

Legal Issues for LGBT Seniors
Overcoming hetero bias in law and policy through legal planning



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How can we effectively provide services?

- 1 spot legal issues
- 2 building trust w/LGBT seniors
- 3 targetting outreach to LGBT seniors

Today is about legal issues

But knowing substance.
building trust,
and doing outreach



are interdependent

How to build trust w/LGBT seniors?

- cultural competency
- use client's language
- recognize and include



How do we target LGB seniors?

how to find our targets?
what target goal numbers should be?
whether we have achieved them?



Legal areas of substance for aging LGBT seniors

- 1. Financial planning for income
- 2. Access to healthcare
- 3. Planning for incapacity

1. Financial planning for income

- a. No Marriage = no spousal SS
- b. Probably can't rely on private retiree spousal or survivor's benefits
- c. Discrimination may interfere with employment, housing, services



Planning tools

- Designate beneficiary for pension
- Consider a trust or annuity if only spouse or child permitted

2. Access to Healthcare

a. Insurance coverage

- 1. No marriage = no spousal Medicare coverage
- 2. But Medicaid counts household income if living together
- 3. Probably can't rely on retiree spousal health coverage



2. Access to Healthcare, cont.

b. Quality of care: Unique health risks for transgender, and increased stress-related health risks for LGBT seniors

- Medicare excludes sexual reassignment surgery
- Part D may not cover long-term hormones
- Gender-specific preventive screenings denials

Planning Tools

- Private health insurance
- Prepare to defeat coverage denials
- Gay & Lesbian Medical Assn www.glma.org

C. Possibility of incapacity

- 1. Decisionmaking
 - Financial
 - Medical
 - Personal
- 2. Estate planning

Financial Decisionmaking

- WV law leaves married and unmarried equally unprotected
 - DPOA can be a license to steal
 - Conservatorship law contains no marriage or biology preference

Planning Tools

- DPOA with 3rd person watchdog
- Appropriate titles, deeds, account ownership

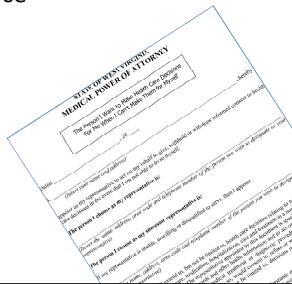


Medical Decisionmaking

- a. If no MPOA the HCS requires selection of legal spouse, adult children, parents, siblings, adult grandchildren before possibility of selecting ?close friend?
- b. Obama 4/15/10 memo to DHHS requires hospitals who receive M'care/M'caid to extend visitation to people designated by patients

Planning Tools

- MPOA and LW
- Long-term care insurance
- Disability insurance



Personal Decisionmaking

Guardianship of minor children
Where you live, how you live

Estate planning

1. WV Intestate succession is based on legal and biological relationships
2. Families of all kinds can have mistaken expectations regarding inheritance, legal challenges can dissipate estate

Planning Tools

- Wills
- Trusts
- Life Insurance designated beneficiary
- MPOA authority includes disposition of body



Planning Critical for LGBT

Planning helps all clients, but for LGBT seniors the default positions of the law don't make sense

Protect your family's future through planning



Resources in LGBT aging and law:

National Resource Center on LGBT Aging

Technical assistance center supported by Admin on Aging demonstration grant led by SAGE since 2010

www.lgbtagingcenter.org

Services and Advocacy for Gay, Lesbian, Bisexual, and Transgender Elders (SAGE) since 1978, provides individual services, training, policy advocacy

www.sageusa.org

National Center for Lesbian Rights (NCLR) since 1977 litigation, public policy advocacy, and public education

www.nclrights.org

National Center for Transgender Equality since 2003 advancing the equality of transgender people through advocacy, collaboration and empowerment

www.transequality.org

Lambda Legal since 1973 impact litigation, training, public policy advocacy

www.lambdalegal.org

The Williams Institute advancing critical thought in sexual orientation law and public policy at UCLA School of Law

<http://www3.law.ucla.edu/williamsinstitute>

Recent Papers:

Outing the Invisible Poor: Why Economic Justice and Access to Health Care is an LGBT Issue, 2010 Georgetown Journal on Poverty Law & Policy

Planning with a Purpose: Legal Basics for LGBT Elders, June 2009, National Center for Lesbian Rights, and SAGE

LGBT Older Adults in Long-Term Care Facilities: Stories From the Field

<http://www.lgbtlongtermcare.org>

Best Practices for Asking Questions about Sexual Orientation on Surveys 2009
The Williams Institute