



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**HEALTH AND SAFETY CODE - HSC**

**DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70]** ( *Division 2 enacted by Stats. 1939, Ch. 60.* )

**CHAPTER 2.45. Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents' Bill of Rights [1439.50 - 1439.54]** ( *Chapter 2.45 added by Stats. 2017, Ch. 483, Sec. 3.* )

**1439.50.** For the purposes of this chapter, the following definitions shall apply:

- (a) "Gender expression" has the same meaning as defined in Section 51 of the Civil Code.
- (b) "Gender identity" means a person's identity based on the individual's stated gender identity, without regard to whether the self-identified gender accords with the individual's physical appearance, surgical history, genitalia, legal sex, sex assigned at birth, or name and sex, as it appears in medical records, and without regard to any contrary statement by any other person, including a family member, conservator, or legal representative. An individual who lacks the present ability to communicate his or her gender identity shall retain the gender identity most recently expressed by that individual.
- (c) "Gender-nonconforming" means a person whose gender expression does not conform to stereotypical expectations of how a man or woman should appear or act.
- (d) "LGBT" means lesbian, gay, bisexual, or transgender.
- (e) "Long-term care facility" or "facility" includes facilities listed in Section 1418 of this code and subdivision (b) of Section 9701 of the Welfare and Institutions Code.
- (f) "Long-term care facility staff" or "facility staff" means all individuals employed by or contracted directly with the facility.
- (g) "Resident" means a resident or patient of a long-term care facility.
- (h) "Transgender" means a person whose gender identity differs from the person's assigned or presumed sex at birth.
- (i) "Transition" means to undergo a process by which a person changes physical sex characteristics or gender expression to match the person's inner sense of being male or female. This process may include, among other things, a name change, a change in preferred pronouns, and a change in social gender expression, as indicated by hairstyle, clothing, and restroom use. Transition may or may not include hormone use and surgery.

(*Added by Stats. 2017, Ch. 483, Sec. 3. (SB 219) Effective January 1, 2018.*)

**1439.51.** (a) Except as provided in subdivision (b), it shall be unlawful for a long-term care facility or facility staff to take any of the following actions wholly or partially on the basis of a person's actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus (HIV) status:

- (1) Deny admission to a long-term care facility, transfer or refuse to transfer a resident within a facility or to another facility, or discharge or evict a resident from a facility.
- (2) Deny a request by residents to share a room.
- (3) Where rooms are assigned by gender, assigning, reassigning, or refusing to assign a room to a transgender resident other than in accordance with the transgender resident's gender identity, unless at the transgender resident's request.
- (4) Prohibit a resident from using, or harass a resident who seeks to use or does use, a restroom available to other persons of the same gender identity, regardless of whether the resident is making a gender transition or appears to be gender-nonconforming. Harassment includes, but is not limited to, requiring a resident to show identity documents in order to gain entrance to a restroom available to other persons of the same gender identity.

(5) Willfully and repeatedly fail to use a resident's preferred name or pronouns after being clearly informed of the preferred name or pronouns.

(6) Deny a resident the right to wear or be dressed in clothing, accessories, or cosmetics that are permitted for any other resident.

(7) Restrict a resident's right to associate with other residents or with visitors, including the right to consensual sexual relations, unless the restriction is uniformly applied to all residents in a nondiscriminatory manner. This section does not preclude a facility from banning or restricting sexual relations, as long as the ban or restriction is applied uniformly and in a nondiscriminatory manner.

(8) Deny or restrict medical or nonmedical care that is appropriate to a resident's organs and bodily needs, or provide medical or nonmedical care in a manner that, to a similarly situated reasonable person, unduly demeans the resident's dignity or causes avoidable discomfort.

(b) This section shall not apply to the extent that it is incompatible with any professionally reasonable clinical judgment.

(c) Each facility shall post the following notice alongside its current nondiscrimination policy in all places and on all materials where that policy is posted:

"[Name of facility] does not discriminate and does not permit discrimination, including, but not limited to, bullying, abuse, or harassment, on the basis of actual or perceived sexual orientation, gender identity, gender expression, or HIV status, or based on association with another individual on account of that individual's actual or perceived sexual orientation, gender identity, gender expression, or HIV status. You may file a complaint with the Office of the State Long-Term Care Ombudsman [provide contact information] if you believe that you have experienced this kind of discrimination."

*(Added by Stats. 2017, Ch. 483, Sec. 3. (SB 219) Effective January 1, 2018.)*

**1439.52.** A facility shall employ procedures for recordkeeping, including, but not limited to, records generated at the time of admission, that include the gender identity, correct name, as indicated by the resident, and pronoun of each resident, as indicated by the resident.

*(Added by Stats. 2017, Ch. 483, Sec. 3. (SB 219) Effective January 1, 2018.)*

**1439.53.** (a) Long-term care facilities shall protect personally identifiable information regarding residents' sexual orientation, whether a resident is transgender, a resident's transition history, and HIV status from unauthorized disclosure, as required by the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg), if applicable, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), if applicable, regulations promulgated thereunder, if applicable, and any other applicable provision of federal or state law. A facility shall take any steps reasonably necessary to minimize the likelihood of inadvertent or incidental disclosure of that information to other residents, visitors, or facility staff, except to the minimum extent necessary for facility staff to perform their duties.

(b) Long-term care facility staff not directly involved in providing direct care to a resident, including, but not limited to, a transgender or gender-nonconforming resident, shall not be present during physical examination or the provision of personal care to that resident if the resident is partially or fully unclothed without the express permission of that resident, or his or her legally authorized representative or responsible party. A facility shall use doors, curtains, screens, or other effective visual barriers to provide bodily privacy for all residents, including, but not limited to, transgender or gender-nonconforming residents, whenever they are partially or fully unclothed. In addition, all residents, including, but not limited to, LGBT residents, shall be informed of and have the right to refuse to be examined, observed, or treated by any facility staff when the primary purpose is educational or informational rather than therapeutic, or for resident appraisal or reappraisal, and that refusal shall not diminish the resident's access to care for the primary purpose of diagnosis or treatment.

*(Added by Stats. 2017, Ch. 483, Sec. 3. (SB 219) Effective January 1, 2018.)*

**1439.54.** A violation of this chapter shall be treated as a violation under Chapter 2 (commencing with Section 1250), Chapter 2.4 (commencing with Section 1417), or Chapter 3.2 (commencing with Section 1569).

*(Added by Stats. 2017, Ch. 483, Sec. 3. (SB 219) Effective January 1, 2018.)*