Allow People With HIV and Hepatitis B to Enlist in the Military, Urge Lawmakers

Congress members write to Biden, pushing for the Department of Defense to allow people with HIV and hepatitis B to enlist in the military.

September 12, 2022 By Trent Straube

Two identical congressional letters—one signed by six senators; the other by 34 representatives—urge President Joe Biden to direct the Department of Defense (DoD) to allow people with "well-managed" HIV and hepatitis B virus (HBV) to enlist, seek appointment and otherwise serve in the military, according to a press statement from Representative Mike Quigley (D–Ill.).

Quigley led the effort in the House, along with representatives Sara Jacobs (D–Calif.) and Barbara Lee (D–Calif.). Senators Chris Coons (D–Del.) and Kirsten Gillibrand (D–N.Y.) spearheaded the call to action in the Senate.

"People living with HIV and HBV can manage their condition with as little as one pill a day and are able to lead very full, long lives," Quigley's press release states. "Particularly given the advancements in medicine for both HIV and HBV, these viruses do not in and of themselves make an individual less able to serve, and the risk of battlefield transmission is near zero. There is no longer any plausible argument to deny these individuals the ability to serve their country."

Hepatitis B Foundation strongly supports Congressional letters urging Biden administration to end discriminatory military policy: https://t.co/1ffhkOBMk9#HepatitisB #HepB #HBV #Military pic.twitter.com/6huJjE7roK

— Hep B Foundation (@HepBFoundation) September 8, 2022

The lawmakers' letters arrive at the White House after a "landmark victory" court ruling in April for service members living with HIV and after the DoD in June updated and modernized its HIV policy.

In the court ruling, a federal judge struck down discriminatory Pentagon policies that discharge and deny promotions to service members living with HIV. The ruling applied to people who contracted HIV while in service; it's estimated that about 2,000 people in the military have HIV. Currently, people with HIV are not allowed to enlist.

In its June policy update, the DoD clarified that service members whose viral load is undetectable can continue to serve and are deployable. The new policy also allows cadets and midshipmen—young people already on the path to military service—who test positive for HIV to continue their commissioning program.

In the letters to Biden, lawmakers build their arguments on these recent developments. The letter states in part:

> "We applaud the decision your administration made to abandon the defense of these outdated and discriminatory policies.… We are glad the DOD has recognized this and chosen to move past these anachronistic policies, a move that many of us have long supported in the form of legislation to revisit federal and state laws and policies that discriminate against people living with HIV.
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> "We now ask that your administration follow to its conclusion the path set forth by the well-reasoned opinions in these cases and allow individuals living with HIV to enlist, to seek appointment, and to otherwise join the U.S. military. The purported justifications for maintaining the bar to entry proffered by the DOD in the litigation in the [court case]—the additional costs of providing HIV-related care to such individuals and the purported incentive that people living with HIV will have to join the military in order to obtain health care—are not worthy of this administration's support. Just as it abandoned the defense of discriminatory restrictions on service members living with HIV, we ask your administration to abandon these excuses for continuing to prevent people living with HIV who are stabilized in treatment from joining the U.S. military.
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> "Furthermore, the current bar to entry and restrictions on the service of people living with hepatitis B (HBV) are even less justifiable than the restrictions on the service of people living with HIV. A vaccine for hepatitis B—which is provided to all people joining the military—is highly effective and reduces even the merely theoretical risk of battlefield transmission to

> near zero. Therefore, we ask that you also require the DOD to review and overhaul its regulations, policies and practices regarding the service of people living with HBV to bring them in line with the contemporary scientific understanding of this health condition—including the medical treatments now available to effectively manage chronic HBV—and ensure they do not unfairly discriminate against people living with HBV who simply want to serve their country.
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> "Anyone who is qualified and has a desire to serve their country should be allowed to do so. We ask that you use your authority as Commander in Chief to ensure that every qualified individual living with HIV or chronic HBV is given the opportunity to serve their country."

You can read a PDF of the full letter here.

People living with HIV who take meds and maintain an undetectable viral load do not transmit the virus, a fact referred to as Undetectable Equals Untransmittable, or U=U. What's more, for many people, HIV is a manageable chronic condition that doesn't impede their daily activity. For example, the military members involved in the HIV lawsuit that led to the overturn of the Pentagon policy had been deemed healthy and fit to serve. Thus, they claimed the policy was discriminatory and based on outdated science. The court agreed, adding that the Pentagon's policy was "unlawful, arbitrary and capricious—and unconstitutional," in the words of Lambda Legal's Scott Schoettes.

"Scientific evidence shows that people living with hepatitis B do not pose a risk to others and that hepatitis B does not impact the ability of military students and personnel to serve. By failing to align their current policies with recommendations from the U.S. Centers for Disease Control and Prevention, the Department of Defense has created an inequitable environment where people living with hepatitis B and HIV are vulnerable to being discharged unnecessarily," said Chari Cohen, DrPH, MPH, president of the Hepatitis B Foundation, in Quigley's press release. "We urge President Biden to take swift action to ensure that all who wish to serve in the military can do so unimpeded."

A POZ Poll in May asked, "Should people living with HIV be allowed to join the military?" (You can vote in that poll here.) As of September 9, the responses were as follows:

Yes: 77%

No: 18%

I don't know: 5%

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