

While recent years have seen an increase in much-needed efforts to address homelessness among LGBT youth, homelessness among LGBT adults has received less attention. One critical step is to ensure that shelters are welcoming to transgender people of all ages, and local authorities and agencies in communities throughout the country—such as Washington, DC, New York, Boston, Chicago, Tucson, Dallas, San Francisco and others—have adopted policies to ensure that transgender people are provided equal access to shelters consistent with their gender identities.

The Obama Administration has taken significant steps to address housing discrimination against transgender people and increase housing opportunities. In 2010, the U.S. Department of Housing and Urban Development (HUD) issued guidance clarifying that discrimination against transgender people based on their perceived failure to conform to gender stereotypes could constitute sex discrimination under the Fair Housing Act. In December 2011, HUD coordinated with the Administration on Aging and the National Center for Lesbian Rights to host a summit addressing the discrimination and legal barriers LGBT older adults face accessing affordable housing. In January 2012, HUD issued final rules explicitly prohibiting discrimination based on gender identity and sexual orientation in HUD-funded housing programs. The Equal Access to Housing Rule, announced in January 2012, will ensure that housing, federally funded through HUD, is made available “without regard to an applicant’s sexual orientation or gender identity.”⁷⁵ The Rule also clarifies that LGBT individuals and couples are included in the definition of “family” and are eligible for HUD public housing and voucher programs. This federal action marks another important step forward in protecting transgender people from discrimination.

Despite these advances, much more needs to be done. Many individuals and housing providers are still not aware of existing protections, and housing discrimination continues. And despite the need for more affordable housing, the nation’s stock of affordable housing has been shrinking.

37

Federal, state and local lawmakers should expressly prohibit housing and lending discrimination based on gender identity and sexual orientation by passing the Housing Opportunities Made Equal (HOME) Act and equivalent state and local legislation.

38

Congress should fully fund implementation of the Federal Strategic Plan to Prevent and End Homelessness, including expanding the nation’s supply of affordable housing.

⁷⁵ Donovan, S. (2012, Jan. 30). Ending housing discrimination against LGBT Americans. [blog]. Retrieved from <http://blog.hud.gov/2012/01/30/ending-housing-discrimination-against-lgbt-americans/>.

39

The U.S. Department of Housing and Urban Development (HUD) should interpret and apply fair housing laws and regulations to prohibit the exclusion of transgender people from gender-segregated housing, including homeless shelters, consistent with their gender identities.

40

State and local governments should pass explicit employment protections based on gender identity and sexual orientation.

41

Federal, state and local governments and community organizations should identify and promote best practices for housing providers for serving transgender older adults.

42

Federal, state and local governments and community organizations should support LGBT elder housing projects.

Improving Economic Security

Social Security and other public programs critical to the economic security of older adults continue to discriminate against LGBT people and their families, broadly defined to include friends, caregivers, and other loved ones. Many economic benefits, particularly workplace benefits such as employee pensions and employee health benefits, depend on state or federal government recognition of marriage and other family relationships. However, the federal Defense of Marriage Act (DOMA) and similar state laws means that many individuals are wrongly denied eligibility for crucial benefits and protections, often leaving them economically vulnerable.

Transgender people and their spouses can be impacted by these laws whether they are in same-sex or different-sex relationships, due to inconsistent and often erroneous interpretation and application of the law. Couples who married validly as a different-sex couple under state law prior to transition can face having their benefit eligibility improperly questioned following transition because they are now a same-sex couple. This happens even though it is settled law that a valid marriage is ended only by divorce or death of a spouse. While the federal government has recently recognized that these marriages continue to be valid for purposes of federal employee benefits,⁷⁹ other government agencies lack this kind of clear guidance. Different-sex couples who married after transition can face intense scrutiny regarding the details of their transition and whether it is recognized under state and federal law, often resulting in incorrect denials of benefits. Until these discriminatory laws are repealed, better guidance is urgently needed to ensure they are not applied overbroadly.

⁷⁹ U.S. Office of Personnel Management (2011). *Guidance regarding the employment of transgender individuals in the federal workplace*. Retrieved from <http://www.opm.gov/diversity/Transgender/Guidance.asp>.

Long-term care is expensive, and for transgender people who have experienced decades of economic discrimination, the cost can be prohibitive. Yet Medicaid, the primary government funder of long-term care, may not offer sufficient protections to prevent a transgender or same-sex spouse of a Medicaid nursing home resident from losing their home. In June 2011, HHS took the commendable step of issuing guidance clarifying that state Medicaid agencies are empowered to treat same-sex domestic partners the same as married heterosexual couples when it comes to protection from “spousal impoverishment” under Medicaid.⁸⁰ While this is a strong step forward, these protections should be mandatory for states, not optional, and there is much more that states and the federal government can do to protect the economic stability of transgender older adults.

43

Congress should pass the Respect for Marriage Act, which would repeal the Defense of Marriage Act (DOMA).

44

Federal and state agencies should provide clear and accurate guidance on marriage-related benefit determinations for transgender people and their spouses pursuant to existing laws, to ensure that couples are not improperly denied benefits for which they are currently eligible.

45

Federal and state agencies should use existing authority to provide critical economic protections, such as Medicaid spousal impoverishment protections, to same-sex spouses and partners.

46

State legislators should pass marriage equality legislation.

Building a Foundation of Knowledge

A recent Institute of Medicine (IOM) report on LGBT health identified transgender aging as a major research gap, naming topics such as elder abuse, substance abuse, risks and best practices for long-term hormone therapy, sexual health and cancer as areas in which more transgender research is needed. The IOM also called for including questions about gender identity in federal surveys, including surveys of older adults by AoA and the Centers for Medicare and Medicaid Services (CMS), and in national standards for electronic health records.

Currently, no government data exists on the growing population of transgender older adults. Without reliable national statistics on the geographic distribution, health and economic status, need for supportive services and the total number of transgender older adults (among other possible areas), it is difficult to understand their specific needs and even more difficult to advocate for improved policies to address those needs.

⁸⁰ Department of Health and Human Services. (2011). Same sex partners and Medicaid liens, transfers of assets, and estate recovery. Retrieved from http://hsd.aphsa.org/SMD_letters/pdf/SMD/Same-Sex-Partners-SMD.pdf.

To identify and address the specific strengths and vulnerabilities of transgender older adults, federal agencies such as CMS and AoA should include questions on sexual orientation and gender identity in their research surveys and other data collection systems. Collecting this data will help CMS and AoA fulfill their missions to help researchers, clinicians and public health professionals improve research methods, clinical outcomes and service delivery, without incurring significant costs.

47

Research questions that measure gender identity and sexual orientation should be included in federally-funded population-based surveys, such as the National Health Interview Survey, as well as the various federally-funded studies involving older adults.

48

The Office of the National Coordinator for Health Information Technology should include the collection of data on sexual orientation and gender identity within its meaningful use standards for electronic health records.

49

Federal and state agencies and academic institutions should support research on the social, economic and health needs of transgender older adults.

50

The Centers for Disease Control and Prevention (CDC) should improve epidemiological surveillance systems and data collection by collecting data on gender identity and reporting data delineated by age. To support older adults with HIV, including transgender adults, the CDC should provide specific data delineated by age category for adults over age 55, especially among smaller age cohorts (55-59, 60-64, 65-69, etc.) This would allow for more detailed information and tailored interventions among a diverse aging population with HIV/AIDS.

Privacy and Documentation

In today's world, identification documents (IDs) are frequently required to apply for employment, housing, public benefits, bank accounts and many other basic transactions. For transgender older adults, IDs and official records that contain information about their former names or gender can turn routine occurrences into incidents of harassment and discrimination. Gender-incongruent IDs deprive transgender older adults of the ability to decide when and how information about their transgender status will be shared, and the available research reveals that incongruent IDs lead to a range of negative outcomes—from job and housing discrimination to harassment and even bias-driven violence.⁸¹

⁸¹ Grant, J.M., et al. (2011). *Injustice at every turn: A report of the national transgender discrimination survey*: p. 5, 139.

Historically, state and federal governments have imposed intrusive and burdensome requirements for updating gender in ID and official records, such as documenting specific surgeries or obtaining a court order. For financial, medical and other reasons, many transgender people simply cannot meet these requirements. For those transitioning later in life, financial barriers and medical contraindications to surgeries might be even more prevalent. Fortunately, this trend is changing, with many states and federal agencies streamlining procedures and eliminating burdensome requirements. Transgender people can now update their U.S. Passport, federal personnel record, official immigration documents and VA patient record without these barriers. Additionally, roughly half of U.S. states have made it easier for transgender people to update their driver's licenses and state identification cards. Finally, more states are moving to ease the process of updating birth certificates, with California and Vermont passing legislation in 2011. Unfortunately, many state and federal agencies still rely on outdated and restrictive policies.

51

States should adopt simple, user-friendly procedures to enable transgender people to update gender information on driver's licenses and state IDs based on their gender identities, without proof of surgery or other burdensome medical treatments.

52

States should adopt policies, and legislation where needed, to enable transgender people to update gender information on birth records without proof of surgery or other burdensome medical treatments.

53

The National Center for Health Statistics should modernize the Model State Vital Statistics Act to reflect today's best state practices for updating gender information on birth records.

In addition to driver's licenses, state IDs, and birth certificates, transgender older adults still face barriers to updating gender in their Social Security records. Current Social Security Administration (SSA) policy requires transgender people to present documentation of sex reassignment surgery to change the gender data in their Social Security records. For a variety of reasons, including expense and personal preference, many transgender people cannot or choose not to undergo sex reassignment surgery. Because this gender data is shared through SSA computer matching programs, as well as listed on Medicare cards, outdated gender markers can "out" transgender people at work (i.e., reveal a person's transgender status without their consent), in pharmacies and doctors' offices, at DMVs and in many other settings, thereby placing them at risk of discrimination and public disrespect. While in 2011 SSA eliminated gender matching in the verification system that's most often used by private employers, other matching systems continue the unnecessary and harmful matching of gender data.

Retaining outdated gender markers serves no SSA program purpose and in turn causes needless confusion for SSA and others. Gender change for SSA and other federal and state agencies should be based on a standardized, signed statement by a licensed physician noting that an account holder has had appropriate clinical treatment for gender transition to the new gender.

54

The Social Security Administration (SSA) should update policies to permit an individual to change the gender designation in her or his SSA record based on a letter from a physician stating that she or he has had appropriate clinical treatment for gender transition. No additional medical information should be required.

55

The Social Security Administration should eliminate gender as a data field in all its automated verification programs.

56

The Centers for Medicare & Medicaid Services (CMS) should remove gender markers from Medicare cards.

Increasingly, barriers to ID can also be barriers to the ballot box. Research has shown that for many older adults—and especially elders who live in rural areas, have limited access to transportation, live with disabilities or live on fixed incomes—strict voter ID laws pose barriers to voting and threaten to limit older people turnout. Transgender older adults are more likely to face these barriers, and also face additional barriers to obtaining ID that is congruent with their gender identities and expressions.⁸² Although presenting gender-incongruent ID does not violate any state legal requirement, it can lead to confusion, harassment and even being turned away from the polls.

57

States should reject and repeal restrictive voter ID laws, and LGBT and aging advocates should actively oppose such laws.

Community Support and Engagement

While many transgender older adults have strong community ties and families of choice, too many are socially isolated and lack opportunities to be actively engaged in their communities. Many feel unwelcome at senior centers and even at LGBT community centers, which they may perceive as unfriendly to transgender people or to elders generally. They might want to give back to their communities but fear being told they are “not a good fit” for working with populations such as children or frail elders.

⁸¹ Grant, J.M., et al. (2011). *Injustice at every turn: A report of the national transgender discrimination survey*: p. 5, 139.

⁸² For more information, see National Center for Transgender Equality (2011). ID documents and privacy. Retrieved from http://transequality.org/Resources/NCTE_Blueprint_for_Equality2012_ID_Documents.pdf; and Transgender Law Center. (2011). ID document change. Retrieved from <http://transgenderlawcenter.org/cms/content/id-document-change>.

While personal faith and faith communities have been important parts of many transgender older adults' lives, many find themselves estranged or disconnected from those communities when they come out and transition. Additionally, the pronounced social isolation common among older people as they age becomes even more profound for those with fewer family connections and more prone to stigma and discrimination. All of these barriers are detrimental not only to the well-being and health of transgender older adults, but also to communities that could benefit from their energies and contributions.

Transgender older adults can be powerful advocates, activists, volunteers, mentors and community leaders. For transgender older adults to have meaningful opportunities to engage with their communities, local and community organizations must take steps to ensure that programming is inclusive of both transgender people and older adults.

58

LGBT community organizations, including LGBT community centers, clinics and SAGE affiliates, should increase outreach, programming, services and state and local advocacy supportive of transgender older adults, and ensure that their other programs are also inclusive of transgender and older people.

59

Local aging providers, including area agencies on aging, should reach out to and engage transgender older adults, as well as local organizations working with LGBT communities.

60

LGBT community organizations should engage local faith leaders and communities in efforts to improve the lives of transgender older adults.

61

Faith communities should make efforts to increase awareness and inclusion of transgender people of all ages, using resources such as *transACTION: A Transgender Curriculum for Churches and Religious Institutes* from the Institute for Welcoming Resources.⁸³

62

Faith community leaders should engage in affirming outreach to transgender people of all ages and promote an affirming public dialogue about faith and gender identity.

63

Senior volunteer programs should make efforts to increase awareness and inclusion of transgender older adults, including training for volunteer coordinators.

⁸³ National Gay and Lesbian Task Force. (2009). *TransAction: A welcoming curriculum for churches and religious institutions*. Retrieved from http://www.welcomingresources.org/transaction_final.pdf.

Immediate Policy and Practice Priorities to Improve the Lives of Transgender Older Adults

The Advisory Committee of the Transgender Aging Advocacy Initiative identified several immediate policy and practice priorities to improve the lives of transgender older adults. While all of the issues outlined in the full report are important, the priorities listed below were identified based on their expected impact if accomplished, as well as the expected feasibility of accomplishing them within the next 1-2 years.

1 Strengthening the Aging Services Network

- The Administration on Aging (AoA) should clarify, through agency guidance, that LGBT older adults constitute a group with “greatest social need,” and that federally-funded service providers may not exclude LGBT older adults from programs and services.
- Congress should reauthorize and fully fund the Older Americans Act (OAA), and should include LGBT older adults in data collection, project assessment and reporting requirements, and explicitly include LGBT older adults in the definition of greatest social need.

2 Strengthening Long-Term Services and Supports in Long-Term Care

- Federal and state agencies and community organizations should develop and promote LGBT cultural competence training, best practices and tools for long-term care facility staff, surveyors, ombudspersons and home health care providers.
- The Centers for Medicare & Medicaid Services (CMS) should revise federal Medicaid conditions of participation to explicitly prohibit discrimination based on gender identity and sexual orientation in home- and community-based services; and revise federal nursing home surveyors’ guidelines to clarify the rights of transgender residents to respect for their gender identity, autonomy in their gender expression, privacy regarding issues related to transgender status and freedom from bias-related harassment, discrimination and abuse.

3 Protecting Individual Privacy

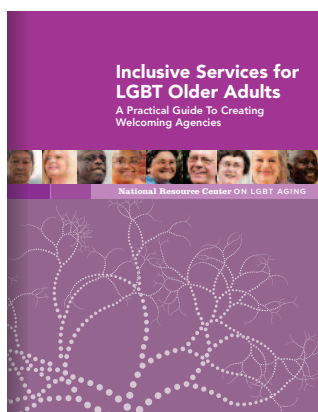
- The Social Security Administration (SSA) should eliminate gender as a data field in all its automated verification programs, and update policies to permit an individual to change the gender designation in her or his SSA record based on a letter from a physician stating that she or he has had appropriate clinical treatment for gender transition.

4 Building a Foundation of Knowledge

- The Department of Health and Human Services should include questions that measure gender identity and sexual orientation in federal population-based surveys, such as the National Health Interview Survey, as well as surveys focused on older adults.
- The Office of the National Coordinator for Health Information Technology should include the collection of data on sexual orientation and gender identity within its meaningful use standards for electronic health records.

Appendix A:

Practical Guidance for Aging Providers



In February 2012, the National Resource Center on LGBT Aging—led by SAGE and 14 national partner organizations—issued *Inclusive Services for LGBT Older Adults: A Practical Guide to Creating Welcoming Agencies*, a unique guide created to help service providers understand the unique barriers that LGBT older adults face, as well as the many ways to improve and expand the continuum of care and services available. The following section is excerpted from this publication:

More at
lgbtagingcenter.org

Are you an aging provider, LGBT organization or an LGBT older person? Visit the National Resource Center on LGBT Aging to learn more about transgender aging and access various new and practical resources for effectively engaging transgender older people.

Transgender older adults may face additional challenges to successful aging than their non-transgender peers. In particular, transgender older adults face stigmas and myths about their identities and gender expressions. For example, many transgender older adults often report providers referring to them by incorrect names or by a pronoun that does not align with their gender identities.

A Working Definition

The term “transgender” is used to describe the experience and feeling of a persistent disconnect between one’s “sex at birth” (sometimes called “sex assigned at birth”) and one’s gender identity and expression. For example, people born with male anatomy who have female gender identities may choose to express themselves as female through personal style (clothes and accessories), by changing their name (from Jack to Jane, for example), and by asking people to refer to them through their preferred gender pronouns (i.e., “she/her” rather than “he/him”).

Transgender people may or may not use medical intervention(s) such as hormones or surgery to bring their bodies' characteristics more in line with their gender identities. Some transgender people may legally change their names and accompanying paperwork (e.g., insurance documents, Social Security card, and driver's license). A person's gender identity should be respected and not be contingent on whether the person has gone through particular medical interventions and/or a legal name change. A person's gender identity should be honored regardless of whether the person has taken such actions.

Because transgender people are subjected to an even higher level of discrimination and violence than their non-transgender lesbian, gay, and bisexual peers, issues of confidentiality, disclosure and privacy are critical. Many transgender people feel their bodies, histories or other gender-related information are very personal and private and therefore find some questions invasive and offensive. Before asking clients about their transgender status, staff members should think carefully about how they plan to use this data. Staff members should then explain to the client how they intend to use the information—a practice that will increase clients' willingness to be open. Some examples of other best practices on dealing with transgender clients are included in this section.

Checklist for Transgender Inclusion



Staff should always know and use the pronoun that their clients prefer, even when the client is not within earshot.



Where services (including shared rooms) are segregated by sex, assignments should be made based on the client's gender identity, not his/her sex assigned at birth.



If your staff administers or prescribes medication, it is appropriate to identify the various medications that a client is taking, including whether they are taking hormone medications. This will ensure there are no conditions or factors that serve as a reason to withhold a certain medical treatment. If you do not handle medications, you most likely don't need to know whether a person is using hormones.



If your staff is responsible for administering or arranging for certain sex-linked preventive care such as mammograms or Pap smears, it may be necessary to know what surgeries a transgender person has had to ensure they receive care appropriate for their bodies. If you are not responsible for such medical care, your agency staff most likely do not need to know what surgeries (if any) a transgender person has undergone.



If assistance with bathing or other personal care is offered, all staff should have received training on providing professional care to all clients, including working with clients whose physical bodies are different from their outward gender expression or their inner gender identity.



When billing health insurance companies, you may need to know if your client has insurance under a different name and/or gender. It is never appropriate to ask, “What is your real name?” Instead, if you need the data, ask the person “Can I make a copy of your insurance card?” and possibly an additional question to confirm that the name on their insurance card should be used for billing purposes.



If your staff arranges clients’ appointments with other health professionals, discuss with transgender clients what personal information they are comfortable disclosing. It is not necessary to “warn” professionals that a client is transgender; that information is often unnecessary for appropriate treatment. Further, sharing it without your client’s permission is a breach of privacy and may violate HIPAA regulations.



Staff should remember that transgender clients, just like everyone else, should be able to use whichever restroom aligns with their gender identities.



Staff should always model proper behaviors such as calling someone by his/her preferred name and not engaging in gossip about clients. This sets the tone for other staff and clients.



About the National Resource Center on LGBT Aging

Established in 2010 through a federal grant from the U.S. Department of Health and Human Services, the National Resource Center on LGBT Aging provides training, technical assistance and educational resources to aging providers, LGBT organizations and LGBT older adults. The center is led by SAGE in partnership with 14 leading organizations from around the country. Learn more at lgbtagingcenter.org.

About SAGE

Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (SAGE) is the country's largest and oldest organization dedicated to improving the lives of lesbian, gay, bisexual and transgender (LGBT) older adults. Founded in 1978 and headquartered in New York City, SAGE is a national organization that offers supportive services and consumer resources to LGBT older adults and their caregivers, advocates for public policy changes that address the needs of LGBT older people, and provides training for aging providers and LGBT organizations through its National Resource Center on LGBT Aging. With offices in New York City, Washington, DC and Chicago, SAGE coordinates a growing network of 23 local SAGE affiliates in 16 states and the District of Columbia.

About NCTE

The National Center for Transgender Equality (NCTE) is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. By empowering transgender people and our allies to educate and influence policymakers and others, NCTE facilitates a strong and clear voice for transgender equality in our nation's capital and around the country.

For additional information about many of the policy issues described in this report, please visit sageusa.org and transequality.org.



ACKNOWLEDGEMENTS

SAGE and NCTE would like to thank the Arcus Foundation and the David Bohnett Foundation for their generous support of this initiative and this report. We are also deeply grateful to the members of the Advisory Committee of the Transgender Aging Advocacy Initiative for offering their wisdom, experience and commitment to this historic initiative. The ideas detailed throughout this report are largely informed by your unique insights. Finally, we would like to thank Joo-Hyun Kang for facilitating the 2011 gatherings of the Transgender Aging Advocacy Initiative.



Services & Advocacy for GLBT Elders

305 Seventh Avenue, 15th Floor
New York, NY 10001

212-741-2247

info@sageusa.org

sageusa.org

lgbtagencycenter.org



National Center for Transgender Equality

1325 Massachusetts Avenue, NW
Suite 700

Washington, DC 20005

202-903-0112

NCTE@transequality.org

transequality.org