



Statement of

**Modern Military Association of America**

Before the

**Committees on Veterans' Affairs**  
**United States Senate & House of Representatives**

**Legislative Presentation of Modern Military Association of America**

March 2024



Chairmen Tester & Bost, Ranking Members Moran & Takano, and distinguished Members of the 118th Congress' Joint Committees on Veterans' Affairs:

On behalf of our board of directors and members across the country, thank you for the opportunity to share the views of the Modern Military Association of America (MMAA). As the nation's largest organization of LGBTQ+ service members, military spouses, veterans, their families, and allies we provide a united voice for the LGBTQ+ military and veteran community. MMAA works to uphold and expand LGBTQ+ civil rights progress through education, advocacy, support networks, and discrimination tracking.

MMAA traces its founding back to 1993 and is the result of decades of work for the LGBTQ+ and HIV positive military and veteran communities through four organizations, each focused on serving their respective community in different ways. These organizations are Servicemembers Legal Defense Network (SLDN), American Military Partner Association (AMPA), OutServe (OS), and Military Partners and Families Coalition (MPFC).

We are committed to working with our network, institutional partners, and chapters across the country to ensure that LGBTQ+ service members, veterans, and families with LGBTQ+ dependents are protected from discrimination, receive support, and access needed resources. MMAA programs include 1) advocacy on issues directly impacting LGBTQ+ service members, veterans, or their family members, 2) strategic litigation, 3) LGBTQ+ and HIV discrimination reporting, 4) peer-based emotional support groups, 5) supportive community network, 6) individualized case management, 7) LGBTQ+ competency training, 8) resource guides and advocacy tools, as well as 9) *Modern Military* magazine and other tools to amplify LGBTQ+ military experiences.

Only 1% of 334 million Americans serve in the military. **The known LGBTQ+ community makes up more than 6.1% of actively serving members, more than one million veterans, and an estimated 50,000+ military-affiliated youth.**<sup>1</sup> This data is derived from 2014 RAND Corporation research that administered and analyzed a revised DoD Health Related Behaviors Study (HRBS) of active-duty personnel, including those in the U.S. Air Force, Army, Marine Corps, Navy, and Coast Guard. These numbers are thought to be significantly underestimated as the data does not reflect those serving in the Reserves or National Guard and it was collected just three years after the Don't Ask, Don't Tell (DADT) repeal during a time when openly transgender service members were still banned. Despite the LGBTQ+ community being well represented within military and veteran spaces, LGBTQ+ individuals still navigate unique challenges when accessing healthcare, employment, housing, becoming parents, or integrating into their communities. These challenges are amplified when considering intersecting factors related to military service and other personal identity traits.

U.S. military personnel are at higher risk of major depression than members of the general civilian population. The prevalence of depression is 23% in active-duty military forces and veterans.<sup>2</sup> A large proportion of individuals with depression do not access mental health services despite major depression being a leading cause of morbidity.<sup>3</sup> During military service LGBTQ+ servicemembers are at greater risk for chronic psychological distress and a higher risk factor for suicidal thoughts due to discrimination, stigma, and minority stress. **LGBTQ+ active-duty service members (55%) were nine times more likely than non-LGBTQ+ active-duty service members (6%) to report feeling down, depressed, or hopeless nearly every day over two weeks.** This is also true of LGBTQ+ National Guard and reserve personnel, at 22% and 6%, respectively according to the Center for American Progress.<sup>4</sup>

Studies of LGBTQ+ veterans show they face higher rates of mental health concerns, suicidal ideation, and suicide attempts than non-LGBTQ+ veterans. A study found that across racial and ethnic groups, the relationship between

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<sup>1</sup> [https://www.rand.org/pubs/research\\_reports/RR1695.html](https://www.rand.org/pubs/research_reports/RR1695.html)

<sup>2</sup> <https://bmcp psychiatry.biomedcentral.com/articles/10.1186/s12888-021-03526-2>

<sup>3</sup> <https://academic.oup.com/milmed/article/185/7-8/e1255/5739295>

<sup>4</sup> <https://www.americanprogress.org/article/lgbtq-military-members-and-veterans-face-economic-housing-and-health-insecurities/#:~:text=non%2DLGBTQ%2B%20counterparts-,According%20to%20HPS%20data%3A,55%20percent%20and%206%20percent.>



discrimination and suicide attempt is strongest between the ages of 18 and 25.<sup>5</sup> **LGBTQ+ veterans attempt suicide at a rate of 15 times higher than veterans overall. Transgender veterans die by suicide at twice the rate as their cisgender veteran peers and about 5.85 times the rate of the general population.**<sup>6</sup> Victimization and decreased social support were found to be particularly relevant risk factors for suicidal thoughts and behaviors among LGBTQ+ veterans. Furthermore, transgender and gender diverse populations may be more at risk for suicide than any other subgroup of the LGBTQ+ population due to stigma, minority stress, social injustice, lack of employment or advancement opportunities, and gender dysphoria.<sup>7</sup>

MMAA and the U.S. Department of Veterans Affairs (VA) have a long-standing collaborative working relationship that is in the process of being formalized with a Memorandum of Agreement with Veterans' Benefits Administration (VBA) to ensure LGBTQ+ veterans have a safe experience and receive culturally competent services. MMAA works with Veterans' Health Administration (VHA), VBA, and VA's Center for Minority Veterans (CMV) to identify issues, educate, and encourage individuals to apply for VA's character of discharge review to reinstate benefits lost under DADT, and refer individuals seeking benefits assistance to VBA.

MMAA also works closely with veteran coalitions, veteran service organizations, and LGBTQ+ organizations to support our shared efforts. Some of those organizations include: American Veterans for Equal Rights (AVER), Black Veterans Project, Blue Star Families, Human Rights Campaign, Minority Veterans of America, National Center for Transgender Equality (NCTE), PFLAG, SPARTA Pride, Transgender American Veterans Association (TAVA), and many more.

Part of MMAA's work is to advocate for improvements in programs and services provided by the U.S. federal and state government. We work with VA, the Departments of Defense (DOD), Education (DoED), and Health and Human Services (HHS), as well as members of Congress, state, and local governments.

## MMAA 2024 Legislative Priorities for LGBTQ+ Veterans

### Eliminate LGBTQ+ and HIV discrimination for veterans

Top leadership purports VA is committed to creating a welcoming environment and improving healthcare for everyone, including LGBTQ+ veterans.<sup>8</sup> In reality, VA has inconsistent policy implementation, nonstandardized staff disciplinary actions for discriminatory actions, and organization-wide LGBTQ+ affirmative care competency training is not prioritized.

Already in 2024, several anti-LGBTQ+ incidents occurred within VA, which directly conflicts with VA leadership's promise to make the agency more welcoming to all veterans. In the Portland VA Medical Center serving Oregon and SW Washington, a flier was posted in the elevator mocking VA's diversity efforts claiming that leaders only want to help veterans of "approved minority groups." Signs stating "We serve all who serve" were torn down and handouts with LGBTQ+-specific suicide prevention resources were thrown into the trash.<sup>9</sup>

Prior to the Portland incident, three clinical psychologists used their standing as VA employees to pen a transphobic op-ed in *The Hill*.<sup>10</sup> While VA has stated that these views are not representative of the agency, they also claim these individuals are within their constitutional rights to share these views despite using their positions with VA to enhance

<sup>5</sup> [https://www.mentalhealth.va.gov/suicide\\_prevention/docs/FSTP-LGBT.pdf](https://www.mentalhealth.va.gov/suicide_prevention/docs/FSTP-LGBT.pdf)

<sup>6</sup> <https://www.americanprogress.org/article/lgbtq-military-members-and-veterans-face-economic-housing-and-health-insecurities/#:~:text=non%2DLGBTQ%2B%20counterparts-,According%20to%20HPS%20data%3A,55%20percent%20and%206%20percent.>

<sup>7</sup> [https://www.mentalhealth.va.gov/suicide\\_prevention/docs/FSTP-LGBT.pdf](https://www.mentalhealth.va.gov/suicide_prevention/docs/FSTP-LGBT.pdf)

<sup>8</sup> <https://www.patientcare.va.gov/lgbt/>

<sup>9</sup> <https://www.militarytimes.com/veterans/2024/02/01/advocates-criticize-va-response-after-lgbtq-harassment-incidents/>

<sup>10</sup> <https://modernmilitary.org/wp-content/uploads/2024/02/Org-Open-Letter-Anti-Trans-VA-Providers.pdf>

their credibility. Twenty-three organizations issued a joint letter urging VA to take decisive action. VA has failed to issue a formal response or to meet with the organizations who issued the letter.<sup>11</sup>

MMAA is tracking anti-LGBTQ+ bias ranging from patient advocates or administrators misgendering them, having safety concerns laughed at by security guards, and harassment when trying to use the bathroom. While VA mandates that LGBTQ+ care coordinators are at every VA facility, policy does not match reality. Many times, LGBTQ+ care is added to a staff member who is already coordinating care for issues like military sexual trauma (MST), women veterans, intimate partner violence assistance program (IPVAP), minority veterans, among other specialized care coordinator roles. They are told they can only spend a percentage of their week dedicated to issues facing each specialized care area. In some VA facilities, a psychologist may hold multiple care coordinator roles on top of patient care. Psychologists are tasked with spending 80% of their time on patient care and 20% of their time on administrative tasks, which is usually taken up by patient case management. With more than one million known LGBTQ+ veterans, LGBTQ+ care coordinators are not prepared to offer adequate care with limited time prioritization.

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### *Marine Corps veteran experience of discrimination at the VA*

After being honorably discharged from the Marine Corps, I submitted a claim for disability with VA and was scheduled to be evaluated at the VA hospital in Los Angeles. I was dealing with severe depression with suicidal tendencies that was exacerbated by my unwanted discharge for being gay. I told my psychiatrists of my depression and suicidal thoughts with the hope that they would help me deal with them. As I reported being gay to a medical officer, I was discharged. This was documented in my medical record and I hoped VA would offer support, but I received the opposite. As my evaluation began, the medical doctor told me I was an "abomination in the eyes of God" and that "fags are not welcomed here." I instantly put up emotional defensive walls and responded with "I'm fine" answers because I knew he was going to deny care. This was the second government doctor to subject me to LGBTQ+ discrimination. I lost all trust in the military and VA after these experiences. For over 20 years, I've struggled to deal the rejection and abandonment, attempted to commit suicide several times, and felt an emptiness that could not be healed.

In subsequent years, I received care from San Diego before I moved to Austin two years ago when their VA facility was newly opened and offered everything you, including a beautiful campus with well trained doctors. They were so understanding of my struggle and offered services to deal with my MST and post-traumatic stress disorder (PTSD). Accessing my anti-HIV meds (aka pre-exposure prophylaxis) was simple and not confusing. I felt like I could tell my provider anything and I would get no judgment.

Then, over a year ago, I moved to Dallas. In my first primary care evaluation, I requested to continue care established from San Diego and continued in Austin. When I asked for PReP, the doctor had no idea what it was. I told her it was for HIV prevention and she replied "Why do you need that?" When I told her I am gay, her demeanor changed and was very cold. I was denied access to ongoing medication like testosterone and refused appointments with a specialist and a cardiologist. I was told "they don't just see anyone" and that I would have to do the same tests that I already completed at the other locations.

I've been so disappointed at the standard of care in Dallas and the unfriendly nature towards LGBTQ+ people. I recently changed my primary care doctor because I felt she harbored anti-gay sentiments. I started an online petition to have the freedom to choose care providers instead of being assigned a random person. I know many veterans who choose to not get treatment from Dallas' VA. I feel like I need to leave if I want my healthcare needs taken care of properly.

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**Despite evidence of ongoing, systemic discrimination and inconsistent access to equitable, safe, and effective care across its facilities, VA continues to ask LGBTQ+ veterans to trust the institution.** LGBTQ+ veterans cannot be expected to place their trust in VA when they continue to face discrimination, bias, limited electronic health record infrastructure

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<sup>11</sup> <https://modernmilitary.org/2024/02/23-organizations-call-on-va-to-address-anti-trans-op-ed-and-other-anti-lgbtq-incidents/>

to document both sexual orientation and gender identity, and the lingering effects of unjust policies that barred LGBTQ+ individuals from accessing their healthcare benefits.

## Legislative Goal 1

*Rebuild trust with the LGBTQ+ veteran community*

Although VA has developed programs such as PRIDE in All Who Served to improve health equity and access to care for LGBTQ+ military veterans, research finds its success is heavily related to individual VHA facility settings including leadership support for LGBTQ+ affirming programming, access to LGBTQ+ affirming care training, and facility culture (such as systemic anti-LGBTQ+ stigma).<sup>12</sup>

### **In order to rebuild trust, MMAA is asking VA to:**

1. Issue a public statement identifying standardized actions and what follow up VA takes to hold providers and employees accountable to gender identity and sexual orientation discrimination, harassment, and bias.
2. Create a policy that informs patients who identify as LGBTQ+ if their care provider is reprimanded for gender identity and sexual orientation discrimination, harassment, and bias with an option to transfer care if they feel unsafe.
3. Provide a timeline and detailed outline of the measures VA intends to take to create systemic cultural change to support and protect LGBTQ+ veterans.
4. Commit to creating an LGBTQ+ Veterans Advisory Committee to advise VA on the administration of benefits and provision of healthcare, benefits, and services to LGBTQ+ veterans.
5. Release current data on incidents of discrimination at VA facilities as well as encourage LGBTQ+ veterans to report discrimination in VA facilities through a reporting tool that allows for intersectional analysis and tracking of individual, interpersonal, and institutional-based issues.

## Legislative Goal 2

*MMAA is asking for an expansion of the Deborah Sampson Act that includes LGBTQ+ provisions*

The passage of the Deborah Sampson Act (H.R. 3224)<sup>13</sup> was a tremendous milestone to ensure that women veterans no longer receive substandard care at VA. The act eliminates barriers to care and services that many women veterans face and helps ensure VA addresses the needs of women veterans who are more likely to face homelessness, unemployment, and go without needed health care.

Much like women veterans, LGBTQ+ veterans face substandard VA care. However, they also face bigotry and inaccurate portrayals of sexual assault statistics to build fear of transgender individuals and portray women veterans as vulnerable. In reality, the 2022 U.S. Trans Survey Early Insights reveal that nearly one-quarter of LGBTQ+ people (24%) report they did not see a doctor when they needed to in the last 12 months due to fear of mistreatment. Forty-four percent (44%) of LGBTQ+ people experienced serious psychological distress in the previous 30 days. Of those who saw a healthcare professional within the last 12 months, nearly one-half (48%) reported having at least one negative experience because they were transgender, such as being refused health care, being misgendered, having a provider use harsh or abusive language when treating them, or having a provider be physically rough or abusive when treating them.<sup>14</sup>

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<sup>12</sup> <https://doi.org/10.1007/s11606-023-08204-5>

<sup>13</sup> <https://www.congress.gov/bill/116th-congress/house-bill/3224>

<sup>14</sup> [https://transequality.org/sites/default/files/2024-02/2022%20USTS%20Early%20Insights%20Report\\_FINAL.pdf](https://transequality.org/sites/default/files/2024-02/2022%20USTS%20Early%20Insights%20Report_FINAL.pdf)



**MMAA is asking for an expansion of the Deborah Sampson Act that includes provisions to:**

1. Eliminate barriers to care by staffing every VA health facility with a dedicated LGBTQ+ healthcare coordinator and training clinicians and direct service providers in LGBTQ+ competent care and service.
2. Expand the Deborah Sampson Act policy to include LGBTQ+ harassment and assault and provide publicly available annual reporting. The discrimination report must provide intersectional analysis and tracking as LGBTQ+ harassment often goes hand in hand with racial and gender bias.
3. Require the intake process for veterans at VA facilities to include survey questions whether the veteran feels safe in the facility.

### **Legislative Goal 3**

*MMAA asks Congress to direct VA to establish anti-discrimination (including gender identity, sexual orientation, or sex characteristics) regulations already defined under Section 1557 of the Patient Protection and Affordable Care Act for federal healthcare programs administered and funded by VA.*

Minority Veterans of America (MVA), MMAA, and 12 other veteran and LGBTQ+ rights organizations filed a petition for rulemaking in July 2023 requesting that VA promulgate regulations under Section 1557 of the Patient Protection and Affordable Care Act. The petition asks VA to clarify that Section 1557's anti-discrimination protections and enforcement mechanisms apply to every health program or activity administered by VA, such as VHA, or any entity which receives federal financial assistance from VA. The petition also requests that VA specify the forms of discrimination prohibited by Section 1557 and the remedies available for violations, as HHS has done this repeatedly via their own regulations. In October 2023, VA acknowledged receipt of the petition for rulemaking and is undertaking a review of the matter.

### **Legislative Goal 4**

*MMAA asks that Congress refuse to pass any bill that has attached anti-equality riders.*

In 2023, the 118<sup>th</sup> Congress forced more than 50 anti-LGBTQ+ votes on the House floor and filed more than 95 anti-LGBTQ+ amendments to bills going to the House floor. These efforts are a way for legislators to show they are taking a hardline stance on LGBTQ+ issues under the guise of keeping America's youth "safe." These amendments ranged from:

- Restricting and banning access to medically necessary care for transgender youth and adults, especially those who benefit from federally-funded programs like Medicare and Medicaid.
- Targeting transgender youth by forcibly outing them to their parents, banning them from playing on sports teams, and banning transgender inclusive books and study guides.
- Empowering discrimination against LGBTQ+ people by preventing the federal government from adequately responding to discrimination against LGBTQ+ people by people and organizations that receive taxpayer funds.
- Blocking access to housing programs and shelters funded by the Department of Housing and Urban Development (HUD) for transgender people
- Blocking the Biden Administration from finalizing rules that explicitly clarify nondiscrimination protections for LGBTQ+ and intersex people in education and healthcare.
- Preventing the Department of Justice (DOJ) from enforcing certain nondiscrimination protections and filing certain lawsuits to protect transgender people's rights.
- Blocking H.R. 4368, the 2024 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, funding from being used to implement several Executive Orders related to LGBTQ+ nondiscrimination protections and equality.
- Instituting federal drag bans and limitations on flying Pride flags on federal property.

While many of these laws and appropriations bills ultimately did not pass the Senate and had the majority of anti-LGBTQ+ measures removed from them after they were sent to the Conference Committee, it takes an inordinate amount of time and people power to fight these amendments in each bill. MMAA and other LGBTQ+ military and veteran

service organizations worked with both the House and the Senate to ensure no anti-LGBTQ+ legislation was passed. The results of these amendments would be emotionally devastating and physically life-threatening. If cut off from care, many transgender veterans will endure the disastrous effects of untreated gender dysphoria - anxiety, depression, and suicidal ideation - as a result of physical changes and effects that run counter to gender identity.

Right now, LGBTQ+ veterans are subject to an array of policies that differ depending on the state they live in - ranging from laws protecting them from discrimination to banning access to bathrooms or facilities consistent with their gender identity, to restrictions on gender-affirming healthcare. More than 35,000 service members were discharged for their actual or perceived sexual orientation under DADT and previous military policies forbidding LGBTQ+ personnel from serving. More than 29,000 of these veterans are still fighting for veterans' benefits like home loans and healthcare. Healthcare benefits they should be receiving from VA are not available to them. Depending on where they live, they may not be able to receive gender-affirming healthcare either because it's banned by law or because trans-friendly medical providers are fearful of providing these services in the current anti-LGBTQ+ climate.

## Gender-affirming surgery for transgender veterans

### Legislative Goal 5

*Remove the blanket ban on gender-affirming surgeries at VA*

It's been three years since VA Secretary Denis McDonough announced that VA would cover gender affirming surgeries for transgender veterans. In 2023, Secretary McDonough said the holdup was with him, that "the policy is on his desk, and he is "not yet ready" to roll out the rule under the federal regulatory process that would create the benefit."<sup>15</sup> In January 2024, the Transgender American Veterans Association (TAVA) filed a lawsuit that states rulemaking delays have kept VA from providing the gender-affirming surgery it promised to cover more than two years ago. The original filing for a rulemaking petition occurred nearly eight years ago, which asked VA to update its policy that excludes gender-confirmation surgery from provided medical benefits.<sup>16</sup> This lawsuit was followed by VA asking a federal appeals court to dismiss TAVA's lawsuit saying "it is working to make such offerings available, but wasn't prepared to finalize rules on the issue."<sup>17</sup>

This response, paired with the unwelcoming environment perpetuated by some VA facilities, tells LGBTQ+ veterans that they are not a valued part of the veteran community despite honorably serving their country. **We know that transgender veterans who access VHA care have more than 20 times the rate of lifetime suicidal ideation and suicide attempts than the general VHA patient population.**<sup>18</sup> Secretary McDonough's unwillingness to follow through on promised care is forcing transgender veterans to endure untreated gender dysphoria which can lead to dangerous, life-threatening situations.

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#### *An Army veteran's story of not having access to gender affirming surgery*

Hi, my name is Natalie Kastner. I served in the Army and I was honorably discharged in 2008. The state I live in has deemed GRS surgery as elective surgery. The doctors in my state refuse to accept Medicare because they can't negotiate prices with them. This leaves any care I receive in the hands of the VA.

I'm divorced with two children who reside with their mother in my current state of residence. Without the VA providing my GRS I will have to move to a different state, away from my children, to hopefully receive care there. The cost of GRS

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<sup>15</sup> <https://www.military.com/daily-news/2023/06/27/new-va-gender-affirmation-surgery-policy-sitting-secretarys-desk.html>

<sup>16</sup> <https://federalnewsnetwork.com/veterans-affairs/2024/01/transgender-vet-advocates-sue-va-over-stalled-plans-to-cover-gender-confirmation-surgery/>

<sup>17</sup> <https://www.fox41yakima.com/va-asks-court-to-dismiss-lawsuit-seeking-gender-affirming-surgery-for-veterans/>

<sup>18</sup> [https://www.mentalhealth.va.gov/suicide\\_prevention/docs/FSTP-LGBT.pdf](https://www.mentalhealth.va.gov/suicide_prevention/docs/FSTP-LGBT.pdf)



surgery is too high for me to reasonably save the money for the procedure. The stress of not being myself and my dysphoria has broken me once before.

On March 5, 2022 I woke up in the middle of the night and removed my right testicle. My intent was not one of suicide but one of trying to correct my body. I nearly became a statistic that night. In the process of removing my testicle I cut through the artery. I did all this and felt no pain. I then threw the testicle into the trash and drove myself to the local ER who stitched me back up. I was lucky if I had removed both testicles that night, I wouldn't be alive to share my story with you.

The GRS surgery is a life saving surgery. I can't even imagine how many trans women there are like me who were not so lucky. Those trans women who have taken matters into their own hands and died. Useless deaths because of the lack of availability of the GRS surgery. Women who desperately tried to fix their bodies and accidentally died, seen as suicides. Women who see no one willing to help them and no other option available to them. When you say we support those who have served and don't provide a surgery that could save the lives of veterans who have served. Tell me honestly, can you really say you do?

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Suicide is a significant issue among our nation's veterans and sexual minority veterans are twice as likely as their non-veteran counterparts to own firearms - a significant independent risk factor for suicide.<sup>19</sup> As previously referenced, LGBTQ+ veterans attempt suicide at a rate of 15 times higher than veterans overall. **Transgender veterans die by suicide at about 5.85 times the rate of the general population and a national survey of trans veterans found that 57% reported past-year suicidal ideation and 66% reported a history of suicide planning or attempts.**<sup>20</sup>

VA has declared that suicide prevention is a top priority and has dedicated \$583 million in funding, a 20% budget increase for FY2025 and \$17.1 billion to increase access to quality mental health within VA's medical care program.<sup>21</sup> As evidenced by research, gender dysphoria and access to gender affirming care are key to reducing transgender veteran suicides. A study evaluating the association between gender affirming surgery and mental health outcomes in the U.S. revealed that undergoing one or more types of gender affirming surgery was associated with lower psychological distress and suicidal ideation.<sup>22</sup> If VA is serious about supporting the LGBTQ+ community and preventing suicides, then it stands to reason that there is no reason to further delay gender affirming surgery.

**MMAA asks VA to prioritize suicide prevention efforts for the LGBTQ+ community, with a particular focus on transgender veterans, by immediately providing the promised gender affirming surgery and accompanying care. Congress can help by passing legislation that requires VA to provide the promised gender-affirming surgery.**

## Presumptive Discharge Review Board Upgrade Process

### Legislative Goal 6

*MMAA asks that the DoD respond to both Rep. Garcia's letter and the coalition letter to discuss how to better serve veterans who are currently left out of the presumptive discharge upgrade process.*

It's been 13 years since DADT's repeal but the trauma of these policies live on for LGBTQ+ veterans whose other than honorable discharges have yet to be corrected. There is a pending class action lawsuit by LGBTQ+ plaintiffs v. U.S. Department of Defense seeking redress for violations of the Fourteenth and Fifth Amendments to the U.S. Constitution.

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<sup>19</sup> [https://www.mentalhealth.va.gov/suicide\\_prevention/docs/FSTP-LGBT.pdf](https://www.mentalhealth.va.gov/suicide_prevention/docs/FSTP-LGBT.pdf)

<sup>20</sup> <https://www.fox41yakima.com/va-asks-court-to-dismiss-lawsuit-seeking-gender-affirming-surgery-for-veterans/>

<sup>21</sup> <https://www.va.gov/opa/docs/remediation-required/management/fy2025-va-budget-in-brief.pdf>

<sup>22</sup> [https://www.mentalhealth.va.gov/suicide\\_prevention/docs/FSTP-LGBT.pdf](https://www.mentalhealth.va.gov/suicide_prevention/docs/FSTP-LGBT.pdf)





The five plaintiffs, on behalf of thousands more, ask that the government be ordered to remove the narratives and separation codes identifying their sexual orientation from their discharge forms, and upgrade their discharge statuses as needed.<sup>23</sup>

We are pleased that the DoD has taken a critical first step to presumptively review records and increase outreach efforts to those discharged under this discriminatory policy. While the DoD has acknowledged it has begun the process of reviewing records of approximately 2,000 veterans for potential discharge upgrade eligibility there are more than 29,000 LGBTQ+ veterans who were denied honorable discharges.<sup>24</sup> Furthermore, the military used a range of charges to remove LGBTQ+ people from service, some of which resulted in a court martial conviction and some with incarceration. The DoD says it has no means by which it can administratively set aside a conviction once appellate review is complete.<sup>25</sup>

Rep. Robert Garcia and other Democratic lawmakers wrote a letter in January 2024 requesting answers to questions to allow oversight of the implementation of these efforts. Undersecretary of Defense Ashish Vazirani sent a response indicating the majority of the questions would be answered by May 31, 2024.

Also in January 2024, MMAA signed on to a letter with nine other VSO and LGBTQ+ organizations requesting a meeting to discuss concerns about the process eliminating many veterans from the process, including 1) veterans separated with Entry Level or Uncharacterized discharges, as well as those with Honorable characterizations whose DD214s reflect codes or language indicating the discharge was due to sexual orientation; 2) veterans with "aggravating factors"—such as misconduct—in their records, even when the misconduct is minor or unconnected to the discharge; 3) veterans who were subjected to non-judicial punishment under regulations, which no longer exist, that policed sexual orientation and same-sex sexual conduct; 4) veterans who were discharged due to suspected or presumed sexual orientation but whose records do not reflect sexual orientation as the basis for discharge, including those discharged under the pretext of misconduct; 5) veterans who were court martialed, or discharged in lieu of court martial, for alleged conduct that is no longer considered a violation of the U.C.M.J.; and 6) veterans who were discharged under policies that existed before DADT. The coalition has yet to receive a formal response to the letter or meeting with the DoD's Office of Personnel and Readiness.

## Conclusion

Chairman Tester, Chairman Bost, Ranking Member Moran, Ranking Member Takano, and members of the Committees, I would like to thank you again for the opportunity to present the issues that directly impact MMAA's membership. We look forward to continuing our work with you to ensure that LGBTQ+ veterans receive the same level of care and support as other veterans, promised gender-affirming healthcare, and all the benefits that they have earned and deserve. I would be happy to answer any questions you may have.

Submitted by Rachel Branaman, Executive Director of Modern Military Association of America

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<sup>23</sup> <https://legalaidatwork.org/u-s-veterans-file-justice-for-lgbtq-veterans-lawsuit-against-u-s-department-of-defense/>

<sup>24</sup> <https://www.cbsnews.com/news/lawmakers-pentagon-lgbtq-veterans-dont-ask-dont-tell-discharge-review/>

<sup>25</sup> <https://www.cbsnews.com/news/air-force-veteran-imprisoned-being-gay-endures-stigma-felony-record/>

## Appendix A

### Supported Legislation and Policy Change

*Commission on Equity and Reconciliation in the Uniformed Services Act (SR. 2863 and HR 1596)*

*National Warrior Call Day (SR 208 and HR 535)*

*Historically Underserved Veterans Inclusion Act of 2023 (HR 4325)*

*Protecting Service Members and Military Families' Access to Health Care Act (SR 1610)*

*Veterans Education Oversight Expansion Act (HR 3981)*

*Support for the Proposed Rule by the Department of Health and Human Services to amend its existing regulations implementing section 504 of the Rehabilitation Act of 1973 [RIN 0945-AA15]*

*Support for the Proposed Guidance to the Discharge Review Boards and Boards for Correction of Military/Naval Records re Discharges Due to Sexual Orientation or Gender Identity addressing EO #14,004*

*Letter of Opposition: Request for the VBA to abandon its efforts to extend GI Bill approval to unaccredited online programs and online programs that do not lead to a degree/certificate.*

*Letter of Opposition: Request to remove Section 302(a) of H.R. 6951, College Cost Reduction Act, from the legislation*