EXHIBIT 1

Transgender Service Q&As

Transgender Senior Implementation Group Meeting – July 14, 2017

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Agenda

Welcome

Service Q&A Review
- Medical
- Deployment/Assignments
- Uniform Issue
- Document in the military personnel database system
- Funding/Facilities
- Legal Challenges
- Use of Shower Facilities
- Living Quarters

Closing Remarks

Cited References

In-Service Questions

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Medical

Q8. Who makes the stability determination? What qualifications must the provider have?

A8. The credentialed and privileged military medical provider makes stability determinations.

Q8a. What is the definition of stability for members with the diagnosis of Gender Dysphoria?

A8a. The definition of "stability in the preferred gender" as defined in DoDI 1300.28 p.16

The **definition of stable in the preferred gender**: medical care identified or approved by a military medical provider and a documented medical treatment plan is complete, no functional limitations or complications persist, and the individual is not experiencing clinically significant distress or impairment in social, occupational, or other important areas of functioning. Continuing medical care, including but not limited to cross-sex hormone therapy, may be required to maintain a state of stability.

Medical

Q11. Many procedures involved in sex reassignment surgery result in disability (i.e., mastectomy: 50%; hysterectomy with ovary removal: 50%; removal of both testicles: 30%). Will procedures undertaken as part of gender reassignment also result in an automatic disability rating from the VA?

A11. No. Pursuant to 38 U.S.C. § 1110, VA is directed to pay compensation for a disability resulting from disease or injury incurred in or aggravated by military service. The Secretary's authority to apply a schedule for evaluating these disabilities is authorized by U.S.C. § 1155, directing VA to "adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries." The ratings for the injuries in the VA Schedule for Rating Disabilities (VASR-D) are required to be based "upon the average impairments of earning capacity resulting from such injuries in civil occupations." (From VA information paper.) ***---Hyperlink VA Paper---***

VBA will not recognize gender dysphoria as a disability or disease entity that is directly resulting from military service but rather a pre-existing condition that is present from birth.

Q11a. What about eligibility for medical retirement?

A11a. All Service members are subject to the same considerations for medical retirement.

Medical

Q12. Pre-existing conditions: Many transgender individuals have PTSD, anxiety disorders, depression, and other disorders prior to entering the military (research indicates many have been victims of domestic violence/assaults/sex assaults as a factor of being transgender), does this automatically result in disability upon discharge?

> Vignette: A transfemale is on active duty for three years. However, the Soldier had PTSD or another condition prior to service. While on active duty, the stress of military service worsens her PTSD and she is no longer fit for duty. She is authorized disability for her PTSD.

A12. No. Pre-existing conditions are not compensable. Like any other pre-existing condition, disability will only be rated on a service connected aggravation of the condition.

With regard to PTSD, PTSD is a disqualifying disorder in the current and updated DoDI 6130.03. While gender dysphoria is not mentioned in the VA Schedule for Rating Disability and would not be directly service connected, VA would consider the effects of gender dysphoria based on other mental health disability manifestations that present themselves or are made worse by active military service, when such conditions are within the diagnosable conditions that are listed in the VA Schedule for Rating Disabilities. This service connection would be made based on the degree that military service aggravates or results in a secondarily-linked mental disorder, such as anxiety or depression, resulting in loss of earning capacity. (38 C.F.R. § 4.22).

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Medical

Q14. Will we standardize the coding on profiles for transgender individuals to specifically show the medical condition and create a standardized "base" treatment plan? Current plans submitted by medical providers are widely varied in the amount of time needed for stability - some recommend up to 36-months of unavailability and there is currently insufficient longitudinal medical data available to evaluate the effects of transgender ~~recruits~~ in military service and overall readiness to the force.

> Vignette: Soldier A's medical provider estimates he will achieve gender identity stability in 6 months and will be unavailable for deployment during that time. Soldier B's medical provider estimates he will achieve gender identity stability in 12 months, and will be unavailable for deployment during that time. Both Soldiers react well to treatment and neither experience any complications and the course of treatment is identical, but the length of the unavailability is very different. In either case we are adding to the already sizable non-deployable population within the Army.

A14. DoD does not have plans to standardize coding on profiles/LIMDU. The Services may do so if granted DoD authority.

With regard to current Service members and their treatment plans, treatment plans are tailored to the individual and are established by the Service member and his/her provider team. The team includes different provider types as determined by the Service member's goals for transition. A Service member with Gender Dysphoria who wants only behavioral health therapy and/or hormonal therapy will most likely require a much shorter time period for completion of transition than one whose plan includes surgery. If surgery is part of the transition plan, the types of surgical procedures requested also determine the time line for completion of transition. The timeline for implementing the transition plan requires approval by the Service member's Commanding Officer, who should make that approval based on the readiness needs of the unit. Then the Service member will be put on profile/limited duty if the current status of the medical condition or treatment requires it.

Services have each stood up Service Central Coordination Cells with TG experts (policy, medical, legal). These cells, depending on how the Services desire to use them, can be consulted to provide more standardization.

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Medical

Q15. Will specialty care be made available on deployments?

Vignette: After achieving stability in the preferred gender, a transfemale Soldier's medical treatment plan calls for her hormone levels to be checked on a certain schedule for the rest of her life, she has no remaining deployment or training restrictions. The Soldier's unit is scheduled to deploy, and the deployment will last longer than the interval for her re-testing. She is a critical/low-density MOS for her unit (water purification specialist). The Soldier would like to deploy late, or redeploy early to ensure her hormone levels can be checked on schedule.

A15. Decisions are made per the same criteria for any Service member with similar issues requiring medical care. If a Service member has a medical condition that exceeds the level of care that can be provided on deployment, then that Service member may not be deployable. In this case, the Service member could reasonably have her levels checked just prior to deployment to reset the timing of the measurement of hormone levels to fit in with the deployment.

Further, DoDI 6025.19, "Individual Medical Readiness," states that each Military Department "will develop a process to ensure the medical readiness of individual Service members is considered during each clinical encounter" and are responsible to "Ensure supporting medical units provide non-medical unit commanders with health services to support command efforts to ensure personnel remain physically, mentally and medically ready to deploy."

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Medical

Q16. Will the policy on surgeries change to allow transgender Service members to receive sex reassignment surgery or other surgeries through TRICARE, or can they request a reassignment to facilitate treatment?

Vignette: Soldier A's medical treatment plan calls for a mastectomy, which cannot be performed at the local MTF. She requests TRICARE to pay for the surgery, with the provider of her choice, off-post, but is denied. Soldier B, on a different post, has a treatment plan that calls for a mastectomy, which can be performed at the local MTF. Soldier A feels she is being discriminated against and asks to be reassigned to another post where she can receive surgical support.

A16. No requirement exists for a TRICARE policy change. Approval of Service member duty reassignment requests are on a case-by-case basis. A service member may be referred to another MTF capable of performing transition surgery or to the purchased care system through the TRICARE Supplemental Healthcare Program (SHCP).

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Medical

Q17. How do we reconcile that notable inconsistencies exist between the clinical guidelines for transgender care and the DoD policy and real life experience (RLE)? Defense Health Agency policy mandates DoD clinicians use guidelines requiring at least three months RLE prior to initiating hormone treatment. However, DoD policy which was developed with input from DoD medical experts does not permit RLE during work hours and only allows partial RLE when Service members are off-duty. This incongruity reflects the lack of agreement within the medical and behavioral health communities and must be resolved to ensure appropriate care for our transitioning service members. By deliberately increasing this population before we have resolved the inconsistencies, we potentially expose newly accessed transitioning Marines to health risks that our medical practitioners consider unacceptable.

A17. For active duty Service members who are diagnosed with Gender Dysphoria, we are following the Memorandum to the M&RAs from the Acting ASD- Health Affairs "Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members dated July 29, 2016, which states "..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 regarding RLE, cross-sex hormone therapy, and surgical transition/ Treatment plans must be individualized and approved by a military medical provider."

Per DoDI 1300.28: "Real Life Experience (RLE) is the phase in the gender transition process during which the individual commences living socially in the gender role consistent with their preferred gender. Although in civilian life this phase is generally categorized by living and working full-time in the preferred gender, consistent application of military standards will normally require that RLE occur in an off-duty status and away from the Service member's place of duty, prior to the change of a gender marker in DEERS."

Further, if medical treatment plan does not comport with unit readiness the commander has options, DoDI 1300.28:

"Any such actions available to the commander will consider and balance the needs of the individual and the needs of the command in a manner comparable to the actions available to the commander in addressing comparable Service member circumstances unrelated to gender transition….Such action may include…the initiation of administrative or other proceedings, comparable to actions that could be initiated with regard to others whose ability to serve is similarly affected for reasons unrelated to gender transition."

Medical

Q19. How do we support, fund, resource the currently insufficient DoD-wide capacity and capability for providing comprehensive medical, surgical and psychological care to transgender Service members? While select providers have obtained additional training to provide transgender care, the majority of providers have not acquired the expertise to provide such care. Moreover, DoD lacks the capacity to offer sex reassignment surgery and must refer Service members to one of three private sector providers located away from major military installations; this results in significantly long wait times, sometimes in excess of one year, for medically necessary treatment. It is important to achieve in-house competency and capacity in multidisciplinary transgender care for current Service members before accessing additional recruits who may also require additional medical care.

A19. DoD has sufficient support, Defense Health Program (DHP) funding, and resources to provide comprehensive medical, surgical and psychological care to transgender Service members through the Direct Care (MTF) and Purchase Care through SHCP. The managed care support contractors have identified over 20 comprehensive transgender programs (academic or hospital based programs) that can provide care for active duty service members in the civilian sector. Many of the programs report their wait time for a surgical consult for TG procedures is 30 days or less and an additional 4-6 weeks for surgery.

Additional Service concerns:

- O and M budget for travel and per diem for local commanders
- Most purchased care locations are not near military installations
- Possible family separation and/or non-medical attendant costs

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Medical

Q23. Will DHA have guidance on length of time for real life experience or stability before gender transition surgery?

A23. Yes, for Service members with Gender Dysphoria currently on active duty.

Current policy states:

For active duty Service members who are diagnosed with gender dysphoria, we are following the Memorandum to the M&RAs from the Acting ASD- Health Affairs "Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members dated July 29, 2016, which states:

"..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 regarding RLE, cross-sex hormone therapy, and surgical transition. Treatment plans must be individualized and approved by a military medical provider."

DoDI 1300.28 states that:

"Real Life Experience (RLE) is the phase in the gender transition process during which the individual commences living socially in the gender role consistent with their preferred gender. Although in civilian life this phase is generally categorized by living and working full-time in the preferred gender, consistent application of military standards will normally require that RLE occur in an off-duty status and away from the Service member's place of duty, prior to the change of a gender marker in DEERS."

Medical

Q24. What is the definition of Medical Necessity for treatment of Gender Dysphoria?

A24. Medical necessity for individuals with Gender Dysphoria is the same as for people with other conditions.

32 CFR 199.2 characterizes medical necessity as:

"Services performed in connection with the diagnosis or treatment of disease or injury, pregnancy, mental disorder, or well-baby care which are in keeping with generally accepted norms for medical practice in the United States".

DoDI 1300.28, defines medical necessity as: those health-care services or supplies necessary to prevent, diagnose, or treat an illness, injury, condition, disease, or its symptoms, and that meet accepted standards of medicine.

The DHA-IPM which contains the procedures for active duty Service member health care and is in formal coordination.

Medical

Q25. Is there a clear definition of when a member with Gender Dysphoria has completed transition?

-- Transition complete is highly subjective and guided by members input rather than medical standards.

A25. Yes. For active duty Service members, the definition for "gender transition is complete" is provided by DoDI 1300.28, which states "A Service member has completed the medical care identified or approved by a military medical provider in a documented medical treatment plan as necessary to achieve stability in the preferred gender."

Medical

Q27. Is it possible for a member to use intramuscular (IM) medications ~~during Basic Training or~~ on future deployments?

A27. IM injections may not be appropriate for SMs deployed to certain locations. IM medications may need to be transitioned to oral, topical gels, creams, or patches.

Medical

Q28. Is there evidence based data showing the effects of Cross Sex hormone therapy on deployability and other high performance systems long term? Are there guidelines set based on long term studies and outcomes?

A28. No. There is no evidence based data showing the effects of cross-sex hormone therapy on deployability and other high performance systems for military personnel. In the absence of military evidence, DoD and the Services need to identify and develop metrics to gather the evidence based data to assess impacts of TG Service in certain career fields.

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Medical

Q29. What is the impact of gender dysphoria and/or use of cross sex hormone therapy on certain career fields? Will current standards be waived for treatment of transgender service members?

A29. Certain medical interventions involved in the treatment of gender dysphoria currently restrict TG individuals from entering certain career fields; however insufficient data exists to evaluate whether this situation will be enduring. Military medical standards are the same for all service members. As with any other service member current standards may be waived on a case by case basis. Services need the ability to gather the data to assess the impacts for certain career fields to determine the impact on safety and readiness.

DOD policies and publications address this question.

1. DODI 1300.28 - DoD and the Military Departments will institute policies to provide Service members a process by which, while serving, they may transition gender. These policies are premised on the conclusion that open service by transgender persons who are subject to the same standards and procedures as other members with regard to their medical fitness for duty, physical fitness, uniform and grooming standards, deployability, and retention, is consistent with military service and readiness.

2. The DOD Implementation Handbook, Transgender Service in the U.S. Military: Impact Transitioning May Have on Your Career Transitioning gender may have an impact on several different aspects of your career including deployability, assignment considerations, medical classification, and aspects of individual readiness (e.g., physical fitness, body composition assessment, and professional military education attendance). Since the impact to your career could be significant, it is strongly recommended you discuss this with your commander and/or mentor.

Medical

Q30. Will there be a limit on the length of time off duty, deployment limitations or mission impact during transition?

A30. Yes. DoDI 1332.18 applies to all Service Members. The timing of transition should be determined by the service member's Commanding Officer to ensure minimal impact on mission accomplishment.

If the medical treatment plan does not comport with unit readiness the commander may take appropriate action:
"Any such actions available to the commander will consider and balance the needs of the individual and the needs of the command in a manner comparable to the actions available to the commander in addressing comparable Service member circumstances unrelated to gender transition.…Such actions may include…Adjustments to the date on which the Service member's gender transition, or any component of the transition process, will commence.…the initiation of administrative or other proceedings, comparable to actions that could be initiated with regard to others whose ability to serve is similarly affected for reasons unrelated to gender transition." (From DoDI 1300.28.)

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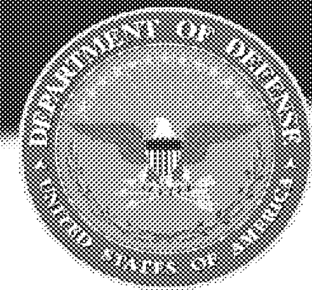
Medical

Q31. Are there any Gender Dysphoria specialists or Graduate Medical Education requirements which would provide the appropriate level of expertise?

A31. Presently, there is no special medical field or board certification on transgender medical care. Licensed mental health providers are trained in the evaluation and psychological treatment of gender dysphoria. Military providers are required to have training on the basics of transgender care.



Medical

Q33. Is there a true medical standard of care on treatment for Gender Dysphoria?

A33. Yes. Like other medical conditions, accepted medical guidelines of care for gender dysphoria are based on the current medical literature and expert input and are provided in multiple publications. These include the Endocrine Society, the World Professional Association for Transgender Health (WPATH), and the American Psychiatric Association; and are endorsed by many specialty societies including the American College of Obstetrics and Gynecology, the American College of Physicians, and the American Academy of Family Practice.

Medical

Q34. What is the current high correlation with suicide, studies vary up to 41% and is this a concern as we address standards for members with Gender Dysphoria?

-- Would this already high risk or correlation with suicide be increased by the affects of high stress environment during transition while on active duty or in certain career fields?

A34. There are no studies of the actively serving transgender population. While some studies of the civilian population document a high incidence of suicide ideation, suicide attempts and other comorbid mental health conditions in the transgender population, these studies depend on patient reports and it is not clear if the respondents have had any treatment for their gender dysphoria. Other research studies of individuals treated for gender dysphoria show that transgender individuals experience improvements in social functioning and reduced anxiety and depression once therapy is initiated. The study referred to in the question (41%) is actually looking at respondents who report suicide attempts, not actual suicide completion. The authors make the following statements:

“The questionnaire included only a single item about suicidal behavior that asked: “Have you ever attempted suicide”, with a dichotomized response of yes or no. Researchers have found that using this question alone in surveys can inflate the percentage of affirmative responses, since some respondents may use it to communicate self-harm behavior that is not a suicide attempt.”

“Second, the survey did not directly explore mental health status and history, which have been identified as important risk factors for both attempted and completed suicide in the general population.”

The paper includes a table on “lifetime suicide attempts by responses about transition-related health care.” The authors’ state:

“The NTDS instrument did not include questions about the timing of suicidal attempts relative to transition, and thus we were unable to determine whether suicidal behavior is significantly reduced following transition related surgeries, as some clinical studies have suggested (Dixen et al., 1984; De Cuypere et al., 2006).”

As noted in an earlier response, the accession requirements in DoDI 6130.03 for behavioral health issues such as depression, anxiety, substance abuse, ADHD, and PTSD remain in effect.

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Medical

Q35. Are there adequately trained personnel to care for members with Gender Dysphoria both in direct care and referral based care?

A35. Yes. However, in the direct care system, not at all locations and not all providers. The Services continue training to enhance the skills of their medical professionals to care for members with Gender Dysphoria. There are adequately trained personnel in referral based care.

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Medical

Q36. What is the threshold for individual risk factors for adverse conditions in patients with Gender Dysphoria who are on Cross Sex hormone Therapy? What is the current guidance for the threshold for disqualification in members on Cross Sex hormone therapy with high or multiple risk factors for adverse events like Deep Vein Thrombosis, liver failure or low impact/trauma fractures?

A36. This issue has not been studied on the military special duty population. Service members taking hormone replacement for any indication would have the same risk of adverse events as those taking cross-sex hormones for transition at prescribed doses. As with any medication, risks associated with the use of cross-sex hormones should be discussed with a transitioning Service member by his/her medical provider. DoD follows The Endocrine Society Clinical Practice Guidelines, managing patients at physiological levels of hormones.

The Endocrine Society Clinical Practice Guidelines state:

"Cross sex hormone therapy confers the same risks associated with sex hormone replacement therapy in biological males and females. The risk of cross-sex hormone therapy arises from and is worsened by inadvertent or intentional use of supra-physiological doses of sex hormones or inadequate doses of sex hormones to maintain normal physiology."

"Our recommendation to maintain levels of cross-sex hormones in the normal adult range places a high value on the avoidance of long-term complications of pharmacological doses."

Many of the risks reported with cross-sex hormones are related to older treatment modalities used. For example, the use of synthetic estrogens such as ethinyl estradiol was found to be associated with an increased risk of thromboembolism and other cardiovascular events. As a result ethinyl estradiol is no longer used for the male to female transition. The Endocrine Society Guidelines reference one study that demonstrated a 0.02% risk of thromboembolic events in transgender individuals on oral estradiol.

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Deployment/Assignments

Q37. Do we add a country's stance on transgender individuals to pre-deployment country briefings to ensure transgender Soldiers are informed in advance of any cultural concerns/additional dangers without singling them out?

Vignette: A Brigade is deploying to Eritrea, which criminalizes homosexuality and transgender individuals are also at risk. A transgender Soldier is in the unit; she completed her transition years ago and the commander is unaware that any of his Soldiers are transgender. The standard country brief does not discuss transgender individuals or the country's social views on gender dysphoria.

A37. Yes. Referencing the scenario in the Transgender Service in the U.S. Military: An Implementation Handbook, pp 67-68:

Service member responsibilities

- Always remember that the laws and what is considered socially normal in the host country may be vastly different than in the U.S.
- Pay attention to any travel warnings given by the command as a pre-arrival brief. Consult the Foreign Clearance Guide, Travel Precautions, and Information section for LGBT travel information for that country.
- Ensure that when visiting the country that individuals do not travel alone and avoid areas that are listed as dangerous. Be cautious of potential risky situations.
- Avoid all physical displays of affection in public.

Commander responsibilities

- While having a transgender Service member might be unique to the organization, the specific issues and concerns are analyzed similarly to any other safety issues that may be encountered by any member of a crew.
- Conduct a thorough analysis of the country prior to arrival. At a minimum, review the U.S. State Department's country specific website and DoD Foreign Clearance Guide.
- Tailor pre-briefs to the crew on the accepted country norms and places to avoid. Ensure a robust buddy system for liberty is prescribed. Educate non-commissioned officers about any concerns regarding the port.

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Deployment/Assignments

Q38. At what point are members subject to retention standards for periods of non-deployability for greater than 12 months (current standard)?

A38. DoDI 1332.18 establishes requirements for separation through the Disability Evaluation System. Services establish retention/separation standards.

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Deployment/Assignments

Q39. Are there currently DoD deployment/PCS restrictions due to SOFA agreements both for medical and non-medical reasons?

A39. The primary consideration for assigning a member to a valid requirement is the individual's current qualifications to serve and availability to fill the position. All service members on an overseas assignment receive a country brief with the background and challenges associated with serving in the host nation. This briefing touches upon LGBT cultural concerns specific to the host nation.

The member and the command must be cognizant of the challenges of the beliefs and norms of the host nation. It is standard practice to review the U.S. State Department's and DoD Foreign Clearance Guide (FCG) country specific information as part of the assignment process. The FCG incorporates the Combatant Commanders recommendation based upon a host nation determination of whether or not to extend Status of Forces Agreement (SOFA) protections to same sex spouses or host nation law, safety, or political concerns that might put personnel at risk.

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Uniform Issue

Q40. Do enlisted Soldiers who transition while in Service receive a new "initial issue" of uniform items (ASUs) after the DEERS gender marker change?

Vignette: A Junior enlisted Soldier who entered the Army as a male is issued a male ASU. The SM is diagnosed with gender dysphoria and transitions without event to female. Should the SM be issued a female ASU to match her new gender identity?

A40. Services establish uniform policy.

Documents in the Military Personnel Database System

Q41. Do we leave the original birth certificate in the personnel records once a new name/gender has been ordered by the court?

Vignette: A SM transitions to her preferred gender, and the BDE CDR approves a gender marker change in DEERS. The new birth certificate is filed in her AMHRR. When doing her annual review, she notices her original birth certificate, stating "Male" is still there, and asks that it be removed as it is not accurate. However, the SM has not petitioned the ABCMR to change the other documents in her AMHRR to reflect her new name. Her records (AWARDS/OERS/NCOERS) now have both names. Additionally, her security clearance is due for a periodic review, and she puts her new name on the SF-86

A41. Yes. All records generated after the Service's personnel data system gender marker is changed will reflect the preferred gender. This is no different than for any other Service member who changes a name while in Service. Services have a board process that may consider changes to historical military records.

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Funding/Facilities

Q42. Will there be additional funding for facility modification? If not then soldiers who enter service may be anatomically male and be medically considered "stable" as a female and their "gender marker" will indicate female. Under current rules we will have soldiers who have a male lower anatomy and female upper anatomy showering in a common facility with fully anatomically female soldiers or vice versa. If separate facilities are required then we are in violation of various discriminatory federal and local laws. If we do not create separate facilities then we are at risk of violating privacy for male, female, or transgender soldiers.

Vignette: Fort XYZ has open bay showers for Basic Training Soldiers and has asked for additional funding to create private shower facilities for all Soldiers. No funding is currently available in the Army budget to create specific facilities. Currently, all soldiers are either male or female and facilities are built to accommodate the two genders. Creating separate but equal facilities violates various federal and local laws.

A42. No. DoD does not mandate modification of facilities. Per DoDI 1300.28, “A commander may employ reasonable accommodations to respect the privacy interests of Service members.” If a Service determines that physical modifications are necessary, the Service provides funding.

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Funding/Facilities

Q43. Are we going to spend money to meet facility issues? Facilities modifications necessary to respond to privacy concerns are not complete, due to the extended Continuing Resolution. The modifications are expected to cost $1.463M and to take nine months following contract award to complete. There are many things we do not fund for our families and the question will be asked, "Why we will fund facility modifications and medical support to this group but not for others?"

A43. No. DoD does not mandate modification of facilities. Per DoDI 1300.28, "A commander may employ reasonable accommodations to respect the privacy interests of Service members." If a Service determines that physical modifications are necessary, the Service provides funding.

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Legal Challenges

Q45. How do we reconcile that a transgender Service member's gender marker may be changed in DEERS without the transgender member undergoing sex-reassignment surgery? In such instance, a transgender female with male anatomy would use female bathrooms and locker rooms at the base pools, fitness centers, and exchanges, which may expose other female patrons, to include young female family members to male genitalia. DoD GC has rendered an opinion that a transgender Service member would not be subject to criminal prosecution on installations with concurrent jurisdiction in states with bathroom laws requiring public bathroom use according to biological sex. This opinion has not yet been tested, nor has the parallel potential liability for sexual harassment claims been addressed. My concern is that the current policy interpretation reflects a "wait and see" posture that potentially puts transgender Marines or family members—or both—at risk.

A45. Federal jurisdiction takes precedence where concurrent state jurisdictions exist. It is the opinion of DoD GC that "any attempt by State authorities either to regulate the operation or design of restrooms or changing facilities on military installations or in a Federal workplace, or to regulate the conduct of Service members or Department civilian employees in such areas, would be preempted under the Supremacy Clause of the U.S. Constitution." (OGC Legal Review Memorandum, "Transgender Service Senior Implementation Group – Questions Concerning Concurrent Jurisdiction and Separate Sleeping and Latrine Areas, June 27, 2017.)

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Use of Shower Facilities

Q46. In the case where a transgender service member's gender marker may be changed in DEERS without the transgender member undergoing sex-reassignment surgery and such incident occurs when: a transgender female with male anatomy would use female bathrooms, locker rooms, etc. and that service member knowingly or unknowingly exposes themselves to another female Soldier who is unaware of the transgender' s females gender marker change. In the case where such may occur and the female service member feels as if she were sexually harassed or victim of indecent exposure...

How does the chain of command process the complaint from the non-transgender female?

A46: Complaints that arise to a formal level follow existing policy as defined in DoD Directive (DoDD) 1020.02E, “Diversity Management and Equal Opportunity in the DoD,” June 8, 2015, Incorporating Change 1, Effective November 29, 2016.

Per DoDI 1300.28, “A commander may employ reasonable accommodations to respect the privacy interests of Service members.”

Living Quarters

Q47. Can a male or female Soldier request separate living quarters in such case as where they reside in the same barracks room as a transgender service member who chooses not to undergo sex-reassignment surgery?

A47: Yes. Per DoDI 1300.28, "A commander may employ reasonable accommodations to respect the privacy interests of Service members."

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Closing Remarks

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Service Inputs

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SEL Inputs (Navy)

Upon review of the Transgender Service Q&As, I offer the following feedback In response to your request.

I do not have any specific concerns associated with any of the service provided responses to the questions. What I would offer is the voice of the Sailors and their families in regard to implementation of the policy.

Sailors today are much more concerned about being capable of performing their technical competencies (how we educate and train), impact of the size and capability of our Navy on OPTEMPO/ITEMPO and increased opportunities to be professionally and personally successful than that of the gender of their Shipmates. The conversations that are taking place in reference to our transgender policies are focused on medical care, operational/manning impact, facilities/accommodations, and uniform/physical readiness requirements-all of which I believe have been addressed in current and proposed policies.

From a medical care perspective, the concerns have focused on treatment plans and what will be the cost of and level of surgical procedures covered. Sailors are also not sure how/if currently serving members who receive treatment may impact unit manning. Again, believe this is addressed in our Transgender Service in the U.S. Military: An Implementation Handbook and through the TRICARE SHCP.

IRT the uniform policy and physical readiness questions, Sailors have a misperception that will need to be changes to the uniform and physical readiness policies. This of course is not the case and simply becomes an education piece. In the discussions I have had, Sailors appreciate the fact that we are in keeping with the standard based on gender and within certain communities operational requirements.

The larger topic of conversation centers on accommodations and facilities. How are we (Sailors) going to work through that environment across all the services. Whatever the decision, we know that it has to be consistent as we operate in very joint environments both operational and within the fence lines of military installations. I offer that we should take time to look at what we are learning already. For example, at RTC Great Lakes we have already completed the conversion of two buildings to accommodate restroom and shower facilities with individual privacy. I would suggest we consider evaluating the effect of this change alone on the behavior of our recruits; specifically how this change impacts bad behavior compared to the current open shower construct. In the infancy of all the discussions that are now taking place in the services regarding transgender service members-currently serving or new accessions I believe we (Navy) are in the very best possible position to start implementation. We have dedicated enormous amounts of time and effort to think through the challenges and have postured ourselves in the best possibly way to implement. As with any new change, we will continuously learn as we progress. We are; however, sensitive to ensuring all the services are similarly ready to implement for the reasons mentioned above (joint operational environments).

Thank you for the opportunity to provide input.

Very Respectfully,

Steven S. Giordano

Master Chief Petty Officer of the Navy

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SEL Inputs (Army) answered on slides 48, 49

My question pertains to the "legal challenges" questions and answers. (44 and 45).

In the case where a transgender service member's gender marker may be changed in DEERS without the transgender member undergoing sex-reassignment surgery and such incident occurs when: a transgender female with male anatomy would use female bathrooms, locker rooms, etc. and that service member knowingly or unknowingly exposes themselves to another female Soldier who is unaware of the transgender' s females gender marker change. In the case where such may occur and the female service member feels as if she were sexually harassed or victim of indecent exposure...

I understand that the DoD GC has rendered the opinion that a transgender Service member would not be subject to criminal prosecution.

Questions:

1. How does the chain of command process the complaint from the non-transgender female?
2. Can a male or female Soldier request separate living quarters in such case as where they reside in the same barracks room as a transgender service member who chooses not to undergo sex-reassignment surgery?

Please let me know if I need to clarify any of this.

Respectfully,

SMA Dailey

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DTM 16-005, “Military Service of Transgender Service Members,” June 30, 2016

DoD Handbook, “Transgender Service in the U.S. Military: An Implementation Handbook,” September 30, 2016

DoDD 1020.02E, “Diversity Management and Equal Opportunity in the DoD,” June 8, 2015, Incorporating Change 1, Effective November 29, 2016

DoDI 1215.08, “Senior Reserve Officers’ Training Corps (ROTC) Programs,” January 19, 2017

DoDI 1300.28, “In-Service Transition for Transgender Service Members,” June 30, 2016

DoDI 1332.14, “Enlisted Administrative Separations,” January 27, 2014, as amended

DoDI 1322.22, “Service Academies,” September 24, 2015

DoDI 1336.05, "Automated Extracts of Active Duty Military Personnel Records," March 31, 2015

DoDI 6025.19, “Individual Medical Readiness (IMR),” June 9, 2014

DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Service," April 28, 2010

DoDI 6490.03, “Deployment Health,” August 11, 2006

DoDM 7730.54, "Reserve Components Common Personnel Data System (RCCPDS): Reporting Procedures," May 25, 2011

Memorandum (OGC Legal Review), “Transgender Service Senior Implementation Group – Questions Concerning Concurrent Jurisdiction and Separate Sleeping and Latrine Areas, June 27, 2017

Memorandum (OSD HA), “Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members dated July 29, 2016

Memorandum (USD P&R), “Clarification of Procedures for the Change of a Transgender Service member’s Sex Code and Gender Marker,” September 21, 2016

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Accession Questions

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Recruiting

Q1. Do we change the medical history/recruiting forms to specifically ask applicants if they have been diagnosed with or treated for gender dysphoria, or had any surgeries specifically to further their gender identity?

Vignette: An applicant with legal documentation for the preferred gender enters a recruiting station. The applicant believes the legal documentation for the preferred gender is all that is required for enlistment and does not acknowledge that he or she once had a different gender, or does not recognize that information as being important during the recruitment process, so does not mention it on the forms.

A1. The DD Form 2807-2, "Accession Medical History Report," is currently being modified as a result of its OMB license renewal process and will be published two weeks in advance of approved accession medical standards for transgender personnel. The form was modified to add a "Gender" block in addition to the previous block that asks "Sex (at birth)." Form changes were coordinated with: the Accession Medical Standards Working Group, representatives from Service Surgeon Generals, Defense Health Agency, United States Military Entrance Processing Command (USMEPCOM), and Department of Defense Medical Evaluation Review Board (DoDMERB).

M or F are the only options on the Form 2807-2.

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Recruiting

Q2. Do we require transgender individuals to provide both the original birth certificate and the new one for identity verification? Who is responsible for verifying that the new birth certificate is not a forgery (or real and the previous one is an assumed identity).

Vignette: An applicant supplies the new birth certificate as supporting documentation during enlistment. The recruiter uses that name for the local background check, which of course does not yield any results. In reality, under the original name and gender, the applicant had disqualifying convictions.

A2. The Military Service Recruiting Commands are responsible for identity verification. The same process the Services use to validate all other identity documents is the one used for transgender applicants. This vignette is much more likely to occur when we prohibit accessions of transgender applicants; there is incentive to not disclose under the current system.

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Recruiting

Q3. What happens when a gender neutral/gender queer individual (a person who does not declare a gender, currently still an administrative disqualification for continued military service) wants to join?

Vignette: An applicant who is gender neutral, and requires no medical care (applicant is stable with primary and secondary sexual characteristics and dresses gender-neutral off duty) wants to enlist. The applicant is medically qualified to deploy and train at the same rate as an individual without gender dysphoria. What is the justification for not allowing this individual to enlist?

A3. Gender and sex will be required to be captured on DD Form 2807-2. M or F are the only options. Our current system is purely binary: you identify either as M or F, and we hold you to those standards. The official documentation we recognize to change genders (birth certificate, passport, or court order) currently depicts only M or F for gender. States are beginning to recognize other, or no, genders on drivers licenses. As this inevitably evolves into the official documentation realm, DoD may need to more explicitly define our binary system. This was discussed extensively in the TSRWG meetings, with the recognition that we would eventually have to address the issue

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Recruiting

Q4. What happens when an individual with another currently disqualifying medical condition wants to enlist, is transgender accessions a "slippery slope"?

Vignette: A type I diabetic who is stable on insulin wants to enlist. His condition, when provided injectable insulin requires less medical care than a transgender individual (because no behavioral health support is provided). He is told he cannot serve because of his pre-existing condition and announces his intent to sue DOD/the Army because of discrimination in violation of the American with Disabilities Act. This vignette may apply to several currently disqualifying medical conditions that are considered "stable" by medical standards.

A4. Applicants must meet **all** standards established in DoDI 6130.03, unless waived by the Service Medical Waiver Review Authority.

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Recruiting

Q5. Who gets final say on "stability" assessment at accessions?

A5. MEPCOM Chief Medical Officers, or the DoDMERB (for officer candidates) qualify applicants presented by the Services based on the guidelines established in DoDI 6130.03.

For all disqualified applicants, the Service Medical Waiver Authorities have the ability to waive disqualification determinations made by USMEPCOM or DoDMERB.

Recruiting

Q6. Service or DoDMERB - Spell out in guidance how to handle cadet accessions and what to do with them if they begin stable but are not at commissioning time?

A6. Cadets and midshipmen must continue to meet medical accession standards while at the MSA or enrolled in ROTC as outlined in DoDI 6130.03.

Instructions for Service Academy appointments and commissioning can be found in DoDI 1322.22, "Service Academies," September 24, 2015: Medical qualification for appointments to the academies and for commissioning as delineated through examination procedures defined in DoDI 6130.03.

Instructions for the ROTC Program can be found in DoDI 1215.08, "Senior Reserve Officers' Training Corps (ROTC) Programs," January 19, 2017, section 3.10: Thorough and complete medical examinations, in accordance with DoD Instruction 6130.03, will be conducted before enrollment in the scholarship program or at the time of, or immediately before, enrollment in the advanced courses of a Military Department ROTC program. Following medical qualification, these contracted cadets and midshipmen will maintain health and physical standards in accordance with DoD Instruction 6130.03 while in the scholarship program and in contract status.

The 24 month waiting period applies to stability after transition for the treatment of gender dysphoria. Other mental health issues, depression, anxiety, etc., would follow the requirements in DoDI 6130.03 for those conditions. A TG applicant who has destabilized would be required to meet the stabilization guidelines prior to commissioning.

We are not changing current standards, which worked well this year. Two MSA grads-to-be were able to maintain MSA physical standards, but did not meet medical accession standards and, therefore, were able to graduate but not commission.

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Medical

Q7. Do we need to hire or train medical personnel at the Military Entrance Processing Station (MEPS) with qualifications to adjudicate transgender applicants?

Vignette: Recruit applies to enter the Army and is required to pass various medical evaluations. Gender Dysphoria is a specific condition that requires specialized medical knowledge to evaluate. The recruiting MEPS does not have the required medical expertise and has to refer to civilian doctors adding expense and time to the accessions process.

Q7a. Will acknowledging transgender status require a secondary medical screening from a military medical provider?

Vignette: Applicant 1, who does not have gender dysphoria, identifies a pre-existing medical condition, for which his/her records are reviewed by a USAREC medical provider. Will a USAREC/military medical provider be asked to confirm gender stability for Transgender Applicants and if so, is it through reading the paperwork or is confirmation provided through an in-person meeting/exam of the applicant?

A7 & 7a. We see no need to hire specialized personnel to conduct medical evaluations for accessions. All MEPS and DoDMERB personnel have received training on reviewing TG accessions, and will also receive sustainment training. A transgender applicant will be required to present supporting documentation (as necessary) from his/her primary care manager (PCM) (or endocrinologist) attesting to medical stability, from his/her behavioral health (BH) provider attesting to mental stability and from his/her surgeon attesting to surgical stability. The MEPS/DoDMERB need ony ensure the documentation is complete. The accession medical evaluation should be no different from the medical evaluation for a non-TG applicant. As always, the CMO has the ability to send an applicant out for a medical consult.

The definitions of “stability in the preferred gender” and “licensed medical provider” proposed by the TG IPT and approved by the AMSWG, were also approved by the Service Surgeons General on 12 July. We will incorporate these definitions into the draft change to 6130.03.

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Medical

Q9. What are the documents necessary for an individual to "prove" stability?

Vignette: Applicants A, B, and C, above provide letters only, should they be asked to authorize release of all medical records from every doctor who provided treatment?

Q9a. What is the appropriate/empirically supported period of stability prior to allowing accession?

Vignette: Applicant A appears to be have been stable for 24 months and reports no other associated disorders; however, gender dysphoria has a higher than average risk of being associated with moods and anxiety disorders and suicidal behaviors. Some of the waiting period for disorders sometimes associated with gender dysphoria are greater than 24 months. For example, depression requires a period of 36 months without treatment prior to accession.

A9, 9a. The Service Surgeon Generals have unanimously recommended 24 months of stability in the preferred gender prior to accession. Therefore each applicant is required to provide letters of attestation with associated medical records of stability in the preferred gender for 24 consecutive months after completion of transition. The letters of attestation with associated medical records must cover all aspects of the treatment received. At a minimum, a behavioral health attestation with associated medical records is required. If the applicant is receiving hormone therapy, an attestation of medical stability with associated medical records is required. If the applicant has undergone surgery related to gender transition, a surgical attestation with associated medical records is required. The release of medical records should follow normal MEPS' requirements and processes as required in DoDI 6130.03.

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Medical

Q10. If an applicant is stable in the preferred gender for more than 24 months, but then destabilizes and returns to the original birth gender, does that applicant have a further stability period to wait before enlisting?

Vignette: The applicant identified as a transmale for 4 years, but 6 months ago realized that he does, after all, prefer to be a female and stops taking hormones. Her legal documentation was never changed to male and she now wants to enlist as a female.

A10. Yes.

The 24 month waiting period applies to stability after transition for the treatment of gender dysphoria. Other mental health issues, depression, anxiety, etc., would follow the requirements in DoDI 6130.03 for those conditions. A TG applicant who has destabilized would be required to demonstrate a current 24 month period of stability prior to enlisting.

If an applicant's gender was never officially changed (e.g. in documents such as birth certificate, passport or by court order), he or she would have to qualify in his or her birth gender (i.e., in this vignette, as a female).

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Medical

Q13. Specialty medical care may not be available at a particular location. Will all Initial Entry Training installations be provided additional specialty medical care to support transgender Soldiers as they go through basic training, at least initially (until we know whether the effects of basic training will negatively impact the ability to maintain a preferred gender identity)?

> Vignette: Soldier A goes to Fort XYZ which does not have an endocrinologist on staff. During Basic Training, Soldier A destabilizes hormonally and needs to see a doctor more frequently, which causes her to frequently miss training. The amount of missed days causes her to be held over (or released because she cannot complete training). Meanwhile, Soldier B, goes to Fort BBB for IMT, which does have an endocrinologist on staff and, though she destabilizes during IMT, can see a doctor easily without missing as much training and can graduate on time. Soldier A complains that we did not support her appropriately.

A13. Appropriate medical care, including behavioral health care, will be provided to support all enlistees as they go through basic training.

As stated in DoDI 1300.28, "A Service member is subject to separation in an entry-level status during the period of initial training (defined as 180 days per DoDI 1332.14) based on a medical condition that impairs the Service member's ability to complete such training." Therefore, Service members going through basic training must be stable.

DoDI 6130.03 Enclosure 4 paragraph 1, "b. Applicants for enlistment in the Military Services. For medical conditions or defects predating original enlistment, these standards apply to enlistees' first 6 months of active duty."

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Medical

Q18. The Marine Corps fully supports the stability period for new accessions be established as 24 months, vice 18 months under the current policy. This 24-month stability requirement is consistent with other stability requirements within DoD's medical accession standards in DoDI 6130.03 for other similar/related conditions. Accession to military service is a significant and stressful event for all applicants; physical and mental stability are vital for success during recruit training or officer candidate school. A stabilization requirement of 24 months would provide a better foundation for our transgender applications and better position them to successfully complete rigorous initial training.

A18. DoD Policy will be changed to 24 months.

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Medical

Q20. Additional guidance is needed to address new requests for transgender treatment following accession of a transgender applicant. Currently, DTM 16-005 requires that an applicant complete all medical treatment for transition prior to accession. The DTM does not address what should occur if the applicant did not have top or sex reassignment surgery as part of the transition, but subsequently requests the surgery after accession. The DTM is silent on the process for these requests and whether this surgery would be a covered benefit.

All of these concerns impact our ability to serve any newly accessed transgender Service members and may impact the readiness and lethality of our armed forces. Additionally, changing this policy effects more than just Service members but also our families who frequent common use facilities like fitness centers and pools which have changing facilities. For both the repeal of don't ask don't tell and the rescinding of the combat exclusion policy the Services were given 3 years to both study and prepare the force for implementation. On this issue we have been provided less than a year. An extension of one year will provide the Services the opportunity to consider and address these important concerns within a Working Group composed of the Services' subject matter experts who can fully work through the very valuable lessons we have learned to date. These experiences will enable us to review existing policy to identify unintended gaps or omissions, ensure entry level medical standards reflect the unique concerns of this demographic, and to offer additional policy considerations from our recent collective learning on this very complex issue.

A20. After accession, the applicant becomes an active duty service member and subject to policies regarding transition of active duty service members (Guidance for treatment of Gender Dysphoria Memo, July 29, 2016).

Furthermore, DoDI 1300.28, Section 3, paragraph 3.5 addresses gender transition considerations during a service member's first term of service and states in part:

"If a Service member requests non-urgent medical treatment or an exception to policy (ETP) associated with gender transition during the first term of service, including during periods of initial entry training in excess of 180 days, the commander may give the factors set forth in Paragraph 3.5.a significant weight in considering and balancing the individual need associated with the request and the needs of the command, in determining when such treatment, or whether such ETP may commence in accordance with Paragraph 3.2.d".

Guidance for treatment of Gender Dysphoria Memo, July 29, 2016, also discusses gender transition considerations during a service member's first term of service in the section on General Provisions:

"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."

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Medical

Q21. What is the trigger point to begin the timeline for stability?

A21. The licensed medical provider's attestation with associated medical records would make this determination. The CMO at the MEPS/DoDMERB will be reviewing the attestation with associated medical records as they would any other medical documentation.

It should be noted that in the civilian medical system, expert guidelines on hormone treatment for transgender individuals recommend monitoring hormone levels at 3 months, 6 months and 12 months post-initiation of hormone therapy. The first 6 months are a period for titration of hormone doses to desired clinical response. The expectation is that, for most individuals, stable dosing will be achieved within 6 months. While the Endocrine Society guidelines have recommended monitoring levels every 3 months, a recent study has found that this is not necessary (Roberts TK, et al. Interpreting laboratory results in transgender patients on hormone therapy. Am J Med. 2014 Feb; 127(2):159-62) and the Endocrine Society reportedly will soon be releasing new guidelines.

Medical

Q22. What is the duration of stability based on evidence based medicine for a member diagnosed with Gender Dysphoria to have completed prior to accession?

A22. The Service Surgeon Generals have unanimously recommended a period of 24 months of stability prior to accession.

Medical

Q26. Would the formulations of medications for stability prior to being accessed need to be determined prior to accession standards being set? Is there a standard for intramuscular vice oral/transdermal formulations already in place?

A26. Applicants must provide a list of medications with their other medical record information, but guidance on medication in DoDI 6130.03 is referenced only in specific standards on specific conditions. As a general rule, the underlying condition or diagnosis is the concern not the medication itself. There are currently no standards that reference intramuscular vice oral/transdermal formulations in the DoDI.

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Medical

Q32. Can someone enter Delayed Enlistment Program (DEP) stable or unstable and what happens if they become nonstable? Is DEP delayed?

A32. A transgender individual has to be stable in the preferred gender for 24 months before accessing to active duty and that requirement would still apply. Pursuant to Title 10 U.S. Code, section 513, "Enlistments: Delayed Entry Program," an individual can remain in DEP for 365 days. The Military Secretary concerned can extend for up to an additional 365 days if that Secretary determines that it is in the best interests of the armed forces of which that person is a member. To complete transition and the stabilization time period the individual will exceed this allotted time and therefore must be discharged by the Service.

Medical

Q34. What is the current high correlation with suicide, studies vary up to 41% and is this a concern as we address accession standards for members with Gender Dysphoria?

-- Would this already high risk or correlation with suicide be increased by the affects of high stress environment during transition while on active duty or in certain career fields?

Q34a. Should the high correlation with comorbid conditions like depression, anxiety, substance abuse, ADHD, and PTSD which currently have accessions standards for 36 months stability affect the accession policy and duration of stability required?

A34 & 34a. While some studies document a high incidence of suicide ideation, suicide attempts and other comorbid mental health conditions in the transgender population, these studies depend on patient reports and it is not clear if the respondents have had any treatment for their gender dysphoria. Other research studies of individuals treated for gender dysphoria show that transgender individuals experience improvements in social functioning and reduced anxiety and depression once therapy is initiated

The study referred to in the question (41%) is actually looking at respondents who report suicide attempts, not actual suicide completion. The authors make the following statements:

"The questionnaire included only a single item about suicidal behavior that asked: "Have you ever attempted suicide", with a dichotomized response of yes or no. Researchers have found that using this question alone in surveys can inflate the percentage of affirmative responses, since some respondents may use it to communicate self-harm behavior that is not a suicide attempt."

"Second, the survey did not directly explore mental health status and history, which have been identified as important risk factors for both attempted and completed suicide in the general population."

The paper includes a table on "lifetime suicide attempts by responses about transition-related health care." The authors' state:

"The NTDS instrument did not include questions about the timing of suicidal attempts relative to transition, and thus we were unable to determine whether suicidal behavior is significantly reduced following transition related surgeries, as some clinical studies have suggested (Dixen et al., 1984; De Cuypere et al., 2006)."

As noted in an earlier response, the accession requirements in DoDI 6130.03 for behavioral health issues such as depression, anxiety, substance abuse, ADHD, and PTSD remain in effect.

Q44. How do we reconcile that the Department of Defense (DoD) policy appears to be in conflict with federal statutes? Under the current policy a transgender female/biological male recruit would use sleeping and latrine facilities associated with the recruit's female gender identity. Under Title 10 of the U.S. Code, Services are required to provide sleeping and latrine areas separated by "male" and "female" at recruit training. (§§4319, 6931, and 9319). Also, under Title 10, Services are required to limit access to berthing areas after the training day to commanders and training personnel "who are of the same sex" as the recruits or to require personnel who are "not of the same sex" to be escorted by a member (other than a recruit) "who is of the same sex" as the recruits housed in that living area. (§§4320, 6932, and 9320) The statutes do not define the terms "male" and "female" but DoD General Counsel (GC) has suggested the terms will be interpreted to mean the member's gender marker as reflected in the Defense Enrollment Eligibility Reporting System (DEERS). The DoD GC's opinion indicates a belief that Congress will defer to DoD's interpretation of "male" and "female" because of the significant authority Congress has conferred on the Secretary of Defense and the Service Secretaries. While I respect the views of the DOD General Counsel, I do not believe that our statutory compliance obligations in this matter should be handled as a mere administrative matter. DoD should take additional action prior to the accession of transgender applicants to ensure this view is consistent with congressional intent, in order to avoid violation of these statutes or putting the Services at cross purposes with the defense committees.

A44. It is the opinion of DoD GC that "DoD is in compliance with these provisions of law by use of the gender marker reflected in DEERS. (OGC Legal Review Memorandum, "Transgender Service Senior Implementation Group – Questions Concerning Concurrent Jurisdiction and Separate Sleeping and Latrine Areas, June 27, 2017.)

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