

Congress Should Lift the Ban on Abortion on Military Facilities **Because it Harms Service Members and Their Families**

All women deserve access to safe abortion care in their communities, including members of our military and their families. Unfortunately, since 1996, federal lawⁱ has prohibited the Department of Defense from providing abortion care at military treatment facilities (MTFs) except in cases of rape or incest and where the woman's life is endangered. This restriction, known as the facilities ban, increases the hardship that service women and dependents face in accessing abortion care within the United States and overseas.

Because federal law also separately restricts TRICARE from comprehensively covering the full range of pregnancy-related care, including abortion care, our service women and families must overcome significant hurdles just to access abortion care. Until the coverage restriction is eliminated, Congress should—at the very least—lift the facilities ban and allow service women and military family members to access and pay for abortion care on MTFs. The members of our Armed Forces and their families deserve no less than the best medical care that our country can provide and should have access to abortion care on military treatment facilities.

The Facilities Ban Imposes Unnecessary Hardships on Service Women

- The unprecedented number of abortion restrictions that have passed across this country are shutting down abortion clinics and imposing additional requirements (such as requiring multiple provider visits and utilization of unnecessary related services) that both delay and prolong the time a woman must take to receive care.ⁱⁱ These restrictions directly impact service women stationed in those states. Because they are denied abortion care at the MTF, they have no choice but to seek care off base.
- Service women face unique obstacles and harms when seeking abortion care off base, as they must overcome both the facilities ban and state restrictions (and the insurance coverage restriction) in order to access a constitutionally-protected health care service.ⁱⁱⁱ For example, their ability to travel outside their base may be severely restricted by rules requiring them to obtain leave or be on an approved pass. These general leave and pass policies are developed by the service branches, vary from base to base, and require prior approval by the unit commander (which might take days or weeks).
- Many service women—particularly those stationed in states where clinics are few and far between^{iv}—will face additional obstacles to accessing abortion care off base because of distance travel restrictions imposed on their unit. They may, for example, have to obtain an approved mileage pass. In some cases, service members may have limited or no access to a car.^v
- For junior service women, who on average earn less than \$19,000 in their first two years of service,^{vi} the additional expenses related to travel and hotel stays increase the out of pocket costs of abortion care, thereby creating an insurmountable burden to accessing the care they need.^{vii}
- Many countries where the United States has significant operations allow abortion only in very limited or no circumstances.^{viii} Deployed service women may therefore have to travel long distances to and from the U.S. or a more hospitable country to access abortion, which could delay the care and increase health and safety risks.^{ix} Even when abortion is accessible in the country she is deployed, she may have to resort to local facilities that are substandard, unsafe, or have language barriers.

- Unnecessary absence and travel created by the facilities ban is disruptive to a service woman's military service and will almost certainly impact the readiness of her unit. She may also end up missing scheduled duty due to a change in schedule, unexpected difficulties in reaching the facility, or other delays.

The Facilities Ban Compromises Service Members' Privacy

- Because service members must submit a request through their chain of command to travel off the base, a service woman's privacy could be compromised if she is required to explain her absence and disclose her private medical decisions to her superiors. In contrast, service members are able to get other forms of confidential medical care on base, with military commanders accessing the minimum amount of health care information necessary to ascertain if members of the unit are fit for duty.^x

Repealing the Facilities Ban Would Not Change Existing Refusal Provisions

- Eliminating the facilities ban would not change existing provisions for personnel who do not wish to provide abortions because of their religious or moral beliefs.^{xi}

The Facilities Ban Harms Our Military Families

- Military dependents access health care at MTFs and thus they are also burdened by the facilities ban. They too must travel long distances and incur additional expenses in states where abortion restrictions have proliferated and clinics have closed. These costs and delays could similarly undermine their access to safe legal abortion care. The facilities ban inflicts not only financial hardship but also emotional pain, on our military families when they are forced to access care away from MTFs.^{xii}

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ⁱ 10 U.S.C. § 1093(b) (2016).

ⁱⁱ For example, targeted regulations of abortion providers, or TRAP laws, have closed more than half the clinics in Texas in the last two years, threaten to close the last clinic in Mississippi, and make it so that several other states have just one or two providers. 2013 Tex. Gen. Laws 1.

ⁱⁱⁱ Brief for Service Women's Action Network et al. as Amici Curiae Supporting Appellant Whole Woman's Health v. Hellerstedt (2016) (No. 15-274), available at <http://www.reproductiverights.org/case/whole-womans-health-v-hellerstedt#documents>. (each service branch has policies which impose travel restrictions for passes and liberty that include limits on how far a service member may travel during a weekday, weekend, or 3- or 4-day weekend).

^{iv} *Id.* at 16; see also attached map demonstrating the situation for women stationed at Ellsworth Air Force Base in South Dakota.

^v Memorandum from Stephen A. Elle on Privileges and Limitations for Soldiers in Training (Aug. 19, 2013) available at [http://www.signal.army.mil/old/sigbde15/Policies/Policy_Letter_17_\(Privileges%20and_Limitations_for_Soldiers_in_Training\).pdf](http://www.signal.army.mil/old/sigbde15/Policies/Policy_Letter_17_(Privileges%20and_Limitations_for_Soldiers_in_Training).pdf).

^{vi} *Military Pay Charts - 1949 to 2016*, Defense Finance and Accounting Service, <http://www.dfas.mil/militarymembers/payentitlements/military-pay-charts.html> (last visited April 13, 2016).

^{vii} Federal law also prohibits coverage of abortion care for women who rely on TRICARE for health insurance, except for when the care is necessary in the instance of rape, incest, or life endangerment. See 10 U.S.C. § 1093(a) (2016).

^{viii} *The World's Abortion Laws 2015*, Center for Reproductive Rights, <http://worldabortionlaws.com/> (last visited Apr. 13, 2016). *E.g.*, Korea.

^{ix} David F. Burelli, Abortion Services and Military Medical Facilities (Cong. Research Serv., Jan. 9, 2013) available at <https://www.fas.org/sgp/crs/misc/95-387.pdf>.

^x U.S. Dep't of Defense, Manual No. 6025.13, Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS), (Oct. 29, 2013), available at <http://www.dtic.mil/whs/directives/corres/pdf/602513m.pdf>.

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^{xi} U.S. Air Force, Air Force Instruction 44-102, Medical Care Management (Mar. 17, 2015), available at http://static.epublishing.af.mil/production/1/af_sg/publication/afi44-102/afi44-102.pdf.

U.S. Army, Army Reg. 40-400, Patient Administration (July 8, 2014), available at http://www.apd.army.mil/pdf/af/40_400.pdf. Memorandum from Chief of the Bureau of Medicine and Surgery on Navy Abortion Policy (Apr. 28, 2014) available at <http://www.med.navy.mil/directives/ExternalDirectives/6300.16A.pdf>.

^{xiii} Frank R. Lautenberg, Tim Wirth, *Abortion Rights? Not in the Military*, N.Y. Times (Nov. 13, 1991), <http://www.nytimes.com/1991/11/13/opinion/abortion-rights-not-in-the-military.html?pagewanted=1>.