



Lift the Ban on Privately Funded Abortion Services for Military Women Overseas

- Since 1979, the Department of Defense (DoD) appropriations bills have prohibited the use of federal funds for abortion services at overseas military hospitals in almost all cases. In 1985, the ban was made permanent by the DoD authorization bill.¹ In 1988, DoD issued an administrative order – without congressional consultation – extending the funding ban to prohibit women from obtaining abortion care with their own funds at military facilities overseas.² Prior to the 1988 restrictions, women would have to pay for the procedures themselves.
- In 1993, President Clinton issued an executive order lifting the ban on privately funded abortion services, permitting abortion care to be provided at U.S. military hospitals overseas if paid for with private, non-DoD funds. The executive order allowed abortion services to be made available at military medical facilities overseas within the framework set up in *Roe v. Wade*, and in keeping with other laws and regulations governing military medical care.³
- In 1995, an anti-choice majority in Congress wrote into permanent law, through the FY'96 DoD authorization act, a ban on privately funded abortion services at overseas military facilities for U.S. servicewomen, except for cases where a woman is the victim of rape or incest. The DoD will only pay for abortion services in cases of life endangerment.⁴
- The number of women serving in the military continues to increase rapidly, and they play a vital role in keeping our nation safe. According to congressional sources, more than 200,000 women – active service members, spouses, and dependents of military personnel – live on military bases overseas and rely on military hospitals for their health care.⁵
- Prohibiting women from using their own funds to obtain abortion services at overseas military facilities not only discriminates against them but also endangers their health. Women stationed overseas depend on their base hospitals for medical care, and are often situated in areas where local facilities are inadequate or unavailable. A 2002 General Accountability Office (GAO) report confirms that, "in overseas locations, DoD beneficiaries may face medical practice, language, and cultural differences with host nation care that may make them reluctant to seek care."⁶
- If the ban is lifted, no taxpayer dollars would be spent covering the costs of abortion care at overseas military facilities. While NARAL Pro-Choice America supports public funding for abortion and hopes that one day every woman will have the right to choose regardless of her income, public funding is not at issue here. Following DoD policy for elective procedures excluded from the TRICARE benefit, the woman would be “responsible for all costs associated

with the non-covered procedure," including institutional overhead costs. Furthermore, the woman would be required to prepay for her abortion care.⁷

- All three branches of the military already have refusal-clause provisions that permit medical personnel who have moral, religious, or ethical objections to abortion or family-planning services to opt-out of participating in the procedure.⁸ If the abortion ban is lifted, these "conscience clauses" would remain intact.
- The current policy humiliates servicewomen by forcing them to seek the approval of their commanding officer in order to travel back to the United States for abortion services. According to the GAO report, many of these commanding officers "have not been adequately trained about the importance of women's basic health care...DoD officials said that, lacking this understanding, some commanders may be reluctant to allow active duty members – both men and women – time away from their duty station to obtain health-care services."⁹
- This dynamic may deter servicewomen from seeking basic health-care services. The GAO further reports that, "For active duty women, explaining their specific ailment to their commanding officer (usually male) or appearing like they need special treatment may make them reluctant to seek the care they need."¹⁰
- As a result of these factors, the current-law ban may cause a woman stationed overseas who is facing an unintended pregnancy to be forced to delay the procedure for several weeks until she can travel to a location where safe, adequate care is available. For each week an abortion is delayed, the potential risk to the woman's health increases.
- The DoD previously opposed this harmful restriction. In a May 7, 1999 letter to Congress, then-Assistant Secretary for Defense Dr. Sue Bailey stated, "The Department (of Defense) believes it is unfair for female service members, particularly those members assigned to overseas locations, to be denied their constitutional right to the full range of reproductive health care."¹¹
- A recent study published in the Journal of Law, Medicine & Ethics, reviewed this issue. It not only reveals the level of inadequate access that servicewomen receive from military treatment facilities, but it also stresses the need for improved services. One of several recommendations the study makes is to lift legislative restrictions on access to safe abortion. The article states, "Female military personnel have the same right to basic health-care services as their male counterparts, and reproductive-health care is a fundamental component of health care for women."¹²

FY'11 CONGRESSIONAL ACTION¹³

- May 12, 2010: House Armed Services Military Personnel Subcommittee approves the FY'11

National Defense Authorization Act. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.

- May 26, 2010: House Armed Services Committee approves the bill. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.
- May 28, 2010: House approves the bill.
- May 27, 2010: Senate Armed Services Personnel Subcommittee approves the bill. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.
- May 29, 2010: Senate Armed Services Committee approves the bill. Sen. Roland Burris (D-IL) offers an amendment to repeal the ban on privately funded abortion care at overseas military hospitals. The amendment passes, 15-12.
- September 21, 2010: White House issues its official Statement of Administration Policy on the Senate bill. It expresses support for the provision to repeal the ban on privately funded abortion care at overseas military hospitals. The Senate fails to bring up the bill, rejecting a cloture motion 56-43 (60 votes were needed).

FY'12 CONGRESSIONAL ACTION¹⁴

- May 4, 2011: House Armed Services Personnel Subcommittee approves FY'12 National Defense Authorization Act. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.
- May 11, 2011: House Armed Service Committee approves bill. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.
- May 26, 2011: House approves the bill.
- June 14, 2011: Senate Armed Services Personnel Subcommittee approves FY'12 National Defense Authorization Act. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.
- June 16, 2011: Senate Armed Service Committee approves bill. No attempt is made to repeal the ban on privately funded abortion services for military women overseas.

January 1, 2012

Notes:

¹ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).

² Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).

³ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).

⁵ Department of Defense, *Active Duty Personnel By Rank/Grade* (Sept. 30, 2009) at <http://siadapp.dmdc.osd.mil/personnel/MILITARY/rg0909f.pdf> (last visited Oct. 18, 2011); Press Release, Rep. Jane Harman, *National Defense Authorization Act for Fiscal Year 2003* (May 9, 2003).

⁶ United States General Accounting Office, *Defense Health Care; Health Care Benefit for Women Comparable to Other Plans* (May 2002).

⁷ Email from Richard P. Starrs, LTC OCLL, United States Army, to Patricia Zavala, Legislative Assistant to Rep. Susan Davis (May 15, 2006) (on file with NARAL Pro-Choice America).

⁸ Congressional Research Service, *Abortion Services and Military Medical Facilities* (Apr. 24, 2002).

⁹ United States General Accounting Office, *Defense Health Care; Health Care Benefit for Women Comparable to Other Plans* (May 2002).

¹⁰ United States General Accounting Office, *Defense Health Care; Health Care Benefit for Women Comparable to Other Plans* (May 2002).

¹¹ Letter from Dr. Sue Bailey, Assistant Secretary of Defense for Health Affairs to The Honorable Loretta Sanchez (May 7, 1999) (on file with NARAL Pro-Choice America).

¹² Kathryn L. Ponder & Melissa Nothnagle, *Damage Control: Unintended Pregnancy in the United States Military*, 38(2) J.L. Med. & Ethics. 386-95 (2010).

¹³ H.R.5136, 111th Cong. (2010); S.3454, 111th Cong. (2010).

¹⁴ H.R.1540, 112th Cong. (2011)