November 21, 2013

The Honorable Joe Wilson  
Chair, Subcommittee on Military Personnel  
Armed Services Committee  
2120 Rayburn House Office Bldg.  
Washington, D.C. 20515

The Honorable Susan Davis  
Ranking Member, Subcommittee on Military Personnel  
Armed Services Committee  
2120 Rayburn House Office Bldg.  
Washington, D.C. 20515

Dear Chairman Wilson and Ranking Member Davis:

On behalf of the American Bar Association, I write to express our support for H.R.2839, the “Restore Honor to Service Members Act.” This legislation will ensure that American veterans who were discharged due solely to their sexual orientation, but did not receive an “honorable” characterization of service, will have an opportunity to request that their characterization be upgraded. This legislation will also ensure that any indication of sexual orientation will be removed from the records of servicemembers who did receive an “honorable” discharge. While the statute commonly known as “Don’t Ask Don’t Tell” (DADT) was fully repealed almost two years ago, this legislation is crucial for the thousands of our veterans who are still experiencing the consequences of that policy and its even more oppressive predecessors.

The ABA has a long tradition of actively opposing discrimination, such as the intolerable denial of a person’s civil rights based solely on his or her identity as a member of a minority group. Accordingly, we opposed enactment of DADT in 1993 as establishing a form of discrimination that was not based on the character of the servicemember’s contribution to the national defense. In 2010 we called on Congress to repeal the policy, believing that there was no sufficient reason to deprive lesbian, gay or bisexual men and women of the opportunity to serve our country. The ABA applauds the work that the Congress has done to repeal DADT, but we call on Congress to take the final steps necessary to bring about an end to the unfortunate remnants of this misguided policy.

Veterans who did not receive an honorable discharge due only to their sexual orientation have an undeserved blemish on their service records, which can create significant obstacles to seeking employment. Moreover, these veterans cannot receive the same benefits as other veterans who received an honorable discharge. By providing an opportunity for servicemembers affected by DADT to request an upgrade to their discharge characterizations, this legislation would alleviate some of the consequences that continue to plague those veterans.
Even LGBT veterans who received honorable discharges are still being impacted by the effects of DADT because their military service records state their sexual orientation, unlike the records for heterosexual veterans. The legislation would rectify this inequity by requiring the Department of Defense to remove any indication of sexual orientation from the discharge records of servicemembers who request a review of their records. Moreover, amending discharge records to remove mention of any servicemember’s sexual orientation will lessen the possibility of servicemember’s being discriminated against when he or she would otherwise be able to keep their sexual orientation private.

The ABA is sensitive to the special status of our armed forces and their leadership who must use the tools at their disposal to maintain good order and discipline. Our membership includes current and former judge advocates, judges, and military personnel, and we have enjoyed long-standing relationships with the Department of Defense and military service branches. However, we believe that the thousands of men and women who have military records that indicate their sexual orientation, or who did not receive an honorable discharge characterization due solely to their sexual orientation, deserve to have their records corrected.

Should you have any questions about our position or if the ABA can be of assistance, please contact Thomas Susman, Director of the ABA Governmental Affairs Office, at 202-662-1765 or Thomas.Susman@americanbar.org.

Sincerely,

James R. Silkenat

cc: The Honorable Charles Rangel
     The Honorable Marc Pocan