



NEW YORK
CITY BAR

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

November 26, 2012

Hon. Kirsten Gillibrand
United States Senate
478 Russell
Washington, DC 20510

Dear Senator Gillibrand:

We applaud your efforts in co-sponsoring the Shaheen Amendment to the National Defense Authorization Act (NDAA) which would extend military healthcare coverage for abortions in cases of rape or incest. We write on behalf of the New York City Bar Association's Sex and Law and Military Affairs and Justice Committees to express our support for it. We so appreciate your deep commitment to our servicewomen and their dependents by bringing attention to this critical issue.

Today, more than 200,000 women serve on active duty in the U.S. armed forces.¹ They are willing to put their lives on the line in order to ensure our safety during times of crisis. Even so, we currently deny these women the same access to abortion care services that are available to civilians and other federal employees including members of Congress, other non-military federal employees and their dependents, Medicaid and Medicare recipients, and federal prisoners. While these groups receive care, military women and their dependents are forced to pay out-of-pocket.

It is time that we provide these women, who give up so much in the name of our protection, the equal treatment they deserve and access to the services they need when they are faced with their own times of crisis. This disparity in coverage dishonors the sacrifices of military women and their families. It is time to bring the military's health insurance policy in line with that of other federal programs so that women in uniform can finally have the same benefits as the civilians they protect.

This ban is even more appalling considering the high number of sexual assaults that occur in the military. According to U.S. Defense Secretary Leon Panetta, an estimated 19,000 military sexual assaults occurred last year, but the vast majority – about 83% – went unreported.² The most recent

¹ OFFICE OF THE DEPUTY UNDER SECRETARY OF DEFENSE (MILITARY COMMUNITY AND FAMILY POLICY), 2011 DEMOGRAPHICS: PROFILE OF THE MILITARY COMMUNITY iii (Nov. 2012).

² Panetta: *Could be 19,000 military sex assaults each year*, NBCNEWS.COM, Jan. 18, 2012, <http://usnews.nbcnews.com/news/2012/01/18/10184222-panetta-could-be-19000-military-sex-assaults-each-year?lite>; DEPARTMENT OF DEFENSE ANNUAL REPORT ON SEXUAL ASSAULT IN THE MILITARY: FISCAL YEAR 2010, 97 (2011), available at http://www.sapr.mil/media/pdf/reports/DoD_Fiscal_Year_2010_Annual_Report_on_Sexual_Assault_in_the_Military.pdf (Last visited November 26, 2012).

statistics from the Department of Defense (DoD) indicate that there was a 1% increase in reported sexual assaults since last year; in fiscal year 2011, the military received 3,192 reports of sexual assault.³ Therefore, based on DoD's own statistics, we know that there were approximately 17,000 assaults⁴ among 200,000 women in the armed services *in a single year* – a staggering percentage – and that most of those assaults go unreported. Furthermore, studies suggest the number of assaults could be even higher.⁵

Comparisons between civilian women and military women further highlight the problem. Servicewomen are up to three times more likely to experience rape than civilian women.⁶ In addition, a servicewoman who becomes pregnant after a rape may not be able to afford an abortion without insurance coverage. For example, a servicewoman with two years of service and pay grade E-3 (corresponding to the rank of Private First Class in the Army, for example) would receive annual base pay of \$21,089. An E-4 (Army Corporal or Specialist) with over four years of service would receive \$27,198 annually.⁷

The Shaheen Amendment must remain a part of the NDAA and become law. The decision of whether and when to become a parent is a private medical determination to be made by a woman in conjunction with her healthcare provider. Women who serve this country in the military must be free to make healthcare decisions based upon what they and their families believe is best for their personal circumstances. By excluding coverage for abortion services in cases of rape and incest from military health insurance, the government interferes with a woman's right and ability to obtain vital healthcare services. This amendment is about taking care of our country's bravest women and deserves the support of all our country's leaders regardless of their personal views on abortion.

³ DEPARTMENT OF DEFENSE ANNUAL REPORT ON SEXUAL ASSAULT IN THE MILITARY: FISCAL YEAR 2011, 33 (2012), available at http://www.sapr.mil/media/pdf/reports/Department_of_Defense_Fiscal_Year_2011_Annual_Report_on_Sexual_Assault_in_the_Military.pdf (Last visited November 26, 2012).

⁴ According to the Sexual Assault Prevention and Response Office, 88% of the reports of sexual assault in the military are made by women; it stands to reason, therefore, that 88% of DoD's estimated number of 19,000 sexual assaults per year are visited upon women, which yields 16,720 (rounded up to 17,000). For a gender breakdown of complaints, see Exhibit 15 (page 53) of DoD's 2011 Report on Sexual Assault in the Military, available at http://sapr.mil/media/pdf/reports/Department_of_Defense_Fiscal_Year_2011_Annual_Report_on_Sexual_Assault_in_the_Military.pdf (Last visited November 26, 2012).

⁵ Jessica A. Turchick & Susan M. Wilson, *Sexual Assault in the U.S. Military: A review of the literature and recommendations for the future*, 15 AGGRESSION & VIOLENT BEHAV. 267, 268 (2010) (citing various studies, including one showing that across military branches (with the Army heavily represented), 10.5% of women reported an attempted or completed rape; one showing that among a nationwide sample utilizing VA health services, 23% of women reported that "someone had used force or the threat of force to have sexual relations with them against their will"; and one showing that 33% of those who utilized VA medical or counseling services experienced an instance of unwanted oral, anal, or vaginal sex).

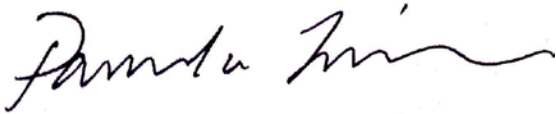
⁶ *Id.*

⁷ Defense Finance and Accounting Service, Military Pay Tables – 1949 to 2012, at <http://www.dfas.mil/militarymembers/payentitlements/militarypaytables.html> (Last visited November 26, 2012). The above amounts do not take into account housing, clothing and food provided in kind or cash payment in lieu thereof, or such supplements as hazardous duty pay. Nor do they reflect a proposed 1.7% pay raise included in the President's 2013 budget and the 2013 budget approved by the House of Representatives. H.R. 4310 § 601 (b), 112th Cong. (2012).

We hope you will continue to use your great influence and leadership to champion our military women, wives and daughters, and encourage your fellow congressmen and women to support them as well by backing the Amendment.

Thank you for your time and consideration.

Respectfully,



Pamela Zimmerman
Chair, Sex & Law Committee



Maia Goodell
Chair, Military Affairs & Justice Committee



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Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

November 27, 2012

Hon. Charles E. Schumer
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Dear Senator Schumer:

We are writing on behalf of the New York City Bar Association's Committee on Sex and Law and Military Affairs and Justice Committee to express our support for the Shaheen Amendment to the National Defense Authorization Act (NDAA) which would extend military healthcare coverage for abortions in cases of rape or incest.

Today, more than 200,000 women serve on active duty in the U.S. armed forces.¹ They are willing to put their lives on the line in order to ensure our safety during times of crisis. Even so, we currently deny these women the same access to abortion care services that are available to civilians and other federal employees including members of Congress, other non-military federal employees and their dependents, Medicaid and Medicare recipients, and federal prisoners. While these groups receive care, military women and their dependents are forced to pay out-of-pocket.

It is time that we provide these women, who give up so much in the name of our protection, the equal treatment they deserve and access to the services they need when they are faced with their own times of crisis. This disparity in coverage dishonors the sacrifices of military women and their families. It is time to bring the military's health insurance policy in line with that of other federal programs so that women in uniform can finally have the same benefits as the civilians they protect.

This ban is even more appalling considering the high number of sexual assaults that occur in the military. According to U.S. Defense Secretary Leon Panetta, an estimated 19,000 military sexual assaults occurred last year, but the vast majority – about 83% – went unreported.² The most

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The Shaheen Amendment must remain a part of the NDAA and become law. The decision of whether and when to become a parent is a private medical determination to be made by a woman in conjunction with her healthcare provider. Women who serve this country in the military must be free to make healthcare decisions based upon what they and their families believe is best for their personal circumstances. By excluding coverage for abortion services in cases of rape and incest from military health insurance, the government interferes with a woman's right and ability

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to obtain vital healthcare services. This amendment is about taking care of our country's bravest women and deserves the support of all our country's leaders regardless of their personal views on abortion.

We urge you to champion our military women, wives and daughters by backing the Shaheen Amendment and encouraging your fellow congressmen and women to support it as well.

Thank you for your time and consideration.

Respectfully,



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