

Transgender, Gender Diverse, or Intersex (TGI) Health Care Quality Standards and Training Curriculum Working Group Meeting

May 23, 2023

Agenda

1. Welcome and Introductions
2. Review of the April 12, 2023 Meeting Summary
3. Overview of Bagley-Keene Open Meeting Act Requirements
4. Consumer Participation Program
5. Review of SB 923 (Wiener) and Scope of the Working Group
6. DMHC Help Center Information and Current Law Related to TGI Healthcare Rights

Agenda

7. Working Group Member Presentations
8. Break
9. Facilitated Discussion: Documenting Commonly Occurring Barriers
10. Public Comment
11. Closing Remarks

Welcome and Introductions

Mary Watanabe (she/her/hers), Director

Jacob Rostovsky (he/him/his), Queer Works

Review of the April 12, 2023 Meeting Summary

Overview of Bagley-Keene Open Meeting Act Requirements

Scott Ostermiller (he/him/his)

Attorney III, Office of Legal Services

General Rule

- The public is allowed to monitor and participate in all meetings of state bodies

What is a Meeting?

Two types of meetings:

1. Physical meetings (including Teleconference)

- Must comply with Bagley-Keene requirements

2. Serial meetings

- Prohibited by the Bagley-Keene Act

Serial Meetings

“What the work group cannot do as a group it cannot do through individual communications”

What is a Serial Meeting?

Definition: A series of communications, each of which involves less than a majority of the work group, but taken together involve a majority.

- Applies to communications regarding any item of business within the subject matter of the work group
- Includes communications through intermediaries or representatives

Serial Meetings

Applies to:

- Emails
- Texts
- Teams/Zoom Chats
- Phone Calls

“Within the subject matter”

Work group members may not use a series of communications to discuss, deliberate, or take action outside the meeting on any matter within the work group’s purview.

- *Broadly defined:* Includes any discussion, not just formal actions

Examples of Serial Meetings

Example #1:

Member A texts Members B and C about an agenda item for an upcoming open meeting.

- Member C calls Member D on the same topic.
- Member D emails Members E, F and G on the same topic

Examples of Serial Meetings

Example #2:

Member A calls various members of the work group individually after an open meeting to further discuss an issue raised at the meeting.

Example #3:

Members of the work group use Microsoft Teams chat during an open meeting to internally discuss an agenda item.

Serial Meetings

Serial meetings are **prohibited** under the Bagley-Keene Act.

Why are they prohibited?

- It constitutes a meeting without public participation.

Penalties for a Violations

- A violation of Bagley-Keene may result in misdemeanor criminal prosecution
- Work group actions taken in violation of the law may be void
- Costs and attorneys' fees may be recovered
- May harm the work group's reputation

Tips to Avoid Serial Meetings

- Refrain from contacting other members on a one-to-one basis regarding issues under the work group's purview
- Don't text, chat or email each other during an open meeting regarding work group topics

Questions

Consumer Participation Program

Ali Thodas (she/her/hers)
Attorney III, Office of Legal Services

Consumer Participation Program

The Consumer Participation (CPP) allows the DMHC to award reasonable advocacy and witness fees to any person or organization that Represents the Interests of Consumers in a Proceeding and makes a Substantial Contribution to the Department in its deliberations regarding that Proceeding.

Step 1: Petition to Participate

- A person who wants to apply for a CPP Award (Award) must either a) have an accurate Petition to Participate (Petition) on file with the CPP or b) submit a new Petition.
- When submitting a new Petition:
 - The Petition must be submitted to the DMHC within the following timelines:
 - No later than the **end of the final public comment period** of the rulemaking proceeding at issue; or

Step 1: Petition to Participate

- For legislatively authorized guidance, orders, or decisions, within **ten (10) working days** after the guidance, orders, or decision becomes final. **This is the relevant timeline for those in the SB 923 Work Group.**

Step 1: Petition to Participate

- The Petition is submitted online through the CPP portal of the DMHC website at <https://www.dmhc.ca.gov/>, under “About the DMHC”, located in “Opportunities to Participate”.
- The Petition must include the following information, which might be helpful to have on hand when filling out the form:
 - The name of the person or representative, organization name, mailing address, telephone number, and e-mail address.

Step 1: Petition to Participate

- Under what statute the organization is formed or incorporated, including whether it is a non-profit corporation.
- An identification of the Proceeding in which the person or organization seeks to participate.
- A clear and concise statement of the person or organization's interest in the Proceeding, which explains why participation is needed to represent the interest of consumers.

Step 1: Petition to Participate

- An estimate of the Advocacy and Witness Fees that may be sought.
- The Petition shall include a statement that the facts contained therein are true and correct to the best of the knowledge of the person verifying the information.

Step 2: Application for Award

- Once a Petition has been approved by the Hearing Officer, an Applicant may submit an Application for Award (Application). The Application is also filled out online in the CPP portal on the DMHC website at <https://www.dmhc.ca.gov/> under “About the DMHC”, located in “Opportunities to Participate.”

Step 2: Application for Award

- An Application must be submitted **no later than sixty (60) days** following the effective date of a regulation; the effective date of an order or decision by the Director, or the decision not to issue an order or decision; or **the date of issuance of legislatively authorized guidance.**

Step 2: Application for Award

- An Application must include:
 - A detailed and itemized description of the Advocacy and Witness Fees for which the Participant seeks compensation.
 - Legible time and/or billing records, created at the same time as the work was performed, which show the date and the exact amount of time spent on each **specific task (e.g. meetings, telephone calls, etc.)** in thirty (30) minute increments (e.g., 1.5 hours).

Step 2: Application for Award

- The hourly rate of compensation for each witness or advocate acting on behalf of the Participant; a short justification for each hourly rate, which may include copies of or citations to previously approved hourly rates; each witness or advocate's resume or curriculum vitae.

Step 2: Application for Award

- A description of the ways in which the Participant has made a Substantial Contribution to the Proceeding, supported by specific citations to each specific task (e.g., **telephone calls, Teams meetings**), as necessary.
- A clear and concise statement of the Participant's interest in the Proceeding, which explains why participation is needed to represent the interest of consumers.

Interim Compensation

- Allows a Participant to request compensation although a Proceeding is ongoing, and the Participant may incur future costs. The Participant requesting Interim Compensation must still file a Petition (or already have a Petition on file) and an Application for an Advocacy Award. A request for Interim Compensation does not require or preclude a Participant from requesting an additional Award in the future.

Interim Compensation

- The Application shall include **the specific time period for which the Interim Compensation is sought** (e.g. for work performed between April 1, 2023, and October 31, 2023).
- **Example:** From the example above, Chris's organization intends to submit an Application for Interim Award. Thus, on their application, Chris indicates that they are requesting an Interim Award for the period between March 1, 2023 and May 31, 2023. Chris also specified this time period on the time and billing detail included with their application.

Questions

**Ali Thodas (she/her/hers), Attorney III, CPP
Hearing Officer
Ali.Thodas@DMHC.ca.gov**

Review of SB 923 (Wiener) and Scope of Working Group

Jacob Rostovsky (he/him/his), Queer Works

DMHC Help Center Information and Current Law Related to TGI Healthcare Rights

Latika Sharma (she/her/hers)
Senior Counsel, Office of Legal Services

General Consumer Protections

- The Knox-Keene Act and the Regulations contain numerous consumer protection provisions – some examples:
 - Plans cannot discriminate based on, among other things, race, color, religion, sex, marital status, sexual orientation, age
 - Enrollee protection from termination of coverage
 - Enrollee participation in a health plan's public policy

General Consumer Protections

- Timely access to coverage, including geographic accessibility and network adequacy requirements
- Health plans must have criteria and a process for authorization and denial of claims
- Confidentiality of enrollee information

General Consumer Protections

- Right to file grievance or complaint with the health plan
- Review by DMHC or request for independent medical review (IMR)
- DMHC's Help Center is available for assistance with all grievances/complaints and IMR

TGI Healthcare Rights

- 12 – K Letter (4/19/13)
 - Prohibited limits on access to medically necessary care because of an individual's gender, gender identity, or expression
 - No benefit and coverage exclusions or limitations related to gender transition services
 - Required plans to remove benefit and coverage exclusions from plan documents

TGI Healthcare Rights

- All Plan Letter (2/5/15)
 - Enrollees diagnosed with gender dysphoria must be treated in the same manner as other enrollees

Recent Changes to the Knox-Keene Act

- Senate Bill 855 (2020, Wiener)
- Senate Bill 107 (2022, Wiener)
- Assembly Bill 1184 (2021, Chiu)

Mental Health and Substance Use Disorder

- Senate Bill 855 (HSC §§ 1367.045, 1374.72 & 1374.721)
 - Discretionary authority to determine eligibility is void and unenforceable
 - Plans must provide coverage for all medically necessary treatment of mental health and substance use disorders

Mental Health and Substance Use Disorder

- Senate Bill 855
 - Utilization review - plans must apply the criteria and guidelines from the most recent version of treatment criteria developed by the applicable nonprofit professional association
 - All Plan Letter (1/5/21)
 - » World Professional Association for Transgender Health (WPATH)

Confidentiality of Medical Information

- Senate Bill 107 (Civil Code § 56.109, Code of Civil Procedure §§ 3421, 3424, 3427 & 3428, Family Code § 3453.5, and Penal Code §§ 819 & 1326)
 - Prohibits release of medical information regarding a person or entity allowing a child to receive gender-affirming health care or mental health care in response to civil action

Confidentiality of Medical Information

- Senate Bill 107
 - Prohibits plans from releasing medical information to persons or entities who have requested that information and who are authorized by law to receive that information, if the information is related to a person or entity allowing a child to receive gender-affirming health care or mental health care

Confidentiality

- Assembly Bill 1184 (Civil Code §§ 56.05, 56.35 & 56.107)
 - Amends “medical information” to include mental health application information as well as mental or physical condition
 - Defines mental health application and mental health digital service

Confidentiality

- Assembly Bill 1184
 - Requires plans to take specific steps to protect confidentiality of a subscriber's or enrollee's medical information
 - Plans cannot require protected individual to obtain authorization to receive sensitive services or to submit a claim for sensitive services

DMHC Help Center

- First, file a grievance or complaint with health plan
 - Plans must resolve within 30 days
 - If there is an immediate threat to health, you may ask for immediate assistance from DMHC
- Submit a complaint to the health plan by phone, mail, or on the plan's website
- If the plan upholds their denial, or the plan does not issue a decision within 30 days, then can file an IMR or complaint with DMHC

Independent Medical Review

- Once DMHC receives the IMR/Complaint Form, the DMHC reviews to determine:
 - If it qualifies for an IMR and
 - If it should be processed as expedited
- If it does not meet the criteria for an IMR, it will be processed as a Consumer Complaint

Independent Medical Review

- Request an IMR if health plan denies, modifies, or delays a health care service, treatment or medication based in whole or in part on the plan's assertion that the service, treatment or medication is not medically necessary or is experimental/investigational
- An objective review by doctors outside the health plan

DMHC Help Center

1-888-466-2219

HealthHelp.ca.gov

Questions

Working Group Member Presentations

**Dannie Ceseña (he/him/they/them), California LGBTQ
Health and Human Services Network**

Skyler Rosellini (he/him), National Health Law Program



CALIFORNIA
LGBTQ
HEALTH AND HUMAN
SERVICES **NETWORK**

 **Out4MentalHealth**

WE BREATHE

Introductions

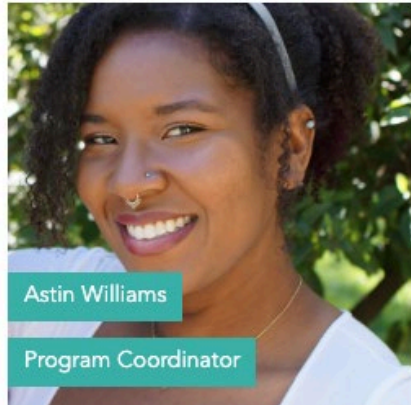
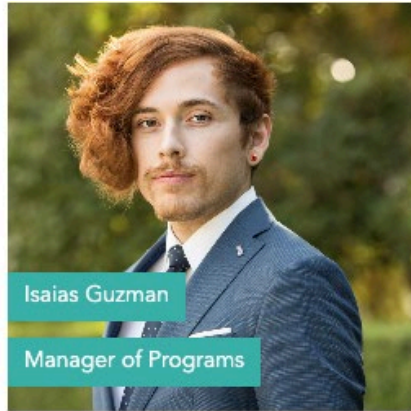
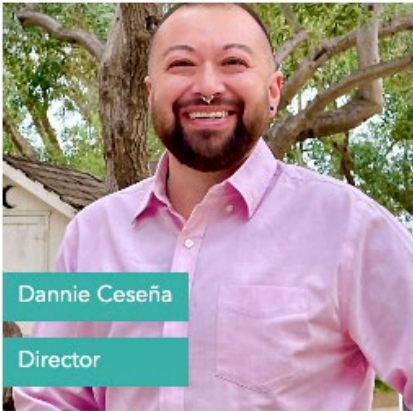


Dannie Cesena, MPH
(he/him/they/them)

Trans Activist and Advocate,
Trans-masculine/Indigequeer/Two
Spirit, husbear, escape room nerd,
Disneyland aficionado.



Staff



The Network

The California LGBTQ Health & Human Services Network is an LGBTQ-specific Health Advocacy Organization bringing together more than 60 non-profit providers, community centers, and researchers to advocate collectively for state level policies and resources that will advance LGBTQ health.



The Network

The Network also works in coalition with immigrant rights organizations, organizations representing communities of color, and other identity-based organizations to ensure populations experiencing health disparities are working together to improve physical and mental health for everyone in California.



The Network

We represent LGBTQ communities at administrative agencies to ensure that as decisions are made, LGBTQ people are fully included. By providing a permanent presence in Sacramento, Los Angeles, and the Bay Area, the Network is able to support the legislative, budget, and administrative advocacy priorities of its members.



The Network

The Network works with LGBTQ groups throughout the state to help meet the needs of LGBTQ people, provide training and information to its members, and engage diverse LGBTQ organizations in state-level policy discussions.



The Network

We provide technical assistance by teaching resource deficient organizations:

- How to start a legal name/gender clinic
- How to start a medical provider directory
- How to conduct DEI trainings
- How to engage with county health departments
- Create Educational Materials, and more!





University of California
San Francisco



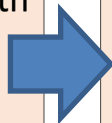
Berkeley
UNIVERSITY OF CALIFORNIA



How We Improve LGBTQ Access to Health Care

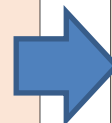
Expand Coverage and Improve Access to Health Care

- California Department of Public Health (CDPH)
- Office of Health Equity (OHE)
- Department of Managed Health Care (DMHC)
- Department of Health Care Access and Information (HCAI)
- California Department of Insurance (CDI)
- Mental Health Services Oversight & Accountability Commission (MHSOAC)



Research

- Townhalls Across CA
- Key Informant Interviews
- Public Intercept Surveys
- Gallery Walks
- Know-Your-Rights and Legislative Webinars
- Policy and Funding Recommendations (Annual Reports)
- Yearly Statewide LGBTQ Health Convening



Results

- Legislation Introduced to Address Health Inequities
- State Funding Approved to Address LGBTQ Health Inequities
- Systemic Changes Within Managed Health Plans
- Systemic Changes in County Public Health Departments
- Development of Medical Provider Cultural Competency Curriculum
- LGBTQ People Appointed to Governor Appointed State Commissions

Thank you for joining us today!

We are so happy you could participate. If you have any questions, please contact us via email at

dcesena@health-access.org



@CALGBTQHealth



National Health Law Program & Health Consumer Alliance

Your Local Partner in the Community

Skyler Rosellini (He/Him)

May 23, 2023



About the National Health Law Program

- Mission: NHeLP protects and advances the health rights of low-income and marginalized people to access high quality health care, particularly in publicly funded health programs.
- State and local partners (50 states)
- Offices: CA, DC, NC
- CA office – support center for the Health Consumer Alliance



Graphic of 50 states with stars indicating the locations of NHeLP's LA, DC, and NC offices

NHeLP's Mission

The National Health Law Program (NHeLP) protects and advances the health rights of low-income and underserved individuals to access high quality health care. NHeLP advocates, educates, and litigates at the federal and state levels.

We stand up for the rights of the millions of people who struggle to access affordable, quality health care.

NHeLP's Equity Stance

Health equity is achieved when a person's characteristics and circumstances — including race and ethnicity, sex, gender identity, sexual orientation, age, income, class, disability, health, immigration status, nationality, religious beliefs, language proficiency, or geographic location — do not predict their health outcomes.

NHeLP's Equity Stance: Our Goal

Every member of our staff defends the fundamental right of all individuals to health. Staff in every role strive to approach their work—internal and external—with an equity lens.

Our goal is to continuously examine the health care system and to advocate for health laws and policies that counteract structural barriers, institutional power dynamics, and examples of overt discrimination and implicit bias that create health inequity.

<https://healthlaw.org/equity-stance/>

Health Consumer Alliance

Health Consumer Alliance's Mission



- The HCA helps individuals and families get the health care services they need, while working to identify and address systemic health care issues impacting all Californians.
- The HCA provides free legal services to all consumers, in all languages, regardless of income level. We are an independent consumer assistance program supported by the California Department of Managed Health Care, Covered California, and The California Endowment.

HCA's History

- For over 22 years, HCA, through its partnership of community-based legal services organizations throughout the state, has provided direct assistance and representation to health care consumers across all California counties.
- Since 1998, HCA has assisted hundreds of thousands of health care consumers with a broad range of health care access problems, including enrollment into coverage, denial of eligibility and services, and difficulty navigating the managed care system.

Organization of HCA



- HCA is a network of ten consumer assistance programs operated by community-based legal services organizations across the state of California.
- HCA's policy and systemic advocacy is supported by:
 - Western Center on Law & Poverty
 - **National Health Law Program**
 - Justice In Aging partners (CMC Ombuds Program)
- Consumers living in any area of the state can get individual assistance by calling **1-888-804-3536** and providing their zip code.

HCA's Direct Service Partners

- Region 1: Legal Services of Northern California (LSNC)
- Region 2: Bay Area Legal Aid & Legal Aid Society of San Mateo County
- Region 3: LSNC, Central California Legal Services, & Greater Bakersfield Legal Assistance



HCA's Direct Service Partners

- Region 4 - Neighborhood Legal Services of Los Angeles
- Region 5 - Legal Aid Society of San Diego*, California Rural Legal Assistance, Inland Counties Legal Assistance, & Community Legal Aid of SoCal

*Lead contract agency.



HCA's Partnerships



- Since 2012, the HCA has partnered with DMHC to provide consumer assistance to consumers, as well as community outreach and education services.
- Similarly, the HCA has partnered with Covered California since 2012 to serve as its Consumer Assistance Program.

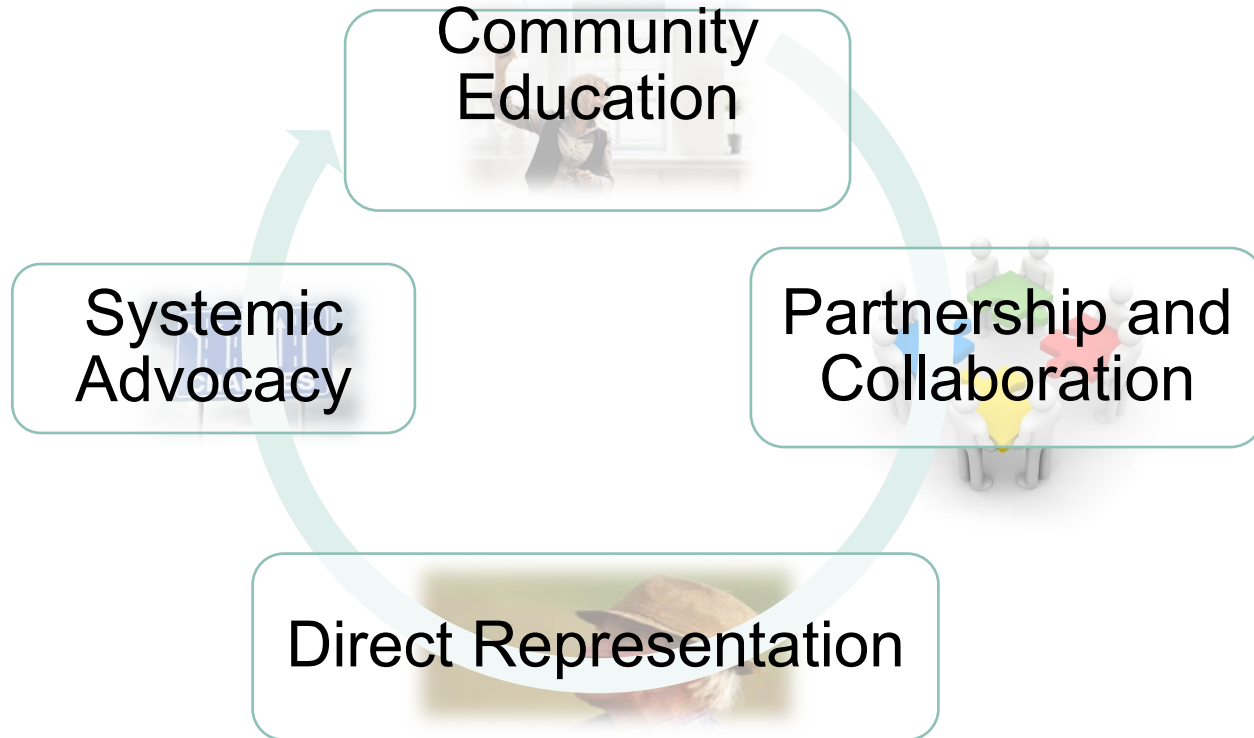
HCA's Partnerships



- In 2014, a subset of the HCA partners that had offices in the seven Coordinated Care Initiative (CCI) demonstration counties contracted with the Department of Health Care Services (DHCS) to serve as the Cal MediConnect Ombudsman.

How the HCA Works

Health Consumer Alliance's Work



Core Direct Services:

Eligibility & Enrollment Assistance



- Med-Cal, Medicare Savings Programs, In Home Supportive Services (IHSS) and Covered California denials, terminations, and affordability issues.
- Enrollment and disenrollment barriers, effective date disputes, etc.
- We prioritize quick resolutions through established county and state contacts, but also represent consumers at appeal hearings and in Superior Court to secure eligibility.
- Eligibility and enrollment works makes up about 60% to 65% of all HCA cases.

Core Direct Services: Overcoming Barriers to Care



- Denials, delays, reductions or terminations of services. For example, specialist referrals, out of network (OON) approvals, DME, behavioral health, surgical procedures, IHSS hours disputes, transportation, etc.
- Billing Disputes (approx. 30% of all service issues) – for example, Inappropriate/balance billing, retroactive coverage, premium related disputes, and cost sharing and out-of-pocket maximum disputes, etc.
- Quality of care and customer service disputes, patient's rights, access to records, etc.

Representation in Complaints & Appeals



- Assist consumers through plan grievance and appeals, negotiate with plans, DMHC complaints and appeals, state fair hearings, and other agency appeals.
- Lowest level and most efficient resolution a priority.
- Representation based on individualized assessment for case merit, other legal options, likelihood of success, and the consumer's ability to file on their own.
 - Even where no merit, we help if individual circumstances make follow-through difficult, including disability, linguistic, or other extenuating circumstances

Who Does HCA Help?



- HCA prioritizes California residents but can assist out-of-state residents with a California plan issue in certain circumstances.
- HCA directly assists and represents consumers.
- General education available for providers, agents, or other CBO partners

Who Does HCA Help?



- HCA partners have wide range of civil legal services available.
- Holistic and integrated services model for a wide range of civil legal services: housing, immigration, family law, consumer protection law, government benefits (E.g. SSI, CalWorks, CalFresh, etc.) and tax (some offices).

Outreach and Current Initiatives



- **Black Pregnancy Health** initiative seeks to improve outcomes through public health education, and individual and systems advocacy.
- **Transgender and Non-Binary** Access to Care – Removing barriers to gender affirming care, improving cultural competency and capacity of networks, and improving data collection (SOGI)

Outreach and Current Initiatives



- **Limited English Proficient (LEP)** access to care – Individual and systems advocacy to improve access to translations and qualified interpreter services in all realms of health care.
- **Immigrant Access to Care** – Individual and systems advocacy to ensure all qualified individuals can access care and education regarding public charge rules.

Health Consumer Alliance

- Statewide consortium of legal health attorneys
- Call toll-free (888) 804-3536 / TTY (877) 735-2929
- No income requirement to qualify for legal assistance
- Available in all languages
- Visit [our website](#) for more resources

Thank you!

Connect with National Health Law Program online:



www.healthlaw.org



[@NHeLProgram](https://www.facebook.com/NHeLProgram)



[@NHeLP_org](https://twitter.com/NHeLP_org)



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Questions

Break

Facilitated Discussion: Documenting Commonly Occurring Barriers

Jacob Rostovsky (he/him/his), Queer Works

Discussion Questions

- Based on your experiences and knowledge, what are some common barriers that TGI individuals face when accessing healthcare services?
- In your opinion, what are the primary sources of stigma, discrimination, and bias faced by TGI individuals in healthcare settings? How do these barriers manifest, and what impact do they have?

Discussion Questions

- When it comes to gender-affirming treatments and procedures, what are the main challenges TGI individuals encounter in terms of access? Are there specific treatments that are particularly difficult to access?
- Can you discuss any intersectional barriers that TGI individuals may face, such as those related to race, socioeconomic status, age, or disability? How do these intersecting factors compound the barriers to care?

Discussion Questions

- Are there any other barriers or challenges that you believe are significant but have not been mentioned yet? Please share your insights and experiences.
- Have you encountered any positive examples or instances where healthcare providers or organizations have successfully addressed these barriers and improved care for TGI individuals? What lessons can we learn from these experiences?

Public Comment

*Public comments may be submitted until 5 p.m.
on May 30, 2023 to publiccomments@dmhc.ca.gov*

Closing Remarks

Public comments may be submitted until 5 p.m. on May 30, 2023, to publiccomments@dmhc.ca.gov

Members of the public may find Working Group [materials](#) on the [DMHC website](#).

Next TGI Working Group meeting will be held on [Tuesday, June 27, 2023](#).