

Health Care

Legal Rights & Protections

Federal Law Overview

Section 1557 is the non-discrimination provision of the Affordable Care Act (ACA).¹ It prohibits discrimination in certain health programs or activities on the basis of race, color, national origin, sex, age, or disability.² Section 1557 extends non-discrimination protections to individuals participating in: (1) any health program or activity, any part of which received funding from the U.S. Department of Health and Human Services (HHS); (2) any health program or activity that HHS itself administers; and (3) Health Insurance Marketplaces and all plans offered by issuers that participate in those Marketplaces.³

Section 1557 “prohibits most insurers from discriminating on the basis of sex—including gender identity—when providing health coverage.”⁴ LGBT individuals are protected under Section 1557’s prohibition against discrimination based on gender identity or sex stereotyping because discrimination based on sexual orientation typically falls into those broader categories.⁵

Despite this protection, the Trump administration has signaled its intention to reverse or at least to limit this protection.⁶ In 2017, the U.S. Department of Justice (DOJ) filed a motion to pause ongoing litigation that had temporarily blocked Section 1557 regulations and requested the regulations be sent back to HHS for review,⁷ and that case is on hold indefinitely.⁸ In January 2018, HHS announced a newly proposed regulation entitled “Protecting Statutory Conscience Rights in Healthcare” and created a new enforcement division within HHS’s Office of Civil Rights to resolve complaints from providers based on their moral or religious beliefs.⁹ These actions have the potential to create an unequal system of health care and to hurt the LBGTQ community.¹⁰

¹ DEPT. OF HEALTH & HUMAN SERVICES, SECTION 1557 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (2017), <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>.

² *Id.*

³ *Id.*

⁴ HUMAN RIGHTS CAMPAIGN, SECTION 1557 OF THE AFFORDABLE CARE ACT AND WHAT IT MEANS (2016), <https://www.hrc.org/blog/section-1557-of-the-affordable-care-act-and-what-it-means>.

⁵ National Women’s Law Center, Nondiscrimination Protection in the Affordable Care Act 1 (2016), <https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2015/11/General-1557-Factsheet-May-2016.pdf>.

⁶ Fenway Health, *Trump Administration Signals Plans to Reverse Section 1557 Regulations Prohibiting Discrimination on the Basis of Gender Identity in Health Care*, FENWAY FOCUS (May 4, 2017), <http://bit.ly/2qm5UzA>.

⁷ Christine Grimaldi, *Trump Administration Reverses Course on Obamacare’s Civil Rights Protections*, REWIRE.NEWS (May 2, 2017), <https://rewire.news/article/2017/05/02/trump-administration-reverses-course-obamacares-civil-rights-protections/>.

⁸ Andrew Stevens, *Federal Court Stays Section 1557 Litigation Pending HHS’s Decision to Revisit Regulation*, JDSUPRA (July 27, 2017), <https://www.jdsupra.com/legalnews/federal-court-stays-section-1557-80882/>. *But see* Andrew Stevens, *Federal Court Rules that Section 1557 of Affordable Care Act Prohibits Gender-identity Discrimination in Healthcare*, JDSUPRA (Oct. 11, 2017), <https://www.jdsupra.com/legalnews/federal-court-rules-that-section-1557-38857/>.

⁹ Andrew Stevens, *New Developments Put the Spotlight on Federal Healthcare Provider Conscience Protections*, JDSUPRA (Apr. 5, 2018), <https://www.jdsupra.com/legalnews/new-developments-put-the-spotlight-on-80943/>.

¹⁰ Ariana Eunjung et al., *New HHS civil rights division charged with protecting health-care workers with moral objections*, WASH. POST (Jan. 18, 2018), https://www.washingtonpost.com/news/to-your-health/wp/2018/01/18/new-hhs-civil-rights-division-charged-with-protecting-health-workers-with-moral-objections/?utm_term=.2c4eb7c927fa.

Federal Law Resources

U.S. Code of Federal Regulations:

- ◆ [Nondiscrimination in Health Programs and Activities, 45 C.F.F. pt. 92](#) (2016) (final rule implementing Section 1557 of the Affordable Care Act).

Department of Health and Human Services Resources:

- ◆ [Section 1557: Frequently Asked Questions](#)
- ◆ [Discrimination on the Basis of Sex](#)
- ◆ [Section 1557: Protecting Individuals Against Sex Discrimination](#)
- ◆ [Advancing LGBTQ Health & Well-Being: 2015 Report](#)

Department of Health and Human Services, Office of Civil Rights Resources:

- ◆ [Fact Sheet: How to File a Discrimination Complaint with the HHS Office for Civil Rights](#)
- ◆ [Know Your Rights Against Discrimination: The Office for Civil Rights \(OCR\)](#)
- ◆ [Know the Rights that Protect Individuals with HIV and AIDS](#)

Other Secondary Sources:

- ◆ [Discrimination Prevents LGBTQ People from Accessing Health Care](#)
- ◆ [Nondiscrimination Protection in the Affordable Care Act: Section 1557](#)
- ◆ [Trump Administration Plan to Expand Religious Refusal Rights of Health Professionals: Legal Issues and Concerns](#)
- ◆ [Section 1557 of the Affordable Care Act and What it Means](#)
- ◆ [What the New Affordable Care Act Nondiscrimination Rule Means for Providers and LGBT Patients](#)
- ◆ [Health and Access to Care and Coverage for Lesbian, Gay, Bisexual, and Transgender Individuals in the U.S.](#)
- ◆ [Know Your Rights: Healthcare](#)
- ◆ [Disclosing Your Sexual Orientation or Gender Identity to Healthcare Providers: The Effect of New HIPAA Regulations](#)
- ◆ [Health Care Fairness for LGBT People and People Living with HIV: Lambda Legal's Health Care Docket](#)
- ◆ [Know Your Rights: Healthcare](#)

District of Columbia Law

D.C. Code:

- ◆ Prohibition of Discrimination in the Provision of Insurance on the Basis of AIDS Test
 - [§ 31-1610](#). Prohibition against discrimination in use of AIDS tests
- ◆ Mental Health Consumers' Rights Protection
 - [§ 7-1231.02](#). Definitions.
 - [§ 7-1231.04](#). Conditions of mental health service delivery

D.C. Municipal Regulations:

- ◆ D.C. Mun. Regs. [Tit. 4, § 803](#) (Accommodations for Health Care Needs)

Other Resources:

- ◆ [Bulletin: Prohibition of Discrimination in Health Insurance Based on Gender Identity or Expression](#)
- ◆ [FAQ: Nondiscrimination in Health Insurance Based on Gender Identity or Expression](#)
- ◆ [Report on the Health of the Lesbian, Gay, Bisexual, and Transgender \(LGBT\) Community in the District of Columbia](#)
- ◆ [Recommended Best Practices for Working with Lesbian, Gay, Bisexual and Transgender \(LGBT\) Patients](#)
- ◆ [Healthcare Laws and Policies: Medicaid Coverage for Transition-Related Care](#)

Offices

Name	Location or Area of Operation	Type(s)	Description
Office of Health Care Ombudsman	DC	Government	Health Care Ombudsman and Bill of Rights Program was to counsel and provide assistance to uninsured DC residents and individuals insured by health benefits plans in DC regarding matters pertaining to their health care coverage.

Health Care

LGBTQ Youth & Issues in Health Care

Basic Information

[CDC: LGBT Youth](#)

- ◆ This resource provides basic statistics on LGBT youth experiences with violence and discusses the effects that has on education and mental health. It also explores what schools can do to promote healthy learning environments for LGBT youth.

[Top Health Issues for LGBT Populations Information & Resource Kit](#)

- ◆ This resource kit provides an overview of current health issues among LGBTQ populations. It aims to create awareness of the needs, experiences, and health status of LGBT individuals.

[Understanding the Health Needs of LGBT People](#)

- ◆ This report discusses health disparities affecting LGBT groups and outlines steps clinicians, health centers, and other health care organizations can take to provide patient-centered care for LGBT people.

Discrimination and Disparities

[Health Care Refusals Harm Patients: The Threat to LGBT People and Individuals Living with HIV/AIDS](#)

- ◆ This fact sheet discusses the serious emotional, physical and financial consequences a doctor's refusal to provide medically appropriate care can have for LGBT people.

[Health Disparities among Bisexual People](#)

- ◆ This fact sheet provides an introduction to the health disparities experienced by bisexual people and its' effect on their physical, sexual and mental health.

[HIV/STI Prevention and Young Men Who Have Sex with Men: The vital importance of reaching the nation's most at-risk population](#)

- ◆ This resource page discusses the barriers to HIV prevention that young men who have sex with men face, along with guidelines for creating more effective prevention programs.

[When Health Care Isn't Caring: Lambda Legal's Survey on Discrimination against LGBT People and People Living with HIV](#)

- ◆ This report examines refusal of care and barriers to health among LGBT and HIV communities on a national scale and provides recommendations to better support this population.

[Young Women Who Have Sex with Women: Falling through Cracks for Sexual Health Care](#)

- ◆ This resource page explores how young women who have sex with women are still at risk of for HIV, STIs, and unintended pregnancies.

Standards of Care

[Health and Medical Organization Statements on Sexual Orientation, Gender Identity/Expression and “Reparative Therapy”](#)

- ◆ This resource provides links to national health and medical organization’s policies and statements on sexual orientation, gender identity and expression, and reparative therapy.

[The Fenway Guide to LGBT Health: Caring for LGBTQ Youth](#)

- ◆ This presentation discusses developmental challenges, barriers to accessing healthcare, health concerns, and strategies for screening and education LGBTQ youth ages 12-24 years.

[Optimizing LGBT Health under the Affordable Care Act](#)

- ◆ This brief explains how the Affordable Care Act will benefit LGBT Americans, particularly through better data collection, stronger nondiscrimination policies, a new essential health benefits standard and other insurance reforms, and coverage expansions.

Finding and Interacting with Providers

[Coming Out to Your Doctor](#)

- ◆ This guide provides tips for finding and being open with health care providers, as well as advice for providers on delivering competent care to LGBTQ patients.

[National Alliance on Mental Illness: LGBTQ Support](#)

- ◆ This resource discusses the increased negative mental health outcomes LGBTQ people face, as well as the effects of prejudice, stigma, suicide, and disparities in care. It also includes information and resources on identifying an LGBTQ-inclusive mental health provider.

[Ten Things Bisexuals Should Discuss with Their Healthcare Provider](#)

- ◆ This tip sheet discusses the health issues that health care providers have identified are concerns for bisexual people, including coming out to a provider, depression/anxiety, and substance use.
- ◆ Similar guides for [gay men](#) and [lesbians](#) are also available.

Specific Health Care Issues

[Bullying and LGBT Youth](#)

- ◆ This fact sheet discusses how LGBT youth mental health, education and physical well-being are put at risk due to daily incidents of harassment, threats and violence

[How HIV Impacts LGBTQ People](#)

- ◆ This resource discusses how HIV disproportionately impacts segments of the LGBTQ community, how discrimination against LGBTQ people makes them particularly vulnerable to HIV, and how HIV prevention, treatment, and resource programs are underfunded.

[Preventing Substance Abuse among LGBTQ Teens](#)

- ◆ This brief discusses known data on LGBTQ youth and substance abuse. It also provides recommendations for parents, educators, and other adults who can help LGBTQ teens avoid or limit drug and alcohol use.

[Sexual Assault and the LGBTQ Community](#)

- ◆ This resource discusses sexual violence against LGBTQ people and serves as a LGBTQ-friendly resource for survivors of sexual assault.

[The Impact of Homophobia and Racism on GLBTO Youth of Color](#)

- ◆ This article discusses the challenges LGBTQ youth of color face as members of multiple minority groups and their increased need for culturally competent services.

[Violence Affecting LGBT Youth: DC Regional Public Health Case Challenge](#)

- ◆ This report provides statistics on LGBT youth in the District of Columbia. It was developed as part of a project to reduce violence against the LGBT youth across the city.

[What to Do If Your Provider Says “No” To PrEP](#)

- ◆ This guide provides information for youth on how to respond under a variety of circumstances if a provider refuses to prescribe PrEP, the once-daily pill regimen that can someone stay HIV-negative.

[How Do I Talk to My Provider about PrEP?](#)

- ◆ This guide provides basic information on PrEP, which has been shown to be safe and highly effective against contracting HIV, and how to talk with a doctor about getting a prescription.

The Dangers of Conversion Therapy

[Ending Conversion Therapy: Supporting and Affirming LGBTO Youth](#)

- ◆ This report provides mental health professionals and families with information about effective and ineffective therapeutic practices related to children’s and adolescent’s sexual orientation and gender identity.

[Just As They Are: Protecting Our Children from the Harms of Conversion Therapy](#)

- ◆ This resource is designed to help parents recognize when and how conversion therapy is promoted, provide information about the dangers of the practice, and offer guidance on practices that promote their child’s health and well-being.

[The Lies and Dangers of Efforts to Change Sexual Orientation or Gender Identity](#)

- ◆ This resource discusses the research surrounding reparative therapy and how it leads to depression, anxiety, drug use, homelessness and suicide for minors.

Organizations, Providers, and Other Contacts

Name	Location	Type or Topic	Description
The Fenway Institute	MA, Online	Medical, Policy	The Fenway Institute is an interdisciplinary health center seeking to ensure access to quality, culturally competent medical and mental health care for LGBTQ people and those affected by HIV/AIDS.
GLMA	Online, National	Medical, Policy, Advocacy	Health Professionals Advancing LGBT Equality, previously known as the Gay & Lesbian Medical Association, is the world's largest and oldest association of LGBT healthcare professionals. GLMA's website includes a provider directory for patients.
Whitman-Walker Health	DC	Medical, Legal	Whitman-Walker's mission is to be the highest quality, culturally competent community health center serving greater Washington's diverse urban community, including individuals who face barriers to accessing care, and with a special expertise in LGBTQ and HIV care. They have recently expanded the scope of care offered to youth.
Youth Pride Clinic, CNMC	DC	Medical	The Youth Pride Clinic is a specialized clinic within the Adolescent Health Center serving LGBTQ (lesbian, gay, bisexual, transgender, and questioning/queer) patients throughout the greater Washington, D.C region. It provides comprehensive primary and mental health care to LGBTQ youth and young adults between the ages of 12 to 21.

Health Care

Unique Issues Facing Transgender Youth in Health Care

Basic Information

[Article: Too Many Pediatricians Fail Their Trans Patients. Here's How We Can Change That.](#)

- ◆ This article discusses areas where pediatricians can improve medical care for transgender and gender expansive patients.

[Debunking the Myths: Transgender Health and Well-Being](#)

- ◆ This is a four part video series created to help dispel common misconceptions surrounding the healthcare and wellbeing of transgender people. The videos explore common myths about health care needs and priorities.

[Know Your Rights—FAO: Equal Access to Health Care](#)

- ◆ This section within Lambda Legal's website provides basic information about gender dysphoria, treatment and healthcare coverage.

[Psychological and Medical Care of Gender Nonconforming Youth](#)

- ◆ This article, published by the American Academy of Pediatrics, provides an overview of the clinical practice for the care of gender nonconforming youth. It explores the need for culturally competent providers from multi-disciplines, provides an overview of existing clinical practice guidelines, and discusses trainings needed to deliver culturally competent care.

Resource Highlight

[Supporting & Caring for Transgender Children](#)

- ◆ Published by the Human Rights Campaign, this guide provides an excellent introduction for all audiences on supporting transgender and gender expansive children. In addition to a thorough explanation of the differences between being transgender and gender expansive, it provides a review of what medical and education experts know about transgender and gender-expansive children, addresses myths about gender transition in childhood and offers resources and suggestions for adults who are supporting a transgender child. Although it contains information that is useful more broadly, it focuses on children who have not yet reached adolescence.

[Ten Things Transgender Persons Should Discuss with their Health Care Providers](#)

- ◆ This fact sheet published by GLMA healthcare providers, list the 10 most common concerns for transgender people, including access to healthcare, health history, hormones, sexually transmitted diseases and safe sex, alcohol and tobacco, depression, and injectable silicone.

[The Health and Rights of Transgender Youth: Understanding and Support Are Critical For This Highly Marginalized Group](#)

- ◆ Published by Advocates for Youth, this article discusses the extreme disparities transgender youth experience and what is needed to address health, housing, safety and legal concerns.

[The Medical Care of Transgender Persons](#)

- ◆ Fenway Health’s Transgender Health Program developed a protocol for the care of transgender patients that reflects current knowledge and research derived from the collective experience of medical and mental health providers. This guide contains detailed information on hormone therapy, hormone treatment regimens, and pre- and post-operative care.

[Transgender Youth: Providing Medical Treatment for a Misunderstood Population](#)

- ◆ This article provides information on what it means to be transgender, available medical care for transgender children, and how this care can assist in improving a transgender child’s wellbeing.

Discrimination

[Effects of Transphobia on Transgender Communities](#)

- ◆ This webinar examines societal forces, including stigma and discrimination, which lead to disproportionate rates of HIV and other negative health outcomes for transgender people. The link above includes slides that accompany the recording.

[When Health Care Isn’t Caring: Transgender and Gender-nonconforming People](#)

- ◆ This report summarizes the results of a Lambda Legal survey conducted to examine the experiences of LGBTQ and HIV communities with refusal of care and barriers to health care access. It focuses on transgender and gender expansive individuals.

Standards of Care

[American College of Obstetricians and Gynecologists: Care for Transgender Adolescents](#)

- ◆ Published by the American College Obstetricians and Gynecologists’ Committee on Adolescent Health Care, this article provides the committee’s recommendations and conclusions regarding medical therapy, medical management and surgical options for transgender adolescents

[Creating Equal Access to Quality Health Care for Transgender Patients: Transgender Affirming Hospital Policies](#)

- ◆ This report provides model hospital policies designed to eliminate bias and insensitivity and ensure appropriate interactions with transgender patients. The policies address confidentiality, nondiscrimination, room assignments, access to restrooms and hormone therapy.

Resource Highlight

[Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People](#)

- ◆ This document, published by the Center of Excellence for Transgender Health Guideline, discusses barriers of transgender people accessibility to primary health care. The document is designed to equip primary care providers and health systems the tools and knowledge to meet the health care needs of transgender and nonconforming patients.

Finding and Interacting with Providers

[Getting Expert Support and Care for Gender Expansive Children](#)

- ◆ This resource provides information on how to identify an experienced medical or mental health provider to assist a child expressing distress over their gender and find supports for families of a gender-expansive child.

[Let's Talk About It: A Transgender Survivor's Guide to Accessing Therapy](#)

- ◆ This guide is designed to help transgender survivors of trauma identify an appropriate therapist, assess therapy needs, make initial appointments, and address issues unique to transgender individuals. It includes a checklist for screening a provider, the first session, and ongoing appointments.

[Talking to Doctors and Medical Providers](#)

- ◆ Geared toward parents, this resource provides basic information on education around transgender issues, talking with medical providers about a child's transition, preparing a child for a doctor's visit, preparing for an emergency,

Specific Health Care Issues

[Transgender Issues in HIV](#)

- ◆ This article provides information on how providers can provide optimal care to transgender patients with HIV. It includes information on stigma and discrimination, HIV in transgender populations, and engagement and retention in HIV care.

[Trans Health: Sexual Health for Transwomen](#)

- ◆ This brochure from the Center of Excellence for Transgender Health provides basic information on transition surgery, STDs, fertility, breast health, and more. A similar pamphlet is available for [transmen](#).

[Suicidal Thoughts More Common For Transgender Youth](#)

- ◆ This article discusses the data around transgender youth suicide compared with non-transgender youth, and it includes information on supportive ways to respond to someone who has discussed suicide.

Transitioning

[Accessing Coverage for Transition-Related Health Care](#)

- ◆ This website provides information on challenging the denial of care for transgender people. It also includes tips for transgender people to advocate for insurance coverage of their medical needs.

[Gender Development in Childhood](#)

- ◆ This article provides information regarding the development of gender identity, theories of gender development, how to support a child and their gender identity, and the gender affirmation model.

[Transgender Health Information Program](#)

- ◆ This website has excellent subsections explaining [medical affirmation and transition](#), [medical transition options](#), [social affirmation and transition](#), and [social transition options](#). Many of the pages are geared toward parents and address common concerns related to various aspects of transitioning.

[Transition-Related Health Care](#)

- ◆ This factsheet explains the medical community’s current framework for understanding transition related care. In addition, it contains information on the ways private industries and municipal governments have begun to eliminate barriers to health care for transgender individuals.

Additional Resources

[GLMA’s Transgender Health Resources](#)

- ◆ GLMA’s website provides resources for transgender health, parents of transgender youth, and healthcare providers, as well as a list of healthcare providers for transgender people.

[Professional Organization Statements Supporting Transgender People in Healthcare](#)

- ◆ This resource provides a list of organizations who have issued policies supporting inclusive health care for transgender people.

Organizations, Providers, and Other Contacts

Name	Location	Type or Topic	Description
Center of Excellence for Transgender Health	Online, Global	Medical	The mission of the Center of Excellence for Transgender Health is to increase access to comprehensive, effective, and affirming health care services for trans communities. Their website provides online learning, manual and guides, and up to date policy reports on transgender health for a variety of audiences.
Children’s National Medical Center	DC	Medical	CNMC has four programs designed to support transgender, gender expansive, and intersex youth: <ul style="list-style-type: none">◆ Gender Development Program◆ Gender and Autism Program◆ Positive Reevaluation of Urogenital Differences (PROUD) Clinic◆ Youth Pride Clinic
World Professional Association for Transgender Health (WPATH)	Online, International	Medical	WPATH is an interdisciplinary professional and educational organization devoted to transgender health. Its mission is to promote evidence based care, education, research, advocacy, public policy, and respect in transgender health.