



# Fulcher v. Secretary of Veterans Affairs (Fed. Cir.)

Topics Covered: Gay Lesbian Bisexual Transgender Rights

## Issue

The issue in this case is whether a Veterans Administration regulation, which prohibits the VA from paying for sex reassignment surgery, is valid.

## AMA Interest

The AMA believes transgender military service members should be accorded medical care according to the same medical standards that apply to non-transgender personnel. Also, the AMA supports public and private health insurance coverage for treatment of gender dysphoria as recommended by the patient's physician.

## Case Summary

A Veterans Administration regulation, 38 C.F.R. § 17.38(c)(4), categorically prohibits the VA from paying for sex reassignment surgery. Following consideration of a request to amend the regulation, the VA sent identical letters to six Congressmen, which indicated: “[the] VA ... will continue to explore a regulatory change that would allow [the] VA to perform gender alteration surgery ... when appropriate funding is available.”

The plaintiffs are a transgender veteran of the U.S. Marine Corps and a transgender veteran of the U.S. Army. They were diagnosed with gender dysphoria, and their physicians recommended sex reassignment surgery. On account of the regulation at issue, neither of them was able to obtain the recommended medical care from the VA. They brought suit in the United States Court of Appeals for the Federal Circuit, seeking payment for the surgery and a change in the regulation.

## AMA Involvement

The AMA, along with other healthcare organizations, filed an *amicus* brief to support the plaintiffs. The brief asserted that gender dysphoria is a recognized medical condition, which commonly lends itself to surgical treatment.

United States Court of Appeals for the Federal Circuit brief