



## LGBTQ LATIN@S AND REPRODUCTIVE JUSTICE

Lesbian, gay, bisexual, transgender, and queer (LGBTQ) Latin@s have been a part of movements for reproductive justice and sexual liberation for as long as these movements have existed. The specific health care needs of LGBTQ Latin@s, however—and more specifically the reproductive health issues of direct concern to LGBTQ Latin@s—have rarely been a focus of either LGBTQ or reproductive rights advocacy. While the concerns of LGBTQ Latin@s often mirror those of the LGBTQ population at large, a specific set of reproductive justice issues do arise for Latin@s in the areas of reproductive health, immigrants' rights, and access to public benefits.

### ACCESS TO REPRODUCTIVE HEALTH CARE

Although the amount of research on LGBT health has increased steadily over the last decade, research that focuses on LGBTQ people, Latin@s, and the reproductive health needs of these communities is still sorely lacking. Existing research, however, suggests that LGBTQ Latin@s are subject to a number of intersecting barriers to quality health care. For LGBTQ Latin@s to receive adequate health care, providers must be linguistically and culturally competent. However, providers must be culturally competent not only in regards to primary language and ethnic background, but also to the particular health needs and concerns of the LGBTQ community. Finding providers that are adequately competent in all these areas can prove exceedingly difficult. This is particularly important in terms of preventive reproductive health care, such as annual exams and Pap smears.

Latin@s are disproportionately affected by cervical cancer,<sup>1</sup> which can be traced to a lack of access to appropriate preventive care. Research indicates that lesbians may be less likely to receive annual or routine Pap smears, and are more likely to perceive bias by providers than heterosexual women.<sup>2,3,4</sup> This perception affects women's decisions whether to be out to their providers when they do receive care, which can be absolutely crucial to the collection of a full medical history and the provision of all appropriate reproductive health care. Though there is data to suggest that women who have sex with women might be more comfortable being out to their providers today than they were a decade ago,<sup>5</sup> much work remains to be done to have a truly culturally competent health care workforce. This is an important issue for Latinas' reproductive health: women who have sex with women are at risk for cervical cancer, and research suggests that those who report positive attitudes toward their providers are more likely to have had a recent Pap.<sup>6</sup>

Transgender or gender-nonconforming people assigned female at birth are also at risk of cervical cancer if they are sexually active and have an intact cervix. In fact, transgender persons who have not surgically removed breasts, uterus, ovaries or testicles are at risk for cancer in these organs,<sup>7</sup> and must undergo screenings recommended for these cancers. So too, transgender women's health care should include screenings for prostate cancer when appropriate. Because these screening procedures are so heavily gendered, however, even transgender persons who have

the resources to see a physician may forgo such screenings due to an inability to find a competent provider. Cases of physicians refusing to treat transgender patients with reproductive cancers have been thoroughly documented.<sup>8</sup> In fact, in a survey on transgender people's experience with discrimination in health care, 19% of respondents reported being refused care due to their transgender or gender-nonconforming status.<sup>9</sup> Transgender patients who use hormone treatment must also seek medical care to receive these treatments. Persons who do not have access to health care providers, however, often turn to black-market hormones. This can be dangerous; the contents of hormones purchased on the black market cannot be guaranteed, and dosages are not supervised by a physician. Moreover, needles used for injections may not be sterile. However, for transgender persons who do not have access to adequate health care, taking this risk is the only way to obtain the medication they need.

Another important aspect of reproductive health for LGBTQ Latin@s is pregnancy-related care. Though many LGBTQ Latin@s are not able to afford assisted reproductive technologies, those who do seek these services may have difficulty finding providers that will work with them throughout this process. Those who become pregnant otherwise may also find that they lack culturally competent providers for their prenatal care. Similarly, LGBTQ persons might encounter discrimination or culturally-inadequate care for post-natal visits and the subsequent care of their children. This is particularly important for Latin@s; Latin@ same-sex couples are raising children at higher rates than white non-Hispanic same-sex couples. In fact, female same-sex couples in which both partners are Latina are raising children at almost twice the rate of their white non-Hispanic counterparts.<sup>10</sup>

Because our health care system has been historically so closely connected with employment, access to jobs is intricately connected with health care access. Access to employment not only determines how much money a person is able to spend on health care, but also affects access to job-related health benefits. Though it is illegal to discriminate in employment according to race, color, religion, sex, or national origin, no such protections exist for sexual orientation and gender identity on a national level. Though some states and municipalities have passed these protections, the vast majority of LGBTQ persons in the country remain



vulnerable to discriminatory practices at work. Particularly vulnerable to employment discrimination are gender-nonconforming and transgender persons. In fact, anyone who does not fit within societal expectations of gender presentation is vulnerable to employment discrimination—regardless of whether or not they identify as LGBTQ. Such discrimination takes an economic toll: LGBT persons face disproportionate rates of unemployment, job discrimination, and poverty.<sup>11 12</sup> Considering these factors, statistics on insurance coverage for LGBT persons are hardly surprising. Individuals in same-sex relationships are less likely to have health care coverage than those in different-sex relationships,<sup>2</sup> and a recent survey on discrimination against transgender and gender-nonconforming persons found that nearly half of respondents postponed medical care due to the inability to afford it.<sup>9</sup> Though reliable data for rates of health care coverage among LGBTQ Latin@s do not exist, we do know that Latinas have the lowest rates of insurance coverage of any other group of women,<sup>13</sup> and that Latin@s in general are more than twice as likely not to be covered by health insurance than non-Hispanic whites.<sup>14</sup>

Access to safe abortion services is also an important issue for LGBTQ Latin@s. Though some argue that access to abortion and contraception are not pertinent to the LGBTQ community, this could not be further

from the truth. First, this argument completely disregards bisexual- and queer-identified women, many of whom intentionally include having sex with men as part of their sexual identity. Second, this argument relies on the myth that identity always equals behavior, which we know to be untrue. In fact, lesbian-identified women sometimes have sex with men, and most have had sex with men at least at some point in their lives.<sup>4</sup> Moreover, research suggests that LGB youth may be at higher risk for unintended pregnancy than their heterosexual counterparts,<sup>15 16</sup> and that abortion represents an important and common choice for young queer women who become pregnant.<sup>17</sup> Some gender-nonconforming and transgender persons, too, may be at risk for unwanted pregnancy. Lastly, this argument completely ignores the possibility of sexual assault, for which LGBTQ persons are at particular risk.<sup>18</sup> There are many situations in which LGBTQ persons might personally require or desire access to a safe abortion or contraceptives, and the availability of both remain integral parts of reproductive health care for this community. In short, the reasons why LGBTQ-identified persons might seek abortion services or contraceptives are as varied and diverse as those for heterosexual, cisgender\* women, and arguments otherwise are both short-sighted and incomplete.

### HEALTH CARE REFORM & LGBTQ LATIN@S

The Patient Protection and Affordable Care Act (PPACA or the Affordable Care Act)—the health care reform legislation passed in early 2010—stands poised to at least partially alter the strong connection between employment and health coverage, but its record on reproductive health is mixed. Though the law mandates that preventive health services be covered free of charge in all health plans, it remains to be seen exactly what services will be defined as “preventive” by the time the law is implemented in 2014—and particularly, whether contraceptives will make the list. It is also unclear whether transgender and gender-nonconforming persons will be able to access heavily-gendered preventive services—such as Pap smears and prostate exams—through these provisions. As it stands now, transgender and gender-nonconforming persons who are insured often have difficulty getting coverage for needed preventive health care if the sex on the insurance policy does not reflect their assigned sex at birth.

Additionally, the health care reform law included a provision (known as the Nelson provision, after the representative who proposed it) that stands to greatly limit abortion access. The Nelson provision allows states to ban insurance policies that cover abortion in their insurance exchanges—the health insurance marketplaces health care reform will put in place so that people can easily look for affordable policies—an action which several states have already taken. In states in which policies including abortion coverage are allowed, persons purchasing these policies will be required to write two separate checks for

each policy—one check for their abortion coverage, and another for the rest of their coverage. This system is not only absurd and burdensome, but most importantly it creates a set of incentives for private insurers to simply cut out abortion coverage altogether. Because the impetus behind the two-check system is an imperative to separate funds that go towards abortion, private insurers will have to create and maintain entire administrative systems to ensure that the rules are met, which could be quite costly. Since these reforms did not alter the fact that the U.S. health care system is a for-profit endeavor, advocates fear that insurers will simply have no motivation to cover abortion services if it becomes too burdensome or costly for them—particularly when this law requires everyone to purchase their product: health insurance policies.

For LGBTQ immigrants, the Affordable Care Act does little to expand access to health care services. Undocumented immigrants have been completely excluded from the health care reform process, and were barred from purchasing health insurance from the exchanges even with their own money. Otherwise-eligible immigrants who have had legal permanent resident status for less than five years will remain ineligible for Medicaid, even though the new law will require them to be insured. Additionally, despite efforts from immigrant rights and health advocates, the five-year bar was not repealed as part of PPACA. These restrictions will surely limit immigrant LGBTQ persons' access to health care services, and may exacerbate existing health disparities.

\* *Cisgender* is a term that indicates that a person's current gender identity matches the one assigned to them at birth, and is used to contrast with *transgender*. A cisgender woman, for example, is a person who was assigned female at birth and currently lives and is comfortable as a woman.



## IMMIGRATION

LGBTQ immigrants and their families face a number of barriers to accessing health care that are directly related to their immigration status, sexual orientation, and/or gender identity. Though immigrants' rights and LGBTQ liberation organizations have not traditionally acknowledged each other as constituencies within each others' groups, it is becoming increasingly clear that these constituencies not only have goals in common, but vocal members in common as well. Many are Latin@; in fact, nearly half of all immigrants in the United States are of Latin@ origin.<sup>19</sup> In efforts to provide affordable, quality care to all people, it is important to acknowledge the experiences and realities of LGBTQ immigrants.

Discrimination in employment can mean that LGBTQ immigrants—particularly undocumented immigrants—have difficulty finding jobs that offer health coverage or family visas. LGBTQ immigrants may also face discrimination due to immigration status and national origin. Because of these factors, LGBTQ immigrants—particularly those who are transgender or gender-nonconforming—face a disproportionate risk of deportation. Discrimination in legal areas of employment means that people must engage in survival crimes such as sex work, drug transactions, theft, etc., which increase the likelihood that LGBTQ immigrants will be detained and deported, even if they do have legal status.<sup>20</sup> Additionally, employment eligibility verification programs such as E-verify have high error rates often associated with changes in legal documents, such as name changes or changes in legal sex. This can have the effect of outing transgender workers, regardless of immigration or citizenship status.

Accessing public benefits is particularly difficult for low-income immigrants. Language can be a barrier for immigrant LGBTQ persons not only at the doctor's office, but also in navigating the often complex world of social services. One report using census data found that over half of same-sex couple households in which one partner is Latin@ use Spanish as the primary language of their household, a number that goes up to 94% when both partners are Latin@.<sup>10</sup> In addition to language barriers, there are many policies in place that prevent immigrants from obtaining the care that they need. The five-year bar, a provision passed in 1996, prohibits legal permanent residents from accessing a number of public benefits, including Medicaid, even if otherwise eligible, for the first five years in the U.S. This means that low-income immigrants, even when they have obtained legally-recognized immigration status, are unable to access crucial reproductive health services and preventive care. For immigrant youth, this waiting period can mean beginning a sexually active life without access to the resources and health care needed to make fully-informed, safe choices. Undocumented persons are rarely eligible for any public benefits, and accessible, affordable care is severely limited. Finding providers sensitive to the needs of LGBTQ patients within this limited network can be very difficult, if not impossible. Even in large cities with LGBTQ-focused community health centers that do not request immigration documentation, immigrants—particularly very recent immigrants—may not know about these services.

The immigration system itself can also be particularly difficult for LGBTQ persons. In fact, an immigration ban on “sexual deviants” was passed in 1965, staying in place until 1990.<sup>21 22</sup> Currently, U.S. citizens are unable to petition a same-sex partner for residency in the U.S. in the way straight bi-national couples can do when they marry. As of 2009, transgender U.S. citizens are allowed to petition someone of the same sex as the one assigned to them at birth, as long as their gender has been changed legally and their state allows them to marry their partner. However, many transgender persons cannot afford or do not wish to undergo the procedures necessary to legally change the sex listed on their documents. Moreover, laws regarding the legal status of transgender people vary widely between states; many states do not allow transgender people to marry, regardless of their history of medical transition or the gender on their legal documents.

While changing these specific requirements would represent an important start on the path to justice for LGBTQ immigrants, strategies that require immigrants to couple with U.S. citizens to obtain legal status are only useful to a small portion of the LGBTQ immigrant community. Discrimination for LGBTQ immigrants extends far beyond couples, and equal marriage rights only begin to scratch the surface of addressing the needs of all families living in the U.S. In immigrant communities, communities of color, LGBTQ communities and low-income communities, “family” is often a concept that is much more varied than a man, a woman and their children, or even two adults and children. Immigrants may include grandparents or cousins as part of a household. Communities of color and low-income communities are often devastated by the effects of a discriminatory criminal justice system, gentrification, violence, and health disparities leading to early death. As a result, grandparents, aunts, uncles, or other family members may end up raising children. Homophobia and transphobia have left many members of the LGBTQ community disconnected from the families they were born into, which has meant that strong, familial bonds are formed between people of similar experience to whom they have no legal connection. Immigration laws rarely, if ever, recognize any of these family arrangements, meaning that many immigrant families must choose between separating themselves and living in fear of deportation.

In immigration detention, LGBTQ people are subject to harms specifically due to their sexual orientation, gender identity and family status. Immigration officials are under no obligation to recognize families that are not legally defined as such, and may therefore make no effort not to separate individuals who have familial relationships based on kinship or affinity. As with any gender-segregated institution, immigration detention centers can be dangerous places for transgender and gender-nonconforming immigrants. Immigration detention officers have been known to put transgender immigrants in barracks according to their assigned sex at birth instead of barracks where the detainee is safest, leaving them vulnerable to violence and sexual assault. Another



tactic is to place transgender detainees in solitary confinement, a practice which has been increasingly recognized as torture.<sup>23</sup> Cases of transgender immigrant detainees experiencing sexual assault at the hand of detention officers, denial of health care (including hormone treatment), and even death have been reported.<sup>24 25</sup>

Despite the distinct hardships faced by LGBTQ Latin@s, however, it is important to acknowledge the resilience of these communities and everyday acts of resistance to exclusionary systems. In the face of discrimination and criminalization, LGBTQ people of color and low-income communities fight back, and recognize reproductive health, rights, and justice as critical issues.<sup>26</sup> The reproductive justice framework of sexual freedom, bodily integrity and autonomy, and the right for all persons to live freely and in good health is one that applies immensely to LGBTQ Latin@s, and reproductive justice will not be possible without LGBTQ liberation.

**Note:** The authors of this brief, conscious of the importance of gender equality in the production of educational materials in the English language, have incorporated neutral terms throughout this document. Specifically, we have used of the “@” sign to represent the diversity of our community and to include persons who do not conform to traditional gender identities.

## This report was informed in part by our colleagues:

Kellan Baker | *Center for American Progress (with The National Coalition for LGBT Health at time of authorship)*  
Laura Esquivel | *Board member, National Latina Institute for Reproductive Health*  
Lisa Weiner-Mahfuz | *Intersections/Intersecciones Consulting*  
Kalpana Krishnamurthy | *Western States Center*

## NLIRH staff who contributed to the writing of this report:

Verónica Bayetti Flores | *Senior Policy Analyst*  
Jessica González-Rojas | *Deputy Director*  
Silvia Henriquez | *former Executive Director*

## REFERENCES

1. SEER Cancer Statistics Review 1975-2003. Available at: [http://seer.cancer.gov/csr/1975\\_2003/](http://seer.cancer.gov/csr/1975_2003/) [Accessed December 2, 2010].
2. Thomas Buchmuller, Christopher S. Carpenter. Disparities in health insurance coverage, access, and outcomes for individuals in same-sex versus different-sex relationships, 200-2007. *Am J Public Health*. 2010;100(3):489-495.
3. Alicia K. Matthews, Dana L. Brandenburg, Timothy P. Johnson, Tonda L. Hughes. Correlates of underutilization of gynecological cancer screening among lesbian and heterosexual women. *Preventive Medicine*. 2004;38:105-113.
4. Allison L. Diamant, Mark A. Schuster, Janet Lever. Receipt of preventive health care services by lesbians. *Am J Prev Med*. 2000;19(3):141-148.
5. Susan Jo Roberts, Carol A. Patsdaughter, Cecilia Gatson Grindel, M. Suzanne Tarmina. Health related behaviors and cancer screening of lesbians: Results of the Boston Lesbian Health Project II. *Women & Health*. 2004;39(4):41-55.
6. Elizabeth J Rankow, Irene Tessaro. Cervical cancer risk and Papanicolaou screening in a sample of lesbian and bisexual women. *Journal of Family Practice*. 1998;47(2):139-145.
7. Top 10 things transgender persons should discuss with their healthcare provider. Available at: [http://www.glma.org/\\_data/n\\_0001/resources/live/Top%20Ten%20Trans.pdf](http://www.glma.org/_data/n_0001/resources/live/Top%20Ten%20Trans.pdf) [Accessed September 17, 2010].
8. Kate Davis. *Southern Comfort*. HBO; 2001.
9. Jamie Grant, Lisa Mottet, Justin Tanis, et al. *National Transgender Discrimination Survey Report on Health and Health Care*. Washington, DC: National Center for Transgender Equality and the National Gay and Lesbian Task Force; 2010.
10. Jason Cianciotto. *Hispanic and Latino same-sex couple households in the United States: A report from the 2000 census*. National Gay and Lesbian Task Force, National Latino/a Coalition for Justice; 2005.
11. Randy Albeda, M.V. Lee Badgett, Alyssa Schneebaum, Gary J. Gates. *Poverty in the Lesbian, Gay and Bisexual Community*. The Williams Institute; 2009.
12. *Preliminary findings: National transgender discrimination survey*. National Center for Transgender Equality and the National Gay and Lesbian Task Force; 2009. Available at: [http://transequality.org/Resources/NCTE\\_prelim\\_survey\\_econ.pdf](http://transequality.org/Resources/NCTE_prelim_survey_econ.pdf) [Accessed October 13, 2010].
13. Alina Salganicoff, Usha R. Ranji, Roberta Wyn. *Women and health care: A national profile*. Kaiser Family Foundation; 2005.
14. Megan Thomas, Cara James. *The role of health coverage for communities of color*. Kaiser Family Foundation; 2009.
15. Elizabeth M. Saewyc, Linda H. Bearinger, Robert Wm. Blum, Michael D. Resnick. Sexual intercourse, abuse and pregnancy among adolescent women: Does sexual orientation make a difference? *Family Planning Perspectives*. 1999;31(3):127-131.
16. Elizabeth M. Saewyc, Colleen S. Poon, Yuko Homma, Carol L. Skay. Stigma management? The links between enacted stigma and teen pregnancy trends among gay, lesbian, and bisexual students in British Columbia. *Can J Hum Sex*. 2008;17(3):123-139.
17. Jeanne M. Marrazzo, Kathleen Stine. Reproductive health history of lesbians: Implications for care. *Am J Obstet Gynecol*. 2004;190:1298-304.
18. Keith J. Conron, Matthew J. Mimiaga, Stewart J. Landers. A population-based study of sexual orientation identity and gender differences in adult health. *Am J Public Health*. 2010;100(10):1953-1960.
19. United States - Selected Characteristics of the Native and Foreign-Born Populations. *U.S. Census Bureau*. 2006. Available at: [http://factfinder.census.gov/servlet/STTable?\\_bm=y&-geo\\_id=01000US&-qr\\_name=ACS\\_2008\\_3YR\\_G00\\_S0501&-ds\\_name=ACS\\_2008\\_3YR\\_G00\\_](http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2008_3YR_G00_S0501&-ds_name=ACS_2008_3YR_G00_) [Accessed December 6, 2010].
20. Trans immigrants disproportionately subject to deportation and detention, suffer special gender-related harms in these processes. Available at: <http://srp.org/files/disprop%20deportation.pdf> [Accessed October 13, 2010].
21. Homosexuals and Immigration: Developments in the United States and Abroad | Center for Immigration Studies. Available at: <http://www.cis.org/Immigration%2526Homosexuals-PolicyTowardHomosexuals> [Accessed October 13, 2010].
22. Out4Immigration - History of LGBT & Immigration. Available at: <http://www.out4immigration.org/immigration/page.html?&mimid=N3DE98KBUMQ39M4WNKSS16LKM7MD3C0A&cid=1136> [Accessed August 30, 2010].
23. Atul Gawande. Hellhole: Is long-term solitary confinement torture? *The New Yorker*. 2009. Available at: [http://www.newyorker.com/reporting/2009/03/30/090330fa\\_fact\\_gawande](http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande).
24. Sandra Hernandez. A lethal limbo. *Los Angeles Times*. 2008. Available at: <http://articles.latimes.com/2008/jun/01/opinion/op-herandez1>.
25. Restore Fairness. *A transgender detainee speaks out*. Breakthrough TV; 2009. Available at: <http://vimeo.com/7551045>.
26. *A fabulous attitude: Low-income LGBTGNC people surviving and thriving on love, shelter & knowledge*. New York, NY: Queers for Economic Justice; 2010.