

**International Conference on Transgender Law and
Employment Policy, Inc.**

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A Non-Profit 501 C(3) Organization

*Pursuing Justice and Equality for Transgendered People
the World Over*

HEALTH LAW STANDARDS OF CARE FOR TRANSSEXUALISM

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INTRODUCTION

These *Standards of Care* were developed and adopted by consensus on September 15, 1993, after a two year period by the Health Law Project of the International Conference on Transgender Law and Employment Policy, Inc. (ICTLEP), a non-profit 501 C(3) Texas corporation.

Those taking part in the Health Law Project included professionals in the fields of law, health care policy and gender science. Most of the working of the Health Law Project are transgendered. The Health Law Project also included interested lay transgendered people in attendance at the first and second ICTLEP conferences in 1992 and 1993.

The International Conference on Transgender Law and Employment Policy, inc. makes an effort to disseminate these *Standards of Care* to all persons involved in the medical treatment of transsexualism. We suggest that you give these revised *Standards of Care* to gender services providers in your area. The *Standards of Care* also include standard legal forms for consent and waiver of liability.

The Health Law Project and the *Standards of Care* were developed in the wake of widespread dissatisfaction with the Harry Benjamin Standards of Care. Four years later, that dissatisfaction remains. Also relevant is the pending de-listing of transsexualism per se as a mental disorder from the DSM-IV. Four years later, that de-listing is still pending.

As a result, many, if not most, of the transgendered patients seen for gender services may not require psychological services, a finding established in 1994 after the three year *Boulton and Park* survey (n=934) of non-clinical transgenders. And, with the growth of the female to male (FTM) transgendered community, it became obvious that the *Standards of Care* did not address FTM issues fully. Thus

Standard 3 was recently revised.

The *Standards of Care for Transsexualism* have been reviewed and amended in 1994, 1995, 1996 and 1997. Further review and amendments may be initiated at future ICTLEP annual conferences.. ICTLEP welcomes comments and constructive opposing points of view. Unfortunately, to date, most detractors of these *Standards of Care* have not attended ICTLEP conferences. To participate in future reviews and possible amendments to the *Standards of Care*, you are invited to attend future ICTLEP conferences, or to address your comments to ICTLEP at the above address.

Phyllis Randolph Frye, Executive Director and Founder

Martine Aliana Rothblatt, former ICTLEP Director and Initial and Primary Author

Spencer Bergstedt, Director, Revision Committee Chair

(Frye Notes on Introduction dated December 2000:

1. The *Boulton and Park* Survey may also be ordered from the above address.
2. The last ICTLEP Conference was 1997. Much of its work continues in the National Lesbian and Gay Law Association (www.nlglaw.org).
3. Transcripts from the 1992, 1993, 1994, 1995 and 1996 Conferences are also available.
4. The current Executive Director is Sharon Stuart.)

PRINCIPLES

PRINCIPLE 1. Transsexualism is an ancient and persistent part of the human experience and is not in itself a medical illness or mental disorder. Transsexualism is a desire to change the expression of one's gender identity.

PRINCIPLE 2. Persons have the right to express their gender identity through changes to their physical appearance, including the use of hormones and reconstructive surgery.

PRINCIPLE 3. Persons denied the ability to exercise control over their bodies in terms of gender expression, through informed access to medical services, may experience significant distress and suffer diminished capacity to function socially, economically and sexually.

PRINCIPLE 4. Providers of health care (including surgical) services to transsexuals have a right to charge reasonable fees for their services, to be paid in advance, and to require a waiver of all tort liability except negligence.

PRINCIPLE 5. It is unethical to discriminate in the provision of sex reassignment services based on the sexual orientation (actual or perceived) , marital status, HIV status, or physical appearance of the patient.

STANDARDS

STANDARD 1. Physicians participating in transsexual health care shall provide hormonal sex reassignment therapy to patients requesting a change in their sexual appearance subject only to: (1) the physician's reasonable belief that the therapy will not aggravate a patient's health conditions, (2) the patient's compliance with periodic blood chemistry checks to ensure a continued healthy condition, and (3) the patient's signature of an *informed consent and waiver of liability* form. If the patient is married, the physician may not require divorce, but may also require the spouse to sign a waiver of liability form.

STANDARD 2. Physicians providing hormonal sex reassignment therapy shall collect and publish on an annual basis the number of hormone prescriptions they have issued, and the number and general nature of any complications and complaints involved. The publication requirement of this Standard shall be satisfied by providing the collected statistics in writing, together with other current information on the potential risks and complications of sex hormone therapy, to all prospective patients inquiring into the physician's hormone therapy services.

STANDARD 3. Male to Female (MTF) Standards: Surgeons participating in MTF transsexual health care shall provide sex reassignment surgery to patients requesting a change in their sexual appearance subject only to: (1) the surgeon's reasonable belief that the surgery will not aggravate pre-existing health conditions, (2) the surgeon's reasonable determination that the patient has been under hormonal sex reassignment for at least one year, and (3) the patient's signature of an *informed consent and waiver of liability* form. If the patient is married, the surgeon may not require divorce, but may also require the spouse to sign a waiver of liability form.

STANDARD 3. Female to Male (FTM) Standards: Surgeons participating in FTM transsexual health care shall provide sex reassignment surgery to patients requesting a change in their sexual appearance subject only to: (1) the surgeon's reasonable belief that the surgery will not aggravate pre-existing health conditions, (2a) in the case of chest reconstructive surgery, the surgeon's reasonable determination that the surgery will allow the patient to more fully and successfully live as a man. The patient need not have been under any hormonal treatment for this surgery, (2b) in the case of genital surgery, the surgeon's reasonable determination that the patient has been under hormonal sex reassignment for at least one year, or that the surgery is otherwise medically necessary for the health and safety of the patient, and (3) the patient's signature of an *informed consent and waiver of liability* form. If the patient is married, the surgeon may not require divorce, but may also require the spouse to sign a waiver of liability form.

STANDARD 4. Physicians providing sex reassignment surgery shall collect and publish on an annual basis the number of sex reassignment surgeries they have performed, and the number and general nature of any complications and complaints involved. The publication requirement of this Standard shall be satisfied by providing the collected statistics in writing, together with other current information on the potential risks and complications of sex reassignment surgery, to all prospective patients inquiring into the physician's sex reassignment services.

STANDARD 5. Physicians and surgeons shall not divulge the name or identity of any patient requesting or receiving sex reassignment services except as explicitly directed in a notarized written request by the patient.

(Frye Notes on Principles and on Standards dated December 2000:

1. The term, change, is a carryover which should now be replaced by the term, correct.)

INFORMED CONSENT AND WAIVER OF LIABILITY

I, _____, having been fully informed in writing of the potential risks and complications of hormonal or surgical sex reassignment, do hereby choose of my own free will and consent to undertake this treatment because I want to alter my physical appearance to more closely reflect my gender identity.

I hereby release Dr. _____ of any and all liability for my decision to undertake a change of my sexual appearance and, for long-term use of hormones or for sex reassignment surgery, to affect on a permanent, irreversible basis my current sexual functioning.

I promise not to sue Dr. _____ for any of the consequences of my hormonal or surgical sex reassignment unless those consequences are the result of negligence in the conduct of my hormone therapy or in the carrying out of my surgery.

Dated, signed and witnessed.

SPOUSAL INFORMED CONSENT AND WAIVER OF LIABILITY

I, _____ (spouse) am presently married to _____ (patient).

I understand that Patient wishes to alter (his or her) physical appearance to more clearly reflect (his or her) gender identity, and has been trying to do so for at least ____ years. I have been actively involved in and fully support Patient's sex change process.

I have been informed of the nature of transsexualism and sex reassignment surgery or hormonal therapy. I fully understand that the surgery and the effects of long-term use of hormones is not reversible and that Patient will never be able to sire or bear children after the surgery or long-term hormonal therapy.

I understand that the sex reassignment process involves dangers and risks including, but not limited to, post-operative infection, depression, emotional changes, and other physical and psychological changes. It is with my full knowledge and consent that my spouse, the Patient,

undergoes sex reassignment surgery or hormonal therapy to cause a change of (his or her) sex to occur.

I hereby release and hold harmless Dr. _____ from any and all claims arising out of performance of sex reassignment surgery or hormonal therapy, actual negligence excepted. I fully understand that I will not be able to seek monetary damages for any loss of sexual companionship between Patient and myself, the loss of Patient's ability to sire or bear children, or any similar problems that may arise from the performance of the sex reassignment surgery or hormonal therapy.

Dated, signed and witnessed.

(Frye Notes on Consent and Waiver dated December 2000:

1. The terms, alter and change, are carryovers which should now be replaced by the term, correct.)