



# Policy brief: Protecting vulnerable LGBTQ youth and advocating for ethical health care

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## Executive Summary

Lesbian, Gay, Bisexual, Transgender and Queer/Questioning (LGBTQ) youth are at heightened risk for bullying, victimization, homelessness, and being subjected to harmful therapies and associated physical and mental health issues. Health disparities in these populations are strongly associated with increased vulnerability based on stigma and discrimination due to their sexual orientation, gender identity, and gender expression (United Nations, 2017). Additional threats to the health of LGBTQ youth include: expanded religious freedom exemptions of providers, permitting legal refusal to provide health care or other services to this population; a halt to Title IX enforcement for transgender persons by the Department of Education; and regular threats to repeal Section 1557 of the Affordable Care Act (ACA), thereby excluding coverage for transgender-related care and eliminating coverage for pre-existing conditions (U.S. Department of Health and Human Services).

The American Academy of Nursing supports the rights of LGBTQ youth to be safe at school, at home, in places of worship, in the community and while seeking and obtaining access to health care. We oppose discrimination towards young people based on sexual orientation or gender identity and expression. We oppose transgender-specific exclusion from health care coverage or exclusion from sexual orientation and gender-based legal protections, and call for the provision of inclusive, safe, competent health care.

## Background

LGBTQ youth are at elevated risk for violent victimization (O'Malley Olsen, Kann, Vivolo-Kantor, Kinchen, & McManus, 2014), harmful therapies (American Academy of

Nursing, 2015; SAMHSA, 2015) and related physical and mental health issues (Sedlak & Boyd, 2016). This vulnerability is principally due to exclusion, pathologization, and victimization because of prejudice and discrimination toward sexual orientation, gender identity and gender expression. Approximately 3.4% of youth in the U.S., ages 10-19, identify as LGBTQ, suggesting that potentially over a million youth could be excluded from health care based on misguided interpretations of the conscience clause (Gates & Newport, 2012).

Family support can be protective for these youth but is not always present (Eisenberg et al., 2017; Ryan, 2014). Unlike other minority groups, LGBTQ youth are not raised within the potential resilience-fostering context of similarly marginalized families. LGBTQ minority status is rarely shared by family members, who therefore may lack experience in navigating LGBTQ marginalization. Parents may feel ill-equipped to supportively respond to an LGBTQ child, and need support themselves (Ryan, 2010). Health care can be a venue for support and healing but also intolerance and abusive therapies (Hein & Matthews, 2010; Nahata, Quinn, Caltabellotta, & Tishelman, 2017). LGBTQ youth face prejudice from stigma and bias, and minority stress, which can lead to depression and suicide (Burton, Marshal, Chisolm, Sucato, & Friedman, 2013; Hughes, Rawlings, & McDermott, 2018). They may feel the need to conceal sexual orientation or gender identity when seeking health care, which can result in feelings of isolation (Hughes et al., 2018). LGBTQ youth often fear being misunderstood and report fear of harassment due to gender identity or sexual orientation (O'Malley Olsen et al., 2014). These youth are sometimes targets of bullying and other victimization, which is associated with an increased suicide risk (Bouris, Everett, Heath, Elsaesser, & Neilands, 2016; Veale, Watson, Peter, & Saewyc, 2017).

Additionally, schools can be a source of intolerance and victimization particularly for transgender youth. This risk is mitigated by a supportive adult, a student-

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led or community based organization such as Gay Straight Alliance (GSA) (Saewyc, Konishi, Rose, & Homma, 2014), and/or a safe school nurse (Willging, Green, & Ramos, 2016). An LGBTQ inclusive curriculum, nondiscriminatory dress codes, antibullying policies and a supportive, inclusive environment can be significantly protective for these youth and decrease risk of suicide (Garbers, Heck, Gold, Santelli, & Bersamin, 2017; Hatzenbuehler, 2011; Taliaferro, McMorris, Rider, & Eisenberg, 2018). An added advantage of non-discriminatory policies also provides benefits for heterosexual peers (Saewyc et al., 2014).

The recent empowerment of the Health and Human Services' (HHS) Conscience and Religious Freedom Division in the Office within the Office of Civil Rights to defend health care providers who decline to treat people or conditions with which they have a moral objection, will increase health disparities in LGBTQ youth.

## Responses and Policy Options

Professional healthcare organizations including the American Academy of Nursing, the American Medical Association, and the American Psychological Association have voiced concerns about the mandate of the HHS Conscience and Religious Freedom Division in the Office of Civil Rights and the potential for harm to already vulnerable youth.

### The Academy's Position

The American Academy of Nursing supports access to health care for everyone and reaffirms a commitment to the health and safety of LGBTQ youth. LGBTQ youth are at heightened risk for violent victimization, illness and homelessness (Bahrampour, 2016) because of discrimination against their sexual orientation, or gender identities, or gender expressions. The ability of healthcare providers to legally refuse to provide care for these youth based on their sexual orientation, gender identity, or gender expression, under the claim of religious freedom, increases the vulnerability and potential harm these youth face, and violates international nursing codes of ethics (International Council of Nurses, 2012). Nurses have a moral imperative to respect the human dignity of all patients through *Provision 1* in the *Code of Ethics for Nurses with Interpretative Statements*, which states "The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person" (American Nurses Association, 2015, p. 1). This includes respect for the human dignity of the patient and the demand that nurses must never behave prejudicially. Nurses can and should base patient care on individual attributes, but only in the sense that those individual attributes inform the patient's care plan and must not

be used or prohibit access to compassionate and high-quality care. Respect and dignity are also obligations outlined by the *International Council of Nurses Code of Ethics for Nurses* (2012), which states,

Inherent in nursing is a respect for human rights, including cultural rights, the right to life and choice, to dignity and to be treated with respect. Nursing care is respectful of and unrestricted by considerations of age, colour, creed, culture, disability or illness, gender, sexual orientation, nationality, politics, race or social status. (p. 1).

Nurses must collaborate with others to address barriers to health and health disparities to lead structural and social change to protect and promote health (ANA, 2015). Consequently, the American Academy of Nursing supports efforts to reject and nullify rule HHS-OCR-2018-0002 that allows healthcare providers to refuse to care for already vulnerable youth, based on religious objections. The Academy supports increased training of health care professionals, including nurses, on issues facing LGBTQ youth. We recommend reinstatement of U.S. Department of Justice guidance on Title IX which protected transgender youth in school settings, defense of Section 1557 of the ACA maintaining coverage of LGBTQ-related healthcare and maintenance of the pre-existing condition protection in the ACA.

## Recommendations

Congress is urged to legislate the discrete situations in which health care providers can refuse care to patients based upon the claim of religious freedom of conscience. The mission of the Division of Conscience and Religious Freedom of the Office of Civil Rights within the U.S. Department of HHS should be limited to complaints consistent with federal law – abortion, sterilization, assisted suicide or euthanasia (42 U.S.C. § 300a-7; 42 U.S.C. § 238n; Pub. L. No. 111-117, 123 Stat 3034 (2009); Pub. L. No. 111-152; Section 1553 of the Affordable Care Act).

The American Academy of Nursing recommends that:

1. Congress legislate to enact the *Equality Act* (H. R.2282 & S. 1006—115th Congress (2017-2018)) which would expand the Civil Rights Act of 1964 to include sexual orientation and gender identity.
2. Health care organizations continue to advocate for the rights of all patients to receive care, and should continue to train clinicians, faculty and students in culturally sensitive LGBTQ care.
3. Health care providers support development and implementation of evidence based inclusive school health, primary care, emergency care, and acute care practices.

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