



LGBTQI+ Older Adults – Know Your Rights

The Biden-Harris Administration has taken important steps to improve Federal protections for LGBTQI+ older adults and reinforce their rights to be free from discrimination in health care.

What Rules Protect Older LGBTQI+ Adults?

The right to be free from discrimination in health care based on sexual orientation or gender identity -- [Final Rule](#)

- [Section 1557 of the Affordable Care Act](#) prevents discrimination on the basis of race, color, national origin, sex, age, or disability in health care.
- The Biden-Harris Administration has clarified that discrimination based on sex includes sexual orientation, gender identity, sex characteristics, and sex stereotypes.
- This rule applies to all health programs and activities that receive Federal financial assistance, including hospitals, clinics, and individual providers, regardless of the type of care an individual is seeking, and further applies to insurance coverage, including under Medicaid, the Health Insurance Marketplaces, and Medicare (including Part B).
- Individuals with limited English ability have the right to meaningfully access medical care. Health care providers must also take steps to ensure that they can communicate with individuals with disabilities as effectively as others.

The right to be free from discrimination in health care based on disability -- [Final Rule](#)

- [Section 504 of the Rehabilitation Act](#) prohibits discrimination on the basis of disability.
- The Biden-Harris Administration has clarified that a medical provider cannot deny treatment based on biases or stereotypes about persons with disabilities.
- Providers cannot deny treatment based on judgments that individuals will be a burden to others, or beliefs that their lives have less value than the lives of persons without disabilities.
- The rule protects individuals with HIV from disability discrimination. For example, a health care provider cannot deny a person with HIV a medical procedure because they believe that people with HIV do not follow post procedure requirements. Nor can an assisted living facility deny admission to a person with HIV because they believe other residents would object.
- The rule prevents providers from using tools that discount the value of a life extension on the basis of disability or deny, limit, or condition access to an aid, benefit, or service to qualified individuals with disabilities based on disability.
- The rule clarifies that qualified people with a disability must get services in the most integrated setting appropriate to their needs, which will often be their own homes and communities.
- The rule requires recipients of federal funds to follow certain accessibility standards for medical diagnostic equipment, websites, and mobile apps.

The right to access protected health information and to health care privacy -- [Final Rule](#)

- [The Health Insurance Portability and Accountability Act \(HIPAA\) Privacy Rule](#) establishes national standards to protect individuals' medical records and protected health information.

- The Privacy Rule generally gives individuals or a personal representative the [right to timely access](#) their health records (30 days with a possibility of one 30-day extension), and at a reasonable, cost-based fee.
- The final [rule](#) strengthens privacy protections by prohibiting the use or disclosure of protected health information to investigate or impose liability on someone for the mere act of seeking, obtaining, providing, or facilitating legal reproductive health care.

***The right to be free from discrimination when accessing certain HHS funded programs --
[Final Rule](#)***

- The Health and Human Services Grants rule protects LGBTQI+ people by reaffirming the prohibition on discrimination on the basis of sex—including sexual orientation and gender identity—in specific health and human services programs.
- These protections apply to certain government programs, including services and grants that provide aid to refugees, early childhood education services, assistance to people experiencing homelessness, substance use disorder treatment and prevention, community mental health services, maternal and child health services, and community services.

How do you file a Complaint?

If you believe that you or another person’s health information privacy has been violated, or if you or another person has been discriminated against on the basis of race, color, national origin, sex (including sexual orientation, gender identity, sex characteristics or sex stereotypes), age, or disability, you can file a complaint with the HHS Office for Civil Rights (OCR) at the [OCR complaint portal](#).

Where can you get help?

Protection & Advocacy Agencies (P&As)

P&As provide advocacy services for people with disabilities of all ages, including people with HIV. They have the authority to:

- Investigate suspected abuse or neglect and seek justice for victims and their families;
- Have access to records and facilities to investigate abuse or neglect or to monitor the treatment and safety of residents;
- Pursue lawsuits and other relief under various laws;
- Provide information and referrals regarding individuals’ right to services or legal redress; and
- Educate policymakers on needed changes to disability-related laws and services.

If you think you may have experienced discrimination or if you need help for another reason, you can find your [state’s P&A agency](#).

The Long-term Care Ombudsman Program

The Ombudsman Program may be able to help you if you live in a long-term care facility. These programs work at the state level to resolve problems related to the health, safety, welfare, and rights of individuals who live in long-term care facilities, such as nursing homes, board and care and assisted living facilities, and other residential care communities.

Each state has an office, headed by a full-time employee who runs the program statewide. The office has staff and thousands of volunteers who are available to help residents. These programs:

- Identify, investigate, and resolve complaints made by or on behalf of residents;
- Provide information to residents about long-term services and supports;
- Ensure that residents have regular and timely access to these services;
- Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect residents; and
- Analyze, comment on, and recommend changes in laws and regulations related to the health, safety, welfare, and rights of residents.

If you think you may have experienced discrimination or if you need help for another reason, contact your [State's long-term care ombudsman](#).

Legal Services for Older Americans Program

The Older Americans Act supports a legal services network to help older adults access long-term care options and other community-based services. Legal services also protect older adults against direct challenges to their independence, choice, and financial security. These legal services are specifically for “older individuals with economic or social needs.”

There are approximately 1,000 of these providers nationwide, which provide nearly one million hours of legal help each year. Legal assistance may involve:

- Supporting access to public benefits, including Social Security, Supplemental Security Income, Social Security Disability Insurance, Medicaid and Medicare, Veterans’ benefits, and unemployment compensation;
- Drafting legal documents to help ensure older adults’ wishes are respected if they become incapacitated;
- Addressing issues related to guardianship with a focus on representation for older adults who are the subject of guardianship actions;
- Supporting access to available housing options, including low-income housing programs that allow independence in homes and communities;
- Foreclosure or eviction proceedings that risk the ability to stay independent in homes and communities;
- Gaining access to the full benefit of appropriate long-term care private financing options;
- Maintaining long-term financial and economic security;
- Ensuring protections for older persons moving from long-term care facilities to home and community-based care; and
- Protecting against elder abuse, including consumer fraud and the financial harm of older persons.

The [National Center on Law and Elder Rights \(NCLER\)](#) is the national resource center on legal assistance and elder rights. NCLER provides national resource support for professionals and advocates working in legal assistance, elder rights, and associated aging services networks.