

# Are LGBT-Inclusive Approaches for Patients and Staff on Your Radar Screen?

Published 10/1/2015

---

## EXECUTIVE SUMMARY ☰

### Does Your Organization Deliver LGBT-Inclusive Care?

A few months ago, I attended a conference on transgender health issues to gather information for our article on lesbian, gay, bisexual, and transgender (LGBT)-inclusive care in this issue of the *Risk Management Reporter*. I met a nurse attending the conference whose son had recently come out as transgender. As a caregiver at a Minnesota hospital, she expressed frustration and sadness with what she described as the "uninformed" attitudes of her coworkers toward transgender individuals like her son. She also told me about a federal lawsuit involving another Minnesota hospital that had been decided in favor of a transgender man who had allegedly been mistreated by the hospital and its staff. That was the first time I had heard about the *Rumble decision* that is mentioned in our article.

Whether or not you've heard about the case, all risk managers should take a few minutes to read the judge's decision in the case and to ask whether Jakob Rumble's experience could happen in their organizations with any patient or worker who identifies as LGBT.

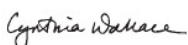
Rumble was 18 when he and his mother went to an emergency department (ED) for his severe pain. He is a transgender man and had been taking antibiotics for his inflamed female reproductive organs, but the pain had not subsided. The admissions clerk gave him an identification band with an "F" on it because his previous medical records identified him as female even though Rumble had identified himself as male. When an ED physician arrived to examine Rumble, the doctor was rough and hostile, allegedly jabbing at Rumble's genitals and asking in an aggressive manner, "Who are you having sex with?"

The hostile treatment continued once he was admitted. Some caregivers did not acknowledge Rumble when they came into his room. Measures were not taken to respect his privacy. For example, the eraser board in his room identified his treating physicians, including one listed as an "OB/GYN." Rumble was uncomfortable when anyone walked in the room and looked at the board.

The judge issued her ruling denying the hospital's and its ED physicians' motion to dismiss the case in March this year. The incident occurred two years ago, and some may argue that hospital practices have since become more inclusive toward LGBT patients and staff.

The Minnesota nurse I recently met isn't convinced. As risk managers, you have an obligation to ask what steps your organization is taking to recognize the needs of the LGBT community. Don't wait for a lawsuit to gain the organization's attention regarding what the Joint Commission calls an "overlooked community" of healthcare consumers.

Sincerely,



Cynthia Wallace

## WHO SHOULD READ THIS

Administration, Chief medical officer, Emergency department, Health information management, HIPAA privacy officer, Information technology, Legal counsel, Nursing, Outpatient services, Pediatrics, Pharmacy, Social services, Staff education, Women's healthcare services

### SEE COMPLETE ISSUE

- [Table of Contents](#)
- [Download PDF](#)

---

## TABLE OF CONTENTS



- ["Overlooked Community"](#)
- [Risks and Patient Safety Concerns](#)
- [Assessment](#)
- [Leadership Support](#)
- [Welcoming Environment](#)
- [Workforce](#)
- [What's Ahead?](#)

---

While 2015 may be a pivotal year for the lesbian, gay, bisexual, and transgender (LGBT) community with the Supreme Court's decision that same-sex couples have a constitutional right to marry and with widespread attention to Caitlyn Jenner's coming out as a transgender female, the year has also witnessed some setbacks for LGBT patients seeking care from healthcare organizations and providers. Although various healthcare facilities and providers have embraced LGBT-inclusive care, consider the following examples from court decisions and news headlines in 2015:

- In February 2015, the same-sex parents of a newborn daughter were told by a Michigan-based pediatrician that she would not be the baby's doctor. "After much prayer . . . I felt that I would not be able to develop the personal patient doctor relationship that I normally do with my patients," the pediatrician wrote in a letter that was made public. Twenty-two states have prohibited healthcare discrimination based on sexual orientation, but Michigan is not among them. (Baldhas)
- In March 2015, a federal judge upheld a transgender patient's claim that he was poorly treated in a Minnesota hospital's emergency department because of his status as a transgender man. The U.S. district court judge ruled that the case should proceed because it violates the nondiscrimination language of the Patient Protection and Affordable Care Act (PPACA) of 2010 (*Rumble v. Fairview Health Servs.*). The provision, commonly called Section 1557, prohibits healthcare providers that receive federal funds from discriminating against patients based on sex, which the U.S. Department of Health and Human Services (HHS) has interpreted to include sexual orientation and gender identity (Rodriguez).
- In June 2015, a transgender woman filed a discrimination complaint with the District of Columbia's Office of Human Rights after a medical center based in Washington, DC, cancelled a previously scheduled surgical procedure for breast augmentation. The hospital said the patient should have the procedure done at a facility providing gender transition services; others have speculated that the decision was related to the medical center's Catholic affiliation. (Trull)

Other cases this year in the healthcare sector have addressed the discriminatory treatment of healthcare staff who

identify as members of the LGBT community. In April, a Florida eye clinic reached one of the first-ever settlements of a U.S. Equal Employment Opportunity Commission (EEOC) claim involving discrimination against a transgender individual. The clinic fired her after she had begun presenting as a woman and had informed the clinic that she was transgender. In addition to a monetary settlement of \$150,000, the clinic agreed to adopt a policy prohibiting discrimination on the basis of an employee's gender identity. (U.S. EEOC "Lakeland")

"Some healthcare facilities have done great work" in recognizing the needs of LGBT patients and employees, says Josh Hyatt, DHSc, MHL, CPHRM, executive director, integrated risk management, Keck School of Medicine, University of Southern California (Los Angeles), who presented a webinar in October 2014 for the American Society for Healthcare Risk Management (ASHRM) on LGBT healthcare issues. But looking at hospitals across the country overall, he'd give them a C- for their efforts in addressing LGBT-inclusive patient care and a D or D- for their work on equality for LGBT workers.

One year after the ASHRM webinar, Hyatt says that LGBT-inclusive approaches to healthcare "are not on risk managers' radar screens until there's a law [passed] or a lawsuit. That's unfortunate."

Even those healthcare facilities that are designated as leaders in LGBT healthcare equality see further room for improvement. "We generally have a welcoming, safe, and supportive culture," says Marci Hoze, RN, BSN, MPA, director, patient care services, University of California (UC) Davis Medical Center (Sacramento, California). "We are way down the path, but we're not there yet," she adds. Initiatives in place at the medical center include the following:

- Establishment of an advisory council on LGBT issues to guide policy and organizational initiatives
- Creation of a website on LGBT healthcare with a listing of LGBT-welcoming providers at the medical center
- Implementation of guidance on caring for transgender patients
- Modification of its electronic health record (EHR) system to collect information, if patients choose to disclose it, about sexual orientation, gender identity, and preferred name along with legal name

This issue of the *Risk Management Reporter* reviews the risks of not fully addressing the needs of LGBT patients and staff and discusses initiatives, like those at UC Davis, for creating a more supportive environment.

## **"Overlooked Community"**

About nine million U.S. adults identify under the umbrella term of LGBT; 3.5% of the adult population identifies as lesbian, gay, or bisexual and 0.3% as transgender (Gates). Although the term "lumps together" individuals within the group, there are important distinctions between sexual orientation and gender identity, says Hyatt. The terms "lesbian," "gay," and "bisexual" refer to a person's sexual orientation, and the term "transgender" refers to a person's gender identity or expression. A person's sex at birth may be different from the gender that the person identifies when presenting to a healthcare provider.

The Joint Commission describes the LGBT population as an "overlooked community" of healthcare consumers who are disproportionately affected by health disparities compared with the rest of the population (refer to [Disparities Affecting the LGBT Population](#) for examples) (Joint Commission). In 2011, the accrediting agency released its patient-centered communication standards for hospitals, which include provisions to prohibit discrimination based on sexual orientation, gender identity, and gender expression (other accrediting groups have not addressed LGBT patient care as extensively as the Joint Commission). Consistent with Centers for Medicare and Medicaid Services (CMS) conditions for hospitals to participate in the Medicare or Medicaid programs, the Joint Commission also requires facilities to protect patients' rights to choose who may visit them during an inpatient stay regardless of whether the visitor is a family member, same-sex spouse or partner, or other type of visitor.

Roughly 7% of the 5,900 U.S. hospitals (including federal hospitals) are listed as healthcare leaders for their commitment to equality for LGBT patients and staff in a [2014 report](#) issued by the Human Rights Campaign

Foundation, the education arm of the LGBT civil rights group Human Rights Campaign, which has compiled the data since 2007. To earn leadership status, organizations must have four core criteria in place:

1. Patient nondiscrimination policies with specific references to sexual orientation and gender identity
2. Equal visitation policies
3. Employment nondiscrimination policies with specific references to sexual orientation and gender identity
4. Staff training in LGBT patient-centered care

Of the 507 facilities completing the survey to be listed on the Healthcare Equality Index (HEI) for 2014, 427 were designated as leaders.

The listing is voluntary and may not reflect the efforts of other healthcare facilities to provide LGBT-inclusive services. Nevertheless, the low percentage of healthcare facilities choosing to be listed in the organization's 2014 HEI indicates "we have a lot of work to do," says Tari Hanneman, MPA, deputy director of the foundation's health and aging program and author of the 2014 report. In fact, the 2014 report compares the results of the 507 healthcare facilities completing the HEI survey to findings for 640 other "nonrespondent" hospitals whose existing policies were available. Many of the nonrespondent hospitals fell short in meeting the four core criteria for LGBT-inclusive approaches.

## Risks and Patient Safety Concerns

"We still hear stories of discrimination and poor treatment" of LGBT individuals by providers, says Hanneman, "and we're seeing more and more lawsuits." Indeed, healthcare organizations could be at even greater risk of antidiscrimination lawsuits filed by LGBT patients who have been refused care or treated unfairly once regulations implementing Section 1557 of the PPACA are finalized.

HHS issued the proposed rules for Section 1557 in September 2015. The proposal bans any health program or activity that receives federal funds from discriminating based on race, national origin, sex, age, or disability. The proposed rule also establishes that sex discrimination prohibitions include discrimination based on gender identity. Although HHS has interpreted Section 1557 as barring discrimination based on sexual orientation, the proposal is more vague about Section 1557's application in prohibiting discrimination based on sexual orientation, noting that court rulings have been mixed as to whether sexual orientation is covered by prohibitions on sex discrimination. HHS asks for comments on whether the rule should include an exemption for healthcare providers whose religious beliefs clash with same-sex relationships. In the meantime, federal agencies, including HHS, have investigated and acted on discrimination complaints. HHS is also expected to propose a new condition for hospitals participating in the Medicare or Medicaid programs that prohibits discrimination based on sexual orientation or gender identity\* (U.S. HHS "Advancing").

---

\* *HRC* keeps its members informed about breaking news relevant to risk managers via its weekly *HRC Alerts*, a membership benefit of *HRC*. Risk managers can count on *HRC Alerts* to cover information about the publication of the CMS initiative when the proposed rules are published in the *Federal Register*. If you are an *HRC* member and not currently receiving *HRC Alerts* via e-mail, please contact the ECRI Institute help desk at [helpdesk@ecri.org](mailto:helpdesk@ecri.org).

---

In addition to legal action and loss of federal funding, other risks from not fully addressing the healthcare needs of LGBT patients include the following:

- Adverse media attention
- Federal citations for failing to adhere to Medicare Conditions of Participation

- Accrediting standard violations
- Delivery of inadequate care (see [LGBT-Related Events Reported to ECRI Institute PSO](#))

“It’s a disservice to not be able to serve a person at the level they need,” says Evelyn F. Benitez, PhD, CAP, director of behavioral health outpatient services at Jackson Health System, Miami. She views LGBT-inclusive care as a component of a healthcare organization’s cultural competency program. In fact, [revised guidance](#), issued in 2013, for HHS’s National Standards for Culturally and Linguistically Appropriate Services states that discrimination based on factors such as sexual orientation, gender identity, and gender expression impedes the delivery of quality care and services (U.S. HHS “National”). “It’s learning about different cultures and people’s fears and concerns,” says Benitez, who assists the various facilities within the health system in obtaining HEI leadership status. (For additional information about the standards, refer to the *Healthcare Risk Control [HRC]* guidance article [Culturally and Linguistically Competent Care](#).)

The system’s designation, starting in 2011, as a leader in healthcare equality culminated efforts to revise several of its policies, including its visitation policy, which was the subject of a high-profile lawsuit brought against its flagship hospital in 2008 alleging that an admitting clerk refused to provide information and access to a dying trauma patient’s life partner and their adopted children. A federal district court concluded that the hospital and its employees owed no duty to the plaintiffs (*Langbehn v. Pub. Health Trust of Miami-Dade County*).

President Barack Obama cited the case as his primary motivation for ordering HHS to issue the rules protecting patients’ rights to be visited by same-sex partners and spouses and others.

The end result from LGBT-inclusive approaches is not only the delivery of appropriate care but also improved patient and family satisfaction. The director of Cincinnati Children’s Hospital Medical Center’s transgender clinic recounts the case of an emergency admission of an adolescent transgender female requiring treatment for severe testicular pain. Aware that the patient was being transferred from another facility, the transgender clinic’s director, Lee Ann E. Conard, RPh, DO, MPH, informed the providers at the children’s hospital who would be treating the patient of the patient’s transgender status and told them the patient’s preferred name and pronoun to use when speaking with the patient. Everyone was on board by the time the child arrived at the hospital for surgery.

“The family was relieved even before the child went in for surgery because the child was treated so well,” recalls Conard, who is also assistant professor of pediatrics at the medical center.

## Assessment

As with any risk management activity, risk managers can evaluate their organization’s risk exposure in serving the LGBT community by evaluating existing practices. Cincinnati Children’s found that using the application questions posed by the Human Rights Campaign Foundation to become a healthcare equality leader provided a good framework for developing policies, putting practices in place, and, “at each step, having conversations,” said Charla Weiss, PhD, interim manager of the hospital’s Office of Diversity, Inclusion, and Cultural Competency. When the hospital opened its transgender clinic in 2013, “it’s not like we flipped a switch,” says Weiss. “There was a lot of work ahead of this” that took place over the last four years, starting with the hospital’s initial designation as a leader in healthcare equality in 2012.

The 2014 HEI survey consists of 41 questions about LGBT care practices: 10 cover the four core criteria that determine HEI leadership status, and 31 other questions revolve around best practices for LGBT-inclusive approaches, addressing issues such as identifying LGBT-knowledgeable providers, designating a point person or office for LGBT-related matters, providing transgender-focused training to employees, and offering healthcare benefits to same-sex partners of benefits-eligible employees. Responses to the additional 31 questions are not used to determine leadership status.

Hanneman says that the requirements to become an HEI leader are not overly stringent, and in fact, two of the four

criteria are either accrediting or regulatory requirements. “The bar [for HEI leadership designation] gets raised next year,” she adds, with requirements for organizations to achieve a score of 100 points by demonstrating adherence to the four core criteria as well as some of the additional best practices. There are also new questions about best practices, centering around policies for transgender patients and for employees who are transitioning or in the process of changing their gender presentation.

Findings from the 2014 report suggest that only a minority of hospitals have conducted an assessment to identify gaps in care provided to the LGBT community. In response to one of 31 questions from the best-practices checklist, only 30% of HEI survey participants indicated they had reviewed their clinical services to identify possible LGBT-related gaps.

Being a HEI leader is a “great start,” says Hyatt, but it “doesn’t rise to the level of preventing lawsuits.” He reminds risk managers to evaluate LGBT initiatives and compliance with federal and state requirements at all of an organization’s sites, including doctor’s offices and continuing care facilities. “A large healthcare system may have appropriate policies [in place], but affiliated groups may not always be following them,” he says.

Another tool to evaluate how well an organization services its LGBT population is the Joint Commission’s 2011 report [Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care for the Lesbian, Gay, Bisexual, and Transgender \(LGBT\) Community](#), commonly referred to as the “field guide” (see [Resource List](#) for information on accessing the report online as well as other resources for LGBT patient and staff initiatives). “It’s another blueprint to look at how we as healthcare organizations are structured,” says Barbara E. Warren, PsyD, LMHC, director, LGBT Programs and Policies, Office for Diversity and Inclusion, Mount Sinai Health System (New York). Four of Mount Sinai’s seven hospitals are designated as HEI leaders; Mount Sinai Beth Israel was the first to receive the designation in 2010.

## **Leadership Support**

An organization’s leaders “set the tone for a culture that is inclusive and welcoming” for LGBT patients, the Joint Commission says in its field guide. At Cincinnati Children’s, “we needed senior leader champions in high places to say this is the direction we’re going,” such as applying to be an HEI leader and opening a transgender clinic, says Weiss.

Mount Sinai Health System is even looking at tying leadership performance reviews within the organization to diversity benchmarks. “This is a strategy used by business corporations, which has helped to prioritize diversity initiatives. Our executive leadership is working on developing what the criteria will be,” says Warren.

With leadership’s support, the organization can articulate its commitment to LGBT patient and staff needs in its policies and organizational structure. By comparing the results for the 507 hospitals applying for HEI leadership status in 2014 to the other 640 nonrespondent hospitals evaluated, the 2014 HEI report provides insights in how organizations are faring.

**Nondiscrimination patient policies.** The Joint Commission’s standards for patient rights require accredited organizations to prohibit discrimination based on personal characteristics, including sexual orientation and gender identity or expression. Although CMS intends to propose a nondiscrimination requirement for healthcare facilities, the specifics of the proposal have not yet been released. To obtain HEI leadership status, the organization’s policy must be written and available to patients in at least two ways (e.g., posted on the facility website, included in materials given to the patient). While 97% of the 2014 HEI survey participants met the requirement, only 51% of the nonrespondent hospitals had nondiscrimination policies that included terms such as “sexual orientation” and “gender identity.”

**Nondiscrimination employment policies.** As one of the four criteria for HEI leadership status, employment nondiscrimination policies must contain the terms “sexual orientation” and “gender identity.” Only 50% of nonrespondent hospitals identified in the 2014 HEI report had nondiscrimination policies that included both terms,

compared with 96% of the survey respondents.

**Visitation policies.** CMS and the Joint Commission requirements granting equal visitation rights for patients bar restrictions based on sexual orientation and gender identify. CMS further specifies that the policies must be written. To qualify as an HEI leader, the facility must also make the policy readily accessible in two ways (e.g., posting the policy on the facility website and in waiting areas). The HEI report found that 84% of nonrespondent hospitals had an equal visitation policy and 98% of hospitals responding to the HEI survey met the requirements for leadership designation.

**LGBT advisory group.** About 59% of participants in the 2014 HEI survey indicated that they had an office, advisory group, or point person designated to address LGBT matters. The report did not evaluate nonrespondent hospitals' activities in this area.

UC Davis, which has been on the HEI leadership list since 2011, established an LGBT advisory council in 2014 with representation from hospital and school of medicine leadership, faculty, nursing, health information management, human resources, information technology, hospital administration, residents, and students, says Hoze, who participates on the council. The council evolved from an earlier task force that made changes to the medical center's EHR system to include data about sexual orientation and gender identity (refer to [‘SOGI’ Data Collection Not Yet Routine with EHR Systems](#) for more information). In addition to its work with the EHR system, the council's charge includes policy development, data analysis, education of clinicians and staff, and enhancing the organization's environment for LGBT individuals, she says.

## Welcoming Environment

Creating a welcoming environment for LGBT individuals “begins when a person walks in the door [of the healthcare facility] or looks at the website,” says Hanneman. Among the strategies adopted by healthcare facilities are the following:

- Displaying HEI leadership designation (and other recognitions of diversity) on the organization's website along with its patient nondiscrimination and visitation policies. To further signal an inclusive environment, hospitals may display other LGBT-friendly symbols, such as the rainbow flag, a pink triangle, and a safe zone sign on placards and on staff badges, says the Joint Commission field guide.
- Identifying LGBT-welcoming providers at the organization. UC Davis's website provides a [portal](#) to resources on LGBT care, which includes a link for patients to identify LGBT-welcoming providers at the medical center who have elected to be listed. The list is maintained by the medical center's human resources department, says Hoze. The Gay and Lesbian Medical Association (GLMA) also maintains a provider directory for listing LGBT-welcoming physicians and other healthcare professionals at no charge.
- Ensuring that the organization's website and materials in waiting rooms and other surroundings reflect LGBT patients and families. At Cincinnati Children's, Weiss says she periodically does an “environmental scan” of the waiting areas to check that magazines, posters, and other material have inclusive images and articles.
- Providing gender-neutral restrooms. While there is no formula for the number of gender-neutral restrooms that should be available in a facility, Hanneman recommends that the facility designate at least one gender-neutral restroom per floor. If the restroom is organized with single stalls, “why make it gender specific?” she asks. Although gender-neutral restrooms create a welcoming environment for transgender individuals, the Joint Commission's field guide discourages facilities from limiting transgender patients to unisex restrooms and instead recommends allowing them to use restrooms matching their gender identity.
- Developing rooming policies. Facilities should not wait until a transgender patient is admitted to develop rooming policies, says Conard. “Have something in place ahead of time.” Earlier this year, UC Davis finalized guidance for staff interaction with transgender patients, which included provisions for room assignments. The guidance states that transgender patients are assigned to a room in accordance with their self-identified gender

unless the patient requests otherwise. If the patient requests a private room, the medical center will try to accommodate the patient's wishes, but private rooms are not always available, says Hoze. Lambda Legal provides guidance on hospital-affirming transgender policies, such as room assignments and protocols for interacting with transgender patients (see [Resource List](#)).

- Asking about a patient's preferred name and pronoun. "People with gender dysphoria [the diagnostic term for individuals who identify with a gender different from the one they were assigned at birth] do measurably better and have better relationships with their care providers when they are called by their preferred name and their preferred gender is used," says Conard. Consequently, Cincinnati Children's modified its EHR system to include a flag in the medical record to specify how the patient prefers to be addressed and other pertinent information. The system was further modified so that the patient's preferred name is more visible in the display, says Michael Saxion, senior director, information services at the hospital. A transgender patient's legal name identified in hospital records from medical insurance and legal identity documents may be different from the patient's preferred name if the patient has not changed the documents.
- Designing inclusive forms. Admitting, registration, and other patient forms should provide options that are inclusive of LGBT patients and families and allow LGBT patients to voluntarily self-report sexual orientation and gender identity, the Joint Commission recommends in its field guide. The forms should provide options to identify a relationship status other than husband or wife and to ask about a child's parents or guardians in a way that is inclusive of same-sex parents.
- Providing guidance on LGBT-specific health issues. Numerous resources are available to patients and healthcare organizations on LGBT-specific health concerns. For example, GLMA has developed separate fact sheets for lesbian, gay, bisexual, and transgender patients identifying the top 10 issues they should discuss with their healthcare providers. UC Davis's and Mount Sinai Health System's websites provide links to these and other patient resources.
- Avoiding assumptions. Providers and healthcare staff must avoid making incorrect assumptions about a person's sexual orientation or gender identity that affect how they engage with that individual. A patient who has a masculine or feminine appearance or name may have a birth gender that's different from the gender the patient identifies, and a patient wearing a wedding band may have a same-sex spouse. "We all make assumptions based on our own sphere of experience," says Hoze. As an example, Conard explains that "a patient with the name of 'Charles' may have a uterus and ovaries," and as a clinician, she must be mindful of his natal gender. "If he's sexually active, he could be pregnant" and require precautions with some procedures, such as x-ray imaging, and some medications. Similarly, staff in doctor's offices must be prepared for transgender male patients who are requesting mammograms and Pap screening tests and for transgender female patients who require prostate exams.

## Workforce

A healthcare organization's LGBT-inclusive environment extends to its workforce with its hiring and training practices, with its policies for transitioning employees, and with the benefit packages offered.

### Hiring

There are no federal laws that specifically bar discrimination against job applicants or employees based on sexual orientation or gender identity, and state laws vary. Having an employer that supports equality "is reassuring" for the LGBT community and "good for business," says Hanneman.

Such practices may also protect an employer from antidiscrimination lawsuits. In 2001, a New Jersey appeals court, for example, ruled that a transgender physician who was fired from her position as a medical director of an outpatient treatment facility could sue her former employer, a health system, for wrongful termination under the state's antidiscrimination laws. The firing occurred shortly after she began to take steps to undergo sex reassignment surgery for a transgender female. "It is incomprehensible to us that our Legislature would ban



discrimination against heterosexual men and women; against homosexual men and women; against bisexual men and women; [and others] but would condone discrimination against men or women who seek to change their anatomical sex,” the court wrote in its decision. (*Enriquez v. West Jersey Health Systems*)

At the state level, 19 states and the District of Columbia have laws addressing employment nondiscrimination based on sexual orientation and gender identity, and 3 other states have employment nondiscrimination statutes that cover sexual orientation only (ACLU). EEOC, which investigates employment discrimination charges, has taken the position that individuals may bring LGBT-related discrimination claims under Title VII of the Civil Rights Act of 1964 (U.S. EEOC “What”).

Just over half (53%) of the organizations participating in the HEI leadership survey indicated that they have employment hiring and recruitment practices that are explicitly LGBT inclusive. As an employer in the diverse community of New York City, Mount Sinai Health System’s recruiting materials emphasize diversity, inclusion, and “an appreciation for differences in race, gender, background, sexual orientation or any other factors that may not be shared by everyone” (Mount Sinai Health System).

The system’s Office for Diversity and Inclusion has been in place for two years, says Warren. Additionally, each of the seven hospital campuses has established a diversity council with representation from executive leadership and other individuals who choose to participate on the council. “We give them the resources, and they decide on the initiatives,” which can include LGBT-specific activities, such as sponsoring LGBT employee resource groups, says Warren. The councils meet monthly.

## **Guidance for Transitioning Employees**

Healthcare organizations, like all employers, are also starting to address organizational practices for supporting transgender employees. “It’s clear in all our policies that there’s an expectation” of respect, says Hoze, but she would like to see the medical center develop guidelines for transitioning employees. “This is an area where we can move our process forward.”

The Human Rights Campaign provides recommendations for workplace gender transition guidelines on its website, with links to some employers’ transition guidelines (see [Resource List](#)). Issues addressed in the guidelines include employee notification plans, procedures for changing name and gender in records, appearance standards, and restroom use.

At Cincinnati Children’s, Weiss recently assisted two newly hired transgender employees by meeting with staff on the employee’s unit to discuss issues that might arise. One question that came up, she recalls, was about restroom use. The hospital’s position is that the individual can use the restroom of their gender identity. “They can’t be forced to use a gender-neutral facility,” she says. The Occupational Safety and Health Administration has issued [guidance](#) on restroom access for transgender workers with similar recommendations (see [Resource List](#)).

## **Training**

Providing the workforce with training in LGBT-related issues is also a high priority. To obtain HEI leadership designation, facilities participating in the survey for the first time must document that they have provided at least 90 minutes of training from an expert in LGBT health to an executive-level staff member from each of five areas (leadership, nursing, patient relations, admissions and registration, and human resources). Returning survey participants must document that training in LGBT-centered care is provided to at least 10 additional employees. Of the 2014 HEI survey respondents, 86% met the training requirements. Training programs (recorded webinars and interactive courses) with continuing medical and education credit are available at no charge to HEI survey participants on topics such as patient-centered LGBT care and working with transgender adults. GLMA also provides free access to a four-part webinar series on LGBT healthcare (see [Resource List](#)).

Some staff may need more targeted training, such as providing guidance to registration and admitting staff on asking questions about sexual orientation, gender identity, and preferred name and pronoun while respecting the

patient's right to privacy. "Not knowing how to ask these questions can be uncomfortable for someone in registration," says Benitez. The Fenway Institute, which provides education and training on LGBT issues, has developed a toolkit for collecting information about sexual orientation and gender identity in clinical settings with suggestions for how to ask specific questions (see [Resource List](#)).

"We target [materials] to the groups we train," says Warren. For example, Mount Sinai Hospital's breast center is starting a registry for transgender patients who undergo chest and breast radiography to evaluate their breast healthcare needs. Staff at the breast center received training tailored to working with transgender patients. Warren estimates that about 6,000 of the health system's 35,000 employees have received training on LGBT-related concerns.

## Benefit Packages and More

Other strategies for an LGBT-inclusive work environment include the following:

- Extending healthcare benefits to same-sex partners of benefits-eligible employees (adopted by 82% of HEI survey participants)
- Offering a health insurance plan that covers medically necessary healthcare services for transgender individuals (in place for 20% of HEI survey participants)
- Including questions about the organization's climate for LGBT employees in anonymous employee surveys (implemented by 29% of HEI survey participants)
- Commemorating LGBT events, such as LGBT Pride Month and National Coming Out Day (supported by 47% of HEI survey participants)

## What's Ahead?

Recent national attention to LGBT concerns with the Supreme Court's decision on same-sex marriage and various provisions within the PPACA "are a great incentive to bring healthcare up to speed," says Warren, but she adds that providers "still have a ways to go" in supporting LGBT-inclusive care and workplaces.

Long-term care facilities, for example, can expect more scrutiny of their practices in LGBT equality. Although a few long-term care facilities currently participate in the HEI survey, the Human Rights Campaign Foundation, in partnership with Services and Advocacy for GLBT Elders (SAGE), plans to release a long-term care survey in the next few years to identify long-term care leaders in LGBT care, says Hanneman. SAGE is an advocacy group for LGBT older adults.

Medical schools, which devote a median of five hours to LGBT-related issues in their course curriculum, have been called upon to implement changes to better address the needs of LGBT patients (AAMC). Moving toward a more inclusive medical school curriculum, Mount Sinai's Icahn School of Medicine introduced a third-year medical school clerkship this fall that is specific to LGBT health issues, says Warren.

As healthcare organizations modify their paper and electronic records to include information about sexual orientation and gender identity, new opportunities to understand LGBT patient encounters are arising from the data collection. UC Davis, for example, will use the data stored in its EHR system to collect information about LGBT health disparities and access to care, says Hoze. Additionally, the medical center will be able to dissect the data to identify "access points" where information about patient sexual orientation and gender identity is less frequently collected than at other sites and target more education.

"We still have pockets of people who aren't comfortable" asking questions about sexual orientation and gender identity, says Hoze. "We've done good work," she adds, but her wish is "to enculturate the changes we want to see happen."

---

## REFERENCES

- American Civil Liberties Union (ACLU). Non-discrimination laws: state-by-state information—map [online]. [cited 2015 Jul 16]. <https://www.aclu.org/map/non-discriminationlaws-state-state-information-map>
- Association of American Medical Colleges (AAMC). Implementing curricular and institutional climate changes to improve health care for individuals who are LGBT, gender nonconforming, or born with DSD [online]. 2014 [cited 2015 Jul 17]. <https://www.aamc.org/download/414172/data/lgbt.pdf>
- Baldhas T. Pediatrician wouldn't treat baby with 2 moms [online]. Detroit Free Press 2015 Feb 19 [cited 2015 Jul 14]. <http://www.freep.com/story/news/local/michigan/macomb/2015/02/18/discrimination-birth/23640315>
- Enriquez v. West Jersey Health Sys.*, 342 N.J. Super. 501 (N.J. Super. Ct. App. Div. 2001). Gates GJ. How many people are lesbian, gay, bisexual, and transgender? [online]. Williams Institute 2011 Apr [cited 2015 Jul 14]. <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-How-Many-People-LGBT-Apr-2011.pdf>
- Joint Commission. Advancing effective communication, cultural competence, and patient- and family-centered care for the lesbian, gay, bisexual, and transgender (LGBT) community: a field guide [online]. 2011 Oct [cited 2015 Jul 16]. <http://www.jointcommission.org/lgbt>
- Langbehn v. Pub. Health Trust of Miami-Dade Cnty.*, 661 F.Supp.2d 1326 (S.D. Fla. Oct. 2, 2009).
- Mount Sinai Health System. Diversity at the Mount Sinai Health System [online]. 2014 [cited 2015 Jul 17]. <http://www.wehealny-employment.com/diversity.asp>
- Rodriguez, Leon (Director, Office for Civil Rights, U.S. Department of Health and Human Services). Letter to: Maya Rupert. OCR Transaction No. 12-000800. 2012 Jul 12 [cited 2015 Jul 17]. <https://www.nachc.com/client//OCRLetterJuly2012.pdf>
- Rumble v. Fairview Health Servs.*, No. 14-CV-2037 (D. Minn. Mar. 16, 2015).
- Trull A. Can MedStar Georgetown deny breast implant surgery to transgender woman? [online]. WAMU 88.5 2015 Jun 22 [cited 2015 Jul 14]. [http://wamu.org/news/15/06/22/is\\_medstar\\_georgetown\\_discriminating\\_by\\_refusing\\_to\\_do\\_breast\\_implant\\_surgery\\_for\\_transgender\\_woman](http://wamu.org/news/15/06/22/is_medstar_georgetown_discriminating_by_refusing_to_do_breast_implant_surgery_for_transgender_woman)
- U.S. Department of Health and Human Services (HHS):
- Advancing LGBT health and well-being: 2014 report [online]. 2014 [cited 2015 Jul 14]. <http://www.hhs.gov/sites/default/files/dhhs-lgbt2014annualreport.pdf>
  - National standards for culturally and linguistically appropriate services in health and health care: a blueprint for advancing and sustaining CLAS policy and practice [online]. 2013 Apr [cited 2015 Jul 16]. <https://www.thinkculturalhealth.hhs.gov/Content/clasvid.asp>
- U.S. Equal Employment Opportunity Commission (EEOC):
- Lakeland Eye Clinic will pay \$150,000 to resolve transgender/sex discrimination lawsuit [press release online]. 2015 Apr 13 [cited 2015 Jul 14]. <http://www.eeoc.gov/eeoc/newsroom/release/4-13-15.cfm>
  - What you should know about EEOC and the enforcement protections for LGBT workers [online]. 2015 [cited 2015 Jul 17]. [http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement\\_protections\\_lgbt\\_workers.cfm](http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm)

---

## RESOURCE LIST

Fenway Institute

(617) 927-6400

<http://fenwayhealth.org/the-fenway-institute>

- Do ask, do tell: a toolkit for collecting sexual orientation and gender identity information in clinical settings.  
<http://doaskdotell.org>

## Gay and Lesbian Medical Association

(202) 600-8037

<http://www.glma.org>

- Cultural competence webinar series. <http://www.glma.org/index.cfm?fuseaction=Page.viewPage&pageId=1025&grandparentID=534&parentID=940&nodeID=1>
- Provider directory. [https://glmaimpak.networkats.com/members\\_online\\_new/members/dir\\_provider.asp](https://glmaimpak.networkats.com/members_online_new/members/dir_provider.asp)

## Human Rights Campaign

(202) 628-4160

<http://www.hrc.org>

- Healthcare equality index. <http://www.hrc.org/campaigns/healthcare-equality-index>
- Revisiting your hospital's visitation policy (copublished with the American Health Lawyers Association).  
<http://www.hrc.org/resources/entry/revisiting-your-hospitals-visitation-policy>
- Training in LGBT patient-centered care. <http://www.hrc.org/hei/training-in-lgbt-patient-centered-care>
- Workplace gender transition guidelines. <http://www.hrc.org/resources/entry/workplace-gender-transition-guidelines>

## Joint Commission

(630) 792-5800

<http://www.jointcommission.org>

- Advancing effective communication, cultural competence, and patient- and family-centered care for the lesbian, gay, bisexual, and transgender (LGBT) community: a field guide.  
<http://www.jointcommission.org/lgbt>

## Lambda Legal

(212) 809-8585

<http://www.lambdalegal.org>

- Creating equal access to quality health care for transgender patients: transgender affirming hospital policies.  
[http://www.lambdalegal.org/publications/fs\\_transgender-affirming-hospital-policies](http://www.lambdalegal.org/publications/fs_transgender-affirming-hospital-policies)
- When health care isn't caring: Lambda Legal's survey of discrimination against LGBT people and people with HIV. <http://www.lambdalegal.org/publications/when-health-care-isnt-caring>

## Occupational Safety and Health Administration

(800) 321-OSHA (6742)

<https://www.osha.gov>

- A guide to restroom access for transgender workers. <https://www.osha.gov/Publications/OSHA3795.pdf>

## ADDITIONAL MATERIALS

### Disparities Affecting the LGBT Population

Research has found that LGBT individuals experience mental and physical health disparities, as well as disparities in access to care. Areas of concern include the following (Daniel and Butkus; Joint Commission):

- Lesbian women are less likely to get preventive cancer screenings, such as mammography.
- Lesbian and bisexual women are more likely to be overweight or obese.
- Gay men are at higher risk of HIV and other sexually transmitted disease infections.
- LGBT individuals have higher rates of smoking, alcohol use, and drug use.
- Lesbian, gay, and bisexual persons are 2.5 times as likely to have a mental health disorder as heterosexual men and women.
- Transgender individuals have a higher lifetime risk for suicide attempts.
- LGBT adults and their children are more likely to be uninsured and face difficulties gaining access to care.

In addition, LGBT individuals seeking healthcare report that

they are confronted by disrespectful attitudes, inequitable treatment, and refusals to provide care. In a survey conducted in 2009 by Lambda Legal, a civil rights organization for LGBT persons, about 56% of lesbian, gay, or bisexual respondents reported experiencing at least one instance of discrimination (i.e., they were refused care or blamed for their health status, or healthcare professionals refused to touch them, used harsh or abusive language, or were physically rough or abusive). The rates were higher for transgender and gender-nonconforming respondents (70% reported at least one instance of discrimination) and for individuals living with HIV (63%). The survey was based on responses from nearly 5,000 individuals. (Lambda Legal)

The survey found that many LGBT individuals worry about equitable treatment when seeking healthcare, as depicted in [Figure. LGBT Individuals' Fears and Concerns about Accessing Healthcare](#). Consequently, they may delay seeking necessary care and, when they do seek care, be reluctant to disclose personal information that may be important for care decisions and treatment.


### References

Daniel H, Butkus R; Health and Public Policy Committee of the American College of Physicians. Lesbian, gay, bisexual, and transgender health disparities: executive summary of a policy position from the American College of Physicians [online]. *Ann Intern Med* 2015 Jul 21 [cited 2015 Jul 22]. <http://annals.org/article.aspx?articleid=2292051>

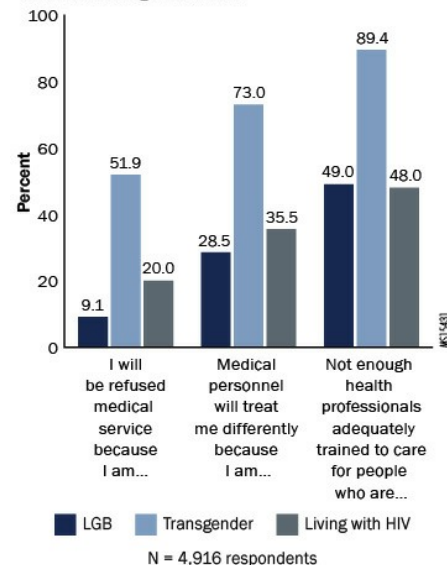
Joint Commission. Advancing effective communication, cultural competence, and patient- and family-centered care for the lesbian, gay, bisexual, and transgender (LGBT) community: a field guide [online]. 2011 Oct [cited 2015 Jul 16]. <http://www.jointcommission.org/lgbt>

Lambda Legal. When health care isn't caring: Lambda Legal's survey of discrimination against LGBT people and people with HIV [online]. 2010 [cited 2015 Jul 16].

**Figure. LGBT Individuals' Fears and Concerns about Accessing Healthcare**

 [View as PowerPoint slide](#)

**Figure. LGBT Individuals' Fears and Concerns about Accessing Healthcare**



Reprinted with permission from Lambda Legal, New York.

Source: Lambda Legal. When health care isn't caring: Lambda Legal's survey of discrimination against LGBT people and people with HIV [online]. 2010 [cited 2015 Jul 16]. [http://www.lambdalegal.org/sites/default/files/publications/downloads/whic-report\\_when-health-care-isnt-caring.pdf](http://www.lambdalegal.org/sites/default/files/publications/downloads/whic-report_when-health-care-isnt-caring.pdf)

## **LGBT-Related Events Reported to ECRI Institute PSO**

Risk managers' event reporting systems may provide some insights into care events involving LGBT patients. ECRI Institute PSO, a federally certified patient safety organization (PSO), maintains a database of more than one million patient safety events voluntarily submitted to the PSO and its collaborating partners by healthcare organizations throughout the United States. A search of the database, looking at events submitted from January 2013 through mid-2015 using the search terms "gay," "lesbian," "bisexual," and "transgender," identified multiple concerns, including the following:

- Physicians' inappropriate comments about an openly gay patient who was intubated.
- A physician's abrupt departure from a patient's room after being told about the patient's positive HIV status (the patient sought assistance from a gay and lesbian alliance).
- Refusal to modify a transgender patient's documentation of gender from male to female until the patient presented legal documentation confirming her female gender.
- Failure to continue a transgender patient's hormone therapy while the patient was hospitalized.

**Source:** ECRI Institute PSO Database. Component of ECRI Institute, Plymouth Meeting, Pennsylvania.

## **"SOGI" Data Collection Not Yet Routine with EHR Systems**

In 2011, the Institute of Medicine recommended that data on sexual orientation and gender identity be collected in EHR systems to support much-needed research on the health needs of LGBT individuals (IOM). Five years later, only a limited number of hospitals have modified their systems to collect what is commonly called "SOGI" data.

Epic Systems Corporation, which is reported to have the largest share of the hospital EHR market, estimates that less than 10% of its customers have currently modified their systems to collect extensive sexual orientation and gender identity data, but interest is growing. "There's more interest in these issues as organizations start to think this way," says Janet Campbell, Epic's vice president of patient engagement. For example, the company's basic EHR configuration includes the capability to record information about a patient's gender at birth and current gender, but not all customers choose to keep that capability as their default system setup.

UC Davis, an Epic customer, became the first academic medical center to incorporate sexual orientation and gender identity data within its EHR system as standard demographic elements for patients in 2013. Patients may enter this information directly through a secure patient portal, or clinical providers may enter the information during the clinic or hospital visit. Patients are not required to provide the information. While a patient's legal name remains in the documentation, there is an option to show the patient's preferred name in the banner of the screen display. This capability can be helpful for transgender or transitioning patients who have changed their name to reflect their self-identified gender but who have not changed their legal documentation.

The Joint Commission field guide on LGBT patient-centered care, which supports collection of sexual orientation and gender identity data, emphasizes that patient disclosure of sexual orientation and gender identity information must be voluntary and that privacy and security protections must be in place for all patient data.

One challenge facing EHR vendors is to ensure that clinical decision support appropriately reflects the needs of LGBT individuals. For example, if an EHR system identifies a patient as male, the clinical decision support software should not exclude transgender male patients from reminders to recommend mammography screening. "We're going back into the system and looking at more nuanced views to more intelligently drive clinical decision

support,” says Campbell.

Meaningful use criteria for healthcare organizations to receive payments for EHR use do not address the collection of sexual orientation and gender identity data. The Office of the National Coordinator for Health Information Technology (ONC) has proposed that certification criteria for health information technology systems be modified to include an optional module to collect sexual orientation and gender identity data; some groups, including the Fenway Institute, have recommended that ONC make the provision mandatory. (Fenway Institute and Center for American Progress)

## References

Fenway Institute, Center for American Progress. Do ask, do tell: a toolkit for collecting sexual orientation and gender identity information in clinical settings [online]. 2015 [cited 2015 Jul 19]. <http://doaskdotell.org>

Institute of Medicine (IOM). The health of lesbian, gay, bisexual, and transgender people: building a foundation for better understanding [online]. 2011 Mar 31 [cited 2015 Jul 19].

<http://iom.nationalacademies.org/Reports/2011/The-Health-of-Lesbian-Gay-Bisexual-and-Transgender-People.aspx>

---

## TOPICS AND METADATA

### Topics

[Accreditation](#)

:

[Laws, Regulations, Standards](#)

:

[Men's Health](#)

:

[Quality Assurance/Risk Management](#)

:

[Women's Healthcare](#)

### Caresetting

[Emergency Department](#)

:

[Hospital Inpatient](#)

:

[Hospital Outpatient](#)

:

[Physician Practice](#)

:

[Skilled-nursing Facility](#)

### Roles

[Allied Health Personnel](#)

:

[Clinical Practitioner](#)

:

[Health Educator](#)

:

[Healthcare Executive](#)

:

[Legal Affairs](#)

:

[Nurse](#)

:

[Patient/Caregiver](#)

:

[Patient Safety Officer](#)

:

[Pharmacist](#)

:

[Quality Assurance Manager](#)

:

[Regulator/Policy Maker](#)

:

[Risk Manager](#)

### Information Type

[Guidance](#)

---

## PUBLICATION HISTORY

Published October 1, 2015

