

**From:** DMHC Licensing eFiling

**Subject:** APL 24-018 – Compliance with Senate Bill 923

**Date:** Thursday, August 15, 2024 8:08 AM

**Attachments:** APL 24-018 – Compliance with Senate Bill 923 (8.15.24).pdf

Dear Health Plan Representative:

The Department of Managed Health Care (DMHC) hereby issues All Plan Letter (APL) 24-018 – Compliance with Senate Bill 923 to provide guidance regarding the implementation of SB 923, including filing and compliance requirements for all full-service and certain specialized health care service plans (plan or plans).

Thank you.



Gavin Newsom, Governor  
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## ALL PLAN LETTER

**DATE:** August 15, 2024

**TO:** All Health Care Service Plans<sup>1</sup>

**FROM:** Jenny Phillips  
Deputy Director  
Office of Plan Licensing

**SUBJECT:** APL 24-018 – Compliance with Senate Bill 923

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Senate Bill (SB) 923 (Wiener, Chapter 822, Statutes of 2022), known as the Transgender, Gender Diverse or Intersex (TGI) Inclusive Care Act, added sections 150950, 1367.043, and 1367.28 to the California Health and Safety Code.<sup>2</sup> Section 150950 required the California Health and Human Services Agency (CalHHS) to convene a TGI Working Group consisting of representatives from state departments, TGI-serving organizations, individuals who identify as TGI, and health care providers. The CalHHS delegated the convening and coordination of the TGI Working Group to the Department of Managed Health Care (DMHC). In accordance with Section 150950(b), the TGI Working Group conducted listening sessions across the state to inform the recommended training curriculum for providing trans-inclusive health care.<sup>3</sup>

This All Plan Letter (APL) formally adopts the [TGI Working Group's Recommendations](#) regarding the topics for inclusion in the training curriculum for health care service plan staff. In addition, this APL provides guidance regarding the implementation of SB 923, including filing and compliance requirements for all full-service and certain specialized health care service plans (plan or plans).

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<sup>1</sup> This APL does not apply to Medicare Advantage plans or specialized health care service plans that provide only dental or vision services. Further, section II.A.2. of this APL, relating to provider directories, applies only to full-service health care service plans.

<sup>2</sup> References herein to "Section" are to sections of the California Health and Safety Code. References to "Rule" refer to the California Code of Regulations, title 28.

<sup>3</sup> The TGI Working Group also made recommendations for future consideration related to the development of a quality standard for patient experience to measure cultural competency related to TGI communities. Those recommendations are outside the scope of this APL, and not intended to be addressed as part of a plan's SB 923 Compliance Filing.

## **I. General Overview of the New Law**

### **A. Evidence-Based Cultural Competency Training – Section 1367.043**

Section 1367.043 requires, in part, a plan to ensure all of its health care service plan staff who are in direct contact with enrollees in the delivery of care or enrollee services to complete evidence-based cultural competency training for the purpose of providing trans-inclusive health care for individuals who identify as TGI. The training must include, at a minimum, the criteria listed in Section 1367.043(a)(2), and must be facilitated by TGI-serving organizations meeting the criteria of Section 150900(f)(2). When developing the training curriculum, plans must collaborate with TGI-serving organization(s) to facilitate the training to ensure the training encompasses the topics and information recommended by the TGI Working Group.

The training must be completed by all plan staff in direct contact with enrollees no later than February 14, 2025, and every two years thereafter. In addition, pursuant to Section 1367.043(a)(4), if a complaint is made against a member of a plan's staff for failure to provide trans-inclusive care, and a decision has been made in favor of the complainant, the applicable plan staff member must retake the training.

### **B. Provider Directory Requirements – Section 1367.28**

Pursuant to Section 1367.28, no later than February 14, 2025, plans are required to include information accessible from the plan's provider directories and call center identifying which of a plan's in-network providers have affirmed they offer gender-affirming services. Gender-affirming services refer to services required to be covered pursuant to the Knox-Keene Health Care Service Plan Act of 1975,<sup>4</sup> including but not limited to the services listed in Section 1367.28. Plans must update this information whenever an in-network provider requests their inclusion or exclusion as a provider that offers gender-affirming services.

## **II. Filings to Demonstrate Compliance with SB 923**

Please submit by **March 14, 2025**, one filing to demonstrate compliance with the SB 923 requirements discussed in this APL. Submit the filing via eFiling as an **Amendment** titled "**Compliance with SB 923.**" The "Compliance with SB 923" Amendment filing should include the following exhibits:

### **A. Exhibit E-1: Summary of eFiling Information**

At a minimum, the plan must provide the following information in its Exhibit E-1:

#### **1. Evidence-based Cultural Competency Training – Section 1367.043(a)**

- The plan must affirm, and provide the date, that all plan staff in direct contact with enrollees completed evidence-based cultural competency training as required by Section 1367.043(a). If individual plan staff have not completed the training, the plan must explain and provide a timeline for completion of the training by all required plan staff.

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<sup>4</sup> California Health and Safety Code sections 1340 et seq.

- The plan must affirm that newly hired plan staff in direct contact with enrollees will be required to complete the training within 45 days of commencing employment.
- The plan must affirm it collaborated with a TGI-serving organization(s) to develop the training curriculum and that the training was provided by a TGI-serving organization.
- The training must include, at a minimum, the topics identified in the TGI Working Group's Recommendations, which are set forth in the "Evidence-based Cultural Competency Training Crosswalk" on pages 7-10 of this APL.
- The training may be administered in-person, via video conferencing, through on-demand video, or as otherwise appropriate to convey the required curriculum.
- The plan must explain the process utilized in developing and administering the training to its staff, including:
  - Identifying the TGI-serving organization(s) that developed and provided the training.
  - The bid, procurement, or selection process, if any, the plan utilized to engage with TGI-serving organizations and select a TGI-serving organization qualified to facilitate the training.
  - Any processes employed to verify the experience of the TGI-serving organization to facilitate the training.
  - The procedures for oversight and monitoring the plan implemented to verify the training and performance of the TGI-service organization complied with the requirements of Section 1367.043(a).
  - A description of the training materials developed, including whether the training materials included written and/or electronic materials, and the manner in which the training was conducted, such as in-person, via video conferencing, or through on-demand video or other access.
- The plan must affirm it will require plan staff against whom a complaint has been made for failure to provide trans-inclusive care, and a decision made in favor of the complainant, to repeat the training within 45 days of the decision.
- Explain whether the plan delegated compliance with Section 1367.043 to a contracted entity. If so, identify the entity to whom the plan delegated compliance, explain the scope of delegation, and identify procedures the plan utilized to monitor and oversee performance of the delegated entity.
- To ensure plans continue to provide trans-inclusive care, the plan must affirm that following the initial training, all plan staff in direct contact with enrollees will be required to complete evidence-based cultural competency training every two years. See Section 1367.043(a)(4).

## 2. Provider Directory Updates – Section 1367.28

- Affirm the plan has updated its provider directory to include information identifying which of the plan’s in-network providers have affirmed they offer gender-affirming services, including but not limited to the services listed in Section 1367.28. Affirm the plan will also make this information accessible through the plan’s call center.
- Provide a roadmap for the proposed changes the plan will make to its Exhibit J-14, Provider Directory Policies and Procedures, to comply with Section 1367.28. At a minimum, the roadmap should address the following:
  - The Exhibit J-14 must reflect the plan will update its provider directory when an in-network provider requests its inclusion or exclusion as a provider that offers gender-affirming services.
  - How the plan receives information from in-network providers indicating the provider offers gender-affirming services, including how a provider can promptly verify or submit changes to their status as a provider that offers gender-affirming services.
  - How the plan verifies information received from providers indicating the provider offers gender-affirming services.
  - How the plan investigates reports or complaints that providers identified as providing gender-affirming services failed to provide trans-inclusive care, as defined in Section 1367.043(d)(3), or do not offer gender-affirming services.
  - The steps the plan will take to ensure its provider directory is promptly updated, in accordance with timelines identified in Section 1367.27, following an investigation and finding that information regarding which providers offer gender-affirming services is inaccurate or misleading.
- **Changes identified in the roadmap should not be submitted as part of the plan’s Compliance with SB 923 filing. The plan should submit such changes as part of the plan’s annual Provider Directory Compliance Filing as an Exhibit J-14.**

### **B. Exhibit J-26: Evidence-Based Cultural Competency Training Curriculum**

The plan should submit two Exhibits J-26:

- The first Exhibit J-26 should include the full Training Curriculum provided to plan staff.
- The second Exhibit J-26 should include the “Evidence-Based Cultural Competency Training Crosswalk” included on pages 7-10 of this APL. In the “Provision, Paragraph, and/or Page of Plan Document” column of the Crosswalk, the plan should identify which provision, paragraph, or page of the training contains the required information.

### **C. Exhibit N-1 & N-2: Administrative Services Agreements & Oversight Procedures**

- File as Exhibit N-1 Administrative Services Agreements with TGI-serving organizations for the purpose of facilitating the evidence-based cultural competency training.
- Submit as Exhibit N-2 a description of the administrative arrangements the plan utilized to monitor the performance of the TGI-serving organizations and resolve any performance issues.

### **D. Exhibit W-1: Grievance Policies and Procedures**

- The plan must update its grievance policies and procedures to ensure that enrollees have the right to submit grievances to the plan and the DMHC in accordance with Section 1368 and Rule 1300.68 for failure to provide trans-inclusive health care.
  - Trans-inclusive health care is defined in Section 1367.043(d)(3) as comprehensive health care that is consistent with the standards of care for individuals who identify as TGI, honors an individual's personal bodily autonomy, does not make assumptions about an individual's gender, accepts gender fluidity and nontraditional gender presentation, and treats everyone with compassion, understanding, and respect.
- The plan must revise its policies to ensure that when an enrollee submits a complaint against a member of the plan's staff for failure to provide trans-inclusive health care, and a decision is made in favor of the enrollee, the plan staff will be required to retake the evidence-based cultural competency training. See Section 1367.043(a)(4).

### **E. Exhibit W-2: Complaint Forms & Template Letters**

- Submit updates to the plan's template grievance form to inform enrollees of the right to submit a grievance, pursuant to the plan's standard grievance procedures, for failure of plan staff to provide trans-inclusive care to the enrollee.

### **F. All Other Exhibits as Necessary**

- If the plan is proposing new or amended contracts, policies, or procedures to demonstrate compliance with SB 923, the plan should indicate this in the Exhibit E-1 and file each document under the appropriate exhibit type with all changes from previously approved documents highlighted in redline form.
  - If the plan delegated compliance with SB 923 to a contracted provider, plan, or other entity, submit all new or amended contract(s) under the appropriate exhibit type.
  - Changes to a plan's Exhibit J-14 should **not** be submitted as part of the SB 923 Compliance Filing. Plans should submit such changes as part of the plan's annual Provider Directory Compliance Filing.

- If the plan is relying on existing contracts, policies, or procedures to demonstrate compliance with SB 923, the plan should indicate the specific documents demonstrating compliance in the Exhibit E-1 and provide the filing number in which the documents were most recently approved.

If you have questions or concerns regarding this APL, please contact your plan's assigned Office of Plan Licensing reviewer.

**Evidence-Based Cultural Competency Training Crosswalk**

Training Curriculum	Provision, Paragraph, and/or Page of Plan Document
<b>Introduction:</b> Warmly welcome participants to the training program and emphasize the significance of the content.	
<b>Important Terms:</b> Explain who TGI individuals are and review the most updated common terms and definitions. Explain the difference between gender identity and sexual orientation and explain how both work on a spectrum.	
<b>Intended Use:</b> Clarify the target audience and purpose of the training, focusing on health care professionals, health plan and insured staff with direct contact with covered persons, and administrators.	
<b>Evidence-Based Practices:</b> Emphasize the evidence-based cultural competency training requirements and practices that underpin the curriculum.	
<b>Importance of Gender Diversity, Sensitivity, and Inclusivity Training:</b> Emphasize the importance of training for health care staff, including the need for clear coding information, improved communication between providers and health care plan staff, and addressing misinformation and unreliable resources.	
<b>Facilitation by TGI-Serving Organizations:</b> Collaborate with TGI-serving organizations to facilitate training sessions, leveraging their expertise.	
<b>Introduction to Cultural Competency in Health Care Coverage:</b> Explain the significance of cultural competency in the context of a TGI individual's health care needs.	
<b>Effects of Historical, Contemporary, and Present-Day Exclusion, Microaggressions, and Oppression:</b> Examine the lasting impact of historical and contemporary exclusion, microaggressions, and oppression on TGI communities and TGI individuals and their health outcomes.	
<b>Effective Communication Across Gender Identities:</b> Provide guidelines for respectful and inclusive communication with TGI individuals, emphasizing the use of inclusive language and correct names and pronouns, and avoiding assumptions about gender identity or that all individuals are heterosexual, gender conforming, or non-intersex.	
<b>Trauma-informed approaches to care delivery:</b> Review the basic tenets of trauma-informed care and how to use a trauma-informed approach when discussing gender-identity and sexual or gender-related health care needs with members of the TGI community.	



Training Curriculum	Provision, Paragraph, and/or Page of Plan Document
<p><b>Health Inequities and Family/Community Acceptance:</b> Explain the health disparities within the TGI communities and the role of family and community acceptance in health outcomes.</p>	
<p><b>Perspectives from Diverse Constituency Groups and TGI-Serving Organizations:</b> Incorporate the experiences of local TGI-serving community groups and incorporate best practices and insights.</p>	
<p><b>Personal Values and Professional Responsibilities:</b> Explore the distinction between personal values and professional responsibilities, highlighting the importance of unbiased care delivery and engagement.</p>	
<p><b>Health Plan or Insurer Considerations for Gender-Affirming Care:</b> Inform health plan or insurer staff by providing examples about the impact of burdensome administrative processes that create barriers to members receiving needed care.</p>	
<p><b>Ensure Culturally Competent Health Care Services:</b> Discuss how to embed cultural competency in the health care delivery system, including training staff, incorporating TGI-inclusive language, providing ongoing education, and addressing complaints of discrimination on the basis of gender identity or failures of staff to provide trans-inclusive care.</p>	
<p><b>Collaborative Approaches to Enhance TGI Access to Care:</b> Encourage partnerships between health plans and insurers, health care professionals, and TGI-serving organizations to improve access to gender-affirming care and promote transparency in health care coverage. Discuss strategies for appropriate oversight of delegated entities.</p>	
<p><b>Continuous Quality Improvement:</b> Discuss the importance of feedback mechanisms and ongoing quality improvement efforts to ensure equitable coverage and services for TGI individuals.</p>	
<p><b>Challenges with Accessing Health Care Services:</b> Address barriers faced by TGI individuals, such as limited in-network providers, geographical constraints, timely access to care, and difficulties in navigating the health care system.</p>	
<p><b>Lack of Knowledge Among Health Plan or Insurer Staff:</b> Recognize the low level of knowledge and training among health care providers about the TGI community.</p>	
<p><b>Gaps in Data Collection:</b> Discuss the importance of collecting sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) data.</p>	

Training Curriculum	Provision, Paragraph, and/or Page of Plan Document
<p><b>Denials in Plans – Gender Affirming Care:</b> Discuss common denials in gender affirming care and the reason for these denials.</p>	
<p><b>Denials in Plans – Interlapping Health Care Problems:</b> Discuss common denials in interlapping health care problems and the reason for these denials</p>	
<p><b>Effects on Mental Health:</b> Discuss how interactions between patients and the health care system can exacerbate a mental health crisis. Recognize that delaying treatment of gender dysphoria can exacerbate mental health crises, and that adequate mental health treatment often necessitates timely access to gender-affirming care.</p>	
<p><b>Privacy Considerations:</b> Discuss privacy and its importance. Educate and inform staff about heightened legal protections that attach to sensitive services, including gender affirming care.</p>	
<p><b>Positive Experiences with Health Care Providers and Health Plans or Insurers:</b> Share positive experiences, emphasizing the importance of informed consent models and obtaining Hormone Replacement Therapy (HRT) without difficulty.</p>	
<p><b>Considerations of Sub-Populations:</b> Recognize that within the TGI communities, there are populations with unique needs, including intersex individuals, TGI youth, elders, non-binary individuals, disabled individuals, and neurodivergent individuals.</p>	
<p><b>Intersex Individuals:</b> Explore the specific challenges faced by intersex individuals, such as expensive testing, coverage denials, and the impact of intersex surgeries.</p>	
<p><b>TGI Youth:</b> Recognize that TGI youth may have varying sensitivities, privacy concerns, communication styles, and processing differences, which can impact their health care experiences and interactions with insurance providers. Further recognize that TGI youth are uniquely vulnerable to their home environments and experience higher rates of physical and emotional abuse. This leads to higher rates of mental health crises, homelessness, and conflicts with guardians — all of which can complicate interactions with health care and insurance providers.</p>	
<p><b>Elderly TGI Individuals:</b> Address the unique complications faced by elderly TGI individuals in accessing care, including HRT and surgeries.</p>	
<p><b>Non-Binary Individuals:</b> Discuss the challenges that non-binary individuals encounter, such as binary assumptions, hormone therapy barriers, and difficulties accessing medical care.</p>	

Training Curriculum	Provision, Paragraph, and/or Page of Plan Document
<p><b>Physical Health Disabilities:</b> Highlight the unique needs and challenges faced by those with physical disabilities.</p>	
<p><b>Mental Health Disabilities:</b> Highlight the unique needs and challenges faced by those with mental health disabilities.</p>	
<p><b>Neurodivergence:</b> Highlight the unique needs and challenges faced by those with neurodivergence, and how this differs from mental health disabilities.</p>	
<p><b>Guardians:</b> Highlight how considering potential conflict between TGI individuals and their guardians is essential for tailoring interventions and support services. Health care providers and support organizations should address and mitigate guardian conflicts to create safer environments that promote mental health and reduce suicidality risks.</p>	
<p><b>The Spectrum of Reproductive Health Care for TGI individuals:</b> Highlight the needs and challenges faced by reproducing and future reproducing TGI individuals. Ensure that family planning is included in the spectrum, including a discussion of methods of birth control, abortion access, and sexual health.</p>	