

# LGBTQ HEALTH CARE BILL OF RIGHTS

In **New York City**, it is illegal to discriminate on the basis of a person's sexual orientation, gender identity or gender expression in public accommodations, including health care settings. You have these rights when seeking health care services in New York City:

- 1.) **Right to be treated with dignity, respect and professionalism in *all* health care settings by *all* providers, staff members and volunteers**

You must be treated with the same level of care as non-LGBTQ patients. Your health care providers and their staff cannot legally provide you with a lower quality of care because of your LGBTQ status.

- 2.) **Right to receive compassionate, judgment-free and comprehensive care that is mindful of your sexual orientation, sexual behavior and gender identity and gender expression. This right applies to *all* health services, with a particular emphasis on the following:**

- 2a.) **Primary care**

You have the right to preventive screenings, wellness care and primary care based on your specific health needs. Your health care providers and other staff in primary care settings cannot legally provide you with a lower quality of care because of your LGBTQ status. If you need help finding an LGBTQ-knowledgeable provider, visit the [NYC Health Map](#) or call 311.

- 2b.) **Emergency care**

You have the right to receive care in emergency departments or urgent care settings based on your health needs. Your health care providers and other staff in emergency care settings cannot legally provide you with a lower quality of care because of your LGBTQ status.

- 2c.) **Sexual health care, including preventive services; risk and harm reduction counseling; and testing and treatment for HIV, sexually transmitted infections, viral hepatitis and HPV-related cancers**

You have the right to receive sexual health care services and medically accurate information relevant to the kinds of sex you have now, sex you have had in the past, or sex you might have in the future. Your health care providers and other staff cannot legally provide you with a lower quality of care because of your LGBTQ status. If you need help finding an LGBTQ-knowledgeable provider, visit the [NYC Health Map](#) or call 311.

- 2d.) **Gender transition-related care**

You have the right to receive gender transition-related care relevant to your health needs, regardless of social, medical, or legal transition status. You have the right to make informed decisions about your gender transition (as defined by you) and have your gender respected and affirmed throughout all of your medical care. If you need help finding an LGBTQ-knowledgeable provider that provides gender transition-related care, visit the [NYC Health Map](#) or call 311.

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## 2e.) Reproductive health care and family planning

You have the right to receive reproductive health care (pap smears, pelvic exams, and other preventive services; pre-conception care) and family planning (services related to contraception, abortion, fertility, surrogacy, foster care, and adoption) relevant to your health needs. Health care providers should not assume your LGBTQ status means that you do not want or are not eligible for these services. Your health care providers and other staff in reproductive health care or family planning settings cannot legally provide you with a lower quality of care because of your LGBTQ status.

## 2f.) Mental and behavioral health care

You have the right to receive mental health care services relevant to your health needs. Your health care providers and other staff in mental and behavioral health care settings cannot legally provide you with a lower quality of care because of your LGBTQ status.

Being LGBTQ is not a mental or behavioral health diagnosis, but being LGBTQ can be stressful because of stigma and discrimination. Gender dysphoria is a mental health diagnosis that documents the stress a person feels when their sex assigned at birth is not consistent with their gender identity; it does not mean that being transgender is a mental illness. Not all transgender people experience gender dysphoria, and not all people who experience gender dysphoria are transgender.

## 2g.) Care following trauma, including care after hate violence, sexual violence and intimate partner violence

You have the right to health care and social support services if you experience trauma. You have the right to receive services after trauma that are relevant to your needs. Your health care providers and other staff cannot legally provide you with a lower quality of care because of your LGBTQ status when receiving care after trauma.

## 2h.) Alcohol and drug use evaluation, counseling and treatment

You have the right to evaluation, counseling and treatment for alcohol and drug use as relevant to your needs. Your health care providers and other staff in substance use care settings cannot legally provide you with a lower quality of care because of your LGBTQ status.

## 3.) Right to have [respectful discussions](#) with providers about your health and health care needs, including about your sexual history, current sex life, sexual pleasure and relationships

Health care providers are responsible for gathering the information necessary to provide the best possible care based on your health needs. These conversations should be a dialogue between you and your health care provider. Your providers should ask only those questions relevant to your care and go at a pace that is comfortable for you. They should also include discussions that are important to keep you healthy, like talking about your sex life.

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## 4.) Right to have your gender identity and gender expression [recognized](#), [affirmed](#) and documented, including:

### 4a.) Staff members using [self-designated](#) names and pronouns, and mirroring the language you use to describe your body

You have the right to have all health care providers and other staff use the name and pronouns you use, regardless of any legal changes to your name or gender marker. A health care provider may need to use the name and gender marker that are on your health insurance card, but they must address you with the name and pronouns that you would like them to use. Your health care provider must listen to how you describe your body and use language that makes you comfortable.

### 4b.) Access to paper and electronic forms and medical records that use [self-designated](#) name, pronouns and gender marker

You have the right to have medical records that are medically accurate and include relevant information about your gender identity and gender expression, regardless of any legal changes to your name or gender marker. Your health care providers may need to use the name and gender marker that appear on your health insurance card, but they must address you using the name and pronouns you want them to use. Your health care providers should have forms that allow you to document the name, gender and pronouns you use, as well as the name and gender marker that appear on your health insurance card.

### 4c.) Access to single-sex facilities consistent with your gender identity and gender expression

Health care settings must allow you to use the facilities consistent with your gender identity and gender expression. This includes, but is not limited to restrooms, examination rooms and changing areas.

## 5.) Right to clear explanations of providers' requests for your [personal health information](#), including with whom that information may be shared, and the right to withhold that information

Your health care providers must explain how your personal health information may be shared. Sexual behavior, sexual orientation, gender identity and transgender status are all examples of personal health information. Your health care providers must get your written consent prior to releasing your medical records, [with some exceptions](#).

## 6.) Right to clear explanation of all medical procedures and risks; right to choose or refuse any treatment and to refuse to participate in research without putting your treatment at risk

You have the right to receive complete information about your medical care so that you can make informed decisions. Your health care providers and other staff cannot legally provide you with a lower quality of information or less information because of your LGBTQ status.

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## 7.) Right to access health-related insurance coverage and benefits without discrimination on the basis of sexual orientation, gender identity, and gender expression

You have the right to access health insurance and cannot be denied access to health insurance coverage because of your LGBTQ status. Your health insurance cannot publish or enforce policies that provide you with a lower quality of care because of your LGBTQ status. Excluding coverage of transition-related medical care or preventing same-sex partners from accessing fertility benefits are examples of discrimination.

## 8.) Right to choose who will make [medical decisions](#) for you if you are unable to do so; and, for minors, the right to have your wishes and best interests included in these decisions

You have the right to make your own medical decisions unless you are under the age of 18 or cannot understand the nature and consequences of a proposed service or treatment. [Minors can consent to some types of health care without parental consent](#), such as sexual and reproductive health care. You also have the right to designate a [health care proxy](#) in advance that can be used any time you are unable to make medical decisions for yourself.

## 9.) Right to decide who may and may not visit you if you are admitted to a health care facility

You have the right to choose who can and cannot visit you in a health care facility; you can decide which next of kin, chosen family friends and others can visit you.

## 10.) Right to privacy and confidentiality

You have the right to [privacy and confidentiality](#) of your personal health information, including any information about your sexual orientation, gender identity and gender expression. In most cases, your health care providers and other staff cannot disclose your LGBTQ status or other personal health information without your consent to others, including other providers. There are some instances where a health care provider must disclose your health information without your consent, such as when you are having a health emergency, when required by the government (ex: for birth or death records) or when your health care is a part of a legal case (such as worker's compensation).

### These rights apply to:

- All New York City health care settings in which medical and other social support services are offered, including hospitals; emergency rooms; urgent care centers; clinics; physicians', nurse practitioners' and physician assistants' offices; nursing homes and long-term care facilities; and community-based organizations.
- All New York City residents and visitors receiving care within the five boroughs.

If you believe you have been mistreated or denied care or services because of your sexual orientation, gender identity or gender expression, call **311** or **718-722-3131** to file a complaint with the New York City Commission on Human Rights.

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## Key Terms

**Affirmation of Gender Identity or Expression:** In health care settings, your gender identity and gender expression must be both acknowledged and supported by *all* health care providers, staff and administrators. This could mean using a name, pronoun or gender marker that best reflects your gender identity and gender expression; health care settings must respect these needs throughout your care.

**Compassionate care:** Compassionate care requires a provider's awareness that you may be experiencing pain, trauma or other suffering, and their willingness to help ease your symptoms.

**Comprehensive care:** Comprehensive care is care that considers all factors associated with your body, mind, health status, wellness and personal concerns you may have regarding your health. This includes incorporating your sexual orientation and gender identity into your care, as appropriate.

**Dignity:** Your sexual orientation, gender identity and gender expression cannot negatively impact your relationship with a medical professional or facility. Being treated with dignity means that you, as an LGBTQ person, are treated with respect by your health care provider and other, support staff.

**Health Care Proxy:** The New York State Health Care Proxy Law allows you to appoint someone you trust — for example, a family member or close friend — to make health care decisions for you if you lose the ability to make decisions yourself. By appointing a health care agent, you can make sure that health care providers follow your wishes.

**Judgement-Free:** Health care settings are meant to be neutral places for patients to discuss their health concerns — you have the right to care that does not judge you for being LGBTQ.

**Legal Transition:** May include updating your name and/or gender marker on identification documents, such as your driver's license, birth certificate or passport.

**Medical Decisions:** Making a medical decision requires that you are informed of and understand all the benefits and risks associated with your choice. Health care providers are required to give you all information that is relevant to your medical care so that you can make informed decisions. If you are an unemancipated minor, most health care decisions fall to your parents or guardians; however, your parents or guardians, as decision makers, must be given all of the relevant information, including your medical wishes. Minors that are age 12 and above can consent to receive sexual health care services and treatment without parental consent.

**Medical Transition:** The steps you take (i.e., hormones, puberty blockers, surgery or other medical care) to change your body so that it better matches your gender identity. This is sometimes called *Gender Affirming Care* or *Gender Transition-Related Care*.

**Personal Health Information:** Also known as 'protected health information'. This is information that your provider enters into your health record and includes (but is not limited to): your past, present, or future physical or mental health condition; the healthcare you have been provided; and, your sexual orientation, sexual behaviors, gender identity and transgender status. For this purpose, gender identity refers to how you identify your gender and transgender status refers to whether or not you are transgender. Generally, this information is protected and cannot be released to other health care providers without your written consent, but there are some [exceptions](#). There are some instances where a health care provider must disclose your health information without your consent, such as when you are having a health emergency, when required by the

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government (ex: for birth or death records) or when your health care is a part of a legal case (such as worker's compensation).

**Privacy and Confidentiality:** You have the right to have your personal health information kept private. Your health information is protected by a number of state and federal laws. Generally, your health information cannot be used for purposes not directly related to your care without your permission. There are some instances where a health care provider must disclose your health information without your consent, such as when you are having a health emergency, when required by the government (ex: for birth or death records) or when your health care is a part of a legal case (such as worker's compensation). This list is not exhaustive, however, when your provider discloses your personal health information, the provider usually must try to reveal as little private information as possible. In most cases, this means that the provider cannot disclose your sexual orientation or gender identity without your consent.

**Professionalism:** Health care providers and other support staff are required to be professional in all areas of your care. This includes being respectful of your sexual orientation, gender identity and gender expression and actively incorporating your identities into your care.

**Recognition of Gender Identity and Expression:** In health care settings, *all* health care providers, staff and administrators must acknowledge that you have a specific gender identity and/or gender expression, and must bring your gender identity and gender expression into your medical care. Sometimes, you may need to tell your health care providers, staff and administrators about your gender identity and gender expression to make sure that everyone involved in your care can respect your needs to be addressed by certain name or use certain gender pronouns or gender marker.

**Respectful Discussions:** Health care providers are responsible for gathering all information necessary to deliver the highest standard of care. This often includes information about your sexual orientation, gender identity and gender expression. This may also include talking to you about your medical history; asking questions that are relevant to the purpose of your visit or course of treatment; and incorporating your identities and behaviors into your care (while also creating a safe environment for you as a patient, free from judgement). Your discussions should be a dialogue about your health needs: your health care provider should be able to talk with you about your body when it's important to do so and clearly explain why they are asking a specific question.

**Self-Designated Name and Pronouns:** Regardless of what your legal documentation or insurance information state, you have the right to request that a provider or health care facility use the name and pronoun you use outside of a health care setting. You also have the right to request that your provider use non-binary pronouns as well such as, but not limited to, they/theirs or ze/hir.

**Social Transition:** The process you go through to create a life that matches with your gender identity, which may include: name change (within social interactions); using new pronouns; and/or changing your gender expression to match your gender identity (e.g. clothing, hairstyle, voice, chest-binding, packing, genital tucking, etc.)