



Improving Aging Services for LGBT Veterans



Note: This handout reflects the most up-to-date information available as of April 10, 2014. For more information on LGBT veterans consider consulting:

Lambda Legal : www.lambdalegal.org

OutServe Service Members Legal Defense Network : www.sldn.org

Transgender American Veterans Association: www.tavausa.org

National Resource Center on LGBT Aging: www.lgbtagingcenter.org

Definition of Spouse for VA Benefits

Legal marriage recognition for same-sex couples is currently recognized in 17 states plus Washington D.C. and 8 Native American tribes.¹ Because some states have marriage equality, and some do not, it is difficult to know when same-sex spouses are recognized and granted access to veterans' benefits.

Lambda Legal² has developed the following guide. Care providers should note that this is a guide to a situation that is constantly changing.

IF	THEN
you lived in a marriage equality state when you were married and live in a marriage equality state when benefits take effect	the VA likely considers you <i>married</i> .
you lived in a marriage equality state when you were married and do NOT live in a marriage equality state when benefits take effect	the VA likely considers you <i>married</i> .
If you lived in a state that does not have marriage equality, traveled to another state to be married, and currently live in a state with marriage equality when the benefits take effect	the VA likely considers you <i>married</i> .
If you lived in a state that does not have marriage equality, traveled to another state to be married, and continue to live in a state that does not have marriage equality when the benefits take effect	the VA likely DOES NOT consider you to be <i>married</i> .

Hospital Visitation

Any hospital that receives Medicare or Medicaid funding must allow patients to determine who can visit them in the hospital and who can make medical decisions on their behalf. Hospitals are prohibited from discriminating against visitors on the basis of race, ethnicity, religion, sex, gender identity, sexual orientation or disability.

¹ CA, CT, DE, DC, HI, IL, IA, ME, MD, MA, MN, NH, NJ, NM, NY, RI, VT, WA, 8 tribes

² <http://www.lambdalegal.org/publications/after-doma-veterans-spousal-benefits>



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Don't Ask Don't Tell

Care providers working with veterans should be aware of the tremendous emotional and physical toll taken by keeping one's LGBT identity a secret (or living "in the closet"). Years of hiding one's LGBT identity for fear of dismissal, harassment, or violence, have left many LGBT older adults fearful or unwilling to be open about being LGBT. The repeal of Don't Ask Don't Tell is a major step in a positive direction, but it does not undo the trauma caused by this history of discrimination.

Amending Other than Honorable Discharges and Discharge Narratives

In certain circumstances LGBT veterans are able to amend their discharge and/or the narrative component of their discharge. Making these changes is difficult, time consuming, and often expensive. A good first step is to contact OutServe: Service Members Legal Defense Network (www.sldn.org). The Restore Honor to Service Members Act would streamline and standardize this process. This act is still in committee.

Transgender Veterans

- The Affordable Care Act of 2010 prohibits sex discrimination in federally funded healthcare facilities, and this includes discrimination based on transgender status. The Joint Commission has published guidance for hospitals to adopt standards that prohibit discrimination based on gender identity or expression.
- A 2011 directive from the Veteran's Health Administration reiterated that, with the exclusion of sex reassignment surgery, all medically necessary healthcare for transgender veterans will be covered by the VA. This care includes: hormone therapy, mental healthcare, preoperative evaluation, post-operative long-term care, and any routine health screenings including sex-specific care such as pap smears, prostate exams, and mammograms.
- Transgender status (including birth-assigned sex and specifics about anatomy) is information protected by Health Insurance Portability and Accountability Act (HIPAA). Care providers should explain these protections to transgender patients and outline exactly when and how information related to transgender status will be shared with other medical professionals.

Sexual Assault

In 2010, 53% of sexual assaults in the military involved attacks on men, mostly by other men. Often the victims of sexual assault by a member of the same sex are reluctant to report this abuse for fear of being "outed"³ as LGBT or perceived to be LGBT.⁴ Care providers working with LGBT veterans should be aware of the reasons that victims of sexual assault may not come forward and be attentive to the signs of sexual assault. It is worth noting that the repeal of Don't Ask Don't Tell has not contributed to an increase in sexual assaults committed against men.⁵

³ Being "outed" is when another person reveals that you are LGBT, often without your consent.

⁴ http://www.nytimes.com/2013/06/24/us/in-debate-over-military-sexual-assault-men-are-overlooked-victims.html?pagewanted=all&_r=0

⁵ http://www.palmcenter.org/files/One%20Year%20Out_0.pdf