**DMH Guidelines for Implementation of Policy #21-01 *-- LGBTQ*** ***Non-Discrimination Policy***

**August, 2021**

In conjunction with the DMH LGBTQ Non-Discrimination Policy, the following operational guidelines have been set forth in an effort to establish best practices for delivering culturally competent services to lesbian, gay, bisexual, transgender, queer/questioning (LGBTQ), and gender non-conforming (GNC) persons[[1]](#footnote-1). In some instances, DMH will need to tailor and adapt the guidelines, as necessary, depending on the workplace/treatment setting and upon approval of the Commissioner or designee.

These guidelines:

* facilitate voluntary disclosure and documentation of sexual orientation and/or gender identity;
* support neutral and inclusive language; and
* create a welcoming environment of care and work setting.

**DISCLOSURE & CONFIDENTIALITY**

An individual’s sexual orientation and gender identity shall be exclusively determined by that individual; not by their legal guardian, a clinician, or anyone else. In addition, the degree to which an individual chooses to publicly identify as LGBTQ or GNC shall be exclusively decided and acted on by that individual. For various reasons (including personal safety and comfort) an LGBTQ or GNC individual may choose to not disclose this information.

**NAMES & PRONOUNS**

All persons shall be addressed by their self-identified/chosen name. Accordingly, the use of pronouns shall be determined by the individual, including the use of gender-neutral pronouns such as “they” or “ze/hir”. It is not considered rude to ask someone which pronouns they use; it is actually good practice to do so.

The following are appropriate ways to use self-identified/chosen names and pronouns in existing procedures:

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| **Official Communications** | Official DMH documents may require the use of an individual’s legal name. However, those forms must do so by including spaces for the following:* Legal name
* Chosen/Preferred name (if applicable)
* Gender identity
* Pronouns
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| **Record Management** | There shall be a process by which persons served can have their name and/or gender entered in their records from the date of request onward. Any entry in the medical record, however, cannot be modified or changed. Records may include biological sex assigned at birth when it differs from stated gender and when there is a reason that this medical information is needed in the care or planning for benefits for the person.Employees who wish to change their name and/or gender may do so following Human Resources procedures.  |
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| **Email** | Staff are encouraged to share which pronouns are preferred as part of a “signature.” ***Example:*** *Jess Miller, LICSW* *Clinical Social Worker* *Pronouns: he, him, his* Or *Gabe Smith* *MHW* *Pronouns: they, them, their* |

**REFERRAL, INTAKE, SCREENING**

Throughout the intake and screening process, staff should avoid making assumptions about an individual’s gender based on anything other than their own gender description. This is particularly critical for personnel who are the first to have contact with individuals upon entry to a facility/program.

* *Staff should not assume gender based on a person’s voice, clothing, appearance, or documentation, or ID.*

Questions regarding referrals should be made to the facility medical director or area medical director for persons in the community.

It is appropriate to ask a person served if they use a name other than their legal name or the name on file. If they do, record their self-identified/chosen name in the “also known as” (AKA) field. It is also recommended to ask what pronouns a person uses. It should be noted that a person’s presentation and gender identity may be fluid and this should be a continuous dialogue.

MHIS data fields for gender identity, pronouns, and sexual orientation have been updated effective August 17, 2020. All existing clients will have their Electronic Medical Records data updated according to the preferences of the individual and no later than at their next regularly scheduled review.

If the intake process results in the close contact with, or the exposure of, an individual’s body (such as searches), staff should make all reasonable attempts to ensure that individuals are comfortable with the gender identity of the staff member conducting and overseeing the process.

* *A transgender, intersex, or gender non-conforming individual may be more comfortable with a staff member whose gender may or may not match their gender identity.*

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| **\*Special considerations when working with minors and families**When working with minors who have a goal of social transition and support of their gender or medical treatment related to their gender dysphoria, including various forms of gender affirmation such as puberty blockers, cross-hormone treatment, or surgical intervention, but who do not have the support of their parents/legal guardians, providers should:* Consult with the DMH legal office if there are concerns with disclosing or withholding information from a minor’s parents or LARs. While parents or LAR are entitled under Massachusetts law to a minor’s health information and/or records, ideally, a minor’s gender identity or sexual orientation should not be disclosed to their parents or legal guardians without their consent, and shall include a discussion of options and implications.
* Seek clinical consultation regarding the options for social and medical interventions available for the youth, and the risks and benefits to the youth’s health and mental health for these options, as well as the risks and benefits of not exercising these options.
* Actively engage families in ways that acknowledge where they are in the process of understanding their child’s gender and gender presentation as well as their cultural background.
* Work to help families decrease risk and increase well-being for their LGBTQ and GNC children.
* Be knowledgeable about resources to help parents, families, and guardians with LGBTQ and GNC children, such as PFLAG groups and publications, SAMHSA’s “Helping Families to Support Their LGBT Children,” Sidney Borum’s Monthly Drop-in Night for Parents of Transgender Young People in Boston,” etc.
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**ROOM ASSIGNMENTS**

In programs and/or housing segregated by sex, transgender and intersex individuals may be placed in the rooms, programs, and/or housing that corresponds to the gender an individual lives and identifies as. Decisions regarding room assignments, including placement of persons in a single room, should be made in consultation with the individual, and parent/LAR of minors as necessary. Placements shall be assigned based on the wishes of the transgender and/or intersex individual. Some transgender and/or gender non-conforming individuals may not feel ready to be in the gendered space with which they identify. Concerns for privacy and emotional and physical safety should always be taken into consideration. Placements that go against the wishes of a transgender and/or intersex individual shall have a specific documented credible basis and shall not be based on a gender identity reason. Absent a clinical review of necessity, transgender individuals shall not be placed in a single room against their wishes if the program has the capacity to provide multiple occupancy rooms.

* *A transgender woman (MTF) should be placed in rooms, programs and/or housing for women, and a transgender man (FTM) should be placed in rooms, programs and/or housing for men, unless the individual indicates that they wish to be placed elsewhere.*
* *A non-binary individual (an individual who does not identify as a man or a woman) should be placed in rooms, programs, and/or housing that the individual feels is appropriate for their care.*

**BATHROOM& SHOWER FACILITIES**

Allow individuals to use bathrooms and showers that correspond to their gender identity. Offer the facilities based on a person’s concerns regarding safety and comfort.

If possible, provide single-stall gender-neutral bathrooms for all individuals to use. Do not offer this as the only option for transgender and gender non-conforming guests. Restricting choices in this way may draw unwanted attention to the individual or situation.

Ensure bathrooms and shower stalls accommodate the need for privacy and safety of all individuals.

Where available, offer – but do not mandate – to all persons the use of individual shower stalls. If only open stalls exist in the facility, staff should make accommodations to ensure the privacy and safety of all. For example, staff can divide shower stalls with curtains or may make arrangements for people to use the shower at a time when the shower area is closed to others. As with bathroom facilities, do not require this as the only option for transgender and gender non-conforming persons. Restricting choices in this way may draw unwanted attention to the individual or situation.

**CLOTHING/GROOMING**

Expectations for attire should not be based on gender or gender identity. Gender non-conforming clothing and grooming practices should be accepted. The goal of this is to allow personal freedom and exploration in dress, gender expression, and presentation.

***Examples:***

* *A requirement that all persons wear clothing that covers their body from the chest to the knees is not based on gender.*
* *If a skirt is appropriate for your environment then it is appropriate for anyone.*

There may be instances where clothing or grooming may need to be modified in order to adhere to safety and security practices.

***Examples:***

* *Long hair can be tied back.*
* *Fingernails must be maintained at a length that adheres to DMH safety and security practices.*
* *Jewelry may be worn as permitted by DMH safety and security practices.*

**INTEGRATED HEALTH SERVICES**

The provision of physical, mental health, and substance use care requires that all staff have a foundational knowledge and awareness of special considerations in caring for LGBTQ and GNC individuals, including:

* Understanding mental health issues in the context of gender identity or sexual orientation.
* The ways in which oppression and minority stress have negative impacts on the mental and physical health of LGBTQ and GNC persons.
* The benefits of working in an interdisciplinary approach when working with LGBTQ and GNC individuals and the importance of working collaboratively with families (or other natural supports) and other providers to meet the needs of LGBTQ individuals.

It is appropriate to support a person’s served goals.

Transgender and gender non-conforming individuals should have access to consultation with health care professionals who have specialized knowledge and training in the medical care of gender-diverse patients for all health care.

Transgender and gender non-conforming individuals seeking transition-related health care, including hormone therapy or gender confirming surgery, should have access to knowledgeable and experienced care that follows the current standards of care and is not contingent on rewards or prescribed behavior.[[2]](#footnote-2)

Transgender and gender non-conforming individuals who are currently undergoing hormone therapy should have readily available access to these medications, just as any other individual has the right to obtain medications that have been prescribed to them.

Consultation with a knowledgeable and experienced medical professional shall be provided to transgender and GNC individuals who are accessing hormones that are not prescribed by a DMH physician and who are admitted to a DMH Inpatient Facility.

DMH DOES NOT CONDONE OR ENDORSE CONVERSION THERAPY. Chapter 8 of the Acts of 2019, *AN ACT RELATIVE TO ABUSIVE PRACTICES TO CHANGE SEXUAL ORIENTATION AND GENDER IDENTITY IN MINORS* makes such therapy illegal.

**ENVIRONMENT**

Before engaging in services, individuals need to know that they are welcome. A receptive, inclusive living and working environment can help communicate to LGBTQ and GNC individuals that they are welcome, will be safe, and that services are going to be culturally competent. Toward this end, suggestions include:

* *Having LGBTQ staff at all levels throughout the agency to create a welcoming environment, and toward the delivery of competent services throughout the system.*
* *Use of images, via artwork, signage, brochures, “safe space” stickers, etc. that include LGBTQ-friendly themes such as rainbows, transgender symbols, photos of LGBTQ people.*
* *Websites that clearly post non-discrimination policies, and that include images that are LGBTQ-themed.*

**HARASSMENT**

The DMH LGBTQ Policy, Executive Order 592, and the EOHHS Sexual Harassment Policy all affirm that all LGBTQ and GNC persons shall be treated with respect and shall be free from harassment due to an individual’s sexual orientation, or gender identification. Toward this goal, the agency shall work toward the creation of an environment that is safe and welcoming for all, including LGBTQ and GNC individuals, and encourage intervention in instances where there is harassment.

***Examples of behavior that may constitute harassment of LGBTQ and GNC persons include:***

* *Deliberately not using the person’s self-identified/chosen name and/or pronouns.*
* *Asking a person’s former name for unnecessary reasons.*
* *Inappropriate questions such as questions about a person’s body, genitals, whether or not a person has had or plans to have surgery, or about their sexual activity for unnecessary reasons.*
* *Derogatory remarks, jokes, insults, threats, or epithets about a person’s sexual orientation, gender identity, gender expression, or other anti-LGBTQ-GNC comments.*
* *Deliberately disclosing someone’s sexual orientation, gender identity, or intersex condition without their consent.*
* *Deliberately disclosing, without consent, that someone cross-dresses or dresses in a gender non-conforming manner.*
* *Telling someone that they cannot use a specific bathroom.*

A violation of the LGBTQ Non Discrimination Policy may subject an employee to disciplinary action even though such violation may not constitute unlawful harassment.

**HUMAN RESOURCES**

All LGBTQ and GNC persons are protected by applicable state and federal non-discrimination laws including, but not limited to:

* Title VII of the Civil Rights Act of 1964
* MGL, c151B
* MGL, c272
* Executive Order 592

DMH employees and persons receiving services are also protected by the DMH LGBTQ Non-discrimination policy.

Privacy and confidentiality may be critical for transgender employees who may be transitioning. For such individuals, Human Resources (HR), in conjunction with an appropriate manager and the Diversity Officer, shall ensure that workplace gender identity and transition issues are handled appropriately. This includes having HR work with managers and employees to ensure that employees fully understand their health benefits, leave and time off, and process for changing identification.

The following efforts should be made regarding recruitment/hiring:

* Welcome LGBTQ and GNC job applicants and staff at all levels throughout the agency toward the creation of an aware and welcoming environment, and toward the delivery of competent services throughout the system.
* Recruitment efforts shall include outreach to LGBTQ organizations/groups.
* Awareness of responses to diversity questions in interviews that reflect LGBTQ knowledge, skills, experience, and/or competence.

**TRAINING**

 Staff need to have a foundational knowledge and awareness of LGBTQ and GNC issues, including:

* How mental health issues may or may not be related to gender identity and the impact of minority stress;
* The benefits of working in an interdisciplinary approach when working with LGBTQ and GNC individuals and the importance of working collaboratively with family and/or other providers; and
* The impact of culture, including language, and implications for assessment and treatment.

Foundational training shall:

* Be mandatory for all staff.
* Be included in all new employee orientation.
* Include local resources for LGBTQ and GNC individuals.

Specialized training shall:

* Be provided for supervisors/managers regarding supporting LGBTQ staff and/or staff working with LGBTQ and GNC individuals.
* Explore different tracks to be developed for different disciplines and job titles, and offer specialized trainings for each.
* Train Child, Youth, and Family staff on the specialized medical needs and options for transgender, intersex, and gender fluid children under the age of 18 – for instance, the different types of puberty blockers and hormone treatment, how these may help, which physical changes that puberty or medications may cause and are reversible and which are not.
* Train staff to understand the need to help such children engage with pediatricians who have training and experience in working with gender diversity and who can talk to youth and their families about gender identity; gender dysphoria; options for delaying puberty and/or ensuring a puberty which conforms to a child’s gender identity; sexual health; family planning and reproductive options for the future.
* Train staff working with children on the legal rights of LGBTQ and GNC minors as well as the legal rights of the parents/guardian in relation to these guidelines, and ideas on how to work through the common conflicts and ethical dilemmas which exist when providing care; Provide resources within DMH and at community agencies which advocate for LGBTQ and GNC persons and persons with lived mental health experience which can be accessed when trying to address these issues.
* Train staff on the rights of the transitioning and transgender person in relation to medical benefits and coverages for transition, ongoing specialized care if needed, etc.
* Training staff on MHIS changes.

All staff should be made aware of other educational resources/opportunities such as webinars, websites, listservs, trainings, etc. Explore multiple options for dissemination of this information.

In the development of LGBTQ training:

* Training should include strategies for meeting individuals in a respectful manner.
* Training should include recognition of personal biases, including cultural and religious biases.
* Training should understand hallmarks of tokenism/stigmatization.
* Trainings should be developed and delivered by appropriate trainers, including LGBTQ and GNC individuals.
* Trainings should ideally be developed collaboratively and offered to the larger DMH “community,” including vendors, families, and persons served.
* Area Diversity Committees should include LGBTQ and GNC issues and be consulted with for these issues.

**GLOSSARY**

**Chosen name:** The name a person identifies with for the purposes of self-identification and how they expect to be referred to by others during their care or their employment.

**Disability:** A physical or mental condition that substantially limits one or more major life activities of a person; a record of having such impairment; or being regarded as having such impairment.

**Discrimination:** Any unlawful work-related act, policy or practice by which DMH or a contracted vendor, by itself or through its agent, and because of actual or perceived membership in a Protected Class status, commits Harassment, discharges or refuses to hire or employ an individual, or discriminates against an individual in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide occupational qualification.

**Diversity Officer:** The DMH Employee designated by the Commissioner who is responsible for planning, organizing and directing all aspects of diversity, affirmative action, and equal employment within the DMH.

**Employee:** Any individual holding a full or part-time position, including a state employee, contract employee, individual consultant, temporary employee, volunteer, trainee, intern, or student, regardless of whether the individual receives compensation and the source of funding for the position. A current client of a facility or program who provides services at that facility or program will not be considered an employee at that facility or program.

**Gender Expression:** The manner in which a person expresses gender through clothing, appearance, behavior, speech, etc. A person’s gender expression may vary from the norms traditionally associated with the person’s assigned sex at birth. Gender expression is a separate concept from sexual orientation and gender identity. For example, a male may exhibit an effeminate manner, but identify as a heterosexual male. Gender expression may look different throughout time and in different cultures.

**Gender Identity:** An individual’s internal view of the person’s gender; one’s innermost sense of being male, female, both or neither. One's gender identity may or may not correspond to the sex assigned at birth. Gender identity includes, but is not limited to trans woman, woman, trans man, man, agender, genderqueer, genderfluid, non-binary, and many others.

**Gender Non-Conforming (GNC):** A person who does not follow culturally dominant ideas and/or stereotypes about how the person should look or act based on the male or female sex they were assigned at birth.

**Harassment:** Any unlawful work-related speech or behavior that is subjectively and objectively unwelcome, offensive, or intimidating, and is based on actual or perceived membership in or association with a Protected Class that creates an abusive working environment.

**Individual Served:** A person who is receiving DMH services at a DMH operated or contracted inpatient facility, mental health center, or other community program.

**Intersex Condition:** A spectrum of conditions involving natural variations of the sex chromosomes, reproductive systems, and/or genitalia, outside of what is typically considered "male" or "female."

**Legally Authorized Representative (LAR):** A guardian or other fiduciary granted applicable authority by a court of competent jurisdiction, or, in the case of a minor, the parent(s) or other individual or entity with legal custody of the minor.

**LGBTQ:** Individuals who identify as, or are known to be, lesbian, gay, bisexual, transgender, queer, or questioning. For the purposes of the policy, DMH is using the term “LGBTQ.”  However, the intent of the policy and this guidance is to include all persons who, in any way or manner, identify on the spectrum of diverse Sexual Orientations and Gender Identities.

**Non-Binary:** Individuals who do not identify their gender identity as male or female, but might identify as both male and female, an identity in between the spectrum of male and female, or completely outside of the spectrum of male or female. Non-binary individuals reject the idea that there are just two genders. Other terms that often fall under this umbrella are genderqueer, gender fluid, agender, and many others.

**Protected Category:** A group of people protected by law from discrimination or harassment based on their membership or association in the group. Pursuant to M.G.L. 151B, protected categories include race, color, religion, national origin, ethnicity, ancestry, age, disability, sexual orientation, gender identity, gender expression, intersex condition, military status, and criminal record (for employment applications only).

**Sexual Orientation:** A person’s emotional, romantic, and/or sexual attraction to persons of the same or different gender.

1. The Glossary at the end of these Guidelines includes definitions of commonly used terms that are used in the Policy and Guidelines. [↑](#footnote-ref-1)
2. See section on “Special Considerations when Working with Children, Youth, and Families” [↑](#footnote-ref-2)