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August 11, 2003

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The Honorable Tommy G. Thompson
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Mr. Secretary:

I have just become aware of a draft policy circulating in the U.S. Department of Health and Human Services (HHS) that would require six thousand health professionals in the U.S. Public Health Service Commissioned Corps to meet weight limits, do push-ups, and agree to leave their home on short notice — or forego all promotions and face possible dismissal.

If implemented, this draft policy would risk an exodus of highly trained doctors, engineers, nurses, scientists, pharmacists, dentists and veterinarians from over 20 science-based agencies and offices. It also appears manifestly unfair to those health professionals who, upon their resignation, would lose all retirement benefits. While I support your goal to improve the ability of the Commissioned Corps to respond to public health emergencies, the new draft policy seems excessive. A more gradual approach would achieve your objective without draining needed scientific expertise from the government or mistreating employees.

I urge you to modify this draft policy to address these serious concerns.

I also ask that you justify all of your future plans for the Commissioned Corps to Congress, including your unusual decision to shift the responsibility for the Corps away from its historic leader, the U.S. Surgeon General, and to a more political appointee. It would obviously be unwise to inject politics into the science-based core, and I hope this issue will be examined by the House Government Reform Committee in the coming weeks.

Background

The U.S. Public Health Service traces its roots to a 1798 law that provided medical care to merchant seamen.¹ Since 1889, the U.S. Public Health Service has employed health professionals in a military-like model called the Commissioned Corps. Today, the Commissioned Corps includes about six thousand doctors, engineers, nurses, scientists, pharmacists, dentists and veterinarians working for more than 20 federal agencies and offices.²

Commissioned officers review drugs at the Food and Drug Administration, investigate outbreaks of infectious disease at the Centers for Disease Control and Prevention, conduct groundbreaking medical research at the National Institutes of Health, care for thousands of patients in the Indian Health Service, and perform many other essential services.

In addition to providing critical assistance to science-based agencies and offices, officers in the Commissioned Corps can volunteer for deployment in case of a public health emergency. About 2,000 health professionals are participating in this program.³

The New Draft Policy

On July 3, 2003, HHS launched a major effort to reorganize the Commissioned Corps in the “most sweeping transformation since . . . 1889.”⁴ Among other changes, this proposal sets the goal of “100 percent deployability.”⁵

I have now obtained the draft policy circulating within HHS that is supposed to achieve this objective.⁶ The policy would apply “deployment readiness standards” to all

¹Department of Health and Human Services, *The History of the Commissioned Corps* (online at <http://www.usphs.gov/html/history.html>).

²*Id.*

³*Medical Corps to Increase, Reorganize; New Office Will Oversee Force*, Washington Post (July 4, 2003).

⁴Department of Health and Human Services, *News Release: Secretary Thompson to Increase Numbers and Flexibility of Public Health Service Commissioned Corps* (July 3, 2003).

⁵*Id.*

officers in the Commissioned Corps, aside from students, who have worked more than 120 days. The standards, which now apply only to volunteers, include weight limits that vary with height, the ability to perform a certain number of push-ups in two minutes and the ability to run or walk 1.5 miles or swim 500 yards within a set period of time.⁷ The standards require officers to remain current in their professional field, including 110 hours of clinical work per year. Officers must also agree to leave home on short notice and to make emergency arrangements for their dependents.⁸

Under the draft policy, officers who fail to meet “deployment readiness standards” would not be permitted to continue advancing in their careers in the Commissioned Corps. Instead, scientists and doctors who cannot do enough push-ups in two minutes or fail any of the other new requirements would face “disciplinary action, including, but not limited to a Letter of Reprimand and referral to a disciplinary board such as a Temporary Promotion Revocation Board.”⁹ The result could be demotion in rank or dismissal. There is no guarantee that officers who are dismissed or who resign from the Commissioned Corps would be employed in an equivalent capacity in the civil service.

This draft policy appears both unwise and unfair. Thousands of officers in the Public Health Service Commissioned Corps contribute immeasurably to the mission of science-based agencies and offices. It defies common sense to impose a new set of rules that could force many to leave government service. As just one example, drug reviewers at FDA use their expertise and experience to keep unsafe pharmaceuticals off the U.S. market, while at the same time ensuring that Americans have speedy access to potentially life-saving therapies. Forcing them out of their jobs because of their speed on the race track or in a swimming pool needlessly endangers the public.

From the point of view of officers in the Commissioned Corps, the draft policy represents a “bait and switch.” Over the past two decades, thousands have joined the Commissioned Corps without any expectation that they would have to meet these standards for “deployment readiness.” Some of these individuals may suffer from chronic diseases; others may have family obligations that prevent deployment. Many health

⁶Department of Health and Human Services, *Public Health Service, Personnel Instruction 8 — PHS Deployment Readiness Standards, DRAFT FOR SERVICEWIDE NOTICE AND COMMENT* (July 28, 2003).

⁷U.S. Public Health Service, *Commissioned Corps Readiness Force* (online at <http://oep.osophs.dhhs.gov/ccrf/>).

⁸*Id.*

⁹*Id.*

professionals who might never have joined the U.S. Public Health Service had the draft policy been in effect at the time may now be demoted or forced to leave.

What makes this “bait and switch” particularly unfair is that those officers who leave government service early lose all their retirement benefits. Unlike federal employees in the civil service, health professionals in the Commissioned Corps do not receive any pension benefits until 20 years of service. Forcing them to resign from the Corps ahead of time could cause significant financial hardship and would be an unjustified breach of trust by the government.

Other Concerns with HHS Plan

The HHS plan to transform the Public Health Service Commissioned Corps raises other serious concerns. I have learned that the plan would shift responsibility for the Commissioned Corps away its historic leader, the U.S. Surgeon General. Instead, leadership would be concentrated in the office of the Assistant Secretary for Health, traditionally a more political appointment. Indeed, the draft policy gives the Assistant Secretary for Health authority to set additional requirements for the Commissioned Corps.

The shift in leadership raises the concern that the non-partisan core would be politicized. This shift is strongly opposed by the Commissioned Officers Association of the U.S. Public Health Service, representing 70% of active duty officers. The Association has commented that:

An organizational structure which places force management responsibility under an authority other than the recognized uniformed commander of the force, the Surgeon General, appears to contradict efforts to improve force management and streamline the Corps. Removing the Surgeon General from direct line authority over force management clouds accountability for force employment decisions — a fundamental requirement for operating any uniformed force.¹⁰

I am also concerned that HHS has yet to fully justify its goal of “100 percent deployability.” Officers in the Commissioned Corps fill key non-clinical jobs in numerous science-based agencies and offices that do not have any direct translation to public health emergency response. Many are program administrators and analysts who have not provided clinical care for years and may not have time to remain current in clinical practice. Turning the Commissioned Corps entirely into a mobile force may lead federal agencies to be reluctant to hire officers who could leave for extended periods at a

¹⁰Commissioned Officers Association, *COA Position Statement on DHHS Transformation Plan for the PHS Commissioned Corps* (July 14, 2003).

moment's notice. The result would be an end to a program that has effectively recruited top scientists and health professionals to the government for decades.

HHS does not appear to have considered a recent expert report on how to structure future promotions within the Public Health Service in making its plan.¹¹ Any major changes should be carefully planned and justified before being rushed into implementation.

Conclusion

I understand and share your desire to improve the ability of the Commissioned Corps to respond to public health emergencies. The pursuit of this goal, however, should not undermine the work of science-based agencies or mistreat valued health professionals in HHS. A more gradual and sensible approach would achieve your objective without these adverse consequences.

I therefore urge you to modify this draft policy substantially before implementation. I also ask that you provide answers to the following questions:

1. Who participated in the development of the draft policy?
2. What studies or analyses have been conducted on the impact of the draft policy on the mission of the science-based federal agencies and offices that currently employ Commissioned Corps members?
3. What is the justification for removing responsibility for the Corps from the U.S. Surgeon General?
4. What studies or analyses have been conducted on the need for and impact of switching to a 100% deployable Corps?
5. Will there be an opportunity for interested parties to comment on any major changes in the Commissioned Corps prior to implementation?
6. How many political appointees are officers in the Commissioned Corps? Please give the names and dates of service of these individuals. What are the rules regarding political activity by officers and how does HHS assure that these rules are not broken?

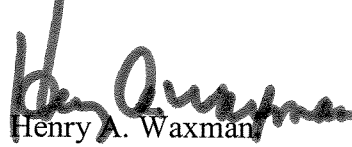
Because of the importance of the Public Health Service Commissioned Corps to our nation, I ask that you and the U.S. Surgeon General Vice Admiral Richard Carmona present justification for any major changes to Congress prior to proceeding. I am also asking Chairman Tom Davis to hold a hearing on the restructuring of the Public Health Service in the Government Reform Committee next month.

¹¹Commissioned Corps Promotions Task Force, *Report of the Commissioned Corps Promotion Task Force — Draft* (Jan. 17, 2003).

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I look forward to discussing these issues with you further. I request a reply to this letter by August 25, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman". The signature is written in a cursive style with a large initial "H".

Henry A. Waxman
Ranking Minority Member

cc: Vice Admiral Richard Carmona, U.S. Surgeon General
The Honorable Tom Davis