



**Know Your Rights: A Guide to Health Care Rights for  
Transgender New Yorkers**

Lesbian, Gay, Bisexual and Transgender Rights  
Committee

**June 2015**

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK  
CITY BAR

**COMMITTEE ON LESBIAN, GAY, BISEXUAL AND TRANSGENDER RIGHTS**

**KNOW YOUR RIGHTS: A GUIDE TO HEALTH CARE RIGHTS FOR TRANSGENDER NEW YORKERS**

**WHAT ARE MY HEALTH CARE-RELATED RIGHTS IN NEW YORK?**

When dealing with health care facilities and medical providers in New York State (including New York City), you should be aware that you have the following rights:

**NAME:** You have the right to use and be addressed by your preferred name, even if you have not obtained a court ordered name change and regardless of what steps you have or have not taken to transition.

**PRONOUN:** You have the right to be referred to by your preferred pronoun (ex. he/she) and title (ex. Mr./Ms.).

**HARASSMENT & DISCRIMINATION:** You have a right not to be verbally or physically harassed or denied treatment because of your gender identity/expression.

**HOSPITALS & PLACES OF PUBLIC ACCOMMODATION:**

Under the Patient Protection and Affordable Care Act (ACA), hospitals, clinics and insurance companies generally may not discriminate against consumers on the basis of sex, sexual orientation or gender identity/expression.

The New York State (NYS) Human Rights Law prohibits health care facilities that are places of public accommodation from discriminating against patients based on sex, which can include discrimination against transgender patients in certain circumstances. Courts and agencies have increasingly ruled that sex discrimination provisions prohibit discrimination against transgender people.

The New York City (NYC) Human Rights Law prohibits health care facilities that are places of public accommodation from discriminating against patients on the basis of gender, which is expressly defined to include gender identity, gender expression and appearance even if “different from that traditionally associated with” one’s sex assigned at birth.

**HOSPITAL PATIENT CARE POLICIES:** Hospitals may, but are not required to, have policies to insure that transgender patients are cared for in a way that respects their gender identity and expression. You should ask your hospital if it has adopted such policies and request a written copy. If your hospital has not yet adopted transgender patient care policies, you can direct them here for a model non-discrimination policy that addresses confidentiality, admitting and registration, room assignments, bathroom access for transgender patients: <http://www2.nycbar.org/pdf/report/uploads/20072589-Transgender-AffirmingHospitalPolicies.pdf>.

**WHAT IF I EXPERIENCE DISCRIMINATION BY A MEDICAL PROVIDER?**

You may be able to file a formal complaint with one or more of the entities listed below if you’ve experienced discrimination by a medical provider or health care facility within NYS or NYC. Many of these entities have explicitly requested to receive complaints from transgender individuals. It is extremely important to file such complaints so that the appropriate entity or governmental agency is on notice that there is a problem. Even if you do not feel your case has been adequately addressed by the entity to which you complain, creating a record of complaints may be helpful for future individuals if that record establishes that there is a pattern of unresolved discrimination.

In general, your complaint should name the health care facility, provider and all individuals involved in the incident or practice, the date(s) and time(s) of the incident or practice, all acts or omissions you believe were discriminatory, and any witnesses. You can contact each entity or agency directly for more information about its complaint process including the providers or facilities about which the entity accepts complaints. You should also keep in mind that strict deadlines for filing complaints may apply and failure to file within the deadlines may result in the agency being unable to take action on your complaint. Please refer to the chart below for where to file depending upon the nature of the complaint. For legal advice consult an attorney, who may recommend filing such a complaint or, in certain cases, pursuing litigation.

Authority	Accepts Complaints against/ Brief Description
<a href="#">NYS Dept. of Health, Office of Professional Medical Conduct</a>	Licensed medical providers including doctors and physicians assistants.
Hospital Patient Advocate or Ombudsman	A hospital.
<a href="#">NYC Commission on Human Rights</a>	Medical facilities that are public accommodations and are located in NYC. The deadline to file a complaint is one year from the incident.
<a href="#">NYS Division of Human Rights</a>	Medical facilities that are public accommodations. Enforces State Human Rights law which includes sex and disability provisions that protect transgender people. Deadline to file a complaint is within one year of the incident.
<a href="#">NY State Attorney General</a>	Medical facilities.
<a href="#">NYC Office Of the Public Advocate</a>	Medical Facilities owned by NYC, for example HHC hospitals. You can also contact your City Council member.
<a href="#">NYS Education Dept. Office of the Professions</a>	Many licensed health care providers including dentists, nurses, midwives, social workers, pharmacists.
<a href="#">NY State Department of Health</a>	Hospitals and diagnostic treatment centers.

<a href="#">Joint Commission</a>	Hospitals. The Joint Commission is an independent body that accredits hospitals and has a policy of non-discrimination.
<a href="#">New York State Office of Mental Health</a>	Mental Health or Substance Abuse Treatment facilities.
<a href="#">US Department of Health and Human Services.</a>	1) Sex discrimination complaints against health care providers/facilities covered by the ACA and 2) HIPAA improper disclosure of transgender status or other private health information by a medical provider or insurance companies. Deadline to file a complaint is within 180 days of the incident.
<a href="#">New York State Justice Center</a>	Facilities for substance abuse treatment, mental health treatment, nursing homes, and facilities for people with developmental disabilities.

### WHAT ARE MY HEALTH INSURANCE RIGHTS IN NY?

**FEDERAL AFFORDABLE CARE ACT:** The ACA offers some nondiscrimination protections based on sex, sexual orientation and gender identity/expression. As of January 1, 2014, an insurance company cannot deny an individual health coverage solely because the individual is transgender.

**FINDING INSURANCE:** Aside from employer– or school-sponsored insurance, you can apply for Medicaid or an affordable private plan through the New York State of Health Insurance Marketplace (Marketplace) -- an online platform that makes it easy to compare insurance plans that are available to individuals in New York State. Low income individuals may be eligible for subsidies from the federal government for coverage through the Marketplace. The online platform can be found here: <https://nystateofhealth.ny.gov/>.

**COVERING TRANSGENDER-RELATED CARE:** Health plans delivered or issued in NY State that cover mental health care must cover medically necessary treatment for gender dysphoria. If you are denied treatment because your insurer determines it is not medically necessary, you have a right to appeal. Self-funded plans are not subject to this requirement. As of March, 2015, NYS Medicaid covers hormone therapy and some gender-affirming surgical procedures for individuals 18 or older.

**APPEALING COVERAGE DENIALS FOR TRANSGENDER-RELATED CARE:** Just like filing complaints after experiencing discrimination, appealing negative decisions by your health plan is important. No matter what type of insurance you have, you have a right to a written notice stating the reason that your claim has been denied. The notice must also clearly explain your appeal rights, including timeframes for filing appeals. Filing an appeal is usually free, but can be very time-consuming. Also, you have the right to have someone represent you in your appeal. Contact your health plan directly to ask for a written copy of its appeal procedures.

**WHAT GENDER MARKER TO USE WITH YOUR HEALTH PLAN:** When enrolling in a plan through the Marketplace, you must use the gender marker on file with the U.S. Social Security Administration. Whether to change your gender marker with your existing plan is a personal decision. Factors you may

consider include: potential out-of-pocket costs for hormones or other sex-specific treatment that may no longer be covered; potential savings for certain hormones or exams that may become covered; or keeping your gender marker consistent across your various IDs.

To file a complaint against a specific insurance company, contact the NYS Dept. of Financial Services at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>.

To learn more about your health care and health insurance rights in NYS, contact the Community Health Advocates (NYS's consumer assistance program) at (888) 614-5400.

Finally, several transgender legal services organizations are located in NYS, including:

City Bar Justice Center LGBT Advocacy Project, 212-626-7383,  
<http://www2.nycbar.org/citybarjusticecenter/projects/lgbt-advocacy-project>

New York Legal Assistance Group LGBTQ Law Project, (212) 613-5000 x5107, [www.nylag.org/lgbt](http://www.nylag.org/lgbt)

Sylvia Rivera Law Project, (212) 337-8550, <http://srlp.org/>

Organization for Transgender Health Empowerment Resources (OTHER), [info@other-nyc.org](mailto:info@other-nyc.org)

Transgender Legal Defense & Education Fund, (646) 862-9396, <http://transgenderlegal.org/>

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