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January 26, 2004

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

Dear Mr. Secretary:

Six months ago, you set a goal of making the Commissioned Corps of the U.S. Public Health Service, our nation's uniformed service devoted to public health, more responsive to the challenges of the 21st century. We fully support your goal of making the Commissioned Corps better equipped to protect, promote, and advance our nation's public health. We are writing today, however, to express some concerns about the reorganization plan for the Commissioned Corps implemented on December 22, 2003. This plan appears to ignore valuable input from our nation's public health leaders and to threaten the effectiveness of our nation's science-based agencies, including the Centers for Disease Control and Prevention, the National Institutes of Health, and the Food and Drug Administration.

More than 6,000 scientists, doctors, and other health professionals serve in the Commissioned Corps and hold key positions in science-based agencies. The new policies appear to raise three obstacles to their ability to excel in both roles:

- Irrelevant physical fitness standards. The Department of Health and Human Services (HHS) is requiring all officers in the Commissioned Corps without a serious medical condition to do push-ups and meet other tests of physical fitness.[1] While thousands of

[1] The new Personnel Instruction 8 defines the "basic level of readiness" as "[t]he readiness standards that Regular and Reserve Corps officers must meet to be in compliance with this INSTRUCTION." In Standards for the Basic Level of Readiness, HHS is requiring that beginning in 2005, all officers without a medical waiver must pass the Annual Physical Fitness Test. This test includes standards for a 1.5 mile walk, 500 yard swim, push-ups, and sit-ups. Department of Health and Human Services, *Personnel Instruction 8 – PHS Readiness Standards* (Dec. 22, 2003); Department of Health and Human Services, *Exhibit 1 – Standards*

officers already meet these standards and participate in emergency response activities, others serve our country by reviewing drugs, conducting laboratory research and leading public health surveillance teams. This summer, FDA Commissioner Dr. Mark McClellan warned that irrelevant fitness requirements could drive "extremely talented and committed" scientists out of public service.[2]

- Inefficient division of responsibility. The plan splits key personnel functions, including hiring, promoting, and assigning duties, between the Assistant Secretary for Health and the Surgeon General.[3] This sharing of power was described by former Surgeons General Dr. C. Everett Koop and Dr. Julius Richmond as a formula for confusion and inefficiency.[4]

- Inappropriate emphasis on emergency deployments. HHS is requiring that Commissioned Corps officers go on emergency deployments or forego points in the promotion process. This policy could force senior scientists and public health leaders to choose between their regular jobs, where they serve a vital role, and emergency deployments unrelated to their expertise, which may be necessary for promotion. Testimony received at our Committee hearing warned that inappropriate deployments of top scientists could drain agencies of experience during a crisis.[5]

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for the Basic Level of Readiness (Dec. 22, 2003); Department of Health and Human Services, *Exhibit 5 – PHS Commissioned Corps Annual Physical Fitness Test* (Dec. 22, 2003).

[2] Letter from FDA Commissioner Mark B. McClellan to HHS Secretary Tommy Thompson (Aug. 15, 2003) ("To impose such requirement in mid-career will disrupt ... participation in the Corps, and thus Corps and agency activities").

[3] Under the new policy, for example, the Surgeon General establishes which officers are eligible for temporary promotion based on standards set by the Assistant Secretary for Health. The Surgeon General may then refer the promotion to a promotion board for evaluation, but the board's decision is then reviewed by the Assistant Secretary for Health. Department of Health and Human Services, *Personnel INSTRUCTION 2 – Temporary Grade Promotions* (Dec. 22, 2003).

[4] Dr. C. Everett Koop, Testimony before the House Government Reform Committee (Oct. 30, 2003) ("The new plan appears to even further fragment the day-to-day administration and management of the Corps"); Dr. Julius B. Richmond, Testimony before the House Government Reform Committee (Oct. 30, 2003).

[5] Dr. Charles W. LeBaron, *Comments to Commissioned Corps Personnel Instruction* (Aug. 13, 2003) ("in the midst of another smallpox evaluation, one of our highly-trained smallpox infection control staff was suddenly "deployed" away from smallpox to a tornado

As you may recall, we raised each of these issues with you in a December 10 letter, but have not yet received a reply.[6]

We are particularly concerned about the new policies because they conflict in significant ways with the assurances we received from U.S. Surgeon General Richard Carmona at the October 30, 2003, hearing before the Committee. When asked about push-ups, the Surgeon General testified that officers at the basic level of deployment readiness (one of three tiers of readiness) would not have to pass tests of physical fitness. He said:

> [O]nly if you're going to be in the upper tiers, the advance tier, where you'd have some more stringent physical requirements, would you be doing anything like pushups or timed runs. So the entry level or basic level really is for any one of our officers. Basically it consists of a current physical exam on file that you're healthy, you've got your vaccinations up to date, you've got your basic CPR card on file, and the online modules of education that will bring you up to speed, so to speak, on emergency deployments and how our system works.

He also described the idea that all officers would be required to do push-ups as a "misconception."

When asked who would be responsible for running the Commissioned Corps, Dr. Carmona explained that the Assistant Secretary for Health would oversee policy, and he as Surgeon General would be responsible for "day to day" operations. He said, "The operation will be delegated to the Surgeon General for all functions of the Corps. That would include recruitment and that would include personnel functions."

Dr. Carmona also testified that HHS would not pressure experienced officers to accept emergency deployments outside of their expertise. He said:

> To be clear, sending officers such as bench scientists, FDA regulatory specialists or epidemiologist from CDC to achieve mission objectives that are not consistent with their specific training and physical capabilities makes no sense. The transformation contemplates no such thing.

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site where s/he and others apparently spent most of their time handing out Wal-Mart vouchers in a gym").

[6] Letter from Reps. Tom Davis and Henry A. Waxman to HHS Secretary Tommy G. Thompson (Dec. 10, 2003).

We recognize that some changes in policy following appearances before Congress are inevitable. But the discrepancies between the Surgeon General's testimony and recommendations and the final policy are large. We are disappointed that HHS implemented its plan for the Commissioned Corps without responding to our concerns and those expressed by the Surgeon General.

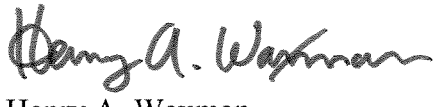
Modernizing the U.S. Public Health Service is an important objective. Pursuing this objective, however, should not jeopardize the essential work of our science-based agencies. We request that you amend the December 22 policy to drop irrelevant fitness requirements, promote efficiency in management, and assure that officers' training, expertise, and performance are the key factors in the promotion process.

We also request that you provide the Committee with all comments from Commissioned Officers and agency directors received by HHS on the November 25 draft policy and the final December 22 policy.

Thank you for your consideration of our views, and we request a response by February 20, 2004.

Sincerely,

Tom Davis
Chairman



Henry A. Waxman
Ranking Minority Member