

FACT SHEET

Health Care Refusals Harm Patients: The Threat to LGBT People and Individuals Living with HIV

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LGBT people and individuals living with HIV have long had unequal access to health care because providers claim that personal or religious beliefs allow them to refuse to treat these patients. Refusals to provide medically appropriate care can have serious emotional, physical, and financial consequences for patients.

Some proponents of refusals argue that patients can find an alternative provider, hospital, or clinic. However, this is often not the case—especially in emergency situations, rural areas, or long-term care facilities, where a refusal can simply leave a patient without access to necessary care. Moreover, this perspective obscures the ways refusals exacerbate stigma and discrimination already faced by LGBT people and individuals living with HIV.

Refusals to provide health services to LGBT people and those living with HIV can have long-term consequences, resulting in injury, disability, and even death.

- **A refusal to provide time-sensitive medical care can cause death.** A 39-year old teacher called 911 after experiencing a sudden, severe headache, high blood pressure, and vomiting.¹ Upon entering her apartment, the EMTs who responded to the call assumed she was a lesbian. Then, at the hospital, the EMTs told the nurse that the patient “was a lesbian who probably had a spat with her lover and got drunk” and that it was not a serious call.² The patient was then left unattended for over an hour, in violation of hospital protocol. By the time the staff returned to her, she had gone into a coma after having suffered a stroke and, within a week, was dead.
- **A refusal to provide medical care can exacerbate the underlying condition for which health services were sought.** When a patient informed his primary care physician of his HIV status, he was told that HIV-positive patients were not welcome.³ Later, when he sought treatment for chest pain, the doctor dismissed him as over-reacting to muscle cramps and recommended that he see a psychiatrist. Over the next week, he experienced seizures but his doctor refused to authorize emergency room treatment. Ultimately, police brought the patient to an emergency room, where he was admitted to the hospital with gastrointestinal hemorrhaging and was diagnosed with pneumonia, a staph infection, and AIDS.
- **A refusal to provide care can delay access to time-sensitive treatment and make medication ineffective.** A patient at a Catholic hospital was denied medication to treat his HIV after his doctor found out he had contracted it through sex with men.⁴ After the patient disclosed he was gay, the hospital staff treated him with disgust, refused to allow his family to visit, and ignored his requests for his HIV medication. When his doctor called the hospital to ask about the denial, he was told that “[t]his is what he gets for going against God’s will.”⁵ By the time the patient was able to get his medication, he had missed five doses. Because some HIV medications are highly time-sensitive, a missed or delayed dose can make the medicine less or completely ineffective.

- **A refusal to provide medical care can interrupt ongoing treatment.** After nearly a year of preparatory care, doctors refused to provide fertility services for a patient because she was a lesbian.⁶ Because fertility declines with age, a delay in care may decrease the chance that a woman will ever become pregnant. In another case, upon learning that his patient was gay, a doctor refused to provide the patient, whom he had been treating for more than a year, with the necessary prescription to treat the patient's diabetes and high blood pressure.⁷ These refusals disrupt patients' access to care, forcing them to find an alternative, delay treatment, or face increased health costs, among other consequences.
- **A refusal to provide medical care can prolong painful conditions and other physical and emotional distress.** A Catholic affiliated hospital refused to perform breast-augmentation surgery for a transgender woman.⁸ The Catholic health system does not provide surgery related to transition.⁹ Another transgender patient reported being forced to wait two hours in the emergency room without treatment for injuries from a fall on ice after a health care provider discovered the patient's breasts under the patient's "outwardly...male" clothing.¹⁰ A transgender man reported "living with excruciating pain in [his] ovaries" because he could not find a doctor who would examine his reproductive organs.¹¹ HIV-positive people are also particularly vulnerable to painful conditions that can worsen if not treated. In one case, an HIV-positive woman was diagnosed with gallbladder disease after months of experiencing painful gallstones and was referred for surgery.¹² After discovering her HIV status, the surgeon refused to perform the operation. She remained in intense pain during the time it took to find another doctor and schedule a procedure.

Refusals can be especially harmful to those with no alternative health care options available.

LGBT and HIV-positive individuals in rural areas or long-term care facilities can be especially harmed by refusals. The additional time and expense of finding an alternative provider after a refusal falls most heavily on those with low-incomes or without the job-flexibility necessary to take time off to seek health care. LGBT elders and those living with HIV too often report being denied medical treatment at, abruptly discharged from, or denied admission to long-term care facilities.¹³ In one case a long-term care facility discharged an elderly HIV-positive man when they discovered his HIV status the day after he moved in.¹⁴ During the seven weeks it took his family to find and admit him to another facility, he slept on a bed in his daughter's kitchen and went without medical assistance or the social activities available at the facility.

Refusals to provide health services can create mistrust of providers and exacerbate stigma and discrimination faced by LGBT people and those living with HIV, which can, in turn, lead to poorer health.

A refusal, or the fear of being refused care, can lead LGBT individuals and people living with HIV to distrust health care workers and to feel alienated, ashamed, and vulnerable. This can lead patients to avoid the health care system entirely or to delay necessary care. Indeed, those most in need of services frequently report mistreatment by providers.¹⁵ For example, a counseling student refused to provide services to a suicidal gay client because the student objected to same-sex relationships.¹⁶ The fear of stigma and discrimination resulting from a refusal can discourage people from disclosing personal information that can be essential to their care.

Refusals to provide medically appropriate care violate ethical standards and anti-discrimination laws.

Proponents of refusals claim they are necessary to protect "religious freedom" or the personal beliefs of health care workers. But personal or religious beliefs neither exempt health care workers from complying with anti-discrimination laws, including the anti-discrimination provision of the federal health care law,¹⁷ nor allow them to interfere with any patients' right to access medically appropriate care. Health provider organizations including the American Medical Association and American Counseling Association have made clear that providers and institu-

tions that offer services to the public cannot deny those services to patients based on sexual orientation, gender identity, HIV status, or any discriminatory ground.¹⁸ **Simply put, a health care worker should no more refuse to treat an individual because they are lesbian, gay, bisexual, transgender, gender non-conforming, or living with HIV than because of their race or religion.**

- 1 Beckett v. Maine Medical Center, No. CIV98-93-P-C, 1999 WL 1995210 (D. Me. Jan. 25, 1999). See also Steven G. Vegh, *Lesbian Died After Medical Care Delayed*, *Lawsuit Alleges*, PORTLAND PRESS HERALD, Apr. 11, 1998.
- 2 Beckett, 1999 WL 1995210 *1 n.3.
- 3 *Woolfolk v. Duncan*, 872 F. Supp. 1381 (E.D. Pa. 1995)
- 4 *Compl. Simoes v. Trinitas Regional Medical Center*, No. UNNL-1868-12 (N.J. Super. Ct. Law Div. May 23, 2012).
- 5 *Id.* at 5.
- 6 *N. Coast Women's Care Med. Group, Inc. v. San Diego County Superior Court*, 189 P.3d 959 (Cal. 2008).
- 7 See Lambda Legal, Summary: *In re Shuffield* (Jan. 2007), <http://www.lambdalegal.org/in-court/cases/in-re-shuffield.html>.
- 8 *Compl. Hastings v. Seton Med. Ctr.*, No. CGC-07-470336 (Cal. Sf. Super. Ct. Dec. 19, 2007) (case settled).
- 9 *Id.*
- 10 Jaime M. Grant, et. al., NAT'L GAY AND LESBIAN TASK FORCE & NAT'L CENTER FOR TRANSGENDER EQUALITY, *INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 73* (2011), available at http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf [hereinafter *INJUSTICE AT EVERY TURN*].
- 11 *Id.* at 77.
- 12 *Rose v. Cahee*, 727 F. Supp. 2d. 728 (E.D. Wis. 2009).
- 13 NAT'L SENIOR CITIZENS LAW CTR, ET. AL., *STORIES FROM THE FIELD: LGBT OLDER ADULTS IN LONG-TERM CARE FACILITIES 15-16* (2010), available at http://www.lgbtlongtermcare.org/wp-content/uploads/NSCLC_LGBT_report.pdf.
- 14 *Franke v. Parkstone*, *Compl. No. 4-09-UV-341* (E.D.Ark. May 12, 2009)
- 15 See *INJUSTICE AT EVERY TURN*, supra note 10 at 74.
- 16 *Ward v. Wilbanks*, 09-CV-11237, 2010 WL 3026428 (E.D. Mich. July 26, 2010) rev'd and remanded sub nom. *Ward v. Polite*, 667 F.3d 727 (6th Cir. 2012), dismissed without prej. by *Ward v. Wilbanks*, 09-CV-11237 (E.D. Mich. Dec. 12, 2012) (case settled).
- 17 Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1557 (2010), amended by Health Care and Education Affordability and Reconciliation Act, Pub. L. No. 111-152 (2010) (to be codified at 42 U.S.C. § 18116) (prohibiting discrimination based on race, color, national origin, sex, age, and disability in programs and activities that receive federal financial assistance, are created under Title I of the Affordable Care Act, or are administered by an executive agency). Several states prohibit sexual orientation and gender identity discrimination in public accommodations. See, e.g., CAL. CIV. CODE § 51 (2012). Some providers or facilities may also be covered by laws that prohibit discrimination in housing or establish patient rights. See, e.g., FLA. STAT. § 400.6095 (2012) (requiring that a hospice program make its services available to all terminally ill patients and their families without regard to sexual orientation, among other characteristics).
- 18 See, e.g., American Medical Association, *AMA Code of Ethics*, "Opinion 9.12 - Patient-Physician Relationship: Respect for Law and Human Rights," available at <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion912.page> (Nov. 2007); American Counseling Association, *Code of Ethics*, "Nondiscrimination," available at <http://www.counseling.org/Resources/CodeOfEthics/TP/Home/CT2.aspx> (2005).