Center for American Progress

After Don't Ask, Don't Tell

Ensuring the Health of Gay and Transgender Veterans

Andrew Cray September 28, 2012

Introduction

In the year since the repeal of Don't Ask, Don't Tell, the Pentagon has worked to ensure gay¹ service members are treated with respect and given equal access to benefits to the greatest extent possible,² taking into account the continued restrictions imposed by the Defense of Marriage Act. Despite this historic progress for active service members, however, the repeal of the Clinton-era policy has not ensured equal treatment for all who have served in the military. Gay and transgender veterans continue to feel the effects of discriminatory policies and programs that fail to meet their health needs.

This failure needs to be corrected since veterans experience poorer health outcomes than the general population, and these disparities are likely compounded by being gay or transgender. Even more problematic, the health programs established to serve veterans are governed by policies that do not treat gay and transgender patients equally, much less address the pressing unique health needs that affect their daily lives.

The Department of Veterans Affairs is charged with providing health benefits and services to veterans who have earned a right to high-quality care by serving their country. VA benefits include access to health care provided with "compassion, commitment, excellence, professionalism, integrity, accountability, and stewardship."³ In the last year, Veterans Affairs has made significant progress in ensuring that gay and transgender veterans will be able to access culturally competent health services without discrimination. For many gay and transgender veterans, however, benefits policies out of step with medical progress, unfair administration of the law, and lack of cultural competency prevent Veterans Affairs from living up to its promise. Gay and transgender veterans have served their country with bravery, even in the face of discrimination

Despite longstanding discrimination against gay service members⁴ and the continued ban on military service by transgender people,⁵ many in these communities have answered the call to protect the freedom of others, even at the cost of hiding who they are.⁶

For gay service members, the Defense of Marriage Act continues to block equal access to many of the federal benefits afforded to other military families.⁷ For transgender people who serve, discriminatory policies continue to forbid open service, confining them to the closet and preventing them from being their true selves. In fact, even after the demise of Don't Ask, Don't Tell, transgender status and related medical diagnoses continue to be grounds for automatic disqualification from eligibility for military service,⁸ and can even be grounds for discipline or criminal prosecution by the military.⁹

Despite this past and ongoing discrimination, however, there are at least 1 million gay veterans¹⁰—a number that will only grow with the repeal of Don't Ask, Don't Tell¹¹— and 300,000 transgender veterans¹² who have already served their country. These veterans, like all others, deserve access to high-quality, comprehensive VA health services that treat them with fairness and respect.

Gay and transgender veterans face significant health disparities

Research clearly shows that gay and transgender people are at increased risk for some poorer physical and mental health outcomes when compared to people who are not gay or transgender.¹³ For gay and transgender veterans, these health problems may be magnified because of additional health disparities associated with veteran status. The intersection of these identities—and the correlated health risks¹⁴—should be considered by providers and policymakers who are charged with caring for gay and transgender veterans.

Health disparities affecting gay and transgender people and veterans include the following.

Cancer

Studies show that gay adults are at higher risk for developing certain kinds of cancer. In particular, gay and bisexual women are at increased risk for breast cancer,¹⁵ and gay and bisexual men have an increased risk for several types of cancer,¹⁶ including prostate and testicular.

Suicide

Gay men and women both have elevated rates of suicide attempts compared to their heterosexual counterparts.¹⁷ Transgender people experience the highest rates of suicidal ideation, with 41 percent of respondents in a recent study of more than 6,400 transgender people reporting that they have attempted suicide at some point in their lives.¹⁸ Similarly, both male¹⁹ and female²⁰ veterans are at increased risk of attempting suicide.

Alcohol use

The gay and transgender population overall exhibits higher rates of alcohol use. Stress that comes from antigay and antitransgender discrimination and stigma are a primary driver for these elevated substance use levels. Studies suggest that gay women engage in high-risk alcohol consumption, including binge drinking, at greater rates than the general population, and that gay men also use alcohol and other substances at a higher rate than the heterosexual population.²¹ Transgender people also report using alcohol and drugs specifically to cope with mistreatment based on their gender identity at higher rates than the nontransgender public reports substance use.²²

Again, these risks may be compounded by veteran status. Data from the Substance Abuse and Mental Health Services Administration indicate that veterans are also more likely to engage in heavy use of alcohol than their nonveteran counterparts.²³ Though there are no studies specifically focused on alcohol use among gay and transgender veterans, it is reasonable to assume that disparities in substance use affecting both gay and lesbian people and veterans would be reflected, and possibly exacerbated, for gay and transgender veterans. Additionally, community gathering spaces and places where both gay and transgender people and veterans find social acceptance often facilitate or encourage drinking, which may create barriers to effective treatment for substance use disorders related to alcohol.

Tobacco use

Studies show that veterans are more likely than nonveterans to smoke cigarettes daily,²⁴ suggesting a disparity in heavy tobacco use between those who serve in the military and those who do not. Gay men and women are also more likely to smoke than straight men and women,²⁵ and transgender survey respondents indicated higher smoking rates than the nontransgender population.²⁶ Though research on gay and transgender veterans is limited, survey data indicate that nearly one in four transgender veterans smoke daily²⁷—a higher rate than the general population of veterans.²⁸

As with other substance use, gay and transgender people frequently use tobacco to cope with the daily challenges that result from antigay and antitransgender societal attitudes. And, similar to alcohol use, smoking is frequently integrated into the social environments that connect both gay and transgender communities and veterans' groups, meaning that settings where these groups gather can also encourage tobacco use.

Don't Ask, Don't Tell continues to hurt veterans who served in the military before repeal

Although the repeal of Don't Ask, Don't Tell significantly improves the prospects for the thousands of gay men and women currently in the military, its effects still linger for many veterans who were improperly discharged simply because of their sexual orientation.

Generally, service members discharged under Don't Ask, Don't Tell were given Honorable or General Under Honorable Conditions discharges. Some received Other Than Honorable discharges, however, for one of three reasons:

- They may have committed an "act" violating Don't Ask, Don't Tell in public—for example, by holding hands with their same-sex partner at the movies.
- They may have violated Don't Ask, Don't Tell on a base or post—for example, by hugging their partner on base.
- They were inappropriately denied Honorable discharges, despite the merits of their record, because of inappropriate bias in the discharge process.²⁹

Receiving a less than Honorable discharge marks veterans discharged under Don't Ask, Don't Tell for discrimination on the basis of their sexual orientation in areas such as private employment.³⁰ And it can also limit or completely deny access to VA health care.³¹ This loss of access to health care services is a significant blow to the health of these veterans.

Sources such as the "National Healthcare Disparities Report" from the Agency for Healthcare Research and Quality report that gay and transgender people are more likely than the general U.S. population to be uninsured.³² This means it will be more difficult for gay and transgender veterans who were improperly denied access to VA medical benefits to obtain health insurance coverage through other sources. For these former service members, the ripple effect of Don't Ask, Don't Tell means that they are less likely to have basic access to the care they need to stay healthy.

Current VA policies help ensure fair and respectful treatment of gay and transgender veterans

VA health care providers and staff are "[obligated] to remain respectful and courteous to all patients without regard to race, ethnicity, national origin, religion, sex, age, mental or physical disability or sexual orientation."³³ "Over the last year and a half, Veterans Affairs has translated this obligation into nondiscrimination policies explicitly protecting gay and transgender veterans from discrimination on the basis of sexual orientation and gender identity in VA facilities.

In June 2011 the Veterans Health Administration released VHA Directive 2011-024, establishing the Department of Veterans Affairs' policy for respectful delivery of health services to transgender veterans and intersex veterans, or those who are born with anatomy or chromosomal patterns that do not fit the typical definitions of female or male. The directive creates an accountability mechanism by requiring that all VA employees providing care to transgender veterans do so without discrimination, and that VA facilities maintain a "zero-tolerance standard for harassment of any kind."³⁴

By issuing the directive, the Veterans Health Administration extended comprehensive nondiscrimination to transgender and intersex veterans in an unprecedented fashion. The directive will expire, however, if it is not renewed by November 30—one of the shortest applicability periods for any VA directive—meaning that these veterans could again be without a source of protection before the end of this year.

In February, Veterans Affairs acted to provide similar protections to gay veterans. The VA deputy under secretary for health for operation and management issued a department memorandum requiring VA medical centers to adopt nondiscrimination and patient visitation policies protecting the rights of gay and transgender veterans and their families.³⁵ To comply with nondiscrimination standards put in place by The Joint Commission, the deputy under secretary also requested certification that the policies and practices at all VA medical centers explicitly prohibit discrimination based on sexual orientation and gender identity, among other characteristics.³⁶ The memorandum calls on VA medical centers to certify that their visitation policies include a nondiscrimination statement of sexual orientation and gender identity, and the initiation of an updated Patient and Nursing Home Resident Rights and Responsibilities poster to help inform veterans of their rights in VA facilities.³⁷

Ensuring that sexual orientation and gender identity are included among the protected categories in VA regulations and policies on patients' rights is key to ensuring there is a clear path from military service to fair treatment in veterans' health programs. There should be no ambiguity in the message sent to gay and transgender people who have served in the military: When you have honorably served, you are entitled to fair and respectful treatment. Veterans Affairs has made a great deal of progress in ensuring veterans hear this message loud and clear.

Cultural competency is key in providing fair and respectful treatment to gay and transgender veterans

The path to fair and respectful treatment for gay and transgender veterans does not stop by creating an inclusive nondiscrimination policy. VA employees and health care providers need to be trained to provide culturally competent care to gay and transgender patients, care that meets their health needs while also respecting their relationships, identities, and privacy. Lack of cultural competency can contribute to and reinforce existing institutional barriers to accessing health services, and Veterans Affairs has adopted initiatives to ensure staff and medical providers serving gay and transgender veterans will be able to provide high-quality, clinically and culturally competent services.

There are clear gaps in accessing medical training that addresses the needs of gay and transgender patients. The most comprehensive study of gay and transgender undergraduate medical education curricula reported that many schools do not address gay and transgender cultural or clinical competency at all, and that those that do focus minimal time on the subject, do so with significant variation in the quality and type of content covered.³⁸ As a result, many providers remain unaware of, or unconcerned with, the specific health care needs of their gay and transgender patients. This limits the ability of medical professionals, including those charged with treating gay and transgender veter-ans, to provide clinically comprehensive and respectful care.

Gay and transgender patients suffer as a result of this lack of cultural competence training in the medical field. More than half of gay people and 70 percent of transgender people report being subjected to harsh or abusive language, overt prejudice, or even physical violence by health care providers.³⁹ Even providers who are otherwise welcoming of gay and transgender patients may still be "uncomfortable, reluctant, or under-trained"⁴⁰ to take basic patient histories, compromising the effectiveness of their care.

Though the experiences of gay veterans in health settings are understudied, a nationwide survey of transgender people—20 percent of whom are veterans—indicates that lack of cultural competency may pose a significant risk to the health of transgender veterans.⁴¹ More than 20 percent of transgender veterans reported that they have postponed or avoided seeking care when they were sick, and half of those that did seek care had to educate their own provider about transgender people.⁴²

To ensure gay and transgender veterans seek the care they need, and that VA providers are adequately equipped to serve all patients who walk in their doors, Veterans Affairs has prioritized cultural and clinical competency inclusive to the gay and transgender population. Following the 2010 transgender care directive, the Veterans Health Administration began providing clinical training on providing services to transgender veterans.⁴³ Additionally, Veterans Affairs is developing department-wide cultural competency training to meet the health needs of gay veterans and to ensure respectful treatment of gay and transgender veterans and their families in the full spectrum of VA programs and services.⁴⁴

Outdated policies prevent transgender veterans from accessing the care they deserve

The directive issued by the Veterans Health Administration in 2011 takes major strides toward ensuring fair access for transgender veterans by providing important clarifications about the medical treatment that can be provided in VA facilities.⁴⁵ Specifically, the directive states that the health benefits package provided to veterans includes coverage for several treatments related to gender transition, including mental health care, hormone therapy, and pre- and post- surgical care.

Despite this progress in providing transgender veterans a more comprehensive set of health services, the VA medical benefits package established by federal regulations continues to prevent transgender vets from receiving medically necessary health care.⁴⁶ Regulations initially issued in 1999 exclude "gender alterations" from the medical benefits package provided to veterans.⁴⁷ And the Veterans Health Administration has interpreted this regulation in their directive to prohibit VA benefits or VA health facilities from offering surgeries related to gender transition.⁴⁸

This exclusion unfairly discriminates against transgender veterans by targeting them for denial of medically necessary transition-related surgical care that clearly falls within the scope of the medical benefits program.⁴⁹ These services, in the judgment of health care professionals, are "needed to promote, preserve, or restore the health of the individual" and are in accord with generally accepted standards of medical practice.⁵⁰

The medical necessity of transition-related care for transgender people is no longer open to debate. The American Medical Association,⁵¹ the American College of Obstetricians and Gynecologists,⁵² and the World Professional Association for Transgender Health⁵³ all clearly state that transition-related services, including appropriate reconstructive surgeries, are medically necessary for many transgender people.

Moreover, studies show that where transgender people have access to transition-related care, patients have improved outcomes in some of the worst health disparities experienced by transgender people and veterans, including reduced suicide risk, lower rates of substance abuse, and improved mental health outcomes.⁵⁴

Thus, this outdated regulation of the medical package provided to veterans not only arbitrarily discriminates against transgender patients but also prevents access to care that is shown to substantially improve their health and may reduce health care costs in the long run. Transgender veterans are being denied access to the health care they have earned, and VA medical providers are kept from exercising their professional judgment in determining what care is medically necessary for their patients.⁵⁵

Removing this exclusion, and bringing the coverage provided by the benefits package in line with current accepted medical practice, is imperative in providing fair coverage for the transgender people served by Veterans Affairs.

Conclusion

Don't Ask, Don't Tell and other outdated policies on open service by gay and transgender people have imposed tremendous costs on our country's military readiness, and on the individuals who have served their country with bravery in the face of discrimination. But these policies have not tied the hands of Veterans Affairs in setting standards that enforce equity and honor the service of gay and transgender veterans, and the door remains open to even further progress.

Likewise, after the repeal of Don't Ask, Don't Tell, the Department of Defense should be taking swift action to address and correct improper discharges that continue to negatively impact the lives of gay and transgender people who have served in the military.

The shift in military culture that was initiated by the repeal of Don't Ask, Don't Tell should not end with open service for gay service members. Honoring the gay and transgender men and women who have served in uniform requires an affirmative commitment to policy that fosters equal treatment and respect. Policymakers have stepped forward to accept their duty to remove unfounded and discriminatory obstacles to health care for gay and transgender veterans, and this progress must continue to ensure these veterans receive the services and support they have earned.

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Endnotes

- 1 In this column the term "gay" is used as an umbrella term to refer to people that are gay, lesbian, or bisexual.
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