UNITED STATES DISTRICT COURT

CENTRAL OF DISTRICT OF CALIFORNIA

AIDEN STOCKMAN, et al., Plaintiffs, v. DONALD J. TRUMP, et al., Defendants.	No. 5:17-cv-1799-JGB-KK **DECLARATION OF TERRY ADIRIM, M.D., M.P.H.**

I, Terry Adirim, declare as follows:

1. I am Terry Adirim, M.D., M.P.H., Deputy Assistant Secretary of Defense for Health Policy and Oversight in the Office of the Assistant Secretary of Defense for Health Affairs. I have held this position since July 2016. Before coming to the Department of Defense (DoD), my prior positions included Professor of Pediatrics and Emergency Medicine at Drexel University College of Medicine and attending physician at St. Christopher's Hospital for Children (2014-2016), Director of the Office of Special Health Affairs at the Health Resources and Services Administration in the U.S. Department of Health and Human Services (2010-2014), and Senior Advisor in the Office of Health Affairs at the U.S. Department of Homeland Security (2007-2010). I graduated from the University of Miami Miller School of Medicine with research distinction and completed pediatrics training at the Children's Hospital of Philadelphia. I completed pediatric emergency medicine and sports medicine fellowship training at Children's National Medical Center in Washington, D.C. I also earned a Master's degree in Public Health from the Harvard School of Public Health. I am board certified in pediatrics, pediatric

emergency medicine and sports medicine. I have been significantly involved since coming to DoD in matters of DoD policy on transgender health care.

2. Current DoD policy concerning treatment of military members for gender dysphoria is outlined in two primary documents. The first, attached as Exhibit 1, is a memorandum of July 29, 2016, from the then-Acting Assistant Secretary of Defense for Health Affairs, Karen S. Guice, M.D., "Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members." It states that DoD will adhere to the 2009 Endocrine Society standards of care as the primary clinical practice guidelines, and that:

> Key components of medical care for the purpose of treating gender dysphoria include initial assessment and, based upon that assessment of the individual's needs, the establishment of a treatment plan which may include real life experience (RLE) . . . , cross-sex hormone therapy, and surgical transition.

It further provides that with respect to surgical interventions that military hospitals are not adequately prepared to perform, DoD will follow the existing waiver process for private sector care for active duty members under the Supplemental Health Care Program (SHCP).

3. The second of the two primary documents concerning treatment of gender dysphoria, attached as Exhibit 2, is a memorandum of November 13, 2017, from Vice Admiral R.C. Bono, M.D., Director of the Defense Health Agency (DHA), "Information Memorandum: Interim Defense Health Agency Procedures for Reviewing Requests for Waivers to Allow Supplemental Health Care Program Coverage of Sex Reassignment Surgical Procedures." This memorandum notes that although there is a generally applicable statutory prohibition against paying non-DoD facilities for surgery for "sex gender changes," this exclusion may be waived and that DHA's waiver consideration will be based on the updated 2017 version of the Endocrine Society's

clinical practice guidelines.[1] Those guidelines provide that medically necessary sex reassignment surgery is authorized as part of an overall treatment plan that generally includes behavioral health services, cross-sex hormone treatment, and real life experience as a precondition to surgical interventions. In the case of female-to-male transitions, a mastectomy may be recognized as medically necessary after initiation of cross-sex hormone treatment (unless medically contraindicated). For a hysterectomy or genital reconstruction surgery to be considered medically necessary, 12 months of cross-sex hormone treatment (unless medically contraindicated) and 12 months of full-time real life experience are required.

4. The President's memorandum of August 25, 2017, "Military Service by Transgender Individuals," directs that, effective March 23, 2018, DoD halt use of DoD funds for sex reassignment surgical procedures, "except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex." The Secretary of Defense memorandum of September 14, 2017, "Terms of Reference – Implementation of Presidential Memorandum on Military Service by Transgender Individuals," attached as Exhibit 3, directed a panel of experts to develop an implementation plan that will include a listing of surgical procedures that will be prohibited from funding unless necessary to protect the health of a service member. We anticipate that prior to March 23, 2018, the Secretary of Defense will, following review of the work product of the panel of experts, issue instructions to the Department of Defense on prospective policy on funding sex reassignment surgery, including guidance on implementation of the exception clause in the President's memorandum.

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[1] As noted in the DHA memo, the statutory limitations include that DoD may not pay for surgery in non-DoD facilities for "sex gender changes," but this is subject to "such exceptions as the Secretary of Defense considers necessary," as long as the waiver is based on a case-by-case medical determination that it would be necessary and appropriate for the patient and not "elective private treatment." 10 U.S.C. 1074(c)(2)(A), 1079(a)(11), 1074(c)(1).

5. I do not have knowledge of the medical circumstances or the treatment plan for John Doe 1 and John Doe 2, and I do not know their actual identities. John Doe 1's declaration says he has a medical treatment plan that includes initiation of cross-sex hormone treatment before the end of 2017 and "top surgery" in mid-2018, and possibly genital reconstruction surgery in or about 2020. John Doe 2's declaration says he has a medical treatment plan that includes hormone treatment, which began in March 2017, and a mastectomy projected for April 2018, but he now expects provision or funding of the mastectomy to be denied because of the President's memorandum. Although not mentioned in connection with his description of his treatment plan, he also says he intends to have genital reconstruction surgery by the end of 2021.

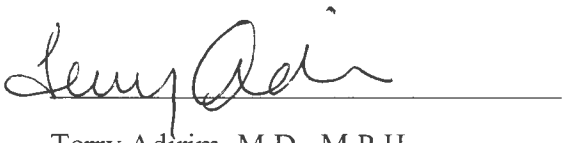
6. Under current policy and procedures, military hospitals are providing mastectomies under approved treatment plans as part of medically necessary care for military members with gender dysphoria. Also, the SHCP waiver process is in place and has been used to approve medically necessary genital reconstruction surgery. At this time, I do not know the specific criteria that will apply to the "necessary to protect the health" clause under the implementation plan for the President's memorandum. Because both John Doe 1 and John Doe 2 will, according to their declarations, have in place approved treatment plans and begun a course of treatment, including cross-sex hormone treatment, to reassign their sex, it may be that their request for surgical treatment will be considered under the same medical necessity criteria that are in place today. That cannot be determined at this time because the panel of experts review is ongoing. Additionally, no real determination about medical necessity can be made based solely on their court declarations and without assessment of their medical circumstances and treatment plans and how the Endocrine Society 2017 clinical practice guidelines apply to their treatment and clinical status. Any unresolved issues regarding the sex reassignment surgery directive should be

addressed in the ongoing policy review scheduled to result in a final implementation plan in March 2018 and in any event well in advance of the projected surgery dates for both patients.

7. I make this declaration in support of the Defendants' Supplemental Briefing in Support of its Motion to Dismiss.

Pursuant to 28 U.S.C. § 1746(2), I declare under the penalty of perjury that the foregoing is true and correct.

Executed on December 1, 2017.



Terry Adirim, M.D., M.P.H.

EXHIBIT 1
TO DECLARATION OF
DR. TERRY ADIRIM

THE ASSISTANT SECRETARY OF DEFENSE
1200 DEFENSE PENTAGON
WASHINGTON, DC 20301-1200

HEALTH AFFAIRS

JUL 2 9 2016

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER AND RESERVE AFFAIRS)
DIRECTOR, DEFENSE HEALTH AGENCY
DIRECTOR, HEALTH, SAFETY AND WORK LIFE, U.S. COAST GUARD

SUBJECT: Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members

In accordance with Department of Defense Instruction (DoDI) 1300.28, "In-Service Transition for Transgender Service Members," June 30, 2016, and Directive-Type Memorandum (DTM)16-005, "Military Service of Transgender Service Members," June 30, 2016, this memorandum provides guidance for the medical care of transgender Service members. This memorandum supplements requirements in those issuances; it does not supersede any such requirements.

General Provisions:

The Military Health System (MHS) will either provide or arrange consultation for medically necessary care for members on active duty for a period of more than 30 days (referred to as Active Duty Service members (ADSMs) throughout the remainder of this document). Such care is based upon the individual's unique health care needs and, following initial evaluation, may include counseling and behavioral health services, medical support, and assistance with establishing a treatment plan for the Service member's submission to the unit commander, followed by any medically necessary treatment.

Until the DoD is able to promulgate specific clinical practice guidelines for the care of transgender personnel, the MHS will adhere to the attached 2009 version of the Endocrine Society's Standards of Care, "Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline," as the primary guideline to provide consistent, evidence based care to transitioning patients. Explanation of any clinically indicated deviation from the guideline should be documented in the patient's health record. Clinical Practice Guidelines from other professional societies may also help inform clinical decision making (e.g., the 2015 American Psychological Association Guidelines for Psychological Practice with Transgender and Gender Nonconforming People and the World Professional Association for Transgender Health Standards of Care). Key components of medical care for the purpose of treating gender dysphoria include initial assessment and, based upon that assessment of the individual's needs,

the establishment of a treatment plan which may include real life experience (RLE) that is provided in a manner consistent with the requirements of DoDI 1300.28 and DTM 16-005 regarding RLE, cross-sex hormone therapy, and surgical transition. Treatment plans must be individualized and approved by a military medical provider. The following guidance addresses various stages of treatment:

1. For Active Duty Service members (ADSMs) seeking initial treatment for gender dysphoria, a diagnosis of gender dysphoria must be established by a privileged behavioral health provider (or similarly qualified civilian provider if unavailable in a military facility), with appropriate referral to other types of providers as indicated or required. The assessment should be comprehensive in nature, including exclusion of other causes for dysphoria, and lead to formulation of an initial treatment plan.

2. For ADSMs who have already received a diagnosis of gender dysphoria and established a treatment plan approved by a military medical provider, and who desire to proceed to or continue cross-sex hormone therapy, an endocrinologist or other physician with appropriate professional expertise should exclude medical conditions making hormone therapy unsafe, may initiate or continue hormone therapy if indicated as medically necessary, and monitor response to hormones in accordance with the Endocrine Society's Standards of Care guidelines, to include periodic screening for hormone associated adverse outcomes.

3. ADSMs with an established treatment plan desiring surgical treatment following a period of RLE and who are compliant with all facets of an approved treatment plan should be referred to an appropriately qualified surgeon for evaluation. The surgeon should fully discuss all surgical options and potential complications in order to provide informed consent before surgery is proposed. Consistent with current DoD policies, purely cosmetic or other non-medically necessary surgery is not authorized.

4. Any Service member for whom the Defense Enrollment Eligibility Reporting System has recorded a gender change, or who is in the process of obtaining such a change, must have an ongoing plan to address needed medical care, including follow up of hormone treatment and any appropriate health screening.

5. Unless and until adequate surgical capabilities have been established in DoD Military Treatment Facilities (MTFs), medically necessary surgical treatment will be evaluated using the existing MHS waiver process for private sector care for Active Duty members under the Supplemental Health Care Program (SHCP). This standardized process requires referral through the Service chain of command and review and approval by the Director, Defense Health Agency (DHA).

6. The expectation is for the MHS to provide an interdisciplinary team approach to transition care in accordance with evidence based guidelines and practices, reinforcing at all times the transgender Service member's right to receive all medical care with dignity and respect. Provision of care may involve multiple facilities and require appropriate care coordination between providers. In no circumstance will a provider be required to

deliver care that he or she feels unprepared to provide either by lack of clinical skill or due to ethical, moral or religious beliefs. However, referral to an appropriate provider or level of care is required under such circumstances.

7. As with all other medical conditions, in the first 180 days of service in the military, all personnel must continue to meet the medical standards associated with accession (DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services"). Ongoing fitness for duty and deployment screening after 180 days shall be assessed in accordance with current Service practices and policies applied to other medical conditions.

Central Coordination:

1. Service Central Coordination Cells (SCCC) established under DoDI 1300.28 shall provide multi-disciplinary (e.g., medical, legal, military personnel management) expert advice and assistance to commanders with regard to service by transgender Service members and gender transition in the military to assist commanders in the execution of DoD, Military Department, and Service policies and procedures.

2. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) has established a Central Coordination Cell with Office of the Secretary of Defense, DHA, and Service representatives to oversee consistent and uniform implementation of DoDI 1300.28, provide consultation to SCCCs, and receive and analyze data reported by the Services. The Central Coordination Cell is not a substitute for SCCCs, but provides information and advice on policy matters, and assistance with identification and coordination of needed treatment resources, when necessary. DHA has provided a senior representative to facilitate coordination of care and services delivered by the managed care support contractors and the DHA Waiver Authority process.

3. To assist Commanders and Service members until each Service establishes its own SCCC, the DoD Central Coordination Cell has established the following website: https://prext.osd.mil/DoDCCC. This is a Common Access Card-enabled website for secure questions by all Service members. Policy documents and Frequently Asked Questions reside on this website and questions will be answered by policy, legal and medical experts.

Service and DHA Requirements and Responsibilities:

1. Each Service and DHA shall develop and submit an assessment of current Service medical capacity and expertise in providing medical and surgical support for treating gender dysphoria to the USD(P&R) no later than August 31, 2016. This assessment should include a listing of MTFs at which interdisciplinary care and treatment are available or under development for this purpose, and use the attached data reporting template.

2. Each Service and DHA shall develop an education and training plan for both privileged and non-privileged medical personnel no later than November 1, 2016. This plan should detail how the Service will ensure familiarity with applicable Department policies and requirements, evidence-based practice guidelines and standards of care, and any Service-specific policies. To the extent practicable, training plans and requirements, and additional procedural guidance for care and services will be consistent across the MHS, and will be published as DHA procedural guidance.

3. Each Service and DHA shall be prepared to begin supporting transition medical care to transgender ADSMs no later than October 1, 2016. At a minimum, Services will be expected to provide, by referral if necessary, initial assessment, psychological and pharmaceutical support. As directed by the Secretary of Defense, in the period prior to October 1, 2016, the Military Departments and Services will address requests for gender transition from serving transgender Service members on a case-by-case basis, following the spirit and intent of DTM 16-005 and DoDI 1300.28. Until the capability of MHS MTFs to provide surgical transition services has been documented, any proposed genital surgical transition procedures within MTFs shall be prospectively reviewed by the appropriate Surgeon General or, in the case of the National Capital Region facilities, the Director, DHA. Approvals will be reported to the Assistant Secretary of Defense for Health Affairs (ASD(HA)) monthly.

4. The Director, DHA, will ensure that the Managed Care Support Contractors identify appropriate referral resources with providers experienced in care and treatment of transgender persons to ensure availability of care to complement MTF capabilities. An inventory of such resources shall be provided to the ASD(HA) not later than August 31, 2016.

5. The Director, DHA, will evaluate proposed referrals to the TRICARE network for surgical treatment in accordance with the Supplemental Health Care Program (SHCP). MHS care for ADSMs from non-DoD providers is governed by section 1074(c)(2) of title 10, U.S. Code, and section 199.16 of title 32, Code of Federal Regulations. Under these provisions, the SHCP normally follows TRICARE rules, which disallow surgical treatment of gender dysphoria, but the prohibition is subject to waiver for medically necessary care for ADSMs. The Director, DHA, is authorized to grant waivers on a case-by-case basis. Waiver requests will follow existing processes. Each waiver request, with appropriate clinical documentation, should be submitted through the Surgeon General concerned, to the Director, DHA.

6. To the extent a SHCP waiver would be needed to authorize non-surgical care for an ADSM, this memorandum approves such a waiver on a blanket basis if such care is recommended by a military health care provider in accordance with established SHCP procedures and this memorandum.

7. With respect to Reserve Component Service members not on active duty for a period of more than 30 days who initiate or are involved in a gender transition process, the Services shall establish procedures to ensure that a medical diagnosis and treatment plan (or significant revisions to a treatment plan) or a recommendation for a change in a member's gender marker made by a civilian medical provider is reviewed and approved by an appropriate military medical provider and communicated in a timely and efficient manner with the Reserve Component command involved.

ASD(HA) Responsibilities:

1. The ASD(HA) shall establish collaboration with the Veterans Health Administration and academic medical centers to support Service training plans and specialty consultations, including via telemedicine, where necessary and appropriate.

2. The ASD(HA) shall monitor compliance with this memorandum, which may include assessing Service and DHA performance on all provisions contained within this memorandum.

Karen S. Guice, M.D., M.P.P.
Acting

Attachments:
As stated

cc:
Under Secretary of Defense for Personnel and Readiness
Assistant Secretary of Defense (Manpower and Reserve Affairs)
Surgeon General of the Army
Surgeon General of the Navy
Surgeon General of the Air Force
Joint Staff Surgeon
Medical Office of the Marine Corps

EXHIBIT 2
TO DECLARATION OF
DR. TERRY ADIRIM

DEFENSE HEALTH AGENCY
7700 ARLINGTON BOULEVARD, SUITE 5101
FALLS CHURCH, VIRGINIA 22042-5101

NOV 13 2017

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Information Memorandum: Interim Defense Health Agency Procedures for Reviewing Requests for Waivers to Allow Supplemental Health Care Program Coverage of Sex Reassignment Surgical Procedures

The purpose of this memorandum is to share with you the procedures the Defense Health Agency (DHA) will follow to consider requests for a Supplemental Health Care Program (SHCP) waiver to allow coverage of sex reassignment surgical procedures.

Background

The 2016 Department of Defense (DoD) transgender service policy change included medical guidance that unless and until adequate surgical capabilities are established in military medical treatment facilities, requests for transgender surgery would be considered for DoD payment to non-DoD facilities under the SHCP and would require a waiver from the DHA Director.[1] That guidance noted that there are applicable statutory limitations. The statutory limitations include that DoD may not pay for surgery in non-DoD facilities for "sex gender changes," but this is subject to "such exceptions as the Secretary of Defense considers necessary," as long as they do not involve "elective private treatment."[2]

The Presidential Memorandum of August 25, 2017, "Military Service by Transgender Individuals," included direction that, effective March 23, 2018, the Military Health System halt all use of appropriations to fund sex-reassignment surgical procedures for military personnel, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex. The Secretary of Defense Memorandum of September 14, 2017, "Military Service by Transgender Individuals – Interim Guidance," included direction that Service members who receive a gender dysphoria diagnosis from a military medical provider will be provided treatment for the diagnosed medical condition. The effect of this is to continue the July 2016 medical guidance until the Secretary promulgates final policy implementing the direction from the Commander In Chief of the Armed Forces.

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[1] Assistant Secretary of Defense (Health Affairs) Memorandum, "Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members," July 29, 2016.
[2] 10 U.S.C. 1074(c)(2)(A), 1079(a)(11), 1074(c)(1).

This memorandum addresses procedures for considering requests for waivers under the SHCP for sex reassignment surgical procedures.[3] This memorandum does not apply to non-surgical care, nor to surgical care provided in military medical treatment facilities; those matters remain under the procedures of the Military Department concerned, consistent with the July 2016 guidance from the Assistant Secretary of Defense for Health Affairs, which remains in effect.

In evaluating potential coverage of otherwise non-covered services, the TRICARE regulation calls for review under the established hierarchy of reliable evidence,[4] which considers peer-reviewed publications of well controlled studies of clinically meaningful endpoints and published formal technology assessments as stronger than professional opinions, policy positions, and reports. (Although the TRICARE regulation is not binding on the SHCP, it provides a useful frame of reference). The effectiveness of gender transition surgery as a treatment for gender dysphoria is not well documented under this hierarchy of reliable evidence.[5]

Criteria for Considering SHCP Waiver Requests

Use of the Secretary's discretionary authority to waive the prohibition on paying for sex-reassignment surgery[6] under the SHCP will consider all relevant information in a case-by-case

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[3] 32 CFR 199.16(f) provides that generally applicable exclusions may be waived by the DHA based on a determination that such waiver is necessary to assure adequate availability of health care services to active duty members.

[4] 32 C.F.R. 199.2.

[5] Consistent with this hierarchy of reliable evidence, DoD often relies on health technology assessments conducted by Hayes, Inc. Hayes, Inc. uses a five-tier rating system. Under the most recent Hayes, Inc. assessment (Haynes Directory and Annual Review, May 15, 2014 and April 18, 2017 (updated)), for sex reassignment surgery (SRS) to treat gender dysphoria (GD) in adults for whom a qualified mental health professional has made a formal diagnosis of GD, have undergone hormone therapy and psychotherapy, and have undergone a Real-Life Experience, the rating reflects the reporting of some positive evidence but with serious limitations in the evidence of both effectiveness and safety. The evidence is rated a "C", which is a middle tier in the rating system, indicating there is potential but unproven benefit. Some published evidence suggests that safety and impact on health outcomes are at least comparable to standard treatment/testing. However, the "C" rating indicates that substantial uncertainty remains about safety and/or impact on health outcomes because of poor-quality studies, sparse data, conflicting study results, and/or other concerns.

[6] For purposes of this memorandum, sex reassignment surgery is defined as all surgical procedures related to transition from the birth sex to the preferred gender. These procedures include but are not limited to mastectomy, hysterectomy, gonadectomy, genital reassignment, breast augmentation, and cosmetic procedures to enhance the characteristics of the preferred gender. See Attachment for a more inclusive list.

review of the patient's record and circumstances, including the expected clinical benefit if the surgery is provided, the expected adverse effect on the patient's health if the surgery is not provided, and the potential impact of the requested health care service on the Service member's fitness for duty and military readiness. Updating guidance applicable to the SHCP, DHA's clinical review will adhere to the surgical care provisions of the 2017 Endocrine Society's Standards of Care, "Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline,"[7] to provide consistent, evidence-based care. The standards applicable to surgical care are summarized in the Attachment. Use of SHCP funding for any proposed sex-reassignment surgical procedures requires case-by-case authorization from the DHA Director.

Requests for waivers require appropriate clinical documentation and a recommendation for approval by the Surgeon General concerned. Absent emergency circumstances, SHCP surgery should not be scheduled until a waiver has been approved by the Director, DHA.

My point of contact for this matter is Dr. John Kugler, Chief, Clinical Support Division, Operations Directorate (J-3). Dr. Kugler can be reached via email at john.p.kugler.civ@mail.mil.

R. C. BONO
VADM, MC, USN
Director

Attachments:
As stated

cc:
Assistant Secretary of Defense for Health Affairs
Surgeon General of the Army
Surgeon General of the Navy
Surgeon General of the Air Force
Joint Staff Surgeon
Medical Officer of the Marine Corps
Director, Health, Safety, and Work Life, U.S. Coast Guard

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[7] The 2017 Endocrine Society guideline uses the terms "gender-reassignment surgery," "gender-confirming surgery" and "gender-affirming surgery." For purposes of this memorandum, the term "sex reassignment surgery" is interchangeable with the 2017 Endocrine Society guideline terms.

ATTACHMENT

SURGICAL PROCEDURES FOR GENDER DYSPHORIA

1. SRS GUIDELINES. Medically necessary sex reassignment surgery (SRS) may be considered when all of the following criteria are met:

a. Cross-sex hormones have been used continuously and responsibly for the required/recommended time according to the type of surgery;

b. Regular participation in psychotherapy throughout the transition period at a frequency determined jointly by the patient and the mental health provider has been completed if required;

c. Knowledge of all practical aspects of surgery (e.g., cost, required length of hospitalization, likely complications, post-surgical rehabilitation, SHCP policy including limitations, etc.) has been demonstrated;

d. Progress in consolidating one's gender identity has been demonstrated;

e. Progress in dealing with work, family, and interpersonal issues resulting in a significantly better state of mental health has been demonstrated; and

f. The endocrinologist or the physician responsible for endocrine treatment and the mental health provider must certify that the individual satisfies the eligibility and readiness criteria for SRS.

2. MEDICALLY NECESSARY PROCEDURES. Subject to receiving the relevant diagnosis/validation from an appropriate military medical provider, the following procedures may be recognized as "medically necessary" by DoD and may be funded through SHCP:

a. Female-to-Male

PROCEDURE	CPT Codes	CRITERIA
Hysterectomy and salpingo-oophorectomy (removal of uterus and ovaries)	58262/58291	1. Meet SRS Guidelines in Attachment 1, section 1, **required** 2. 12 months of hormonal therapy **required** (unless medically contraindicated) 3. 12 months of full time RLE **required**
Mastectomy (removal of breast)	19301/19303/19304	1. Meet SRS Guidelines in Attachment 1, section 1, **required** 2. 12 months of hormonal

		therapy **recommended** (unless medically contraindicated) 3. 12 months of full time RLE **recommended**
Metoidioplasty (enlargement/ lengthening of clitoris)	55899	1. Meet SRS Guidelines in Attachment 1, section 1, **required** 2. 12 months of hormonal therapy **required** (unless medically contraindicated) 3. 12 months of continuous full time RLE **required**
Phalloplasty (construction of "new" phallus from skin or muscle grafts)	55899	
Placement of testicular prostheses	54660	
Scrotoplasty (re-arrangement of labia to create scrotum)	55175	
Urethroplasty (creation of longer urethra from skin to enable standing voiding)	53430	
Vaginectomy (removal of vagina)	57106	

b. Male-to-Female

PROCEDURE	CPT Codes	CRITERIA
Orchiectomy (removal of testicles)	54520/54690	1. Meet SRS Guidelines in Attachment 1, section 1, **required** 2. 12 months of hormonal therapy **required** (unless medically contraindicated) 3. 12 months of full time RLE **required**
Penectomy (removal of penis)	54125	
Vaginoplasty (construction of "new" vagina from skin or intestinal tube)	57335	
Clitoroplasty (rearrangement of penile tissues to create "new" clitoris)	56805	
Labiaplasty (rearrangement of scrotum to create "new" labia)	58999	

3. COSMETIC PROCEDURES. The following procedures are considered "cosmetic procedures" by DoD and are not funded through SHCP (although some may be provided in an MTF subject to MTF capability and current Cosmetic Surgery Policy payment rules; this list is not all-inclusive):

a. Abdominoplasty (unless standard medical necessity criteria met)

b. Breast Augmentation[8]

c. Blepharoplasty (eyelid lift) (unless standard medical necessity criteria met)

d. Hair removal/Electrolysis9

e. Face-lift

f. Facial bone reduction

g. Hair transplantation

h. Liposuction

i. Reduction thyroid chondroplasty (Adam's Apple surgery)

j. Rhinoplasty

k. Voice modification surgery

4. OTHER SURGICAL CONSIDERATIONS

a. Cryopreservation of oocytes and/or sperm is not funded by DoD

b. Reversal of SRS is not funded by DoD

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[8] A waiver for breast augmentation (CPT code 19324/19325) may be authorized when the ADSM has undergone 24 months of feminizing hormone therapy (unless medically contraindicated) with insufficient breast development.

[9] A waiver for hair removal by laser or electrolysis (CPT codes 17380) may be authorized when the ADSM meets one of the following criteria for planned SRS:

A. The defined area of hair removal is to treat tissue donor site(s) for a planned phalloplasty.

B. The defined area of hair removal is to treat tissue donor site(s) for planned vaginoplasty.

EXHIBIT 3
TO DECLARATION OF
DR. TERRY ADIRIM

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/14/17

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDANT, U.S. COAST GUARD
DEPUTY CHIEF MANAGEMENT OFFICER
CHIEF, NATIONAL GUARD BUREAU
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF COST ASSESSMENT AND PROGRAM EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF OPERATIONAL TEST AND EVALUATION
CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS
DIRECTOR OF NET ASSESSMENT
DIRECTOR, STRATEGIC CAPABILITIES OFFICE
DIRECTORS OF DEFENSE AGENCIES
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Terms of Reference - Implementation of Presidential Memorandum on Military Service by Transgender Individuals

Reference: Military Service by Transgender Individuals – Interim Guidance

I direct the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff to lead the Department of Defense (DoD) in developing an Implementation Plan on military service by transgender individuals, to effect the policy and directives in Presidential Memorandum, *Military Service by Transgender Individuals*, dated August 25, 2017 ("Presidential Memorandum"). The implementation plan will establish the policy, standards and procedures for service by transgender individuals in the military, consistent with military readiness, lethality, deployability, budgetary constraints, and applicable law.

The Deputy Secretary and the Vice Chairman, supported by a panel of experts drawn from DoD and the Department of Homeland Security (DHS) ("Panel"), shall propose for my consideration recommendations supported by appropriate evidence and information, not later than January 15, 2018. The Deputy Secretary and the Vice Chairman will be supported by the Panel, which will be comprised of the Military Department Under Secretaries, Service Vice Chiefs, and Service Senior Enlisted Advisors. The Deputy Secretary and Vice Chairman shall

designate personnel to support the Panel's work to ensure Panel recommendations reflect senior civilian experience, combat experience, and expertise in military operational effectiveness. The Panel and designated support personnel shall bring a comprehensive, holistic, and objective approach to study military service by transgender individuals, focusing on military readiness, lethality, and unit cohesion, with due regard for budgetary constraints and consistent with applicable law. The Panel will be chaired by the Under Secretary of Defense for Personnel and Readiness and will report to the Deputy Secretary and the Vice Chairman at least every 30 days and address, at a minimum, the following three areas:

Accessions: The Presidential Memorandum directs DoD to maintain the policy currently in effect, which generally prohibits accession of transgender individuals into military service. The Panel will recommend updated accession policy guidelines to reflect currently accepted medical terminology.

Medical Care: The Presidential Memorandum halts the use of DoD or DHS resources to fund sex-reassignment surgical procedures for military personnel, effective March 23, 2018, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex. The implementation plan will enumerate the specific surgical procedures associated with sex reassignment treatment that shall be prohibited from DoD or DHS resourcing unless necessary to protect the health of the Service member.

Transgender Members Serving in the Armed Forces: The Presidential Memorandum directs that the Department return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016. The Presidential Memorandum also allows the Secretary to determine how to address transgender individuals currently serving in the Armed Forces. The Panel will set forth, in a single policy document, the standards and procedures applicable to military service by transgender persons, with specific attention to addressing transgender persons currently serving. The Panel will develop a universal retention standard that promotes military readiness, lethality, deployability, and unit cohesion.

To support its efforts, the Panel will conduct an independent multi-disciplinary review and study of relevant data and information pertaining to transgender Service members. The study will be planned and executed to inform the Implementation Plan. The independent multi-disciplinary review and study will address aspects of medical care and treatment, personnel management, general policies and practices, and other matters, including the effects of the service of transgender persons on military readiness, lethality, deployability, and unit cohesion.

The Panel may obtain advice from outside experts on an individual basis. The recommendations of the Deputy Secretary and the Vice Chairman will be coordinated with senior civilian officials, the Military Departments, and the Joint Staff.

All DoD Components will cooperate fully in, and will support the Deputy Secretary and the Vice Chairman in their efforts, by making personnel and resources available upon request in support of their efforts.

cc:
Secretary of Homeland Security