

§ 1367.043. Cultural competency training

(a)(1) Within six months after the department issues guidance pursuant to paragraph (1) of subdivision (e), and no later than March 1, 2025, a health care service plan that issues, sells, renews, or offers health care service plan contracts for health care coverage in this state, including a grandfathered health plan, but not including specialized health care service plan contracts that provide only dental or vision services, shall require 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 transgender, gender diverse, or intersex (TGI).

(2) An evidence-based cultural competency training implemented pursuant to paragraph (1) shall include all of the following:

(A) Information about the effects, including, but not limited to, ongoing personal effects, of historical and contemporary exclusion and oppression of TGI communities.

(B) Information about communicating more effectively across gender identities, including TGI-inclusive terminology, using people's correct names and pronouns, even when they are not reflected in records or legal documents; avoiding language, whether verbal or nonverbal, that demeans, ridicules, or condemns TGI individuals; and avoiding making assumptions about gender identity by using gender-neutral language and avoiding language that presumes all individuals are heterosexual, cisgender or gender conforming, or nonintersex.

(C) Discussion on health inequities within the TGI community, including family and community acceptance.

(D) Perspectives of diverse, local constituency groups and TGI-serving organizations, including, but not limited to, the California Transgender Advisory Council.

(E) Recognition of the difference between personal values and professional responsibilities with regard to serving TGI people.

(F) Facilitation by TGI-serving organizations.

(3) Use of any training curricula for purposes of implementing paragraph (1) shall be subject to approval by the department, following stakeholder engagement with local constituency groups and TGI-serving organizations, including, but not limited to, the California Transgender Advisory Council.

(4) After first-time completion of the evidence-based cultural competency training, in the form of initial basic training, an individual described in

paragraph (1) shall complete a refresher course if a complaint has been filed with the health care service plan or the department pursuant to Section 1368, and a decision has been made in favor of the complainant, against that individual for not providing trans-inclusive health care, or on a more frequent basis if deemed necessary by the health care service plan or the department for purposes of providing trans-inclusive health care.

(b) The director shall review individual case complaints received by the department pursuant to Section 1368, alleging discrimination on the basis of gender identity and refer those complaints to the Civil Rights Department. For improper denials, delays, or modifications of trans-inclusive care, the department shall review the complaints received by the department to determine whether any enforcement actions, including sanctions pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing with Section 1390), may be appropriate.

(c) The department shall track and monitor complaints received by the department, pursuant to Section 1368, related to trans-inclusive health care and publicly report this data with other complaint data in its annual report, on its website, or with other public reports containing complaint data.

(d) For purposes of this section, the following definitions apply:

(1) “TGI” means transgender, gender diverse or intersex.

(2) “TGI-serving organization” has the same meaning as set forth in paragraph (2) of subdivision (f) of Section 150900.

(3) “Trans-inclusive health care” means 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.

(e)(1) Within six months of development of the quality standard and recommendations for curriculum pursuant to Section 150950 and no later than September 1, 2024, the department shall develop guidance and procedures for compliance with this section. In developing guidance pursuant to this subdivision, the department shall consider the recommendations made by the working group pursuant to Section 150950.

(2) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of plan letters, procedures, or similar instructions, until regulations are adopted.

(3) The department shall adopt regulations for purposes of this section by July 1, 2027, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations are adopted. In developing the regulations, the department shall consider the recommendations made by the working group pursuant to Section 150950.

(f) If a health care service plan delegates duties under this section to a contracted entity, including, but not limited to, a medical group or independent practice association, then the delegated entity shall comply with this section.

(g) The director may take enforcement action including, but not limited to, imposing penalties, pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing with Section 1390), for noncompliance with the requirements of this section or regulations promulgated thereunder.

HISTORY:

Added Stats 2022 ch 822 § 2 (SB 923), effective January 1, 2023.