



# KNOW YOUR RIGHTS

## Gender Affirming Care

### Gender Affirming Care Is Legal and Protected in Washington State

#### **Washington Protects Access to Gender Affirming Care:**<sup>1</sup>

- Health insurers and health plans must not discriminate in any way on the basis of a person's sexual orientation or gender identity.
- Washington forbids health insurers and fully insured health plans from denying or limiting coverage for gender affirming care for persons of any age when prescribed as medically necessary, consistent with a person's gender expression or identity, and in accordance with accepted standards of care.<sup>2</sup>
- Any such denial or limitation is prohibited unless a health care provider with experience prescribing or delivering gender affirming care has reviewed and confirmed that the denial or limitation is for an appropriate medical reason.
- Age may be one of several factors considered to determine whether a procedure is medically necessary and prescribed in accordance with accepted standards of care.<sup>3</sup>
- Health insurers and health plans may not apply categorical cosmetic or blanket exclusions to deny gender affirming care when prescribed as medically necessary.
- The Washington Health Care Authority (HCA), Medicaid managed care plans, and health care providers delivering or administering services through the HCA may not discriminate in the administration or delivery of gender affirming care services based on the covered person's gender identity or expression.<sup>4</sup>

- Washington's Medicaid program, Apple Health, covers gender affirming care when it is medically necessary, safe, effective, and not experimental.<sup>5</sup>
- State employee health plans explicitly include coverage for gender affirming care.<sup>6</sup>
- In Washington, it is unprofessional conduct for a licensed professional to perform conversion therapy on a patient under age 18.<sup>7</sup>
- Health care providers, insurers, and facilities need not provide or fund gender affirming care for conscience or religious reasons; however, health insurers must specify the services that are not covered and how the person can still access the care quickly.<sup>8</sup>

#### **Washington Protects Persons in Washington from Civil and Criminal Actions in Other States that Restrict or Criminalize Gender Affirming Care:**

- Washington's Shield Law broadly protects people in Washington from investigations or court proceedings in another state that concern lawful gender affirming care provided in Washington.<sup>9</sup>
- In general, the Shield Law prohibits Washington courts, state and local agencies and law enforcement, and Washington-based companies or private entities from making arrests, providing information or otherwise participating in or complying with the other state's legal processes related to lawful gender affirming care provided in Washington.

1 See, for example, RCW 48.43.0128; WAC 284-43-5151; RCW 49.60.030(e); RCW 49.60.040(27); RCW 49.60.178(1); RCW 48.30.300(1), (2).

2 Self-funded health plans that are issued directly by employers rather than health insurers, are governed by ERISA and subject to the antidiscrimination provisions of the Affordable Care Act (Section 1557). If you are not sure if your plan is fully insured or self-funded, you can contact the Washington State Insurance Commissioner (contact information below), and they can assist you.

3 When determining whether a gender affirming care procedure has been prescribed in accordance with accepted standards of care, a health insurer or health plan may consult, for example, those standards of care published by The World Professional Association for Transgender Health (WPATH).

4 RCW 74.09.675(1).

5 WAC 182-531-1675(1).

6 See Transgender Legal Defense & Education Fund, State Employee Health Plans – Washington, <https://transhealthproject.org/resources/state-employee-health-plans/washington-state-employee-health-plans/all-states/#view-pager>

7 RCW 18.130.180(26); Tingley v. Ferguson, 47 F.4th 1055, 1063–64 (9th Cir. 2022), cert. denied, 144 S. Ct. 33, 217 L. Ed. 2d 251 (2023).

8 RCW 18.130.160.

9 RCW 7.115.020.



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- The Shield Law also protects Washington health care providers from threats and harassment by making them and their family members eligible for Washington's Address Confidentiality Program.
- It permits a person to sue out-of-state officials for interfering with a person's protected health care services in Washington.<sup>10</sup>
- More information on Washington's Shield Law may be found here: <https://www.atg.wa.gov/reproductive-and-gender-affirming-care-shielding-providers-seekers-and-helpers-out-state-legal>

### **Washington Protects Access to Youths' Private Health Information:**

- Licensed youth shelters in Washington are barred from contacting the parents or guardians of youth staying at the shelters when the youth is seeking gender affirming care.
- Instead, the licensed youth shelter must contact the Department of Children, Youth, and Families, within 72 hours of the youth arriving at the shelter.<sup>11</sup>
- Washington public school staff may not share any student's confidential health or educational information (including a student's transgender or gender non-conforming status or sex assigned at birth) with others, including a student's parents, other students, school staff, or non-school persons, unless required by law<sup>12</sup> or unless the student has given permission to share it.<sup>13</sup>

### **Complaints or concerns about violations of state law?**

- Apple Health (Medicaid) and Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB) program subscribers, contact the Health Care Authority's ADA Coordinator:  
Online: <https://support.hca.wa.gov/hcasupport>;  
Phone: 855-682-0787;  
Email: [compliance@hca.wa.gov](mailto:compliance@hca.wa.gov)
- All other state health care plan subscribers, contact:
  - The Office of the Insurance Commissioner: Phone: 800-562-6900; Phone TDD: 360-586-0241;  
Online: <https://www.insurance.wa.gov/consumer-complaint-center-contact-us>
  - The Washington State Human Right Commission: Phone: 800-233-3247;  
Online: [https://wahum.my.site.com/FileaComplaintOnline/s/?language=en\\_US](https://wahum.my.site.com/FileaComplaintOnline/s/?language=en_US)
  - The Attorney General's Office: Phone (in WA): 800-551-4636; Phone (outside WA): 206-464-6684; Relay Service: 800-833-6388;  
Online: <https://www.atg.wa.gov/contactus.aspx>
- For complaints or concerns related to Washington State public schools, contact the Washington State Office of the Superintendent of Public Instruction's Equity and Civil Rights Office at (360) 725-6162/TTY: (360) 664-3631.

### **Where to Find Gender Affirming Health Care Providers**

- <https://lgbtqhealthcaredirectory.org/>

<sup>10</sup> RCW 7.115.040.

<sup>11</sup> See RCW 13.32A.082(1)(b), (2)(c)-(d).

<sup>12</sup> For example, the Federal Educational Rights and Privacy Act (FERPA) may require certain disclosures. 20 U.S.C. § 1232g; 34 C.F.R. Part 99.

<sup>13</sup> Equity and Civil Rights Office, Washington State Office of the Superintendent of Public Instruction, Prohibiting Discrimination in Washington Public Schools – Guidelines for school districts to implement Chapters 28A.640 and 28A.642 RCW and Chapter 392-190 WAC, p. 29 (February 2012) ([https://ospi.k12.wa.us/sites/default/files/2023-08/prohibiting\\_discrimination\\_in\\_washington\\_public\\_schools\\_february2012revisedsep2019disclaimer\\_1.pdf](https://ospi.k12.wa.us/sites/default/files/2023-08/prohibiting_discrimination_in_washington_public_schools_february2012revisedsep2019disclaimer_1.pdf)) (last visited June 17, 2024); see also, RCW 28A.642.010; RCW 28A.642.020; RCW 28A.642.080.