Providing Culturally Competent Primary Care for the LGBTQ+ Population

Presented by:
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Disclosure

Today's faculty, as well as CE planners, content developers, reviewers, editors, and presenters, have reported that they have no relevant financial relationships with any commercial interests.





Speaker bio

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Erin Dewberry is a medical malpractice attorney with the law firm of Wiggins Sewell and Ogletree. She attended the University of Oklahoma College of Law on an academic scholarship. Since receiving her degree, Ms. Dewberry has worked exclusively in medical malpractice defense, including the defense of hospitals, physicians, nurses, paramedics, long term care facilities, nursing homes and assisted living centers. She has vast experience representing health care professionals and is a regularly featured speaker on issues such as Informed Consent, Health Care Proxy, Medical Charting, Dealing with Disruptive Patients and Deposition Strategy.



Ms. Dewberry also has experience first chairing catastrophic injury claims as lead counsel. Among her achievements, she has been recognized by her peers as an Oklahoma Super Lawyer "Rising Star", "10 Best Attorneys" under 40 (2019); "10 Best Attorneys" in Personal Injury (2020); "Americas Top 100 Civil Defense Litigators" (2020); and has an "AV" rated attorney by Martindale-Hubble.





Speaker bio

Laura Nordberg, RN, MBA, JD, CPHRM, Senior Risk Solutions Consultant, MedPro Group (Laura.Nordberg@medpro.com)

As a senior risk solutions consultant for MedPro Group, Laura Nordberg identifies issues and solutions pertinent to risk management and patient safety for insureds.

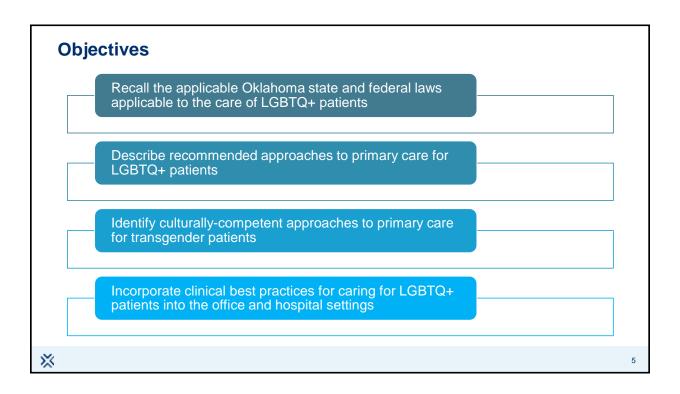
Laura is an attorney and a registered nurse. As a registered nurse, she has cared for patients in acute renal, medical/surgical, high-risk obstetrics, labor and delivery, surgery, critical care, and ambulatory care settings. As an attorney, Laura was a malpractice defense attorney in private law practice, representing hospitals and healthcare providers.

In her most recent position before MedPro Group, Laura was Assistant Counsel for Continuing Care at Trinity Health. During her 22-year tenure at that health system, Laura also served as Claims Manager and Loss Control Director, where she focused on risk assessments and risk modification programs for physicians, hospitals, and post-acute care providers.

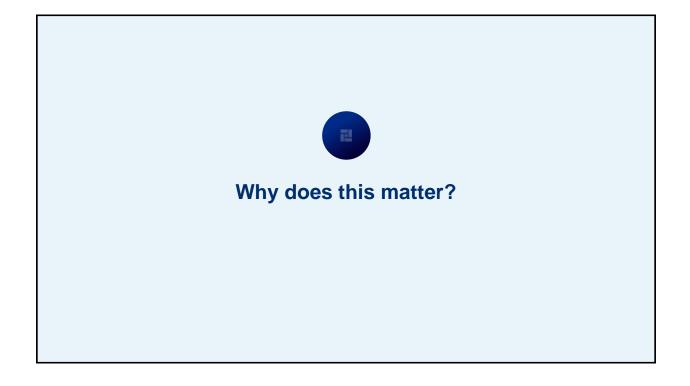
Laura obtained a Bachelor of Science in Nursing at Oakland University and a Masters of Business Administration from Michigan State University. She earned her Juris Doctor from Wayne State University. Laura was recently accepted into the Doctoral program in Education at Johns Hopkins University. She is a member of the Indiana and Michigan Societies for Healthcare Risk Management (ISHRM and MSHRM), the American Society for Healthcare Risk Management (ASHRM), and the American and Michigan Bar Associations.



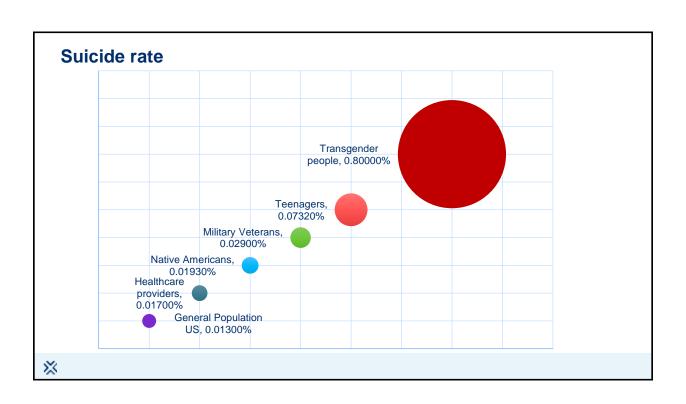














Background

- 10% of the population identify as LGBTQ+
- 20% of millennials identify as LGBTQ+ -- but see also senior population trends
- · Institute of Medicine
 - · Requires more evidence-based data
- The Joint Commission
 - Published a field guide for cultural competencies for LGBTQ+
- Healthy People 2020
 - Considers LGBTQ+ health an objective to address
- Empirical literature is scant
- No medical specialty board or additional certification







Background (continued)

- · Impact of LGBTQ+ discrimination
 - · Affects income and ability to maintain health insurance
 - · Limits access to high-quality healthcare
 - · Contributes to
 - Poor mental health
 - · Substance abuse
 - Risky sexual behaviors
 - Suicide attempts
 - · Affects ability to maintain long-term relationships
 - Chances of getting HIV and sexually transmitted diseases
 - · Harder to be open about sexual orientation
 - Increases stress
 - · Limits social support
 - · Negatively affects health







Health disparities

- Difficult for LGBTQ+ patients to reveal sexual orientation to clinicians
 - Perceived or actual biases of providers
 - Actual discrimination
- Clinicians feel uncomfortable asking about sexual orientation, gender identity
 - · May result in substandard care
- LGBTQ+ patients may not be honest with healthcare providers
 - · Leads to inappropriate care
 - · Delays in care
 - No care (avoid care)
 - · Not feeling welcome within the healthcare setting
 - · Health insurance will not provide coverage
 - Gender-affirming care may be difficult to find in some states





Barriers faced by transgender individuals

- 48% have delayed or avoided medical care
 - Compared with 29% of LGB individuals
 - Compared with 17% of heterosexuals
- 61% were victims of physical assault
- · 64% victims of sexual assault
- 19% have been refused healthcare because of their status
- 57% were rejected by their families
- 19% have experienced homelessness
- 47% have attempted suicide







Deficits in education and training of healthcare professionals

Medical schools and nursing schools have historically devoted little content curricula regarding LGBTQ+ patient care

Health care employers have done little in the past to incorporate the care of the LGBTQ+ population into staff competencies

Healthcare professionals have an ethical and legal responsibility to uphold and maintain a standard of care across all cultures for all people, but educators and faculty members are still ascending the learning curve





Ethical, legal and financial challenges

Healthcare professionals' own beliefs and conclusions

Many health insurers deny coverage for gender dysphoria treatment

Patient treatment before attaining adulthood (puberty blockers)

EMRs typically hardwired for biological gender

Patients face challenges obtaining gender-affirming legal documents

Lack of policy addressing quality of care for the LGBTQ+ patient

Trans-regret or de-transgender process – source of controversy

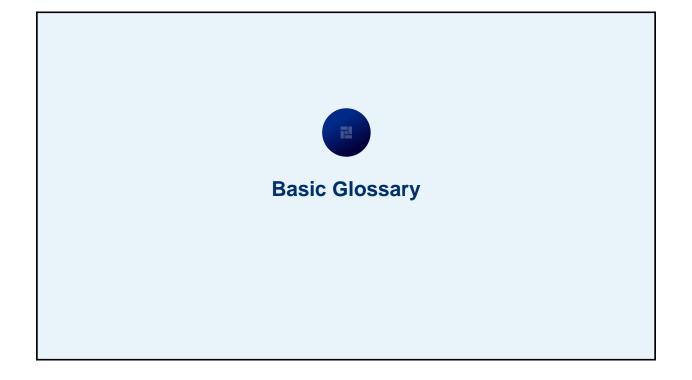




Position Statements by Professional Associations

- American Medical Association (AMA)
 - Supports ban on LGBTQ+ conversion therapy
 - November 2019
 - In addition to advocating for policy change on a federal level, AMA also plans to develop model laws to guide state legislatures
- American Dental Association (ADA)
 - Developed a Diversity and Inclusion Plan (2020-2025) to support progress across the nation to be more inclusive
- American Nursing Association (ANA)
 - Supports efforts to defend and protect the human and civil rights of all members of LGBTQ+ population and advocates for rights of all members of the LGBTQ+ population
 - Efforts to ban puberty blocking therapy are opposed by:
 - AMA, AACAP, AAP, APA (2), ACOG, WPATH and The Endocrine Society





	LGBTQIA+		
L	Lesbian	W. a	
G	Gay		.411
В	Bisexual		au V.
T	Trans, Transgender, Transsexual (not in common usage)		
Q	Questioning, Queer		
- 1	Intersex		
Α	Asexual		
+	All other forms of gender identity or fluid gender identity; can also include members of other communities, including allies—people who support and rally the LGBTQIA+ cause even though they don't identify with the community itself		



Non-Western Gender Diversity Terms Latinx/Latine (gender-neutral alternatives to Latina/Latino) Two Spirit (Native American) Fa'afafine (third gender in Samoan culture) Hijra (third gender in India that has obtained legal recognition) Mahu (Hawaiian) Maohi (Tahitian; individuals of an undetermined or third gender)



LGBTQ+ terminology and concepts

Gender or gender role

- Traditional behavioral differences between men and women as defined by a culture
- The way a person acts, dresses, speaks, and behaves to show gender

Gender nonconforming

- People who express their gender differently than what is culturally expected
- They are not necessarily transgender, i.e., boy playing with dolls

Gender identity

- A person's sense of his/her/their own gender
- "Do I feel I am male or female?"
- "Does my gender identity change?"





LGBTQ+ terminology and concepts (continued)

- Sexual orientation indicates to which gender you are sexually or romantically attracted
- Sexual orientation and gender identity are separate concepts
 - A transgender person might identify as straight, gay, lesbian, bisexual, neither, other, etc.
 - · Gender identity may evolve over time; may be fluid
- Genderqueer
 - Used by individuals who do not identify as either male or female, or identify as both male and female





LGBTQ+ terminology and concepts (continued) Sex Genderfluid Cisgender Birth sex A person whose sense of personal identify and gender identity corresponds to their birth sex Being flexible with one's Sex assigned to a child at birth based on Biology and anatomy gender expression through clothing or interests, separate from gender identity determines male, genitalia female, or intersex Genderqueer Lesbian and gay Bisexual Gender nonconforming •Someone who is open about their sexual orientation, separate from gender identity; nonbinary or "Enby (NB)" Desiring an intimate relationship with someone of the same Desiring an intimate or by choice does not conform to gender-based expectations of society someone of either gender Transgender Pansexual A person whose gender identity differs from the one assigned by their biological gender Not limiting sexual partner choice regarding biological sex, gender, or gender identity Ж 20



LGBTQ+ terminology and concepts (continued)

- Transgender
 - People who identify and/or express their gender as the opposite of their biologic birth sex
 - People who define themselves as a gender outside their birth sex or construct of male/female altogether – i.e., having no gender, expressing gender fluidity, or having elements of multiple genders
 - Transgender persons choose to present themselves to the world in a variety of ways
 - May medically or surgically alter their body to affirm their gender identity
 - May change hairstyle and dress
 - May make no changes to their appearance
 - May change their given name





Applicable federal and state laws and regulations



Oklahoma Laws and Regulations

Anti-Discrimination



25 Okl. St. § 1402

It is a discriminatory practice for a person to deny an individual the full and equal enjoyment of the goods, **services**, facilities, privileges, advantages, and accommodations of a "**place of public accommodation**" because of race, color, religion, **sex**, national origin, age, or disability.





Oklahoma Laws and Regulations

- State Question 802 "Oklahoma Medicaid Expansion Initiative"
- Voters narrowly approved initiative to increase Medicaid access for Oklahomans 18 to 65 with incomes at or below 133% of the federal poverty line to 138% at or below the federal poverty line.

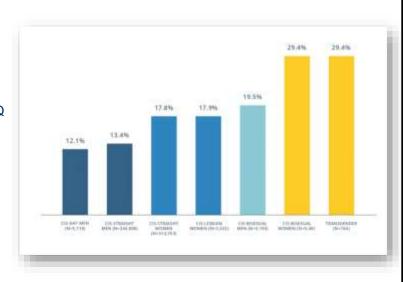
Family size	Federal Poverty Level (2020)	138% of Federal Poverty Level (2020)
Individual	\$12,490	\$17,236
Family of 2	\$16,910	\$23,335
Family of 3	\$21,330	\$29,435
Family of 4	\$25,750	\$35,535





Access to Healthcare

- Poverty among the LGBTQ community is 22%
- Poverty among cisgender straight people is 16%



http://williamsinstitute.law.ucla.edu/publications/lbt-poverty-us

Federal Laws and Regulations

Affordable Care Act § 1557

- Interpreting Section 1557's sex nondiscrimination protections to include explicit protections for:
 - · Transgender individuals on the basis of gender identity
 - Lesbian, gay, and bisexual (LGB) individuals on the basis of sex stereotypes
- No new religious exemption
- · Applies to:
 - · Hospitals that accept Medicare
 - · Doctors who receive Medicaid payments
 - · Federal programs like Head Start





Affordable Care Act

Section 1557

- The final rule on Section 1557 codifies substantial protections for transgender people:
 - Refusal to use correct name and gender pronouns constitutes harassment on the basis of sex.
 - Health care providers <u>must</u> provide medically necessary health care services to transgender individuals, within the provider's scope of practice.





Affordable Care Act

Section 1557

- Prohibits health insurance plans from excluding the health care needs of transgender people.
- While the majority of public and private health care providers contain exclusions that deny transgender people coverage for medically necessary care related to gender transition, 1557 prohibits categorical exclusion of all services related to gender transition.
 - <u>Example</u>: Denying coverage for mental health services related to gender transition while covering them for depression.





Affordable Care Act

- Clarifies that plans cannot limit access to sex-specific services based on sex assigned at birth, gender identity, or recorded gender.
 - Example: Cannot deny access to treatment for prostate cancer to a transgender woman.



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Equal Protection Clause

- Used to challenge Trump Administration's rollback of anti-discrimination policies from the ACA protecting the LGBTQ community.
 - BAGLY v. HHS, 557 F. Supp. 3d 224
 - Bostock v. Clayton County, 140 S. Ct. 1731
- Biden Administration reversed Trump Administration's rollback before cases resolved.





Civil Rights Act of 1964

- On June 15, 2020, the U.S. Supreme Court issued a landmark 6-3 decision affirming that the prohibition on sex discrimination in Title VII of the Civil Rights Act of 1964 extends to discrimination based on sexual orientation and gender identity.
- ACA does not specifically mention sexual orientation and gender identity discrimination, Title VII of the Civil Rights Act provides the necessary context.



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American Medical Association

- Opinion 9.12 Patient-Physician Relationship: Respect for Law and Human Rights
 - Physicians who offer their services to the public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, gender identity, or any other basis that would constitute invidious discrimination.



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Health Insurance Portability and Accountability Act (HIPAA)

45 C.F.R. 164.510(b)

- HIPAA permits covered entities to share with an individual's family member, other relative, close personal friend, or any other person identified by the individual, the information directly relevant to the involvement of that person in the patient's care or payment of health care.
- The list of potential recipients of PHI under the regulation is in no way limited or impacted by the sex or gender identity of either the patient or the potential recipient.



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Health Insurance Portability and Accountability Act (HIPAA)

- The HHS Office for Civil Rights released new notice and guidance on gender affirming care, civil rights, and patient privacy in March 2022.
- The OCR restated that HIPAA prohibits the disclosure of protected health information (PHI) about gender-affirming care without the patient or guardian's consent, except in limited circumstances.
- PHI includes the majority of individually identifiable health information, with some exceptions.



https://www.hhs.gov/sites/default/files/hhs-ocr-notice-and-guidance-gender-affirming-care.pdf https://www.healthaffairs.org/do/10.1377/forefront.20220307.303712/

Title IX

- Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any education program or activity offered by a recipient of federal financial assistance.
- The U.S. Department of Education's Office for Civil Rights issued a Notice of Interpretation in June 2021 clarifying that it will enforce Title IX's prohibition on discrimination on the basis of sex to include (1) discrimination based on sexual orientation; and (2) discrimination based on gender identity.



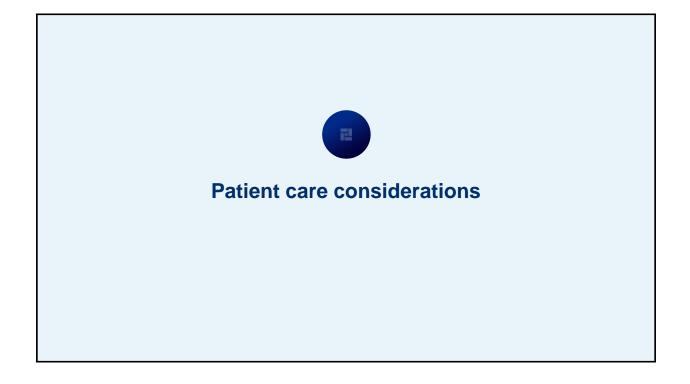
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The Equality Act

- The Equality Act was introduced and passed in the House of Representatives in February 2021. The Senate has not voted, the latest action occurred in March 2021 when the Senate Judiciary Committee held hearings on the bill.
- The bill defines and includes sex, sexual orientation, and gender identity among the prohibited categories of discrimination or segregation.
- The bill would prohibit an individual from being denied access to a shared facility, including a restroom, a locker room, and a dressing room, that is in accordance with the individual's gender identity.



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Cultural competence

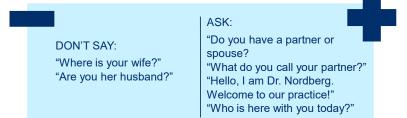
- · Reflect the terminology back to patients that they themselves use.
 - · Avoid "transsexual", "queer" unless the patient prefers it.
 - · Ask which pronouns they prefer: She/Her/Hers He/Him/His They/Them/Theirs Ze/Hir/Hirs.
- Don't ask about sexual history or transition history when it's not pertinent.
 - If it is relevant, establish a good rapport with the patient before asking.
 - Ask open ended questions instead of questions requiring a yes/no answer.
- Don't make assumptions about sexual orientation or gender identity. Patients might consider themselves to be straight, gay, lesbian, bisexual or other.
- Don't make assumptions about significant others. Patients may have male, female or transgender partners or spouses.
- Don't appear shocked by responses. Keep a neutral response to answers.
- Don't examine genitalia unless there is a legitimate reason to do so.
- Don't invite other medical professionals into the exam room for a "teaching case".





Judgments and assumptions

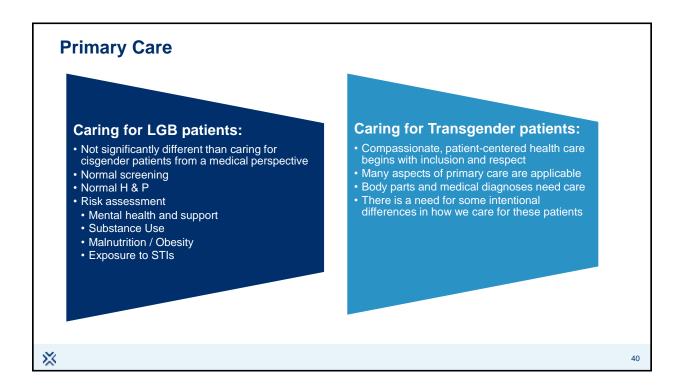
- Avoid asking questions that imply that there is a right or wrong answer.
 "You don't have partners outside marriage, do you?"
- Avoid using judgmental terms, such as "promiscuous", "wrong", "bad"
- Be aware of your body language and facial expressions. Are you maintaining eye contact? Shaking your head "no"? Avoiding looking patients in the eye? Ignoring the presence of a significant other in the room?
- If you don't know the patient's spouse or partner, use terms that are gender-neutral.



 Even if you feel uncomfortable, or if you don't participate in the same behaviors as your patients, you can still provide appropriate care.









Caring for Transgender Patients: Universal Needs

- · Primary care is primary care
- · Wellness and cancer screening based upon body parts, organs and tissues
- Medical protections based upon body parts, organs and tissues (shielding)
- · Conduct an organ inventory (history) and screen accordingly
- Immunizations history (consider PREP for HIV)
- · BOLO for needs and additional services or counseling
 - Substance Use
 - · Mental health screening, including suicide risk screening
 - · Malnutrition / Obesity
 - · Sexual practices risks and safe sex education, STIs
- · Seek out training and experience in transgender-specific care
- · Not all transgender patients or non-binary patients have gender dysphoria



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Caring for Transgender Patients: Communication

- · Initial contact: phone and website
 - · Legal name (insurance), preferred name and pronouns
 - · Gender at birth and gender identity
 - · Post Nondiscrimination Policy or Mission Statement language
- · Create a welcoming, affirming environment
 - · Patients assess the office for signs of affirmation
 - · Welcome packet, intake forms, consent forms and documents that are gender-neutral
 - · Greeting of visitors and significant others
- Display posters, photographs, etc., with images that reflect LGBTQ+ lives, e.g., same-sex couples, rainbow flags
- Use gender-neutral medical questions
- · Avoid colloquial terms

Will I be accepted here?

Do I see other patients like me receiving care here?





Caring for Transgender Patients: Office Environment

- Offer unisex or gender-neutral bathrooms
- Provide inclusive waiting rooms; monitor for safety
- · Conference rooms to hold extended family and allies
- · Rooms allowing for confidential conversations
- Security of EMR or paper records

Will my information be kept confidential? Will I be safe in this environment?



Caring for Transgender Patients: History

- Sex assigned at birth SAAB, AFAB, AMAB
- Gender identity
- Reason for visit / care plan (scope of care)
- History of medical problems, past surgeries
- Medications, including hormones
- · Family history
- Domestic partnership status
- Transition history, if pertinent

- Mental health history
- · Substance use
- Managing pregnancy and lactation history-related questions
- · Discussing health risks
- Follow your patient's lead How do they describe themselves? Their partners?
- Ask patients what terms they prefer
- Apologize if you make a mistake
- Avoid derogatory terminology

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Caring for Transgender Patients: Physical exam

Gowning and draping

- Let patient wear or use as they prefer
- Use XL gowns for all in a neutral color
- Tell patient where extra drapes are located

Chaperone use

Body parts require screening, care

Explanation before, during, after

Specimen collection

Avoid "teaching case"

Avoid examination of genitalia for reasons of curiosity



Caring for Transgender Patients: Treatment

Keep within your scope of your practice specialty and training

- Gender-affirming medications
 - · Puberty suppression for adolescents
 - · HRT for adults at age of majority
- · Timing of treatment
 - · Start at Tanner II stage (puberty suppression)
 - · Risks of puberty suppression
 - · Lack of tissue for trans females
 - · Sterility for trans females
 - Bone demineralization for trans females
 - · Social delays for both trans males and trans females compared to their peers

- Gender-affirming surgeries
 - · Chest reconstruction and genital reconstruction are specialty practices
 - · Facial feminization
 - Caution: referral likely needed
 - · Look for Centers of Excellence, academic medical centers, and pediatric specialty programs in your geographical area
 - Think long-term surgery plan, not just one isolated surgery

Do not needlessly refer your patients away



X Don't overlook behavioral health screening, support and treatment!

Risks of gender-affirming medications

- Female hormones (estrogen): coagulation risks No smoking
- Male hormones (testosterone)
 - · Elevated liver enzymes
 - · Increased appetite
 - · Increased risk of diabetes
 - Sleep apnea
 - Polycythemia
 - Acne
 - · Decreased ability to cry or be emotive
- Progesterone: enhances breast growth
- Spironolactone: anti-androgen (male hormone suppressor)
- Bicalutamide: anti-androgen (male hormone suppressor)
- Lupron: GnRH agonist (hormone suppressor used for puberty suppression)



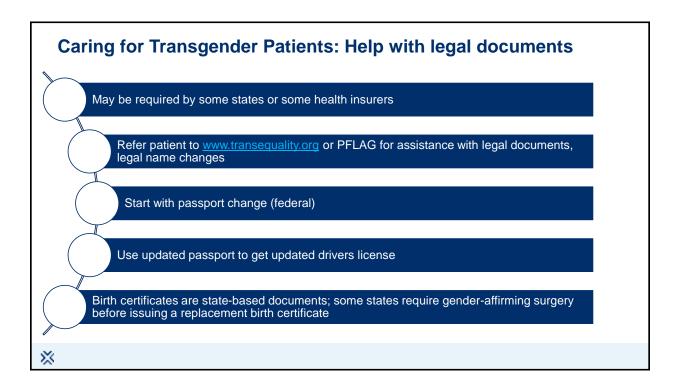


Caring for Transgender Patients: Billing

- · Codes for regular medical care
- Codes for gender affirmation care: gender dysphoria DSM-5
 - There are lots of codes for gender affirmation care but they have to be used correctly or the claim will be rejected for a treatment/sex mismatch if the EHR does not include gender identity and the patient has not had the option to change their sex on their ID documents.
- · Other billing codes
 - · Endocrine Disorder NOS
 - · Anxiety Disorder due to underlying physiologic condition
- · Costs of care
 - · Communicate costs associated with care plan in advance
 - · Labs: consider in-house or lab contracts
 - · Gender affirmation medications
- Document both gender at birth and gender identity
- Legal documents are usually not required in order to provide care









Hospital care

Document patient preferences for communication

Identification

- EMR
- ID Bands example: Nordberg (he), Laura (Lawrence). The patient's legal name is Laura Nordberg. He uses male pronouns and his chosen name is Lawrence.

Model inclusive and respectful behavior

Educate other members of the healthcare team

Room assignment

• Do not assume that a transgender patient should automatically be placed in a private room

Access to restrooms

- Transgender and gender-nonconforming patients will have access to restrooms consistent with their gender identity
- Unisex restrooms



Care via Telemedicine

- May be requirements by some states or some health insurers
- Plan for lengthy initial intake assessment
- Confirmation of patient location in a state where you are licensed
 - · Patient affidavit and signature
 - Proof of patient's physical location within a state where you are licensed











Risk management tips

Don't assume:

- · All patients are heterosexual
- All patients use traditional labels
- · Sexual orientation is based on appearance
- Sexual identity is based on behavior (or partner's gender)
- Sexual behavior is based on sexual identity
- · Sexual behavior or identity hasn't changed since last visit
- Transgender patients are gay, bisexual, or lesbian
- · Gender identity is "only a phase"
- Test:
 - Persistent (continues over time)
 - Consistent (does not change)
 - Insistent (important to the patient; something they can't avoid / abandon)



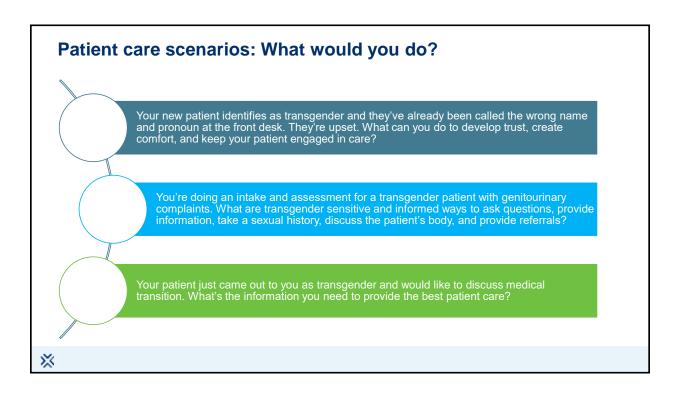
Risk management tips (continued)

- Use current terminology
- Involve the patient in the decision-making
- · Learn and use evidence-based care
- Remain cognizant of your own biases
 - Sexuality, gender, and sexual anatomy
 - Acknowledge that your bias may impact your communication
 - Verbal, nonverbal, and written
 - Work diligently to remove any unintended bias
- Advocate for your patients!

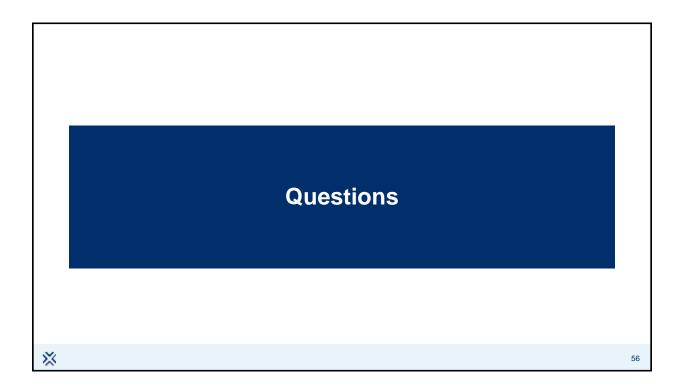












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MedPro Group Resources

- Risk Resources: LGBT+-Inclusive Care
 https://www.medpro.com/documents/10502/2824311/Risk+Resources_LGBT-Inclusive+Care.pdf
- Providing Culturally Competent Care for LGBT+ Patients https://www.medpro.com/culturally-competent-care-lgbt-patients





- American Medical Association https://www.ama-assn.org/delivering-care/population-care/advocating-lgbtq-community
- Centers for Disease Control and Prevention https://www.cdc.gov/lgbthealth/index.htm
- Endocrine Society Clinical Guidelines https://www.endocrine.org/advocacy/position-statements/transgender-health
- Endocrine Treatment of Transsexual Persons https://pubmed.ncbi.nlm.nih.gov/19509099/
- Lambda Legal https://www.lambdalegal.org/
- National LGBTQIA+ Health Education Center https://www.lgbtgiahealtheducation.org/
- World Professional Association for Transgender Health (WPATH) https://www.wpath.org/publications/soc
- The Fenway Institute https://fenwayhealth.org
- U.S. Department of Health and Human Services https://www.hhs.gov/programs/topic-sites/lgbtg/index.html
- Center of Excellence for Transgender Health https://transhealth.ucsf.edu/trans
- Family Acceptance Project https://familyproject.sfsu.edu



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- Sage HRC Long Term Care Equality Update. June 2021. https://www.sageusa.org/resource-posts/long-term-care-equality-index-2021/
- GLMA Provider Directory https://glmaimpak.networkats.com/members_online_new/members/dir_provider.asp
- American Medical Association: Is your practice transgender friendly? 7 things to consider. April 2015 https://www.ama-assn.org/delivering-care/population-care/your-practice-transgender-friendly-7-things-consider
- Human Rights Campaign Transgender Affirming Hospital Policies. May 2016. https://www.hrc.org/resources/transgender-affirming-hospital-policies
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