

**DEPARTMENT OF DEFENSE POLICIES FOR ACCESSION, DEPLOYMENT
AND RETENTION OF SERVICEMEMBERS DIAGNOSED WITH CHRONIC HEPATITIS B**

BACKGROUND: Outdated DOD HBV Instructions Complicated by Inconsistent Service Branch Regulations That Disparately Impact the U.S. Foreign-Born

Current U.S. Department of Defense (DOD) policies for personnel with chronic hepatitis B (HBV) are outdated and do not reflect evidence-based science or current Centers for Disease Control and Prevention (CDC) recommendations, including the 2012 updated recommendations for the management of hepatitis B virus–infected health care providers and students¹. Yet, rather than update its HBV policies to permit the accession, deployment and retention of individuals with HBV, the DOD has chosen to maintain an outdated bright-line HBV exclusion policy that disqualifies recruits and scholarship applicants with hepatitis B.

The exclusion policy is the basis for discharge of enlisted accessions who are diagnosed with HBV during basic training; and in its deployment and retention policies, DOD fails to mention that it is now possible to measure HBV DNA viral load and incorporate evidence-based regulations for objective assessment that would help ensure fair treatment and protect the rights of new accessions and those servicemembers who are diagnosed with HBV months or years after they enter military service. These policy shortcomings are evidence of:

- 1) DOD’s failure to acknowledge the existence of modern HBV monitoring techniques and treatment options made possible by scientific and medical advances and
- 2) DOD’s failure to protect HBV-diagnosed servicemembers from arbitrary, fear-based actions and decisions that generate stigma and discrimination; impede career advancement; and leave affected individuals in a state of limbo and under continual threat of referral to medical evaluation boards leading to discharge.

HBV injustice within the DOD is compounded by inconsistent HBV screening protocols between and within the respective service branches and inconsistent HBV screening at Military Entrance Processing Stations (MEPS), which leads to many accessions not being diagnosed until after they leave their homes and jobs and report to basic training.

In the United States, hepatitis B is associated with significant health disparities. In fact, it is estimated that 75% of the chronic HBV burden falls on persons who were born outside the U.S. or whose parents were born in Asia, the Pacific Islands, Eastern Europe or Africa². In a joint letter issued in 2013 by the U.S. Departments of Justice, Health and Human Services, and Education, deans and other senior healthcare school administrators across the nation were informed that discriminatory HBV policies could violate the Americans with Disabilities Act (ADA) as well as Title VI of the Civil Rights Act. The letter explains:

“[A] policy or practice that is neutral on its face – the policy itself does not mention race, color, or national origin – but has a disproportionate and unjustified effect on students of a particular race, color, or national origin, may result in unlawful discrimination under Title VI.”³

In sum, while the ADA and Title VI do not extend to DOD service members, the equal protection components of the Constitution — which similarly prohibit national origin discrimination — do, in fact, apply.

CURRENT DOD POLICIES

- DOD regulations do not permit a person with chronic HBV to enlist; be commissioned; enroll at a military academy or participate in the Armed Forces Health Professions Scholarship Program or other DOD scholarship and training programs that will qualify the individual for a military commission.
- In 2002, DOD updated its immunization guidelines to require hepatitis B virus immunizations for all service members⁴ without mandating concurrent HBV screening. While the Air Force, Navy, and Marine Corps screen enlistees, students and officer candidates on accession, the Army screens only students and officer candidates on accession and does not screen enlistees⁵ unless they exhibit disease symptoms or undergo regularly scheduled physicals and blood tests. In this way, an Army enlistee may serve and deploy, earn a West Point Academy appointment and be denied entry into the program.
- The ongoing policy not to permit the accession of persons with HBV is tied to a DOD policy that does not generally allow for the deployment of people living with HBV— this despite the fact that the Army deploys enlisted personnel after they are immunized and not yet screened for HBV. Under DOD Instruction 6490.07, the DOD requires a person to obtain a special waiver to deploy if the person has a “known blood-borne disease[s] that may be transmitted to others in a deployed environment.” The instructions fail to mention that HBV DNA viral load can be measured or that the CDC has established a viral load threshold under which a surgeon with HBV is considered safe to perform CDC-defined invasive, exposure-prone procedures.⁶

RECOMMENDED DOD POLICY CHANGES FOR ACCESSION, DEPLOYMENT AND RETENTION OF SERVICEMEMBERS LIVING WITH CHRONIC HEPATITIS B

- 1. Permit persons living with chronic hepatitis B to enter military service at all ranks, and to deploy and remain in the service with an HBV DNA level of $\leq 1,000$ IU/ml.**
 - *HBV-positive service members can remain healthy, without limitations to their activity and without medication, if they have an HBV DNA level $\leq 1,000$ IU/ml and they do not have cirrhosis; or if they have an HBV DNA level $\geq 1,000$ IU/ml, with access to daily antiviral medication that can reduce their viral load to levels that are undetectable.*

- *Other service members are vaccinated and will not be impacted.* Since 2002, the HBV vaccine has been mandated for all service members, providing life-long protection against HBV infection. In fact, since 1992, the HBV vaccine has been recommended for all infants and children born in the United States.

2. Adopt DOD Instructions for Screening and Management of Service Members Living with Chronic HBV Infection

- *Persons with a single hepatitis B positive test (acute or chronic) upon application of enlistment be permitted to enlist and participate in initial entry training in the armed forces.* Over 90 percent of adults with acute hepatitis B infection are asymptomatic and are able to resolve their infection within six months.
- DOD guidelines for managing and treating service members living with chronic HBV should be consistent with CDC recommendations and current clinical guidance on the management and treatment of chronic HBV infection published by the American Association for the Study of Liver Diseases (AASLD)⁷.
 - Treatment and/or monitoring decisions depends on HBV/DNA and ALT levels.
- The accession of service members living with chronic HBV into medical officer/health care professions should be consistent with CDC recommendations, i.e.:
 - Healthcare workers and students living with chronic HBV should not be excluded from or limited in training or practice; and
 - If a healthcare worker maintains a viral load <1,000 IU/ml, they may perform CDC-defined exposure-prone, invasive procedures.

DOD shall ensure that HBV-specific protocols and procedures are available to attending healthcare providers.

- DOD shall adopt consolidated regulation or policy that clarifies and governs the screening, documentation, treatment, management surveillance, and practice standards for healthcare personnel with hepatitis B. By standardizing the processes that lead into their HBV surveillance systems, the services can eliminate or improve inputs that may introduce variability and subjectivity to their processes.
- DOD shall develop guidelines and support systems for HBV-positive service members as is currently provided for personnel living with HIV, other managed chronic disease or recovery from substance abuse

References

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