

Documenting Care for Transgender Patients

Question

What are some of the considerations for documenting care for transgender patients? Are there patient safety risks and potential liability exposures involved?

Answer

Documenting care for transgender patients involves several factors, including the patient's genetic sex, gender identity, legal name, and preferred name and pronouns. In this context, the terms "sex" and "gender" are important to distinguish. Sex commonly refers to a person's physiological characteristics, such as genitalia and chromosome composition as well as secondary physical characteristics (e.g., facial hair and body fat distribution). Gender refers to an individual's identity and self-image as well as social constructs defined by society.¹

A patient's genetic sex is important for a healthcare professional to know for safety and medical purposes. Real biological sex differences are relevant to medical risk factors and important to recognize in terms of effective diagnosis, treatment, and disease prevention. When a transgender patient presents for medical care, the treating provider will need to know that patient's sex to appropriately prescribe medications and order tests.

Since not all individuals fit into one of the male, female, or unknown designations in electronic health records (EHRs), issues in accurate patient identification can occur, duplicate EHRs can be created, and inaccurate data exchange can transpire. These scenarios pose a significant safety risk to transgender patients and also can expose a healthcare organization to liability.² Thus, in every patient encounter, it is critical for the healthcare professional to recognize the gender status of a patient in order to map the patient to the correct EHR and avoid duplicate records.³ Additionally, failure to accurately document (and therefore count) transgender identities has negative implications on quality improvement and research efforts, funding priorities, and policy activities.⁴

Other considerations about documentation include the following:

- Transgender patients may have a chosen name and gender identity that differs from their current legally designated name and biological sex.
- State laws vary as to when individuals can legally change their gender (many states require approval by a healthcare provider or court order).⁵

Many EHR systems/forms/processes exist, but not all are fully developed and inclusive of transgender patients. Also, some factors require special attention in EHR systems for transgender patients, including sex-specific health information (for example, a man with a cervix or a woman with a prostate).⁶ Many EHR vendors are working on enhancing those processes. For example, an EHR system should allow a healthcare provider to document a breast examination and order a mammogram — even though the patient is registered as male.⁷

A recent study explored the experiences of transgender people reviewing their EHRs.⁸ Many EHRs of transgender people contained misgendering in that study, which is the use of the wrong name, gender marker, or pronouns for patients. The following suggestions for improving documentation for transgender people emerged from this study:

- Refer to patients by their preferred names and pronouns consistently throughout all documentation unless a patient requests otherwise.
- Document the patient's stated gender. Avoid terms such as "male-to-female," "female-to-male," "FTM," or "MTF" unless a patient specifies identifying with one of those terms.
- Avoid mention of biological sex unless it is medically relevant to the patient's care.
- Remove stigmatizing International Classification of Disease codes and terminology from documentation (e.g., "gender identity disorder" or "high-risk homosexual behavior"). If it is difficult to avoid stigmatizing diagnostic terms, discuss with patients in advance of documenting. Engage them and make a decision together based on the risks and benefits.
- Document only clinically relevant information in the one-sentence summary that begins clinical assessments.
- Avoid language that communicates judgment or blame.

- Avoid the use of language that may inadvertently question the legitimacy of a patient's gender, such as putting quotation marks around the patient's name, gender, or pronouns.⁹

In addition to specific documentation advice, following are general strategies for healthcare professionals caring for transgender patients:

- Ensure that all patients are treated with respect and dignity regardless of age, social-economic status, race, sexual orientation, and gender identity.
- Never reveal a person's transgender status unless it is absolutely necessary for the patient's healthcare.
- Reassure transgender patients that all healthcare professionals are bound by HIPAA and that patient information is kept private and will only be used on an as-needed basis.
- Develop patient-centered materials for patients regarding the importance of sharing their health information and how it will be used within the healthcare setting.
- Acknowledge to patients that EHR systems/forms/processes may not be fully developed and inclusive of transgender patients yet. Patients will likely understand and appreciate organizations sharing with them that systems may not be up to date, but that healthcare providers and staff are aware and are working on enhancing those processes.

Resources

For more information, see MedPro's [Risk Resources: LGBT+-Inclusive Care](#).

Endnotes

¹ Newman, T. (2021, May 11). Sex and gender: What is the difference? *Medical News Today*. Retrieved from www.medicalnewstoday.com/articles/232363; Deutsch, M. B., Green, J., Keatley, J., Mayer, G., Hastings, J., Hall, A. M., & World Professional Association for Transgender Health EMR Working Group. (2013). Electronic medical records and the transgender patient: Recommendations from the World Professional Association for Transgender Health EMR Working Group. *Journal of the American Medical Informatics Association*, 20(4), 700–703. <https://doi.org/10.1136/amiajnl-2012-001472>

² American Health Information Management Association. (n.d.). *Improved patient engagement for LGBT populations: Addressing factors related to sexual orientation/gender identity for effective health information*. Retrieved from <http://bok.ahima.org/doc?oid=302067#.WMmu6NLyQI%20%C2%A0>

³ Ibid.

⁴ Deutsch, M. B., & Buchholz, D. (2015). Electronic health records and transgender patients: Practical recommendations for the collection of gender identity data. *Journal of General Internal Medicine*, 30(6), 843-847.

⁵ Medina, C., Santos, T., Mahowald, L., & Gruberg, S. (2021, August 18). *Protecting and advancing health care for transgender adult communities*. Center for American Progress. Retrieved from www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/

⁶ Deutsch, et al. Electronic medical records and the transgender patient: Recommendations from the World Professional Association for Transgender Health EMR Working Group.

⁷ Ibid.

⁸ Alpert, A. B., Mehringer, J. E., Orta, S. J., Redwood, E., Hernandez, T., Rivers, L., . . . Griggs, J. J. (2022, May 31). Experiences of transgender people reviewing their electronic health records, a qualitative study. *Journal of General Internal Medicine*. Retrieved from <https://link.springer.com/article/10.1007/s11606-022-07671-6>

⁹ Ibid.

This document does not constitute legal or medical advice and should not be construed as rules or establishing a standard of care. Because the facts applicable to your situation may vary, or the laws applicable in your jurisdiction may differ, please contact your attorney or other professional advisors if you have any questions related to your legal or medical obligations or rights, state or federal laws, contract interpretation, or other legal questions.

MedPro Group is the marketing name used to refer to the insurance operations of The Medical Protective Company, Princeton Insurance Company, PLICO, Inc. and MedPro RRG Risk Retention Group. All insurance products are underwritten and administered by these and other Berkshire Hathaway affiliates, including National Fire & Marine Insurance Company. Product availability is based upon business and/or regulatory approval and may differ among companies.

© 2023 MedPro Group Inc. All rights reserved.