



Gender Affirming Care

Note: The information on this web page is for informational purposes only and is not legal advice. The California Attorney General does not represent individuals in legal matters. You may consider consulting an attorney to better understand your rights.

California Anti-Discrimination Laws

California Civil Code section 1798.301 provides that “gender-affirming healthcare services, and gender-affirming mental healthcare services are rights secured by the Constitution and laws of California.” The Legislature further provided that “[i]nterference with these rights. . . is against the public policy of California.” (*Ibid.*)

California law prohibits discrimination based on sexual orientation or gender identity, gender expression, and transgender status, in healthcare services and coverage. Healthcare providers and insurers covered by California law cannot discriminate against a patient for being any of the following: transgender, a person diagnosed with gender dysphoria, nonbinary, gender nonconforming, or intersex.¹

The Right to Medical Treatment

Under California law, gender-affirming care is defined as “medically necessary healthcare that respects the gender identity of the patient, as experienced and defined by the patient.”² In California, you have the right to receive medically necessary gender-affirming care or any other medically necessary healthcare without discrimination regardless of your sex, gender identity, gender expression, transgender status, diagnosis of gender dysphoria, or intersex status.³

For all healthcare, you have the right to receive:

- The emergency healthcare you need to determine if you have an emergency medical condition, as well as the emergency healthcare you need to relieve or eliminate that emergency medical condition, provided the hospital has the personnel and facilities to provide such healthcare.⁴ If the hospital does not have the personnel and facilities to provide the necessary emergency healthcare, it may be required to transfer you to a medical facility that does.
- The medically acceptable standard of care from your provider.

1 Unruh Civil Rights Act, Civ. Code, § 51; Gov. Code, §§ 11135, 12926; Cal. Code Regs., tit. 2, § 14000 et seq. The statutory classifications are construed as simply illustrative, and not restrictive, of the kinds of characteristics protected by the Act. See *Koebke v. Bernardo Heights Country Club* (2005) 36 Cal. 4th 824, 839; *Minton v. Dignity Health* (2019) 39 Cal. App.5th 1155, 1164.

2 Civ. Code § 1798.300(c) (“Gender-affirming care services” and “gender-affirming mental health services” have the same meaning as defined in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.”); Welf. and Inst. Code § 16010.2(b)(3); Code Regs. Tit. 10, § 2561.2.

3 Unruh Civil Rights Act, *supra*, Civ. Code, § 51; Gov. Code, *supra*, § 11135; Code Regs. Tit. 10, *supra*, § 2561.2.

4 42 U.S.C. § 1395dd; Health & Saf. Code, §§ 1317, subd. (a)-(b), 1317.1.

Obligations of Insurers and Healthcare Plans

Insurers and healthcare plans covered by California law are prohibited from denying an individual a plan contract, health insurance policy, or coverage for a benefit included in the contract or policy, based on a person's sex.⁵ This includes medically necessary gender-affirming care for gender dysphoria.⁶ Insurers and healthcare plans must also cover medically necessary treatment for gender dysphoria as part of the requirement to cover behavioral health conditions under California law.⁷ This includes all services identified in the most recent edition of the World Professional Association for Transgender Health (WPATH) Standards of Care.⁸

If an in-network provider is unavailable to provide services according to the geographic and timely access standards, the insurer must arrange for an out-of-network provider to provide the services.⁹ While insurers can deny coverage on a case-by-case basis, they must provide a reason and instructions on how to file a grievance to appeal the denial.¹⁰ If your health plan or insurer refuses to cover certain services related to gender-affirming care, you should contact the California Department of Managed Health Care or the California Department of Insurance. Contact information for these departments is located at the end of this document. You may also want to consult a lawyer or patient advocate.

An insurance company shall not terminate or refuse to issue or renew professional liability insurance or increase the premium or deductible for healthcare providers based solely on their provision of gender-affirming care, including based on any legal action taken against the provider by another state for providing such care.¹¹

California Shield Law and other Protections for Patients and Providers

California protects individuals and families accessing gender-affirming care in our state from other states' investigation and prosecution through a series of "shield laws." Shield laws are legal protections for patients, healthcare providers, and people assisting in the provision of certain healthcare services from the reach of other states with civil, criminal, and professional consequences related to that same care. California employees, contractors, and agents may not cooperate, provide information, or expend resources in furtherance of an investigation of an individual by another state, or another state's out-of-state agency or department, for exercising or assisting another in exercising a right to gender-affirming care that is lawful in California and performed in California.¹² Examples include but are not limited to:

5 Ins. Code § 10140; "Sex" is defined as "including[ing] a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with a person's assigned sex at birth." *See*, DHCS, All Plan Letter 24-017 (Dec. 5, 2024), <https://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL%202024/APL24-017.pdf>.

6 Health & Saf. Code, § 1367.043; Ins. Code, §§ 10133.13, 10133.14; Welf. & Inst. Code, § 14197.09; Cal. Code Regs. Title 10 § 2561.2; Health & Saf. Code § 1365.5; Ins. Code, *supra*, § 10140; *See*, Cal. Dept. Ins., Guidance SB 923: 1 (Sept. 1, 2024), <https://www.insurance.ca.gov/0250-insurers/0500-legal-info/0200-regulations/HealthGuidance/upload/SB-923-Guidance-re-Trans-Inclusive-Health-Care-for-Individuals-who-Identify-as-Transgender-Gender-Diverse-or-Intersex-Accessible.pdf>.

7 Health & Saf. Code, § 1374.72; Ins. Code, §§ 10144.5, 10144.52.

8 Cal. Code Regs. Title 28 § 1300.74.72.01; Title 10 §2562.02, subd. (c).

9 Ins. Code § 10144.5, subd. (d); 10 Code Reg. §§ 2240.1, subd. (e), *supra*, 2561.2.

10 Health & Saf. Code § 1368.

11 Ins. Code, § 11589.1.

12 Pen. Code, § 13778.3; *see also id.* at § 1334.2, subd. (f) (judges may not order a witness to appear in an out of state criminal prosecution based on laws authorizing a criminal penalty for performing, receiving, supporting, or aiding in gender affirming care); *see also* Civ. Pro. Code, § 2029.300, subd. (e) (a subpoena may not be issued if based on violation of another state's laws that interfere with the right to allow a child to receive gender-affirming healthcare, or if

- State and local law enforcement are generally prohibited from arresting or assisting with extraditing anyone in connection with lawfully providing, facilitating, or receiving gender-affirming care in California.¹³
- State and local law enforcement employees and entities are prohibited from cooperating with, providing information to, or using public resources to aid investigations or proceedings related to providing gender-affirming care in California.¹⁴
- A subpoena may not be issued if it is based on violation of another state's laws that interfere with the right to allow a child to receive gender-affirming healthcare, or if the state subpoena would require the disclosure of gender-affirming healthcare services related to another state's civil action penalizing that care.¹⁵
- A person may institute a civil action for injunctive, monetary, or other appropriate relief against someone who engages in abusive litigation that infringes on or interferes with gender-affirming care in California.¹⁶

Healthcare practitioners are also protected from:

- Denial of application for licensure or suspension, revocation, or other discipline based on the performance, recommendation, or provision of gender-affirming care by medical boards that certify health professionals.¹⁷
- Denial or restriction of staff privileges based on any out-of-state action against a healthcare practitioner for providing gender-affirming care.¹⁸

Privacy Protections

Under the federal Health Insurance Portability and Accountability Act (HIPAA) and California privacy laws, you have the right to keep your medical records and history private.¹⁹ Healthcare providers, health plans, and insurance companies cannot share your personal health information (PHI) with anyone, except in limited circumstances.²⁰

the subpoena would require the disclosure of gender-affirming healthcare services related to another state's civil action penalizing that care).

13 Pen. Code, § 13778.3; *see also id.* at § 1334.2, subd. (f) (judges may not order a witness to appear in an out of state criminal prosecution based on laws authorizing a criminal penalty for performing, receiving, supporting, or aiding in gender-affirming care); Pen. Code, § 819, subd. (b) (prohibition on extradition); *see also* fn. 9, *supra*.

14 Pen. Code, § 13778.3, subd. (b).

15 Code Civ. Proc., § 2029.300, subds. (e) and (a).

16 Civ. Code § 1798.303.

17 Bus. & Prof. Code, §§ 850.1, 852.

18 *Id.* at § 805.9.

19 42 U.S.C. §§ 1320d-1320d-9); Civ. Code, § 56 et seq.

20 *Ibid.*

Additional Protections

California's Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents Bill of Rights prohibits discrimination against individuals in long-term care facilities based on their actual or perceived sexual orientation, gender identity, gender expression, or HIV status.²¹

California requires that foster youth, including transgender, nonbinary, intersex, and gender expansive youth in foster care, have access to medically necessary gender-affirming care, including gender-affirming mental healthcare, based on prevailing standards of care.²²

Transgender and intersex youth detained in California juvenile facilities have the right to have access to medical and behavioral health providers qualified to provide care and treatment to transgender and intersex youth.²³

Additional Resources

California has a number of resources for transgender people and the broader LGBTQ+ community:

- California Department of Justice's [Health Equity and Civil Rights webpage](#)
- California Department of Justice's [LGBTQ+ Discrimination Rights webpage](#)
- [Transgender, Gender Diverse, and Intersex \(TGI\) Inclusive Care Act](#)
- California Department of Health Care Services' [Medi-Cal State Inmate Program and Medi-Cal County Inmate Program webpage](#)
- California Civil Rights Department's [The Rights of Employees Who Are Transgender or Gender Nonconforming fact sheet](#)
- California Department of Insurance's [Equal Access to Health Insurance: Coverage for Transgender Californians webpage](#)
- California Department of Managed Health Care's [TGI Care webpage](#)

21 Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents' Bill of Rights, Health & Saf. Code, §§ 1439.50-1439.54; Cal. Code Regs., tit. 22, § 72517.

22 Welf. & Inst. Code, § 16001.9, subd. (a)(22)(A); Welf. & Inst. Code, § 16010.2, subd. (b)(1).

23 Cal. Code Regs., tit. 15, § 1352.5(b).