PALM CENTER

BLUEPRINTS FOR SOUND PUBLIC POLICY

March 18, 2015

Ashton Carter
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Carter,

A spokesperson for the Department of Defense recently confirmed that the Department has commenced a routine, periodic review of its medical accession policy, DoDI 6130.03, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, which includes rules prohibiting transgender applicants from enlisting in the armed forces.

We are writing to respectfully bring to your attention three recent studies that are directly relevant to the accession of transgender applicants, including applicants with a diagnosis of gender dysphoria. Taken together, and as applied to accession, the studies show that **there is no medically valid reason for prohibiting transgender applicants from enlisting in the military, for presuming that they are less fit for duty or assignment than other applicants, or for presuming them unfit unless they receive a waiver. And, more generally, there is no need to presume all members of a group are unfit when the regulations already contain generally applicable standards to assess medical risk.** All three studies are attached to this letter.

> *Medical Aspects of Transgender Military Service*[1]
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> *Report of the Planning Commission on Transgender Military Service*[2]
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> *Arbitrary and Capricious: Six Inconsistencies Distinguishing Military Medical Policies for Transgender and Non-Transgender Personnel*[3]

We are among the authors of these studies, part of a group with expertise in military medicine as well as transgender health care. The authors include retired General and Flag officers, persons who have formerly served as US Surgeon General, acting US Army Surgeon General, US Coast Guard Director of Health and Safety (Surgeon General equivalent), the 18th Chief of the US Army Nurse Corps, and leading scholars in the field. One of the studies was published by a distinguished, peer-reviewed journal on military affairs, *Armed Forces & Society*, and sixteen faculty members affiliated with Service Academies and military universities have endorsed the quality of the research.[4]

The following points summarize the relevant research and explain why the transgender accession ban is medically unnecessary:

(1) Medical accession standards that exclude transgender persons from military service have not been updated for more than thirty years. The standards indiscriminately include transgender identity within a category of serious mental disorders such as exhibitionism and voyeurism. Review of these regulations requires more than an update of old terminology. It requires a substantive reconsideration of assumptions that are no longer supported by modern medicine.[5]

(2) The American Psychiatric Association (DSM-5) has concluded that gender nonconformity is not itself a mental disorder, a consensus that is opposite from military standards that confuse transgender identity with clearly dysfunctional or criminal behavior. Transgender identity is medically neutral.[6]

(3) Similarly, a diagnosis of gender dysphoria is not itself evidence that an individual is unfit for military service. Accession regulations do not consider instances of mental distress or impairment disqualifying unless they are severe or resistant to effective treatment. The APA considered eliminating gender dysphoria as a diagnosis altogether, but it was concerned that an absence of diagnosis could interfere with access to medical care. Use of the term "dysphoria" was intended to remove the connotation that transgender persons were "disordered."[7]

(4) Medical accession standards allow persons who have received various mental health diagnoses to serve in the military. Only certain conditions are disqualifying or potentially disqualifying, and accession rules often permit enlistment if the applicant is stable and his or her condition has been or would be responsive to treatment.[8]

(5) Peer-reviewed research has determined that there is no medically valid reason for treating transgender applicants any differently than anyone else. At the time of accession, their fitness for military service should be evaluated under the same standards that apply to other applicants. The research has shown that the vast majority of transgender service members would be fit and medically ready for duty the vast majority of the time.[9] Current medical rules permit worldwide deployment by non-transgender personnel who have comparable medical profiles.[10]

(6) Transgender and non-transgender personnel experience comparable medical risks and have comparable medical needs, such as potential needs for counseling, hormone replacement therapy, or surgical care. However, the military cites those medical issues as reasons to automatically exclude only transgender applicants. It applies two different standards to similar (or even the same) medical care, depending on whether the applicant is transgender or not.[11]

(7) Peer-reviewed research concludes that meeting the health care needs of transgender military personnel is no more difficult, complex, expensive, or burdensome overall than meeting the health care needs of non-transgender service members.[12] There is clear scientific consensus that treatments for gender dysphoria are safe, effective, and reliable.[13] Furthermore, military experts have concluded that formulating and implementing inclusive policy is administratively feasible and neither excessively

complex nor burdensome.[14]

(8) Because treatments for gender dysphoria are safe, effective, and reliable, military accession standards should not presume that transgender applicants diagnosed with gender dysphoria are unfit for duty. Accession standards allow individuals with histories of various medical and psychological conditions to enlist in the military, if those conditions are or would be responsive to treatment, and there is no medical justification for treating gender dysphoria differently.[15]

(9) Accession regulations governing non-transgender-related conditions strike a careful balance in allowing enlistment for individuals whose medical conditions would not significantly impair fitness for duty or constitute undue burden on doctors, commanders, or the military healthcare system. In contrast, rules that apply to the accession of transgender personnel require the exclusion of all transgender applicants, regardless of fitness for duty or burden of care.[16]

(10) Medical regulations governing enlistment already require fitness evaluation of surgical, medical, and/or psychological conditions that might be unresponsive to treatment or potentially compromising of performance of duty.[17] Gender identity is not relevant to those medical determinations, and medical conditions should be evaluated under the same standards for both transgender and non-transgender personnel.

(11) Peer-reviewed research has found that if the military provided gender affirming surgery, fewer than two percent of the estimated 15,500 transgender personnel serving currently (230 individuals) would seek such surgery in any particular year. Fewer than two dozen transgender service members would be sidelined with post-operative complications in any year.[18] There is simply no justification for excluding or applying extra scrutiny to an entire class of individuals on the basis of such small numbers. The very presence of approximately 15,500 transgender service members itself disproves the assumption that transgender personnel are limited in duty or assignment.

(12) Research about transgender health outcomes in general must be carefully assessed to determine its relevance to military accession standards. Some research focuses on past periods of time in which discrimination against transgender people was so severe it would have inevitably affected mental health.[19] Subjects in many studies were selected from clinical or institutional populations, and the effect of gender identity has been confounded with other concerns.[20] In a specifically military context, however, peer-reviewed research has concluded that the vast majority of transgender personnel would be medically ready the vast majority of the time. Furthermore, the military has the ability to screen for any specific medical risks, and it should do so with already-existing rules that apply to everyone.

(13) Similar to populations based on race, gender, or sexual orientation, transgender individuals are at higher risk of some medical morbidities. But these risks are not unique to transgender applicants, and they do not justify an enlistment ban or an accession policy that presumes them unfit unless they receive a waiver. For example, research has shown that lesbian, gay, and bisexual youth are at greater risk of suicide in comparison to their straight peers.[21] However, lesbians, gays, and bisexuals are not banned from the military as a class, because the military's accession regulation already excludes all applicants with a history of suicidal behavior, and so group-based exclusions are unnecessary.

(14) Other groups are similarly at significantly higher risk of serious morbidities. African American and Hispanic youth are at higher risk of obesity.[22] Young women are at higher risk of anorexia.[23] Young men are at higher risk of engaging in criminal or antisocial behavior.[24] None of these groups, however, are banned from the military as a class because the military's accession regulation contains specific prohibitions related to obesity, anorexia, and misconduct.[25] There is no need to presume all members of a group are unfit when the regulations already contain generally applicable standards to assess medical risk.

Very respectfully,

MG Gale S. Pollock, USA (Ret.), former acting US Army Surgeon General
RADM Alan M. Steinman, MD, USPHS/USCG (Ret.), former USCG Director of Health and Safety
BG Clara Adams-Ender, USA (Ret.), former Chief of US Army Nurse Corps

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[1] M. Joycelyn Elders, George R. Brown, Eli Coleman, Thomas A. Kolditz, and Alan M. Steinman (2014). Medical Aspects of Transgender Military Service, *Armed Forces & Society*, 1–22. Advance online publication. doi: 10.1177/0095327XI4545625.

[2] Major General Gale S. Pollock and Shannon Minter, Report of the Planning Commission on Transgender Military Service (Palm Center 2014), *http://www.palmcenter.org/files/Report%20of%20Planning%20Commission%20on%20Transgender%20Military%20Service.pdf*.

[3] Diane H. Mazur, Arbitrary and Capricious: Six Inconsistencies Distinguishing Military Medical Policies for Transgender and Non-Transgender Personnel (Palm Center 2014), *http://www.palmcenter.org/files/Arbitrary%20and%20Capricious.pdf*.

[4] See statement preceding Elders et al., Medical Aspects of Transgender Military Service, in the documents attached to this letter. This statement was originally published as part of a prior version of this publication in Dr. Joycelyn Elders, M.D. and Rear Admiral Alan M. Steinman, M.D., Report of the Transgender Military Service Commission (Palm Center 2014), 22, *http://www.palmcenter.org/files/Transgender%20Military%20Service%20Report_0.pdf*.

[5] Department of Defense Instruction (DODI) 6130.03, Medical Standards for Appointment, Enlistment, or Induction in the Military Services (April 28, 2010, incorporating changes effective September 13, 2011), Enclosure 4, ¶¶ 14(f), 15(r), 29(r); Arbitrary and Capricious: Six Inconsistencies, 17-18.

[6] American Psychiatric Association, Gender Dysphoria Fact Sheet (2013), *http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf*.

[7] DODI 6130.03, Enclosure 4, ¶ 29; Gender Dysphoria Fact Sheet, 2 ("Persons experiencing gender dysphoria need a diagnostic term that protects their access to care and won't be used against them in social, occupational, or legal areas.").

[8] DODI 6130.03, Enclosure 4, ¶ 29; Arbitrary and Capricious: Six Inconsistencies, 30-32.

[9] Medical Aspects of Transgender Military Service, 11-14; Report of the Planning Commission on Transgender Military Service, 9-11.

[10] Arbitrary and Capricious: Six Inconsistencies, 13-16, 23-29, 31-35, 37-40.

[11] Arbitrary and Capricious: Six Inconsistencies, 3-4, 26-29.

[12] Medical Aspects of Transgender Military Service, 14.

[13] Medical Aspects of Transgender Military Service, 8 (hormone replacement therapy); Department of Health and Human Services, Departmental Appeals Board, Appellate Division, NCD 104.3, Transsexual Surgery, Docket No. A-13-87, Decision No. 2576, May 30, 2014 (surgical procedures).
[14] Report of the Planning Commission on Transgender Military Service, 4.
[15] See generally Arbitrary and Capricious: Six Inconsistencies.
[16] Arbitrary and Capricious, 26.
[17] See generally DODI 6130.03, Medical Standards for Appointment, Enlistment, or Induction in the Military Services.
[18] Medical Aspects of Transgender Military Service, 2, 10.
[19] Compare Ilan H. Meyer (2003). Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence, *Psychological Bulletin*, 129(5):674-697, *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2072932/*. Meyer also noted that, prior to the repeal of "don't ask, don't tell," lack of institutional support from the military left a gay service member "unable to access and use group-level resources" and "vulnerable to adverse health outcomes, regardless of his or her personal coping abilities."
[20] Medical Aspects of Transgender Military Service, 6.
[21] Ann P. Haas, Philip L. Rodgers, and Jody L. Herman, Suicide Attempts among Transgender and Gender Non-Conforming Adults (The Williams Institute 2014), *http://williamsinstitute.law.ucla.edu/wp-content/uploads/AFSP-Williams-Suicide-Report-Final.pdf*.
[22] May Nawal Lutfiyya, Rosemary Garcia, Christine M. Dankwa, Teriya Young, and Martin S. Lipsky (2008). Overweight and Obese Prevalence Rates in African American and Hispanic Children: An Analysis of Data from the 2003-2004 National Survey of Children's Health, *Journal of the American Board of Family Medicine*, 21:191-199, *http://www.ncbi.nlm.nih.gov/pubmed/18467530*.
[23] American Psychiatric Association, Feeding and Eating Disorders Fact Sheet (2013), *http://www.dsm5.org/documents/eating%20disorders%20fact%20sheet.pdf*.
[24] Kathleen Ries Merikangas, Erin F. Nakamura, and Ronald C. Kessler (2009). Epidemiology of Mental Disorders in Children and Adolescents, *Dialogues in Clinical Neuroscience*, 11(1):7-20, *http://www.ncbi.nlm.nih.gov/pubmed/19432384*.
[25] DODI 6130.03, Medical Standards for Appointment, Enlistment, or Induction in the Military Services, Enclosure 4, ¶¶ 29(i)(2) (recurrent encounters with law enforcement agencies or antisocial behaviors), 29(k) (anorexia); US Military Entrance Processing Command (USMEPCOM) Regulation 40-1, Medical Services: Medical Processing and Examinations (October 1, 2009, incorporating changes effective December 2, 2014), ¶ 5-1(b) (weight standards).