes, including which state agency is best equipped to assure the provision of a high quality of care;
- consider the suitability of an independent nursing home administrator or authority;

- consider the creation of an oversight board for all state and veterans nursing homes, as well as individual boards or councils for each local facility;
- identify ongoing responsibility for legislative oversight;
- consider the potential for partnerships, consultative relationships, and contracting with the private sector, and
- address the affordability of care for veterans, the relationship between operations of individual nursing homes and the central enterprise fund, maintenance of facility certification, and funding and licensing agencies.

State and Veterans Nursing Home Commission. House Bill 05-1336 also created the State and Veterans Nursing Home Commission to evaluate the state and veterans nursing homes located in Monte Vista, Florence, Trinidad, Rifle, and Aurora. The commission consists of 11 voting members with no more than 6 from the same political party. The commission is appointed by the Governor as follows:

- two members from the Colorado Board of Veterans Affairs, including the chairman;
- two members of a statewide nonprofit coalition that represents veterans service organizations;
- two members of the families of two different veterans who have been residents at separate state and veteran nursing homes;
- two members of separate statewide organizations that represent proprietary and nonprofit nursing facilities; and
- three members who have special expertise and interest in the field of long-term nursing care, at least one of whom must be the state long-term care ombudsman or a local ombudsman.

Non-voting members of the commission include the executive directors or designees of: the Department of Human Services; the Department of Health Care Policy and Financing; the Division of Veterans Affairs; and the Department of Public Health and Environment.

The commission must consider the following issues:

- the expertise and resources necessary to assure the ongoing provision of high-quality care at the homes;
- the appropriate state government agency to administer the nursing homes, as well as the authority and responsibilities of that agency;
- mechanisms for assuring ongoing oversight of quality of care and fiscal matters related to the operation of the homes;
- partnerships, consultative relationships, and other contractual relationships with the private nursing home sector;
- any issue that the legislative oversight committee is authorized to study or that the committee authorizes the commission to study; and
- necessary legislative or budgetary actions to implement the commission's recommendations.

In addition, the commission must submit a preliminary report to the Legislative Oversight Committee on or before December 31, 2005, concerning:

- issues to be studied in upcoming commission meetings and a prioritization of those issues;
- findings, evaluations, and recommendations regarding issues of prior consideration by the commission; and
- preliminary legislative proposals of the commission that identify the policy issues involved, the agencies responsible for implementation of the changes, and the funding sources required for implementation of the changes.

The commission will submit a final report including recommendations for legislation to the Legislative Oversight Committee on or before June 30, 2006.

Fitzsimons State Veterans Nursing Home Advisory Board. House Bill 05-1344 created the Fitzsimons State Veterans Nursing Home (FSVNH) Advisory Board which is composed of nine members: five members appointed by the Governor; one senator appointed by the Majority Leader of the Senate; one senator appointed by the Minority Leader of the Senate; one representative appointed by the Speaker of the House; and one representative appointed by the Minority Leader of the House. At least two of the appointed members must be active, former, or retired members of the armed forces, and at least one appointed member must be a family member of a resident at the Fitzsimons State and Veterans Nursing Home.

The advisory board:

- meets monthly, or as needed, to review specific qualitative and quantitative information pertaining to the Fitzsimons State and Veterans Nursing Home, including, but not limited to, updated cash flow and census projections;
- monitors progress by a private management firm or the state department toward ensuring resident safety and financial viability;
- makes recommendations concerning the FSVNH to the Governor as deemed appropriate;
- provides regular updates to the State Board of Veterans Affairs and reviews input and advice from the State Board of Veterans Affairs concerning the activities of the FSVNH advisory board;
- accepts money and in-kind contributions from private entities as necessary to cover the board's expenses; and
- communicates periodically with the Legislative Oversight Committee.

Fitzsimons State and Veterans Nursing Home Accountability Committee. The Fitzsimons State Veterans Nursing Home Accountability Committee was created by executive order in 2004. This executive order was recently amended to extend the duration of the committee to September 30, 2005.

The accountability committee:

- monitors Pinon Management's and the Department of Human Services' progress toward ensuring patient safety and financial viability at the Fitzsimons State Veterans Nursing Home;
- meets monthly, or as needed, to review qualitative and quantitative information submitted by the Pinon Management, Inc., and other entities, including cash flow and census projections;
- ensures that an adequate transition occurs from Pinon Management Inc.'s management of the facility to operation by the department;
- focuses on issues specific to FSVNH and evaluates the impact solutions proposed for FSVNH may have on other state veterans nursing homes; and
- makes recommendations to the Governor as appropriate.

The membership of the committee includes eight voting members appointed by the Governor. Non-voting members of the committee include: the executive director of DHS serving as an ex-officio, non-voting member; and the executive directors of the CDPHE and the Department Health Care Policy and Financing or their designees.

The FSVNH Accountability Committee's Final Report (and the complete recommendations of the committee) are included in the Legislative Oversight Committee's background information folder. The FSVNH Committee's Final Report made the following recommendations:

- Implement a management company contract, through an open, competitive bid process, for specific duties administered by the division with oversight by an independent committee.
- The management company contract shall have authority to assure successful state and federal surveys, and fiscal and overall operational success of state and veterans nursing homes.
- A public/private partnership model should be instituted uniformly for all state veterans nursing homes.
- The Accountability Committee should be continued by Executive Order until the Fitzsimons State Veterans Nursing Home Advisory Board convenes.
- A contract extension should be granted to the current management company at FSVNH.
- The State Personnel Board should reconsider residency waivers for the Nursing Home Administrator and Admissions Coordinator positions.
- A Department of Personnel and Administration salary survey of professional nurses should be commenced and implemented as soon as possible.
- Opportunities for enabling the state to loan or share state or local government employees to benefit the nursing homes should be identified.
- Screening of job applicants should be expedited.
- The Medicaid eligibility determination process should be expedited.

- Utilization of the "Key Indicator System" at Fitzsimons should be continued.
- The need for state funding to implement the committee's recommendations for a management company contract should be recognized.

A "gap analysis" provided by Pinon Management to the FSVNH Committee (and a response to the gap analysis by the Division of State and Veterans Nursing Homes) are also included in the committee's background folder.

Office of the State Auditor's performance audit. As a reference for committee members a copy of the October 2003 State Auditor's performance audit of the financial stability of the six state and veterans nursing homes is included in the committee's background folder.