

ISSUE DATE:

01-07-2011

EFFECTIVE DATE:

01-07-2011

NUMBER:

OMHSAS -11-01

SUBJECT:

Non-Discrimination Toward Lesbian, Gay, Bisexual,
Transgender, Questioning, and Intersex People

BY:



Sherry H. Snyder
Acting Deputy Secretary
Office of Mental Health and Substance Abuse Services

SCOPE:

Behavioral Health Managed Care Organizations and Network Providers
State Mental Hospitals

PURPOSE:

The Office of Mental Health and Substance Abuse Services (OMHSAS) seeks through this bulletin to improve the quality of work environments and service delivery to lesbian, gay, bisexual, transgender, questioning, and intersex (LGBTQI) consumers by ensuring that all consumers and their families receive the services to which they are entitled without discrimination or mistreatment related to their actual or perceived sexual orientation, gender identity and/or gender expression. Services are most likely to be delivered this way when staff work in environments that are free from discrimination and mistreatment based on actual or perceived sexual orientation, gender identity and/or gender expression. Issuance of this Bulletin complements OMHSAS' mission to promote non-discrimination for staff and consumers regardless of culture, ethnicity, race or religion.

This policy is intended to enhance services provided by State Hospitals, HealthChoices behavioral health managed care organizations (BH-MCOs) and their network providers. Fee-for-service providers and county mental health offices and their providers will be phased in at a later date, but are strongly encouraged to implement these policies.

BACKGROUND:

OMHSAS is aware of the research which has found significant disparities in behavioral health outcomes between the LGBTQI population and the larger population which, many researchers believe, are the effect of discriminatory policies and practices by providers of behavioral health

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Mental Health and Substance Abuse Services, Bureau of Policy, Planning & Program Development, P.O. Box 2675, Harrisburg, PA 17105. General Office Number 717-772-7900.

services, and which may be alleviated by requiring initiatives such as training designed to combat unconscious discrimination. Not only behavioral health consumers, but LGBTQI individuals who are part of the system that provides services for them, face misunderstanding, discrimination, and mistreatment. However, Pennsylvania's anti-discrimination laws do not provide protection from harassment and discrimination based on sexual orientation or gender identity.

In 2008, OMHSAS' LGBTQI Workgroup delivered to OMHSAS its recommendations, "Issues of Access to and Inclusion in Behavioral Health Services for Lesbian, Gay, Bisexual, Transgender, Questioning and Intersex Consumers." The highest-priority recommendation called for a non-discrimination policy regarding sexual orientation, gender identity and gender expression, covering the staff of state hospitals, BH-MCOs and network providers as well as all people receiving services through state hospitals, BH-MCOs and network providers.

To support this objective, OMHSAS has developed these guidelines to ensure that LGBTQI staff, consumers and their family members are protected from discrimination and mistreatment.

While the policies in this bulletin are effective immediately, state hospitals, BH-MCOs and network providers will be given until June 2011 to complete their implementation. It is recommended that all state hospitals, BH-MCOs and network providers immediately begin to assess requirements for ensuring that LGBTQI consumers and family members are not subject to discrimination, and establish plans which will lead to compliance with this Bulletin.

OMHSAS maintains a resource list designed to assist state hospitals, BH-MCOs and network providers in their implementation efforts. This list will remain current for use by all community partners, who will be informed as updates occur.

DEFINITIONS:

Bisexual: A person who identifies as being attracted relationally and sexually to men as well as women.

Gay: A man who identifies primarily as being attracted relationally and sexually to other men. Although it can be used for any sex (e.g. gay man, gay woman, gay person), in this bulletin the term "gay" is used to refer to gay men.

Gender Expression: The manner in which a person outwardly expresses his or her gender identity.

Gender Identity: A person's inner sense of self as male, female, somewhere in between, or something else altogether. Most people develop a gender identity that corresponds to their biological sex, but some do not.

Intersex: A term used to describe a variety of situations in which a person is born with reproductive and/or sexual anatomy that does not fit typical definitions of female or male. Intersex people may have various combinations of genitalia, reproductive organs, secondary sex characteristics and sex chromosome combinations. At birth or later, intersex people may undergo surgery to make their genitalia conform to the conventions of the gender binary (i.e. either male or female). Characteristics resulting from surgery, or the gender assigned at birth, may or may not match the individual's gender identity and may cause permanent physical damage.

Lesbian: A woman who identifies primarily as being attracted relationally and sexually to other women.

LGBTQI: People who identify themselves as lesbian, gay, bisexual, transgender, questioning, and/or intersex, or other minority sexual orientation, gender identity or gender expression.

Questioning: Persons who are unsure about their sexual orientation and/or gender identity, or who choose at a given time to refrain from defining their sexual orientation and/or gender identity.

Sexual orientation: The emotional, sexual, or affectional interest or attraction a person feels toward people of the same sex or gender, people of a different sex or gender, or people of any sex or gender. Interest or attraction does not necessarily correspond to behavior. Gay, lesbian and bisexual people are no longer considered by the mainstream medical and psychological communities to be disordered or ill because of their same-sex attractions.

Transgender: Persons who live either full- or part-time in a gender role other than the gender assigned to them at birth. This may include people who identify as transsexuals, cross dressers, drag queens, drag kings, or as gender variant or intersex. Some transgender people undergo surgeries or take hormones to change the sex characteristics of their bodies, and others do not. Some transgender people identify as living outside the traditional gender construct of male body and gender, and female body and gender. Some express themselves in the traditional role assigned them at birth, but do not identify themselves with the traditional gender-binary language of male and female.

POLICY:

1. *Non-Discrimination Policy:* No state hospital, BH-MCO or network provider, nor its employees may discriminate against any employee, or any individual receiving services, on the basis of actual or perceived sexual orientation, actual or perceived gender identity, and/or actual or perceived gender expression.
2. *Publication of Policy:* Each state hospital, BH-MCO, and network provider must include the Non-Discrimination Policy contained in Item 1 in literature, materials, manuals, documents, internet websites or other writings conveying information about the organization or agency to its employees, to people seeking or receiving services, or to the general public. Inclusion of the categories of sexual orientation, gender identity, and gender expression in all places where a state hospital, BH-MCO or network provider maintains other non-discrimination language will be accepted by OMHSAS as compliance with this Policy.
3. *Complaint Procedure:* Each state hospital, BH-MCO and network provider must update their existing complaint procedures and accept complaints from consumers for any alleged violation of this Policy in keeping with current HealthChoices and DPW complaint and grievance processes. In addition, OMHSAS encourages each state hospital, BH-MCO and network provider to have a complaint procedure that affords an employee the opportunity to report any alleged violation of this Policy.