

# Ethical Issues in Treating LGBT Patients

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# Ethical Issues in Treating LGBT Patients

Part I: Principles of Medical Ethics  
Part II: Definition of Terms  
Part III: History  
Part IV: Ethics in the Clinical Setting



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# The Principles of Medical Ethics

With Annotations Especially Applicable to Psychiatry  
(2009)



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## Section 1

- ◆ *A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights*
- ◆ Annotation 2: A psychiatrist should not be a party to any type of policy that excludes, segregates, or demeans the dignity of any patient because of ethnic origin, race, sex, creed, age, socioeconomic status, or sexual orientation

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## Section 5

- ◆ *A physician shall continue to study, apply, and advance scientific knowledge, maintain a commitment to medical education, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated*
- ◆ Annotation 1: Psychiatrists are responsible for their own continuing education and should be mindful of the fact that theirs must be a lifetime of learning

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## Definition of Terms



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## Sexual Orientation

- ◆ A person's erotic response tendency or sexual attractions, be they directed toward individuals of the same sex (*homosexual*), the other sex (*heterosexual*) or both sexes (*bisexual*)
- ◆ Consists of three components—*desire, behavior, and identity*—which may or may not be congruent in an individual

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## Sexual Identities

- ◆ The subjective experiences of one's sexual desires or attractions
- ◆ *Homosexual, lesbian, gay, or bisexual* identities involve some measure of self-acceptance of one's homosexual desires, and perhaps an identification with a community of similar others by virtue of having same-sex attractions

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## Sexual Identities

- ◆ Acquisition of sexual identities is often conceptualized as a developmental process that occurs over time
- ◆ Not all persons who experience homoerotic desire or participate in homosexual behavior develop a lesbian, gay, or bisexual identity
- ◆ A *sexual identity* (how I think and feel about my sexual attractions) is not synonymous with a *sexual orientation* (to whom I am attracted)

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## Sexual Identities

- ◆ The terms *gay*, *gay man*, *lesbian*, and *bisexual* emerged in popular usage as a way to refer to men and women whose sexual identity, to some degree, openly recognized their homosexual or bisexual attractions
- ◆ *Gay* is sometimes also used as a politically inclusive term for both men and women whether homosexual or bisexual

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## Sexual Minorities

- ◆ An inclusive term, sometimes used as an alternative to the “alphabet soup” of “LGBTQQI”
- ◆ As in the case of racial, ethnic or religious minorities, implies some political status in relationship to a dominant cultural group

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## Sex (As opposed to Gender)

- ◆ The status of biological variables that can be described as either male-typical or female-typical in normatively developed individuals (e.g., genes, chromosomes, gonads, internal and external genital structures)

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## Gender

- ◆ *Gender identity*: one's persistent inner sense of belonging to either the male or female gender category
- ◆ *Gender role*: those things one says or does to disclose oneself as having the status of boy or man, girl or woman, respectively (e.g., general mannerisms, deportment and demeanor; spontaneous topics of talk in unprompted conversation and casual comment; content of dreams, daydreams and fantasies)

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## Gender

- ◆ *Gender role* is an outward expression of the inner sense of *gender identity*
- ◆ *Gender expression* increasingly used in legal documents

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## Transgender

- ◆ Originally coined in early 1970s to refer to people who lived full-time in a gender not associated with the one that usually went with their genitals
- ◆ Broadly used today to define individuals who are not conventionally "gendered"
- ◆ Natal sex, birth assigned sex (not "biological" sex)

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## Cisgender

- ◆ A term used in the transgender community to describe individuals whose gender identities align with their assigned sex at birth (non-transgender)
- ◆ Origin in the Latin-derived prefix *cis*, meaning 'on the same side' as in the *cis-trans* isomer distinction in chemistry

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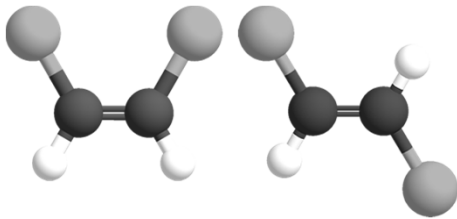
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## Cis/Trans Isomers




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## Transsexual

- ◆ Individual using hormonal or surgical means to modify the body so that it conforms to the gender identity
- ◆ Gender Reassignment (formerly Sex reassignment)
- ◆ Partial versus Complete Transition
- ◆ Male to Female (MTF, Transwoman)
- ◆ Female to Male (FTM, Transman)
- ◆ Gender identity and sexual orientation may be independent variables

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Trans woman (Transwoman)  
Male to Female [M to F, MTF]  
(Caitlyn Jenner)



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Trans man (Transman)  
Female to Male [F to M, FTM]  
(Chaz Bono)



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### Transvestism (Transvestitism)

- ◆ Cross-dressing
- ◆ Drag: Entertainment
- ◆ Transvestic Disorder (Transvestic Fetishism)
  - ◆ DSM-5 Paraphilic Disorder
  - ◆ Previously only heterosexual males (DSM-IV)
  - ◆ recurrent, intense sexually arousing fantasies, sexual urges or behaviors involving cross-dressing

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### Drag



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### Gay Drag



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### Drag Kings



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## Intersex

- ◆ “Hermaphrodites”
- ◆ “Disorders of Sexual Development”
- ◆ Congenital anomaly of the reproductive and sexual system
- ◆ Encompasses a wide variety of conditions
- ◆ Most intersex people identify as men or women

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## History



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## Historical Attitudes to LGBT Patients

- ◆ Characterized by attitudes that could be construed as patronizing at best and, at worst, overtly hostile
- ◆ Mental health prejudices against LGBT patients still persist, albeit in subtler forms such as sparse research on the health and mental health needs of these populations (Institute of Medicine, 2011)

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Homosexuality as Psychiatric Diagnosis



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19th Century: From Sin to Illness

- ◆ Psychiatrists began classifying homosexuality as a mental disorder.
- ◆ **1869:** The invention of the “homosexual”
- ◆ **1886:** Krafft-Ebing: *Psychopathia Sexualis*

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20th Century: Psychoanalysis

- ◆ Starts to move away from the illness model but eventually moves back.
- ◆ **1905:** Freud’s “Developmental Arrest”—not quite an illness, but not quite normal
- ◆ **1940-1992:** Psychoanalysts primarily view homosexuality as a “perversion” and a condition in need of “treatment”

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## Psychoanalysis

- ◆ Theory of homosexuality based on studies of
  - ◆ Individual patients seeking treatment who are unhappy about their sexual orientation (case histories)
  - ◆ Prison populations
  
- ◆ Sexology Research: Field studies of non-patient populations

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## 20th Century: Sexology Research

- ◆ The move toward a view of homosexuality as a “normal variant” of human sexuality (left-handedness)
  
- ◆ **1948 and 1953:** The Kinsey Reports
- ◆ **1957:** Evelyn Hooker

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## Alfred Kinsey

- ◆ Insect taxonomy
- ◆ Evolutionary importance of variations within a species
- ◆ Thousands of detailed interviews about people’s sexual practices (non-patients)
- ◆ Kinsey scale (0-6)
- ◆ High rates of homosexuality (10-37%) argued in favor of normal variation

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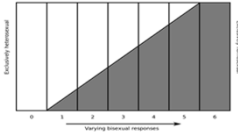
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## Kinsey Scale



- ◆ Kinsey 0: Exclusive Heterosexuality
- ◆ Kinsey 6: Exclusive Homosexuality
- ◆ Five Grades of Bisexuality (Kinsey1-5)

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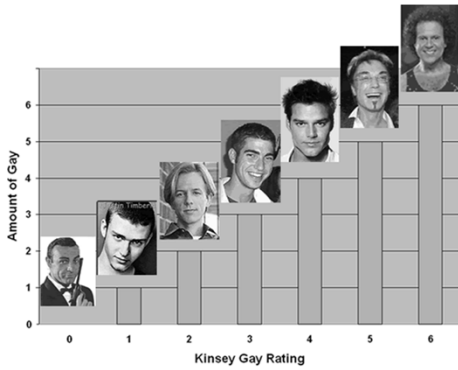
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## Evelyn Hooker

- ◆ 1957: Study compared non-patient homosexual men with heterosexual controls
- ◆ Use of projective tests to elicit psychopathology
- ◆ “Blind” judges
- ◆ No significant differences found between two groups
- ◆ Reproducible experiment
- ◆ Results at odds with prevailing, dominant psychoanalytic theory of the time—supports normal variant point of view

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## 1973: APA Decision

- ◆ **1969:** Stonewall riots begin modern gay liberation movement.
- ◆ **1970:** Gay activists “zap” APA meetings
- ◆ **1972:** Dr. H. Anonymous

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## Dr. H Anonymous (John Fryer, MD)



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## John Fryer, MD



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## The 1973 APA Decision

- ◆ **1972-73:** Scientific Committees review the literature
- ◆ **1973:** APA leadership removes “homosexuality” per se from the Diagnostic Manual (DSM)
- ◆ **1974:** Psychoanalysts petition for a membership referendum
- ◆ **58%** APA members vote to support the decision

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## Can scientific questions be decided by a vote?



- ◆ Absolutely!
- ◆ In 2006 the International Astronomical Union voted Pluto is no longer a planet
- ◆ Subjectivity must be accompanied by some consensually validated reality

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## Homosexuality in the DSM

- DSM-I (1952): Sociopathic Personality Disturbance
- DSM-II (1968): Sexual Deviation
- 1973: Homosexuality per se removed from DSM-II and replaced by "Sexual Orientation Disturbance"
- DSM-III (1980): Ego-dystonic homosexuality (EDH)
- DSM-III-R (1987): EDH removed
- DSM-IV (1994) and DSM-IV-TR (2000): Sexual Disorder NOS
  - 3. Persistent and marked distress about sexual orientation
- DSM-5: none

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## Homosexuality in the ICD

- ICD-6: (1948): Sexual Deviance (Pathological Personality)
- ICD-7 (1955): Sexual Deviance (Pathological Personality)
- ICD-8 (1965): Sexual Deviance
- ICD-9 (1975): Sexual Deviations & Disorders
- ICD-10 (1990): Homosexuality removed but . . .
  - Sexual Maturation Disorder
  - Ego Dystonic Sexual Orientation
  - Sexual Relationship Disorder
- ICD-11 (2018): none

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## Gender Variance as Psychiatric Diagnosis



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## Transgender

- ◆ **Krafft-Ebing** (1886): Transgenderism as psychopathology
  - ◆ *Psychopathia Sexualis* documents both cases of gender dysphoria and of gender variant individuals born to one sex yet living as members of the other
  - ◆ "Homosexuality"
- ◆ **Magnus Hirschfeld** (1923): Distinguished the desires of homosexuality (to have partners of the same-sex) from the desires of transsexualism (to live as the other sex)

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## Lili Elbe

- ◆ Has 5 operations in 1930-1931, some under Hirschfeld's supervision
- ◆ Died of complications following fifth surgery (implanted uterus)
- ◆ Subject of David Ebershoff novel, *The Danish Girl*, released as 2015 film




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## Christine Jorgensen (1926-1989)




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## Christine Jorgensen

- ◆ GRS seized popular imagination when George Jorgensen went to Denmark a natal man and returned to the U.S. in 1952 as trans woman
- ◆ Transvestism: Hormonal, psychiatric, and surgical treatment. *Journal of the American Medical Association*, 12, 391-396, 1953

--Hamburger, Stürup & Dahl-Iversen

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## 1950s-1980

- ◆ Transsexualism or GID diagnoses do not appear in DSM-I (1952) or DSM-II (1968)
- ◆ Many physicians and psychiatrists, and particularly psychoanalytic practitioners, criticized using surgery and hormones to irreversibly—and in their view incorrectly—treat people suffering from what they perceived to be either a severe neurotic or psychotic, delusional condition in need of psychotherapy and “reality testing”

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## 1960s Survey of 400 Physicians Green (1969)

- ◆ Eight percent [8%] of the respondents considered the transsexual “severely neurotic” and fifteen percent [15%] considered the person “psychotic.” The majority of the responding physicians were opposed to the transsexual’s request for sex reassignment even when the patient was judged nonpsychotic by a psychiatrist, had undergone two years of psychotherapy, had convinced the treating psychiatrist of the indications for surgery, and would probably commit suicide if denied sex reassignment. Physicians were opposed to the procedure because of legal, professional, and moral and/or religious reasons.

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### Early Contributors to Gender Identity Diagnoses

- ◆ John Money
- ◆ Harry Benjamin
- ◆ Robert Stoller
- ◆ Richard Green

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### John Money

- ◆ Starting in 1950s, studied children born with intersex conditions at Johns Hopkins
- ◆ Gender identity is acquired and determined by external, environmental factors
- ◆ Gender identity fixed by 3 years of age, and changing difficult if not impossible in anyone older
- ◆ Parental attitudes determine whether a child accepts the gender category to which it had been surgically and medically assigned

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### Harry Benjamin

- ◆ Credited with popularizing the term *transsexual* in current usage and raising awareness within the medical profession
- ◆ Believed psychotherapeutic efforts to change gender identity were “futile”
- ◆ Pioneered the treatment of gender dysphoric individuals using sex hormones
- ◆ Worked in a private practice setting without university or academic support

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## Robert Stoller

- ◆ Psychoanalyst who worked with transsexual and intersex patients (USC)
- ◆ Coined term “gender identity” (1964)
- ◆ Believed in some cases, childhood family dynamics “caused” adult transsexualism

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## Richard Green

- ◆ Psychiatrist, student of Money, residency with Stoller, worked with Benjamin
- ◆ Known for his early work with gender dysphoric children (USC)
- ◆ *The “Sissy Boy Syndrome” and the Development of Homosexuality* (1987)

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## DSM Gender Diagnoses

Edition (year)	Parent Category	Diagnosis Name
DSM-I (1952)	N/A	N/A
DSM-II (1968)	Sexual Deviations	Transvestitism
DSM-III (1980)	Psychosexual Disorders	Transsexualism
		Gender identity disorder of childhood
DSM-III-R (1987)	Disorders usually first evident in infancy, childhood or adolescence	Transsexualism
		Gender identity disorder of childhood
		Gender identity disorder of adolescence and adulthood,

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### DSM Gender Diagnoses

Edition (year)	Parent Category	Diagnosis Name
DSM-IV (1994)	Sexual and gender identity disorders	Gender identity disorder in adolescents or adults Gender identity disorder in children
DSM-IV-TR (2000)	Sexual and gender identity disorders	Gender identity disorder in adolescents or adults Gender identity disorder in children
DSM-5 (2013)	Gender dysphoria	Gender dysphoria in adolescents or adults Gender dysphoria in children

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### ICD Gender Diagnoses

Edition (year)	Parent Category	Diagnosis Name
ICD-6 (1948)	N/A	N/A
ICD-7 (1955)	N/A	N/A
ICD-8 (1965)	Sexual Deviations	Transvestitism
ICD-9 (1975)	Sexual Deviations	Transvestism Trans-sexualism

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### ICD Gender Diagnoses

Edition (year)	Parent Category	Diagnosis Name
ICD-10 (1990)	Gender Identity Disorders	Transsexualism Dual-role transvestism Gender identity disorder of childhood Other gender identity disorders Gender identity disorder, unspecified
ICD-11 (2018)	Conditions Related to Sexual Health	Gender incongruence of adolescents and adults Gender incongruence of children (Proposed)

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Ethics in the Clinical Setting



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Ethics in the Clinical Setting

- ◆ Dearth of empirical research on the health and mental health needs of LGBT patient populations (IOM, 2011)
- ◆ Most psychiatrists, as well as physicians in other specialties and other mental health professionals, receive little formal training in human sexuality
- ◆ General public unaware how little attention is given to human sexuality in clinical education

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Ethics in the Clinical Setting

- ◆ Patients may ask questions about sex and gender that clinicians do not know how to answer
- ◆ Rather than admitting lack of knowledge, or seeking out reputable sources of information, clinicians may
  - ◆ Proffer an old theory learned in university or graduate school
  - ◆ Express personal beliefs or other incorrect information
  - ◆ Countertransferences

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# Questions Patients Ask



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**“Doctor, Why am I Gay  
(or Transgender)?”**

Answer: We don’t know!

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## The “Why” Question

- ◆ Not unusual for LGBT patients to ask
- ◆ Not typical question for heterosexual and cisgender patients
- ◆ Clinicians unlikely to raise question with heterosexual and cisgender patients
- ◆ LGBT patients as members of sexual minority often have outsider’s feeling that their identities require explanation

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## The “Why” Question

- ◆ The “causes” of a patient’s sexual orientation and gender identity are unknown
- ◆ Two people talking to each other in a therapist’s office can only discover what sexual orientation and gender identity means to either or both of them
- ◆ Conducting a psychotherapy under the false assumption that one can find out “why” a patient is LGBT is ethically questionable and a waste of time and money

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## “Doctor, Can You Change My Sexual Orientation ?”

Answer: No one knows how!

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## The “Change” Question

- ◆ Mainstream mental health organizations do not endorse sexual orientation change efforts (SOCE)
- ◆ “Techniques” are not offered in reputable mental health training programs
- ◆ Majority of SOCE practices are conducted by unlicensed, non-clinicians and “ex-gay” ministries

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## The “Change” Question

- ◆ American Psychiatric Association (2000): “ethical practitioners refrain from attempts to change individuals’ sexual orientation, keeping in mind the medical dictum to First, do no harm”
- ◆ American Psychological Association (2009): “Efforts to change sexual orientation are unlikely to be successful and involve some risk of harm, contrary to the claims of SOCE practitioners and advocates”

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## Currently Ban Conversion Therapies for Minors

- ◆ California (2012)
  - ◆ Upheld by 9<sup>th</sup> Circuit on Appeal (2013)
  - ◆ SCOTUS refused to hear appeal (2014)
- ◆ New Jersey (2013)
  - ◆ Upheld by 3<sup>rd</sup> Circuit on Appeal (April 2015)
  - ◆ SCOTUS refused to hear appeal (May 2015)
- ◆ Washington DC (2014)
- ◆ Oregon (2015)
- ◆ Ontario (2015)
- ◆ Illinois (2015)

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## Legislative Actions Following CA and NJ Bans

- ◆ 18 other US states, legislators have introduced bills banning conversion therapy for minors
- ◆ Federal legislation has been introduced in House of Representatives (2015)
- ◆ 2015: Obama Administration Calls for End to Conversion Therapies
- ◆ Oklahoma (2015): Legislation introduced unsuccessfully to prevent government from interfering with conversion therapies

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## Ferguson et al. v JONAH

- ◆ In 2012, SPLC files lawsuit against JONAH
- ◆ Plaintiffs: 3 young men who were harmed by the practice and two parents who paid fees to JONAH for their sons' therapy. Customers of JONAH's services typically paid a minimum of \$100 for weekly individual counseling sessions and another \$60 for group therapy sessions.

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## Ferguson et al. v JONAH

- ◆ JONAH "Treatment" Practices
  - ◆ One plaintiff encouraged to undress and stand naked in a circle
  - ◆ Counselor encouraged 3 male plaintiffs to undress in front of a mirror and touch their genitals while he watched
  - ◆ Group activities organized for clients to re-enact past abuse and take part in violent role-play exercises; encouraged clients to blame their parents for being gay
  - ◆ Male counselors engaged in and advocated "healthy touch" with young men, including prolonged cuddling sessions

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## Ferguson et al. v JONAH

- ◆ One defendant was co-founder, Arthur Goldberg, former Wall Street executive and attorney previously convicted of 3 counts mail fraud and 1 count of conspiracy to defraud the federal government. He was ultimately disbarred from being an attorney
- ◆ Another defendant, Alan Downing, was unlicensed "life coach"

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## Ferguson et al. v JONAH

- ◆ 5 out of 6 NARTH experts were not allowed by judge to testify
- ◆ June 2015: After 3-week trial, jury found the services JONAH claimed could change clients from gay to straight were fraudulent and unconscionable.
- ◆ Jury ordered JONAH, Goldberg and Downing to pay \$72,400 to compensate the 5 plaintiffs for fees paid to the group and for mental health counseling one of the plaintiffs needed afterward

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## “Doctor, What Did You Call Me?”

Answer: How Do You Prefer to be Addressed?

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## How to Address Patients

- ◆ Respectful language rather than medical terminology
- ◆ “Gay” rather than “homosexual”
- ◆ “Transgender” rather than “transsexual”
- ◆ Preferred name
- ◆ Preferred Pronouns
- ◆ Ask!! There are always exceptions

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**“Doctor, Are You Gay, Lesbian, Bisexual or Transgender ?”**

Answer: Who Wants to Know?

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**Therapist Self Disclosure**

- ◆ LGBT patients often seek LGBT therapists and LGBT therapists are often willing to come out to patients
- ◆ In a heterosexist society, everyone is considered heterosexual until declared or labeled otherwise
- ◆ Disclosing one's sexual identity is not an issue that stirs many heterosexuals
- ◆ Some think self disclosure is wrong

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**Arguments Against Therapist Self Disclosure**

- ◆ Keep primary focus of therapeutic conversation on patient's inner world, rather than that of the therapist
- ◆ Some patients may feel burdened by having knowledge about their therapists
- ◆ A way to teach fledgling therapists boundaries
- ◆ A way to elicit information from patients

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**Arguments For  
Therapist Self Disclosure**

- ◆ Coming out is important developmental step in the lives of LGBT people
- ◆ LGBT therapists should always come out to patients lest they countertransferentially perpetuate a patient's feelings of secrecy and shame (Isay)
- ◆ Little empirical evidence supporting non-disclosure as superior therapeutic technique compared to self-disclosure

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**Arguments For  
Therapist Self Disclosure**

- ◆ No studies showing head to head comparisons in the two approaches
- ◆ In the Internet age, patients already know a lot about their therapists
- ◆ Gay-dar
- ◆ Transferences develop whether or not a patient knows about a therapist

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**Therapist Self Disclosure**

- ◆ An ethical approach to self-disclosure should depend upon whether the activity is of therapeutic value to the patient
- ◆ Ascertaining the merits of self-disclosure requires ethical professionals to familiarize themselves with the long history behind this therapeutic approach, rather than simply dismissing self-disclosures out of hand for ideological reasons

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**“Doctor, My Little Boy Says He Wants to be a Girl. What Should I Do ?”**

Answer: That’s Controversial

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### Treatment of Adolescents & Adults

- ◆ Relatively uncontroversial
- ◆ Various forms of assistance with gender transition: social and psychological support, hormones if desired, surgical procedures if desired and available (or affordable)

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### Treatment of Children

**Report of the American Psychiatric Association Task Force on Treatment of Gender Identity Disorder**

Byne, W, Bradley, SJ, Coleman, E, Eyler, AE, Green, R, Menvielle, EJ, Meyer-Bahlburg, HFL, Pleak, RR & Tompkins, DA

*Archives of Sexual Behavior*, 41(4),759-796, 2012

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### APA Task Force: 3 General Approaches to Treatments

- ◆ Working with child and caregivers to lessen gender dysphoria and to decrease cross-gender behaviors and identification (Canada)
- ◆ No direct effort to lessen gender dysphoria or gender atypical behaviors (Netherlands)
- ◆ Affirmation of the child's cross-gender identification by mental health professionals and family members (US)

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### What Research Shows

- ◆ Gender dysphoria of the majority of children with GD/GV does not persist into adolescence and these children are referred to as "desisters"
- ◆ Prospective studies indicate the majority of those who desist by or during adolescence grow up to be gay, not transgender, and a smaller proportion grow up to be heterosexual
- ◆ No one tell on individual basis a persister from a desister

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### Comparing 3 Approaches

Clinic	Cross-Gender	Social	Puberty	Try to Prevent	Try to Prevent
	Interests & Play	Transition	Suppression	Homosexuality	Transsexualism
Toronto	Discouraged	Discouraged	Yes	No	Yes
Amsterdam	Permitted	Discouraged	Yes	No	No
San Francisco	Permitted	Permitted	Yes	No	No

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## December 2015

Toronto's CAMH youth Gender Identity Clinic closed and its long-time director dismissed

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## What to do?

- ◆ No reliable studies show discouraging cross-gender behavior in children prevents transsexualism in adults
- ◆ No studies show if there are any psychological, emotional and social effects in allowing children to transition gender roles and then to transition back when they desist
- ◆ Ideally, educating families about the differing approaches as well as the lack of empirical data to support these rather dramatic clinical decisions
- ◆ Helping families tolerate anxiety of uncertainty

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## What to do?

- ◆ Focus of research and clinical interventions has increasingly shifted from question of "why LGBT?" to "how LGBT?"
- ◆ Freed from historical demands for etiological explanations, the ethical imperative going forward is for clinicians to develop and participate in research projects that better delineate the mental health problems and needs of LGBT patients and their families
- ◆ Hopefully, much-needed empirical research can aid in further developing best clinical practice guidelines for LGBT patients

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Drescher, J. (2015). Ethical issues in treating LGBT patients." In: *Oxford Handbook of Psychiatric Ethics*, Eds. J. Sadler, C.W. van Staden & K.W.M. Fulford. Oxford: Oxford University Press, pp. 180-192.



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Ethical Issues in  
Treating LGBT Patients

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