



NEW YORK STATE SENATOR

Brad Hoylman-Sigal

New York State Department of Health Guidelines on Gender Affirming Care

NEW YORK STATE DEPARTMENT OF HEALTH February 19, 2025

| ISSUE: **ACCESS TO HEALTHCARE, LGBTQ EQUALITY, NEW YORK STATE DEPARTMENT OF HEALTH**

Dear Chief Executive Officers and Administrators:

In response to recent presidential actions concerning gender affirming care, including Executive Order 14168, dated January 20, 2025, and Executive Order 14187, dated January 28, 2025, New York State and other jurisdictions and parties have filed lawsuits challenging these actions. The Department of Health has taken steps in support of this litigation.

Federal courts have enjoined enforcement of many recent presidential actions pending final court decisions. With respect to federal funding, a temporary restraining order (TRO) was entered, and the Department of Justice then circulated a notice to federal agencies stating that they “cannot pause, freeze, impede, block, cancel, or terminate any awards or obligations on the basis of the OMB Memo, or on the basis of the President’s recently issued Executive Orders,” including those targeting gender affirming care for minors. On a subsequent motion to enforce the restraining order, the court further ordered: “The Defendants must comply with the plain text of the TRO not to pause any funds based on pronouncements pausing funding incorporated into the OMB Directive,” including the January 20, 2025 Executive Order cited above.

In another litigation, various federal agencies, including the Department of Health and Human Services, the Health Resources and Services Administration, the National Institutes of Health, the National Science Foundation, and any subagency of the Department of Health and Human Services, have been restrained “from conditioning or withholding federal funding based on the fact that a healthcare entity or health professional provides gender affirming medical care to a patient under the age of nineteen under section 3(g) of Executive Order 14168 and Section 4 of Executive Order 14187,” the orders cited above.

New York law prohibits discrimination based on sexual orientation or gender identity or expression, including transgender status, in health care services and coverage. New York has strong protections in place to shield all patients from harm and ensure that they receive care and treatment without discrimination.

All patients should expect they will be treated equally. Refusing to provide services or withholding services to patients based on their race, color, religion, sex, gender identity or expression, national origin, disability, sexual orientation, or age may be considered discrimination under Article I, Section 11 of the New York State Constitution, as well as the New York State Human Rights Law.

New York hospitals and diagnostic and treatment centers must ensure equitable continuity of care for patients whose care is discontinued or paused. In accordance with Public Health Law Section 2803(1)(g) and 10 NYCRR Sections 405.7 and 751.9, the Patients’ Bill of Rights outlines requirements for hospitals and diagnostic and treatment centers related to patient treatment and/or discharge, including that hospitals must transfer patients appropriately, provide a patient discharge plan for inpatients prior to discharge, and allow participation of the patient in care planning and continuing care. In all cases, regulatory requirements must be met.

Thank you for the vital care and services you provide. Please consult your counsel regarding the status of litigation challenging federal government actions to remove protections prohibiting discrimination. In addition, please forward any questions regarding this guidance to hospinfo@health.ny.gov.

Sincerely,

Mark Hennessey Director, Center for Healthcare Provider Services and Oversight