




Unequal medicine harms: reflections on the experiences of an intersex physician

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“Not long ago, I had an appointment with a family practice physician for a routine flight physical, which is required for a pilot's license. The urine sample I submitted was positive for hematuria, and I, as an obstetrician-gynecologist, reassured him that this was not urinary in origin and not pathologic. The physician threatened to deny my medical certificate and file a report with the Federal Aviation Administration (FAA) unless he performed a complete genitourinary examination. He then attempted a physical examination without consent as he reached out with his ungloved hand and undid my pants button despite my objections – all without a chaperone in the examination room. During this time, he made demeaning and inappropriate comments, telling me that I was ‘all messed up down there’ and ‘an abomination’ and told me never to return to his practice.

A similar situation occurred in my role as a medical practitioner. After successfully graduating from prestigious undergraduate, graduate, and medical training programs, I decided to join the academic faculty of a major university as an obstetrician-gynecologist. For two years, without explanation, my hospital credentialing and privileging process was stalled despite never having any background or practice concerns such as lawsuits or a criminal record. I was told that ‘people like me’ should not

interact with residents, students, or patients and was never given an office, a white coat, or even business cards. Later, when someone on the hospital committee mentioned that ‘gender identity’ was the issue, I had to defend that I had been born intersex, that this was not a ‘lifestyle’ or a ‘choice’, and that my academic and clinical record made me highly qualified for the job I had been hired to do. How did they know? I do not know!”

The vignette above is the experience of a physician, as both patient and provider, illustrating the harms of discrimination in the healthcare setting. Discrimination against LGBTQI (lesbian, gay, bisexual, transgender, queer, intersex) people is widespread and harmful¹ and still occurs regularly. While this paper focuses on the evolving climate of discrimination within the United States (US), the US also sets global standards and its LGBT policies have worldwide consequences that extend into human, sexual and reproductive rights.

On 12 June 2020, the Trump administration finalised a rule removing nondiscrimination protections for LGBTQI people in the Affordable Care Act (ACA).² The protections were originally part of section 1557 of the ACA which were expanded, under Obama-era Rule 16, to reflect one's internal sense of gender as “male, female,

neither, or a combination of male and female". In effect, the 2020 ruling meant that the federal government permitted healthcare providers and insurers to deny lifesaving care to LGBTQI people and to their family members.³ Transgender and intersex individuals are a particularly vulnerable group.⁴ One example is of a car accident victim, Tyra Hunter,⁵ who was denied medical care and left to die simply because she was transgender. Children who are transgender or intersex are also undermined, as states in the US are considering laws that would prevent standard of care or risk-mitigation interventions in this vulnerable population.⁶

While the actions of the Trump administration encroach upon the human right to health care for all people, they also erode sexual rights and trample on the fundamental right to non-discrimination. Prejudice because of sexual orientation, gender identity, pre-existing medical conditions (such as so-called disorders of sexual development), religion or race have been a longstanding issue in the healthcare industry. For instance, not long ago, Black physicians were denied the right to work alongside White medical staff and had to practise in segregated hospitals. Black patients were denied treatment at White hospitals. Similarly, such discriminatory attitudes in medicine now limit employment opportunities and impede the inclusion of intersex (and transgender) people in the medical community. Although the Supreme Court finally made discrimination against LGBTQI individuals illegal on 15 June 2020 in the *Bostock v. Clayton County*, 140 S.Ct.1731 (2020), decision, this, however, is limited only to cases of employment and does not apply to discrimination in the *provision* of healthcare. Without the creation of further legal protections, those who are "different" will continue to be treated as unequal and their marginalisation and exclusion from the healthcare workforce will translate into discrimination in the provision of health care.

Society is collectively realising that White, cis-gender, heterosexual males have always held societal privilege, while others have dealt with various degrees of discrimination. It has become glaringly obvious that the lives of women, people of different ethnicities and gender-nonconforming individuals, among others, are openly devalued - almost to the point of worthlessness. Law enforcement officers are not punished for harassing, or even murdering ethnically diverse people. Black

Lives Matter. LGBTQI Lives Matter. As the protests across our country have shown, many people are frustrated with the systematic devaluation of minorities and the societal divisions based on race, gender, sexual orientation, gender identity and other artificial socially constructed rubrics. Those at the intersection of multiple rubrics, for example, Black transgender women, are particularly affected and endangered, as demonstrated by the countless deaths enumerated during the Transgender Day of Remembrance.⁷ These lives should be embraced, celebrated, loved, respected, and treated as equally human.

The election of the Biden-Harris ticket and the end of the Trump presidency has enormous consequences for the LGBTQI community and for democracy, equality and justice generally.⁸ While the Biden administration can use administrative actions and executive orders to immediately reverse LGBTQI discrimination in military service, education and health care, reversing regulations passed under Trump (such as discrimination in housing) will require judicial processes to remand and vacate. Given the conservative federal judges and justices already in the Supreme Court, as well as the hostile climate in many states which continue to pass legislation allowing denial of health care to LGBTQI individuals on religious grounds, it is unlikely that LGBTQI discrimination will be significantly abated in the short term. Currently, LGBTQI protections vary widely from state to state. New legislation, such as the Equality Act (H.R. 5, S. 788), which extends civil rights laws and offers federal protections against discrimination based on sex, sexual orientation and gender identity, is needed. However, despite the Democratic-controlled senate, such laws will be challenging to pass.

As Americans and as physicians from institutions across the country, we know that our profession can do better. We need to recruit and mentor Black individuals, LGBTQI people, and people from all ethnicities, to become healthcare providers while fostering an environment where their work is equally valued, promoted, and compensated. We must also redouble efforts to attract and promote these individuals to positions of leadership within medical institutions. Health care is a human right and must be accessible to all who need it without fear of judgment or discrimination. In an era where the Trump administration abdicated its responsibility to treat all its citizens equally and fairly, we urge individual physicians

as well as hospitals, medical associations, medical boards, and accrediting bodies to systematically eradicate institutional racism, sexism, and transphobia. Our medical institutions must not only put forth firm diversity, equality and inclusion statements but abide by these principles and condemn discrimination and violence in any form. Our profession owes this to its healthcare providers and to our patients. After all, we have vowed to do no harm.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

This work was supported by a National Institutes of Health Women's Reproductive Health Research (WRHR) career development award (K12HD001254) awarded to one of the authors.

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