



### **Policy & Protocol for Serving Transgender Patients**

In its broadest sense, the transgender community encompasses anyone whose identity or behavior falls outside of stereotypical gender norms. Transgender has become an “umbrella” term that is used to describe a wide range of identities and experiences, including pre-operative, post-operative, and non-operative transsexual people, male and female cross-dressers and those referred to as “transvestites,” “drag queens,” or “drag kings”. The term transgender can also refer to intersex individuals, and men and women whose appearance or characteristics are perceived to be gender-atypical.

In order to meet the needs of this diverse patient population, the Transgender Health Initiative of New York (THINY) recommends the following:

1. Hospitals and other health care providers should adopt and implement a transgender non-discrimination policy. An effective and well understood non-discrimination policy is essential to ensuring that transgender patients are treated respectfully and appropriately. THINY recommends that health care providers adopt and implement the following policy:

Health care providers may not provide inferior care, refuse to provide care, or treat a patient differently because of that patient’s gender identity or expression.

Gender identity refers to a person’s internal, deeply felt sense of being either male or female, man or woman, or something other or in-between. Because gender identity is internal and personally defined, it is not always visible to others. Gender expression refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns, social roles and social interactions.

2. In order to ensure that transgender patients are treated appropriately and respectfully, THINY recommends that the following protocol for serving transgender patients in a non-discriminatory manner be adopted:

- a. Forms. Forms that require a patient to designate a gender may create discomfort for transgender patients, especially where a patient's legal sex differs from his or her gender identity and expression. Additionally, many transgender patients will have concerns about medical privacy and disclosure of personal information about gender identity on forms that may be accessible at a future time. Accordingly, THINY recommends that a system be developed by which every transgender patient may designate his or her gender identity and preferred name, as opposed to necessarily being designated a legal name. This system should address patient privacy concerns while allowing a patient to express his or her preferences regarding preferred names and pronouns. This system should further ensure that such information is communicated to staff having contact with the patient.
- b. Preferred names and pronouns. Referring to a transgender patient by his or her legal rather than preferred name can be upsetting and even offensive to a patient. Similarly, it is important that a transgender patient be referred to by pronouns appropriate to his/her designated gender. Some transgender people have more than one gender presentation and/or wish to use more than one set of gendered pronouns. Health care staff should make every effort to respect the gender identities of those individuals even if their gender presentation may seem inconsistent or confusing to staff members. For such individuals, the insistence on a consistent gender presentation may itself be as offensive as the use of the wrong name or pronoun. THINY recommends that health care providers refer to patients by their preferred names and in accordance with their designated genders. If a patient has not designated a gender, the provider may politely point out to the patient that he or she has not designated a gender and ask whether the patient prefers to be referred to as "he," "she" or something else. Personnel should continue to use the patient's chosen names and pronouns associated with the patient's gender identity during procedures or examinations of sex organs that the patient was born with (*e.g.*, gynecological and breast exams for female-to-male patients and prostate and testicular exams for male-to-female patients).
- c. Privacy. Many transgender patients have concerns about medical privacy. Transsexuals in particular who have completely transitioned from one sex to the other may be concerned about the consequences of disclosing their

status, including the threat of discrimination in employment and insurance coverage. THINY recommends that intake forms explain the provider's privacy policy, including who has access to a patient's medical records. The forms should make clear which information is required and what can be discussed with health care providers directly. During patient examinations, health care providers should be prepared to explain who has access to the information that is discussed with the patient.

- d. Restroom access. Unimpeded access to restrooms is essential to all patients. THINY recommends that patients be permitted to use facilities consistent with their gender identity.
- e. Room assignments. THINY recommends that transgender patients be assigned rooms appropriate to their gender identity. THINY further recommends that a transgender patient not be removed from a room because of complaints by another patient related to the transgender patient's gender identity or expression.
- f. Avoid focusing on gender identity or expression unless necessary for treatment. Some of a transgender patient's health care needs will not be directly related to that patient's gender identity or expression. THINY recommends that providers avoid focusing on a patient's gender identity or expression unless it is directly relevant to medical treatment. Disrobing should only be required if directly relevant to the examination.
- g. Items that assist gender presentation. THINY recommends that transgender patients have access to items that facilitate gender expression (e.g., clothing, makeup) to the same extent that other patients have access to these items, regardless of gender. Transgender patients may also have access to items that only transgender persons would ordinarily use to effect their gender presentation, including items used in binding, padding and tucking, unless use of those items hinders treatment or recovery, as determined by an attending physician.
- h. Posting the non-discrimination policy. It is important that the provider communicate to members of the transgender community that it understands their needs and will treat them respectfully. Accordingly, THINY recommends that its recommended transgender non-discrimination policy, set forth above, be posted in conspicuous locations near all points of entry to the facility, the patient information desk, the patient relations office, all patient registration and admission areas, all waiting areas in the facility, and any other appropriate areas, as applicable.

- i. Ombudsperson for Transgender Concerns. THINY recommends that hospitals and other large facilities appoint an Ombudsperson for Transgender Concerns or similar official who should be responsible for implementing, coordinating, and monitoring the facility's services for transgender patients and addressing complaints regarding services for transgender patients. THINY recommends that this official report to the Director of Patient Relations or similar senior management official.
- j. Complaint procedure. THINY recommends that providers inform patients of their right to file a complaint and that all complaints be handled in accordance with a defined complaint resolution protocol.
- k. Training. THINY recommends that providers conduct training sessions on an annual basis for all staff regarding the provider's transgender non-discrimination policy and service protocol.
- l. Continuing Obligations. THINY recommends that providers continue to improve services to the transgender community and engage in the following ongoing activities:
  - (a) conduct annual patient and provider satisfaction surveys to determine compliance and satisfaction with the transgender non-discrimination policy and service protocol;
  - (b) communicate on a regular basis with transgender community groups and associations on issues relating to the transgender non-discrimination policy and service protocol; and
  - (c) communicate with department heads and the Director of Patient Relations on a regular basis to assist them in meeting the obligations set forth in the transgender non-discrimination policy and service protocol, as applicable.

**Our Mission:** Transgender Legal Defense and Education Fund is committed to ending discrimination based upon gender identity and expression, and to achieving equality for transgender people through public education, test-case litigation, direct legal services, community organizing and public policy efforts. Through its Access to Health Care Program and its community organizing project, the Transgender Health Initiative of New York, TLDEF works to ensure that transgender people can access health care in a safe, respectful and non-discriminatory manner.