

STATE OF NEW YORK

8668

IN SENATE

January 7, 2026

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the "protection, respect, inclusion, dignity, and equality (PRIDE) care act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "protection, respect, inclusion, dignity, and equality (PRIDE) care
3 act".

4 § 2. Section 3602 of the public health law is amended by adding seven
5 new subdivisions 18, 19, 20, 21, 22, 23 and 24 to read as follows:

6 18. "Non-direct patient contact employee or contractor" means an
7 employee or contractor who does not make direct contact with the
8 patient. For the purposes of this subdivision, the term "direct contact"
9 includes, but is not limited to, communications with the patient through
10 in-person interactions, phone calls, text messages, emails, virtual
11 messages, and letters.

12 19. "Direct contact employee or contractor" means any employee or
13 contractor who makes direct contact with the patient. For the purposes
14 of this subdivision, "direct contact" includes, but is not limited to,
15 communications with the patient through in-person interactions, phone
16 calls, text messages, emails, virtual messages, and letters.

17 20. "Gender identity or expression" means a person's actual or
18 perceived gender-related identity, appearance, behavior, expression, or
19 other gender-related characteristic regardless of the sex assigned to
20 the person at birth, including, but not limited to, the status of being
21 transgender.

22 21. "Gender affirming health care" means medical, surgical, behav-
23 ioral, health, psychological, and other services intended to support and
24 affirm a person's self-determined gender identity or expression. The
25 term "gender affirming health care" does not include sexual orientation,
26 gender identity, and gender expression change efforts.

27 22. "AIDS" means diagnosed acquired immune deficiency syndrome.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 23. "HIV" means the human immunodeficiency virus.

2 24. "LGBTQ" means lesbian, gay, bisexual, transgender, queer, and/or
3 intersex identities.

4 § 3. The public health law is amended by adding a new section 3604 to
5 read as follows:

6 § 3604. Home care services bill of rights. The provisions of this
7 section shall apply to home care services agencies and certified home
8 health agencies.

9 1. A patient who receives home care services shall not be subject to
10 discrimination on the basis of sexual orientation, gender identity,
11 gender expression, and/or HIV status, and shall have the following
12 rights:

13 (a) to receive written information, in plain language and in a
14 language the patient understands, about such patient's rights under this
15 section before receiving services, including what to do and who to
16 contact if such rights are violated;

17 (b) to receive a nondiscrimination notice, which:

18 (i) shall read "(Name of provider) does not discriminate and does not
19 permit discrimination, including, but not limited to, bullying, abuse,
20 or harassment, on the basis of actual or perceived sexual orientation,
21 gender identity, gender expression, or HIV status, or based on associ-
22 ation with another individual on account of that individual's actual or
23 perceived sexual orientation, gender identity, gender expression, or HIV
24 status. You may file a complaint with the department of health at
25 (provide contact information) if you believe that you have experienced
26 this kind of discrimination";

27 (ii) the home care services agency or certified home health agency
28 shall obtain a signed copy of from each patient, or the patient's repre-
29 sentative if applicable, and such signed copy shall be included in such
30 patient's record if applicable;

31 (c) to receive care and services according to a suitable and up-to-
32 date plan, and subject to accepted health care, medical or nursing stan-
33 dards and person-centered care, including the right to be treated with
34 respect and be free from discrimination based on LGBTQ and/or HIV status
35 or perceived status, and to take an active part in developing, modify-
36 ing, and evaluating such plan and services;

37 (d) to receive HIV-related treatment as prescribed and be free from
38 discrimination based on receiving the HIV-related treatment;

39 (e) to receive gender affirming health care and related mental health
40 care and be free from discrimination based on receiving such gender
41 affirming health care;

42 (f) to be informed, before receiving services, on the type and disci-
43 plines of staff who will be providing such services, whether such staff
44 have LGBTQ and HIV cultural competency training as defined in subdivi-
45 sion two of this section, the frequency of visits proposed to be
46 furnished, other choices that are available for addressing home care
47 needs, and the potential consequences of refusing such services;

48 (g) to receive medical or nonmedical care that is appropriate to such
49 patient's organs and bodily needs and that does not demean such
50 patient's dignity or cause avoidable discomfort, including being denied
51 or curtailed medical or nonmedical care because of such patient's gender
52 identity or expression, sexual orientation, and/or HIV status;

53 (h) to be told in advance of any recommended changes by the provider
54 in such patient's home care services plan and to take an active part in
55 any decisions about changes to such home care services plan;

1 (i) to refuse services or treatment, including experimental HIV or
2 gender affirming health care treatment;

3 (j) to know, before receiving services or during the initial visit,
4 any limits to the services available from the home care services agency
5 or certified home health agency;

6 (k) to be told before home care services are initiated what the
7 provider charges for such home care services; to what extent payment may
8 be expected from health insurance, public programs, or other sources, if
9 known; what charges such patient may be responsible for paying; and what
10 charges might be impacted by such patient's gender identity or
11 expression, sexual orientation, and/or HIV status;

12 (l) to be told that there may be other services available to such
13 patient, if applicable, including other home care services and provid-
14 ers, and to be told where to find information about such alternative
15 services, including providing resources to find a LGBTQ and HIV-friendly
16 home care services agency or certified home health agency;

17 (m) to choose freely among available providers and to change providers
18 after home care services have begun, within the limits of health insur-
19 ance, long-term care insurance, medical assistance, other health
20 programs, or public programs;

21 (n) to have personal, financial, and medical information kept private
22 on a need-to-know basis, and to be advised of the provider's policies
23 and procedures regarding disclosure of such information, including the
24 right to privacy of gender identity or expression and sexual orien-
25 tation;

26 (o) to have access to such patient's own records and written informa-
27 tion from such records;

28 (p) to be served by people who meet applicable standards of care,
29 following the training set forth in subdivision two of this section, and
30 be competent to perform their duties;

31 (q) to be treated with courtesy and respect, and to have such
32 patient's property treated with respect, including but not limited to
33 using such patient's preferred name and pronouns, and be free from a
34 willful and repeated failure to use such patient's chosen name and
35 pronouns after being clearly informed of such patient's chosen name and
36 pronouns;

37 (r) to be free from physical, verbal, sexual, and mental abuse,
38 neglect, financial exploitation, and all forms of maltreatment;

39 (s) to be free from discrimination based on race, color, religion,
40 sex, gender identity or expression, actual or perceived sexual orien-
41 tation, marital status, medical condition including HIV status, military
42 or veteran status, national origin, ancestry, disability, genetic infor-
43 mation, or age;

44 (t) to be free from discrimination based on private and personal items
45 belonging to such patient, including but not limited to, photographs,
46 letters, mail, clothing, toiletries, and decorative choices;

47 (u) to be free to have visitors of their choice and be free to
48 restrict or prohibit individuals from visiting such patient, including
49 members of such patient's biological family, and to have such visitors
50 also be free from discrimination based on race, color, religion, sex,
51 gender identity or expression, actual or perceived sexual orientation,
52 marital status, medical condition including HIV status, military or
53 veteran status, national origin, ancestry, disability, gender informa-
54 tion, or age;

55 (v) to be free to have privacy, with or without a guest of such
56 patient, at times of such patient's choosing;

1 (w) to be free to associate with visitors, including the right to
2 consensual sexual relations with persons of such patient's choosing;

3 (x) to be free to wear or be dressed in clothing, accessories, or
4 cosmetics of such patient's choosing;

5 (y) to receive written notice of changes in services or charges, with
6 at least a thirty-day notice before any increase in charges;

7 (z) to be provided at least ten calendar days' advance written notice
8 of the termination of a service by the home care services agency or
9 certified home health agency, except in cases where:

10 (i) such patient engages in conduct that significantly alters the
11 terms of the service plan with such home care services agency or certi-
12 fied home health agency;

13 (ii) such patient, person who lives with such patient, or others
14 create an abusive or unsafe work environment for the person providing
15 home care services; or

16 (iii) an emergency or a significant change in such patient's condition
17 has resulted in service needs that exceed the current service plan and
18 that cannot be safely met by such home care services agency or certified
19 home health agency;

20 (aa) if the provider terminates home care services, to receive written
21 notice of such provider's reason for termination of such home care
22 services within ten days of termination of such services, including the
23 provider's name, phone number, date that such services will be termi-
24 nated, and a statement that explains why such services are being termi-
25 nated;

26 (bb) to receive a coordinated transfer when there will be a change in
27 the provider of home care services;

28 (cc) to report reasonable grievances to staff and others about the
29 home care services provided, or failed to be provided, any discrimi-
30 nation faced by such patient including but not limited to discrimination
31 based on sex, gender identity or expression, actual or perceived sexual
32 orientation, any lack of courtesy or respect to such patient or such
33 patient's property, and the right to recommend changes in policies and
34 services, or any other problems with such home care services without
35 fear of retaliation or punishment including the threat of termination of
36 such home care services;

37 (dd) to be informed on how to contact an individual associated with
38 the home care services agency or certified home health agency who is
39 responsible for handling problems and to have such home care services
40 agency or certified home health agency investigate and attempt to
41 resolve the grievance or complaint;

42 (ee) to be informed of the name, address, phone number, and email
43 address of the state, county, or city agency to contact for additional
44 information or assistance; and

45 (ff) to assert rights under this subdivision personally, or have such
46 rights asserted by such patient's representative or by anyone on behalf
47 of such patient, without retaliation.

48 2. (a) Each employee and contractor of a home care services agency or
49 certified home health agency shall complete a training designed to elim-
50 inate and prevent discrimination based on actual or perceived sexual
51 orientation, gender identity or expression, and actual or perceived HIV
52 status, within six months of being hired or beginning their contract,
53 and at least once every two years thereafter. To be in compliance with
54 this paragraph, each direct contact employee or contractor shall receive
55 three hours of training every two years, and each non-direct contact
56 employee or contractor shall engage in two hours of training every two

1 years. A person required to receive training under this paragraph shall
2 receive such training within six months of hire unless the person
3 provides proof of having received training with the prior two years that
4 the home care services agency or certified home health agency determines
5 satisfies the requirements of this paragraph. Such training program
6 shall be completed by: (i) all providers of home care services who
7 contract with or receive funding from the department, New York state
8 Medicaid, any local, county, or city agency, or any other New York state
9 agency, (ii) home care services agencies, and (iii) certified home
10 health agencies.

11 (b) At a minimum, the training required under paragraph (a) of this
12 subdivision shall address the following:

13 (i) the definitions of the terms commonly associated with sexual
14 orientation, gender identity or expression, intersex status, and HIV
15 status;

16 (ii) an understanding of why patients with diverse sexual orientations
17 and gender identities or expressions may hide their identities;

18 (iii) unique needs of patients with diverse sexual orientations and
19 gender identities or expressions, including older adults;

20 (iv) an overview of the various rights and protections for patients
21 with diverse sexual orientation and gender identities or expressions;

22 (v) practical tips from experts about how to ask questions related to
23 sexual orientation and gender identity or expression and understand why
24 such questions are important for all providers of home care services;

25 (vi) how to respectfully respond to questions and concerns that arise
26 in conversations relating to sexual orientation and gender identity or
27 expression;

28 (vii) best practices for providing gender affirming health care;

29 (viii) methods of communicating with or about LGBTQ individuals or
30 persons living with HIV, which shall address the importance of using
31 LGBTQ individuals' preferred terminology when addressing or speaking
32 about them and shall include a segment on the use of suitable vocabulary
33 regarding gender identity or expression, including respecting patients'
34 pronouns;

35 (ix) the health and social challenges historically faced by older
36 LGBTQ persons and persons living with HIV, including discrimination in
37 the home care services, health care, and other settings, and which shall
38 include information on the history of discrimination and hostility
39 directed towards LGBTQ persons and persons living with HIV, information
40 about LGBTQ persons and persons living with HIVs' reluctance to seek
41 medical treatment because of a fear of discrimination, and the discrimi-
42 nation faced by transgender people and the importance of providing and
43 facilitating medical care and treatment because of a fear of discrimi-
44 nation;

45 (x) the importance of professionalism in the medical setting and the
46 ways caretaker attitudes affect health care access and participation and
47 overall physical and mental health outcomes; and

48 (xi) methods to create a safe and affirming environment, the legal and
49 professional obligation to treat all patients in a nondiscriminatory
50 manner, and the penalties for failing to meet legal and professional
51 standards.

52 (c) The training required under this subdivision shall be taught by an
53 entity with expertise in identifying and addressing the legal and social
54 challenges faced by LGBTQ persons as they age and those faced by LGBTQ
55 persons who reside in long-term-care facilities.

1 (d) (i) The training required under this subdivision shall be in-per-
2 son training or internet-based training.

3 (ii) The use of in-person training shall require proof of participant
4 attendance in the form of a certificate signed by such participant and
5 such participant's supervisor.

6 (iii) The use of internet-based training shall require the following:

7 (1) controls to ensure that the full training is completed;

8 (2) the use of a personal identification number or personal identifi-
9 cation information that confirms the identity of the participant; and

10 (3) a final screen displaying a printable statement, to be signed by
11 the participant and such participant's supervisor, certifying that such
12 identified participant completed the identified training.

13 (iv) Records of each staff development program shall be maintained.
14 Such records shall include name and title of presenter, date of presen-
15 tation, title of subject presented, description of content and the
16 signatures of those attending.

17 3. The rights provided under subdivision one of this section shall
18 provide patients of home care services agencies and certified home
19 health agencies a right to sue for violations of such rights. A home
20 care services agency or certified home health agency shall not request
21 or require a patient to surrender any of such rights as a condition of
22 receiving services. A home care services agency or certified home health
23 agency shall not force a patient or former patient into arbitration
24 regarding such rights. Further, any arbitration clause regarding such
25 rights between a home care services agency or certified home health
26 agency and a patient or former patient of home care services or home
27 health aide services, shall be deemed null and void. If any of such
28 rights are violated, the affected patient may reach out to the New York
29 long-term care ombudsman. The statement of rights under this section
30 shall not replace or diminish any other rights and liberties that may
31 exist relative to patients receiving home care services or persons
32 providing home care services.

33 4. (a) All home care services agencies and certified home health agen-
34 cies shall do all of the following:

35 (i) require all recipients of state funding, including but not limited
36 to funding provided by Medicaid or non profit organizations, or any
37 other providers who receive state funding to satisfy a cultural compe-
38 tency training requirement;

39 (ii) encourage and assist in the fullest possible exercise of the
40 rights provided under this section;

41 (iii) provide the names and telephone numbers of individuals and
42 organizations that provide advocacy and legal services for patients
43 seeking to assert their rights under this section;

44 (iv) make every effort to assist patients in obtaining information
45 regarding whether Medicare, medical assistance, other health programs,
46 or public programs will pay for home care services;

47 (v) make reasonable accommodations for people who have communication
48 disabilities, or those who speak a language other than English; and

49 (vi) provide all information and notices in plain language and in
50 terms patients can understand.

51 (b) No home care services agency or certified home health agency shall
52 require or request a patient to waive any of the rights listed in this
53 section at any time or for any reasons, including as a condition of
54 initiating services or entering into an assisted living contract.

1 (c) Every home care services agency or certified home health agency
2 with twenty-five or more employees shall provide a name of a chief
3 diversity officer to the department.

4 § 4. This act shall take effect on the ninetieth day after it shall
5 have become a law. Effective immediately, the addition, amendment and/or
6 repeal of any rule or regulation necessary for the implementation of
7 this act on its effective date are authorized to be made and completed
8 on or before such effective date.