

RESOLUTION 11 - 2010

Subject: Adverse Effects of “The Defense of Marriage Act” on Children and Other Dependents of Military Personnel

Introduced by: Paul A. Wertsch, MD

Referred to: Health Care Coverage and Access

1 Whereas, Our current U.S. military personnel are fighting two wars and putting their lives in
2 harm's way protecting the citizens of our country; and

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4 Whereas, The dependent children and spouses of heterosexual service personnel receive death
5 benefits, health insurance and other benefits as part of their compensation if the service member
6 is killed or injured in the line of duty; and

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8 Whereas, The current U.S. Military code has a “Don't Ask, Don't Tell” policy which prohibits any
9 service member from “disclosing his or her sexual orientation or speaking about any homosexual
10 relationships, including marriages or other family attributes” which prohibits non-heterosexual
11 service members from even acknowledging they have a family (current AMA policy supports
12 repeal of “Don't Ask, Don't Tell”); and

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14 Whereas, Same sex marriages are recognized in 5 states and the District of Columbia at this time
15 and other states have civil unions or domestic partnerships available for same sex couples and
16 many service personnel may be in legal marriages, civil unions or domestic partnerships in their
17 home states; and

18
19 Whereas, The federal “Defense of Marriage Act” (DOMA), passed in 1996, defines marriage as a
20 legal union exclusively between one man and one woman at the federal level; in addition, it
21 prevents any federal and interstate recognition of same-sex marriage; and

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23 Whereas, Even when “Don't Ask, Don't Tell” is repealed the federal “Defense of Marriage Act”
24 will prohibit the federal government from providing death benefits, health insurance and other
25 benefits to dependent children and same sex spouses of non-heterosexual service personnel; and

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27 Whereas, The U.S. 2000 census revealed that 33% of same sex female partnerships and 22% of
28 male same sex partnerships had dependent children in their home, while 46% of heterosexual
29 relationships have dependent children living in their homes; and

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31 Whereas, The “Defense of Marriage Act” would prohibit the U.S. Military personnel who are in
32 legal, same sex marriages with dependent children from receiving benefits for their dependent
33 children and same sex spouses therefore denying these children and their parents the death
34 benefits, health care coverage and other service related benefits provided to dependent children
35 and spouses of other U.S. military personnel; therefore be it

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37 RESOLVED, That our Wisconsin Medical Society ask our AMA to seek repeal of the “Defense
38 of Marriage Act” in order to allow U.S. Military personnel in legal same sex marriages, civil
39 unions or domestic partnerships the ability to acknowledge these relationships and for their

40 dependent children and same sex spouses to receive equal death benefits, health insurance and
41 other benefits offered to other married U.S. military personnel.

Fiscal note: Within current budget.

Relevant Policies

Society:

DIS-002

Civil Unions: The Wisconsin Medical Society opposes efforts to bar any civil union other than heterosexual marriage because of the negative health care effects it may have on our gay and lesbian patients and their families and dependent children, such as

- Hospital visitation privileges;
- Bereavement privileges;
- Giving permission for procedures for minor children in those families;
- Insurance coverage for dependent children in these families. (HOD, 0405)

DIS-003

Benefits of Marriage: The Wisconsin Medical Society requests that the Society's American Medical Association delegation request that AMA evaluate existing data concerning same sex couples and their dependent children and determine whether there is evidence of health care disparities for these couples and children because of their exclusion from civil marriage.
(HOD, 0408)

AMA:

D-65.995 Health Disparities Among Gay, Lesbian, Bisexual and Transgender Families

Our AMA will work to reduce the health disparities suffered because of unequal treatment of minor children and same sex parents in same sex households by supporting equality in laws affecting health care of members in same sex partner households and their dependent children. (Res. 445, A-05)

H-65.973 Health Care Disparities in Same-Sex Partner Households

Our American Medical Association: (1) recognizes that exclusion from civil marriage contributes to health care disparities affecting same-sex households; (2) will work to reduce health care disparities among members of same-sex households including minor children; and (3) will support measures providing same-sex households with the same rights and privileges to health care, health insurance, and survivor benefits, as afforded opposite-sex households. (CSAPH Rep. 1, I-09)

E-9.03 Civil Rights and Professional Responsibility

Opportunities in medical society activities or membership, medical education and training, employment, and all other aspects of professional endeavors should not be denied to any duly licensed physician because of race, color, religion, creed, ethnic affiliation, national origin, sex, sexual orientation, gender identity, age, or handicap. (IV) Issued prior to April 1977. Updated June 1994 and June 2008 based on the report "Modification of Ethics Policy to Ensure Inclusion for Transgender Physicians, Medical Students, and Patients," adopted November 2007

E-9.12 Patient-Physician Relationship: Respect for Law and Human Rights

The creation of the patient-physician relationship is contractual in nature. Generally, both the physician and the patient are free to enter into or decline the relationship. A physician may decline to undertake the care of a patient whose medical condition is not within the physician's current competence. However, physicians who offer their services to the public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, gender identity, or any other basis that would constitute invidious discrimination. Furthermore, physicians who are obligated under pre-existing contractual arrangements may not decline to accept patients as provided by those arrangements. (I, III, V, VI) Issued July 1986.

Updated June 1994 and June 2008 based on the report "Modification of Ethics Policy to Ensure Inclusion for Transgender Physicians, Medical Students, and Patients," adopted November 2007.

G-630.130 Discrimination

It is the policy of our AMA not to hold meetings or pay member, officer or employee dues in any club, restaurant, or other institution that has exclusionary policies based on gender, race, color, religion, national origin, gender identity, or sexual orientation. (Res. 101, I-90; Reaffirmed: Sunset Report, I-00; Consolidated: CLRPD Rep. 3, I-01; Modified: BOT Rep. 11, A-07)

H-60.940 Partner Co-Adoption

Our AMA will support legislative and other efforts to allow the adoption of a child by the same-sex partner, or opposite sex non-married partner, who functions as a second parent or co-parent to that child. (Res. 204, A-04)

H-65.976 Nondiscriminatory Policy for the Health Care Needs of the Homosexual Population

Our AMA encourages physician practices, medical schools, hospitals, and clinics to broaden any nondiscriminatory statement made to patients, health care workers, or employees to include "sexual orientation, sex, or gender identity" in any nondiscrimination statement. (Res. 414, A-04; Modified: BOT Rep. 11, A-07)

H-65.983 Nondiscrimination Policy

The AMA affirms that it has not been its policy now or in the past to discriminate with regard to sexual orientation or gender identity. (Res. 1, A-93; Reaffirmed: CCB Rep. 6, A-03; Modified: BOT Rep. 11, A-07)

H-65.990 Civil Rights Restoration

The AMA reaffirms its long-standing policy that there is no basis for the denial to any human being of equal rights, privileges, and responsibilities commensurate with his or her individual capabilities and ethical character because of an individual's sex, sexual orientation, gender, gender identity, or transgender status, race, religion, disability, ethnic origin, national origin, or age. (BOT Rep. LL, I-86; Amended by Sunset Report, I-96; Modified: Res. 410, A-03; Reaffirmation A-05)

H-65.992 Continued Support of Human Rights and Freedom

Our AMA continues (1) to support the dignity of the individual, human rights and the sanctity of human life, and (2) to oppose any discrimination based on an individual's sex, sexual orientation, gender identity, race, religion, disability, ethnic origin, national origin or age and any other such reprehensible policies. (Sub. Res. 107, A-85; Modified by CLRPD Rep. 2, I-95; Reaffirmation A-00; Reaffirmation A-05; Modified: BOT Rep. 11, A-07)

H-160.991 Health Care Needs of the Homosexual Population

1. Our AMA: (a) believes that the physician's nonjudgmental recognition of sexual orientation and behavior enhances the ability to render optimal patient care in health as well as in illness. In the case of the homosexual patient this is especially true, since unrecognized homosexuality by the physician or the patient's reluctance to report his or her sexual orientation and behavior can lead to failure to screen, diagnose, or treat important medical problems. With the help of the gay and lesbian community and through a cooperative effort between physician and the homosexual patient effective progress can be made in treating the medical needs of this particular segment of the population; (b) is committed to taking a leadership role in: (i) educating physicians on the current state of research in and knowledge of homosexuality and the need to take an adequate sexual history; these efforts should start in medical school, but must also be a part of continuing medical education; (ii) educating physicians to recognize the physical and psychological needs of their homosexual patients; (iii) encouraging the development of educational programs for homosexuals to acquaint them with the diseases for which they are at risk; (iv) encouraging physicians to seek out local or national experts in the health care needs of gay men and lesbians so that all physicians will achieve a better understanding of the medical needs of this population; and (v) working with the gay and lesbian community to offer physicians the opportunity to better understand the medical needs of homosexual and bisexual patients; and (c) opposes, the use of "reparative" or "conversion" therapy

that is based upon the assumption that homosexuality per se is a mental disorder or based upon the a priori assumption that the patient should change his/her homosexual orientation. 2. Our AMA will (a) educate physicians regarding: (i) the need for women who have sex exclusively with women to undergo regular cancer and sexually transmitted infection screenings due to their comparable or elevated risk for these conditions; and (ii) the need for comprehensive screening for sexually transmitted diseases in men who have sex with men; and (b) support our partner medical organizations in educating women who have sex exclusively with women on the need for regular cancer screening exams, the risk for sexually transmitted infections, and the appropriate safe sex techniques to avoid that risk. 3. Our AMA will use the results of the survey being conducted in collaboration with the Gay and Lesbian Medical Association to serve as a needs assessment in developing such tools and online continuing medical education (CME) programs with the goal of increasing physician competency on gay, lesbian, bisexual, and transgender health issues. 4. Our AMA will continue to explore opportunities to collaborate with other organizations, focusing on issues of mutual concern in order to provide the most comprehensive and up-to-date education and information to physicians to enable the provision of high quality and culturally competent care to gay men and lesbians. (CSA Rep. C, I-81; Reaffirmed: CLRPD Rep. F, I-91; CSA Rep. 8 - I-94; Appended: Res. 506, A-00; Modified and Reaffirmed: Res. 501, A-07; Modified: CSAPH Rep. 9, A-08)

H-185.958 Equity in Health Care for Domestic Partnerships

Our AMA: (1) encourages the development of domestic partner health care benefits in the public and private sector; and (2) supports equity of pre-tax health care benefits for domestic partnerships. (Res. 101, I-01; Renumbered: CMS Rep. 7, I-05)

H-215.965 Hospital Visitation Privileges for GLBT Patients

Our AMA encourages all hospitals to add to their rules and regulations, and to their Patient's Bill of Rights, language permitting same sex couples and their dependent children the same hospital visitation privileges offered to married couples. (Res. 733, A-06)