



SCHWULEN
BERATUNG
BERLIN

A LGBTI GUIDE TO THE GERMAN HEALTH CARE SYSTEM*



FIGHTING DISCRIMINATION IN HEALTH CARE

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WHO IS THIS BROCHURE FOR?

Dear readers,

People who consider themselves lesbian, gay, bisexual, trans*, inter* or queer often experience discrimination and hostility in their lives. Many studies show that this also affects your health. But what does it mean to experience discrimination, especially in the healthcare system? One answer is that people — and especially LGBTI* — avoid the health care system because of these negative experiences.

Perhaps you have already had such experiences: whether it is not having been treated at the dentist, being addressed with the wrong first name and pronoun, or being asked particularly intimate questions that have nothing to do with your health. All this is discriminatory.

We would like to give lesbians, gays, bisexuals, trans*, inter* and queers guidance in this brochure to help them navigate through the healthcare system and address discrimination. Experiencing discrimination can take a lot of energy, strength and time, and at worst it can damage your health. Defending yourself against it is also exhausting. This brochure can support you in countering this discrimination.

We are aware that there are many different sexual orientations and gender identities beyond two-gender and heteronormative norms. For the sake of legibility, we use the abbreviation LGBTI* addressing all those whose gender and/or sexual life does not correspond to normative stereotypes.

HOW TO USE THIS BROCHURE?

The brochure is a simple guide to the healthcare system. It provides you with an overview of legal and other options for taking action against discrimination. Using case studies, we would like to show you how you can prepare for and deal with discriminatory situations, for example during medical consultations. You will find a list of counselling centres and further information at the end of the brochure.

What is discrimination?

The concept of discrimination is becoming increasingly common in media, social networks and everyday life. The term is used in many different ways, for better or worse. You probably have your own idea of what you mean by discrimination.

Discrimination is a very complex phenomenon, so we cannot cover all possible forms of discrimination. We would therefore like to present some examples of discrimination and show you what you can do in each case, whom you can contact, and where you can find further information.

We would like to show what we understand by discrimination, what discrimination means in a legal context, and how to understand more specifically what discrimination actually is or might not be.

Our understanding of discrimination

What forms of discrimination exist?

Discrimination affects people on the basis of their perceived ethnic origin, nationality, language, religion, ‘skin colour’ [1], appearance, class, age or gender identity, residence status, disability, sexual orientation, and other characteristics. Discrimination is always related to historically developed power inequalities. We believe that people can suffer different forms of discrimination at the same time from multiple characteristics. This does not manifest itself as “double” or “triple” discrimination, but as specific discrimination. A black trans* woman suffers a different form of discrimination from a white lesbian cis woman. Discrimination is either directed against individuals or against supposed “groups” (for example LGBTI*, people living with HIV, people wearing headscarves, people from a certain region of the world). The experience of discrimination includes, for example, violations of personal or physical integrity, or the right to equal treatment.

[1] ‘Skin colour’ is in quotation marks because it is not about actual skin colour, but about racist attributions that people make based on the appearance of a person.

How can you tell if it's discrimination?

What counts above all is whether you feel treated unequally or disadvantaged in a situation because of a statement, a text or a structure. It is difficult to measure discrimination 'objectively'. It mainly depends on how the person who is affected by discrimination, the discriminating person, or for example legal texts (lawyers) evaluate discriminatory situations. For some people, discrimination has become a dominating factor in everyday life such that they internalise it, no longer realising that they are being discriminated against. Some people internalise certain discriminations to such an extent that they are self-deprecating, or can even dislike themselves. There is no reason why it should be this way.

If you experience discrimination, then it is real for you, and you should think about how to deal with it. You can consider whether you want to defend yourself against it, whether you need additional support, or you ignore it. In any case, there are different ways to address discrimination. You can decide for yourself what is the most appropriate way for you.

DISCRIMINATION AND HEALTH

Does discrimination affect health? If so, how?

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OVERVIEW OF THE HEALTHCARE SYSTEM

You may ask yourself what is covered by 'the health sector'. Is a yoga group which is paid for by health insurance part of it because it also enhances health? Or is it just visits to the hospital or doctor what counts here?

There is no uniform definition of what belongs to the health care system. We would therefore like to limit it here to a few areas.

There are thus many 'actors' in the healthcare system. And whenever you come into contact with these institutions or persons, it is possible to be discriminated against.

What falls within healthcare?

The health care system includes, for example, all legal and financial institutions that evaluate and determine the provision of health care services:

- The Federal Ministry of Health, State Ministries of Health, health insurance companies, medical services (of health insurance companies), the Federal Joint Committee, regional associations of accredited physicians (and dentists), and many more.

At the same time, it includes all institutions or persons offering health services:

- Various specialists (from general medicine to orthopaedics and dentists), medical-technical staff, paramedics, nurses, alternative practitioners, delivery assistants / midwives, physiotherapists, etc.
- We also include administrative practice personnel (without medical training).

WHAT FALLS WITHIN HEALTHCARE?

If you experience discrimination during a treatment or even at the reception counter, it is not easy to have the strength to do exactly what you would like in such situations. Discrimination can upset, freeze, or incapacitate you, which has consequences. It is therefore difficult to act according to what you believe is right or what you want. We would like to give you a few recommendations on what you can do.

Wer gehört zum Gesundheitswesen?

Who is part of the healthcare system? How are the individual actors connected? Our [overview](#) should help you to better understand the healthcare system. More detailed [explanations](#) of the individual players can be found [here](#).

Guidelines for discrimination situations:

We would like to show you a few examples of what you can do when you experience discrimination or observe it in others. All of these examples are specific situations or experiences from our work, so our recommendations therefore cannot always be applied to every (similar) situation.

Nevertheless, there are a few things you can do in these discrimination situations.

Take care of yourself! Think about what you can do, and what you want to do!

Discrimination can happen every day and is sometimes hard to notice. It can hurt. Opposing discrimination can be liberating but can also lead to defensive reactions and violence from the “other side”. Try to set prior boundaries for yourself and clearly say “No!”.

Make a verbatim record

A word-for-word written record can help you to remember later, help you process what happened, and provide the foundation for taking further action. It serves as a reminder, and evidence, for example, if you want to make a complaint, file a lawsuit or seek advice.

Use these W-questions as a guide:

When did it happen? (date, time, duration)

Where did it happen? (place)

Who was involved? (doctors, practice staff/nurses, further witnesses, if available)

What happened? What was said or done?

How did it happen? How did you react in the situation? (What steps have you already taken after the event)?

Why did you feel discriminated against/disadvantaged?

What can you do afterwards?

Even if you feel unable to act immediately after experiencing discrimination, there are many ways you can defend yourself and get support:

- Contact a counselling centre. There is a list at the end of this brochure.
- Counselling can help you to develop the right strategy, be it to help you to write letters, talk to the discriminating person, or receive support from counsellors. It can also provide you with legal support.
- Talk to friends, family, and acquaintances, and especially (but not only) to those who may have had similar experiences.
- Report your case to an anti-discrimination organisation (see the list at the end of this brochure). This is often possible online as well. You will be adding to important anti-discrimination data to prevent future discrimination. By doing so, you also show that others are not alone when they experience discrimination.
- File a complaint
- Seek legal support and take legal action against discrimination if necessary
- Reaching out and finding support is important and good. Yet also pay attention to yourself and your limits. Be aware that discrimination can also happen during support and counselling.
- Defending yourself against discrimination can sometimes include becoming (politically) active or going public with your case. You can also decide to do this without having been discriminated against yourself.

How to file a complaint

- ✓ When you decide to go for counselling, you first have to decide which counselling centre you should go to and what they can do for you. You will find a list of counselling centres (with their focus) at the end of this brochure.
- ✓ You can complain about discriminatory behaviour e.g., asking medically unnecessary questions - at one of the above-mentioned places and/or go to a counselling centre that will file a complaint on your behalf.
- ✓ Counselling centres can support you in defending yourself against discrimination. They can help you with complaints, provide psycho-social support, help you deal with discrimination, or provide you with lawyers and other support.
- ✓ In any case, you should be given advice from a neutral party. Not every promised or expected source of support will be satisfactory: in some cases, discrimination can happen there too. Therefore, be mindful of who you wish to turn to.
- ✓ You can lodge a complaint with 'official' authorities. Please be aware that the lodging of a formal complaint is always followed by an examination procedure.
- ✓ If you have a complaint about a discriminatory situation with a health care provider, you can turn to your local state's medical association (for Berlin: www.aerztekammer-berlin.de/).
- ✓ The medical association checks, for example, whether several cases have already occurred and been reported in the practice and whether there is an urgent need for action. Experience shows that urgent action is more likely to be seen in cases of sexualised violence and less likely in cases of other forms of discrimination. You will in most cases not be informed about the outcome of your complaint unless it is filed with a court.
- ✓ There are many different ways to lodge a complaint. Exactly which ways depend on where you have been discriminated against.
- ✓ In addition to counselling centres, you can also contact the Patient Ombudsman at federal or state level.
- ✓ If you are staying in a hospital (inpatient stay), the complaints office is the Landeskrankenhausesellschaft (regional hospital association) or the in-house quality and complaints management department. Not every hospital, in Berlin for example, is obliged to set up a complaints management system. In this case there are patient advocates you can turn to.

EXAMPLES

A doctor's office addresses you with a false name and pronoun.

What can I do (in the situation)?

- Talk to your doctor that names and pronouns are very important to you and that a note is made in your (electronic) file with which form of address / pronoun / name you would like to be called.
- You can inform the practice staff about pronouns / form of address / names before or after this. You can decide whether you prefer to do this in the office, by e-mail or by telephone.

What can I do afterwards? / Where can I turn to?

- If the practice refuses to comply with your wishes, it depends on whether you have already legally changed your first name, or your legal gender, or whether this is still pending. The doctor's office is not obliged to use your self-chosen name. However, if your name and sex have been officially changed, it is obliged to use your official name / title.
- Go to a different practice.
- Provide the practice with information material (see the link collection at the end of the brochure).
- Seek advice.

You are in a specialist practice, because you are worried about having been infected with a sexually transmitted infection (STI). During the examination you are identified as lesbian / gay / bi because of a rainbow bracelet. The therapist takes note of this and assumes that you have had "too many" sexual encounters, saying "It's no wonder if you are infected."

What can I do (in the situation)?

- Don't let yourself be upset! Explain that your sex life is private and that their statement was discriminatory.
- If you do not want to continue treatment in the practice because of the discrimination, you can ask to be recommended / referred to another practice.

What can I do afterwards? / Where can I turn to?

- Document the comments: such insinuations have no place in any doctor-patient relationship, and it is very reasonable to complain about them.
- Choose a different medical practice to go to.
- You can complain about the practice / practitioner to the patient representative / medical association / health insurance company, and you can contact a counselling centre.
- Seek advice.

You would like to have hormone treatment in an endocrinology practice. You make an appointment as a new patient. When you come to the practice, you are asked if you are trans / inter / non-binary. When you say yes, you are told that the practice will not accept any new trans* / inter* / non-binary patients. As you are about to leave, you notice that another patient is admitted and fills in the medical history form.

What can I do (in the situation)?

- Point out to the practice staff that other patients are obviously being admitted and that you being trans* is no reason not to refuse you as a patient.
- It is true that the practice or the practitioner is free to choose whether or not to enter into a treatment contract with patients covered by health insurance. However, it is illegal if the practice refuses treatment just because of your gender identity.

What can I do afterwards? / Where can I turn to?

- You can lodge a complaint with the medical association, health insurance company or the patient representative.
- Seek advice.
- If the practice refuses to treat you for other, objective reasons, it must give alternative places of treatment.

You ask at the reception desk for a prescription for your HIV therapy. The reception desk staff prepares everything, and needs a doctor's signature. While other patients are present in the room, they call out to their colleague: "Can you please get a signature from the doctor for the HIV patient?"

You are in hospital waiting for your mastectomy. You fill out many forms, which also contain your trans* diagnosis. You give the documents to a member of staff who is about to take a break. When someone else calls them, they put the file openly on the reception desk, and leave.

What can I do (in the situation)?

- Remind the practice/hospital staff that they must not disclose diagnoses or other personal information about you in any way to other patients as this would be a violation of your privacy rights.
- There must be no obvious status indication on your files. A visible “HIV” or “TS” (for trans*) is not allowed because it would reveal data about you. However, a note that is not visible to unauthorised persons is permitted.

What can I do afterwards? / Where can I turn to?

- Shouting out loud a diagnosis or part of it in a practice or leaving a file openly accessible is a data breach. In this case, you can lodge a complaint (or have it lodged for you) with the medical association of your respective state (in German: Landesärztl*innenkammer), health insurance company, patient representative, federal/state data protection officer, and/or the management of the practice.
- If this happens in a hospital, you can also contact the management or the clinic’s data protection officer, or the pension insurance company.
- Seek advice.

You are having an orthopaedic consultation due to back pain. When you ask if it is caused by breast binding, the therapist asks about your genitals and asks ‘since when’ you have been trans*.

What can I do (in the situation)?

- Point out that such questions are not appropriate. Abandon the treatment, if you feel this is necessary.

What can I do afterwards? / Where can I turn to?

- The question of genitalia and being trans* will most likely not be considered as a discriminatory insult or harassment in court. Even if it is in fact a form of discrimination, it is difficult to take legal action. If, however, the question came up whether the

practitioner was allowed to ‘look at’ the genitals or if they make another clearly sexist or inappropriate remark, you could try to take legal action.

- Seek advice.

In the middle of a doctor’s consultation, the practitioner starts talking about your sexual identity or orientation, saying that they have “nothing against such people” and they know “trannies” / “fags” themself.

You come into a doctor’s office and get a disapproving look at reception. When you want to introduce yourself, you hear a member of staff say to a colleague: “I would be ashamed to walk around like that”.

What can I do (in the situation)?

- The terms are derogatory and insulting. In this case, you could first point that out to the practitioner, why the terms are inappropriate, and suggest alternatives. If the practitioner refuses or continues to use such terms, you can make a complaint or take other steps (change practice, etc.).
- Even if the statement was not addressed directly to you, you will inevitably hear it. You can say directly that they are using derogatory terms and that you do not want to be treated that way.

What can I do afterwards? / Where can I turn to?

- If the practitioner refuses to use other terms, you can file a complaint with the relevant institutions (health insurance company, medical association). Get advice in any case.
- It is possible to file a complaint with the health insurance company or the patient representative. Get advice to see what options you have in this situation.

These examples only highlight what you may encounter. Every situation is different and can entail different options for action. Of course, not every encounter will happen in exactly the same way. However, if you feel that you have been disadvantaged or treated unfairly, seek advice and describe your situation.

In-patient stays

During an in-patient stay you can encounter everything that can happen during an outpatient treatment. There are more avenues to register complaints. For example, hospitals usually have their own data protection officer (for state-owned hospitals, this varies from state to state). You can also complain to the hospital's complaints management department or to the supervisory authority (health ministry) of the respective state.

Every Berlin hospital has a patient advocate. This person is supposed to mediate between you and the staff in case of a complaint and to take the patient's side.

Care and age

Older LGBTI* in particular have developed their personality in social circumstances that have often led them to conceal their sexual and gender identity or physicality. In both in-patient and out-patient care facilities, many older and younger LGBTI* people fear that they will also encounter prejudice and rejection.

Look out for outpatient and inpatient facilities that have been awarded the Lebensort Vielfalt® quality seal. These facilities have been tested and offer LGBTI*-friendly care. You can find a list of the facilities that have been awarded this quality mark here: [List](#)

Several generations of diverse people live together in "Lebensort Vielfalt" in Charlottenburg. The building also has a care living community especially for gay men. Nursing and domestic care is provided by a nursing service with mainly gay men.

Do you have questions related to age or care? Would you like more information about leisure activities for older LGBTI*? Then contact the specialist unit ageing and care for LGBTI*:

Niebuhrstraße 59-60, 10629 Berlin, Tel: +49 (030) 446 688-111

More information on care, age and discrimination can be found in the guide on the inclusion of sexual and gender diversity in care:

<https://bit.ly/33V1u6Q>.

Dealing with (sexual) violence

What do I do if I have experienced (sexual) violence in the health system?

- Sexual violence has traumatic consequences for those affected. If you have experienced or suspect a sexual assault, it is helpful to seek professional support and advice. No matter how small the transgression may seem, it is important to seek advice and support. Even if you feel this experience might be shameful, professional support will help you.

Where can I turn to?

- You will find a list of counselling centres that offer psychosocial counselling at the end of the brochure.

Sex work

As a sex worker, you are more likely to be confronted with health care issues and discrimination because of your job, whether it is because of health protection (prevention), governmental requirements (such as 'health counselling'), or simply if you want to seek treatment. The need for health care increases the risk of being outed and/or discriminated against as a sex worker. You can find support, for example, at Hydra or the TriQ project "Transsexworks" for trans* sex workers (see list of counselling centres at the end of this brochure).

Reproductive medicine and family planning

Family planning and parenthood are a problem for many LGBTI* due to discriminatory practices, and LGBTI* are often still lacking recognition and opportunities. The following specialised counselling centres can help you with these issues:

- Rainbow family centre of the LSVD
- TraKiNe
- Family Planning Centre Balance
- Rainbow family centre Berlin Ost

WHAT CAN YOU DO TO PREVENT DISCRIMINATION?

Medical consultations are not easy, especially for inter*, non-binary and trans* people, even with HIV+. and you may experience discrimination on several grounds.

If you go to see a new, or if you come out to a doctor who has already treated you, but to whom you have not yet been able or wanted to show your identity, you can prepare yourself. We make the following recommendations.

- Prepare what you wish to tell your therapist.
- You can also give or send information material to your practitioner (a list of which you will find at the end of the brochure).
- You can ask your practitioner to note your preferred form of address / pronoun (Mr / Mrs / first name & surname) or name in your file or database so that the practice team can address you correctly.
- You can bring someone with you to support you in 'difficult' conversations or for support in general.
- It is important that you and your practitioner make a decision that is right for you, no matter what treatment you are having.



How do I know if the relationship between myself and my therapist is non-discriminatory?

YES

- You feel safe to discuss things that are important to you.
- Your sexuality/gender identity is respected.
- The name and pronoun you have provided are respected.
- You are treated equally compared to people with other lifestyles. You are not judged because of your lifestyle.
- You receive objective and useful information if you have any questions about your lifestyle / physicality / sexuality and your related health.
- Your doctor is willing to close gaps in their knowledge or to learn from you.
- Your therapist will give you a non-binding assessment of how long the diagnosis will take and what is included in the (psycho-) therapeutic diagnosis.
- You are informed about the goals and risks of a treatment.
- You receive the desired reports / medical findings without unnecessary treatment.

No's

- The doctor reacts with disgust or rejection.
- The practitioner tries to convince you to adopt a gender conforming, heterosexual, or ascetic lifestyle.
- Your lifestyle is denigrated or devalued.
- The practitioners isolate you from other patients due to your HIV status, or other reasons.
- Your doctor expresses myths or false information about your lifestyle.
- Your lifestyle is directly linked to your illness (e.g. "you are trans* because you are depressed" / "you have HIV because you are sex positive.")
- Your doctor does not listen to your needs and carries out a diagnosis/ treatment without involving or asking you.

⇒ If you come across a practitioner who treats you in this way, seek support if you want it.



(PSYCHO) THERAPY

(Psycho-)therapy—whether in-patient, day clinic, psychiatric ward or outpatient in a practice—is a strenuous process in itself. You open up to your therapist and become vulnerable. This makes prevention of discrimination all the more important.

It is not always easy for LGBTI* people to find suitable therapists who are sensitive to LGBTI*-related issues. Those who are often have little or no capacity for new patients, or are not registered with the public health insurance. This means that you may well have to bear the costs, or find ways to obtain reimbursement by means of the German reimbursement procedure (“Kostenerstattung”). This can be seen as structural discrimination. This makes it all the more important to pay attention to what is important to you already when you search for a therapist (also see the checklist).

How can I deal with discrimination in my search for a therapist?

- If you come across discriminating therapists, it is better to avoid them.
- You can get advice from LGBTI* counselling centres about therapists.
- If you go through the cost reimbursement procedure, make sure you get counselling. There is a lot to consider here and every health insurance company has different rules and practices. As there are many pitfalls, we recommend seeking advice.
- Health insurance companies frequently refuse reimbursement or request unnecessary documentation. Seek advice and, if necessary, file a complaint.

How do I deal with discriminatory behaviour in treatment?

- If you are already undergoing treatment and your therapist is discriminating, try to address this. You can decide whether or not you want to continue the treatment process, depending on how your therapist reacts. This will depend on whether you think that your trust in your therapist has been permanently damaged or not. A client-therapist relationship can also grow from such experiences.
- In any case you can follow the steps described in the section “What do I do if...?”.

TRANSITION - MEDICAL / LEGAL / BUREAUCRATIC

When it comes to cover for required treatments or costs via public health insurance, discrimination is often inevitable. The fact that physical modifications or treatments desired by the patient are not part of the standard care and therefore have to be applied for, is in our view institutional discrimination

- Difficulties may arise here for trans*, inter* and non-binary people who decide to take hormone therapy or are dependent on it.
- The new S3 guidelines establish new standards for trans* people, for example that hormone therapy is possible without prior psychotherapy.

S3 guide, guide trans* health & TIN* specific counselling centres

The Association of the Scientific Medical Societies in Germany (AMWF) issues recommendations in the form of guidelines in a wide range of topics. The “Guideline on Diagnosis, Counselling and Treatment in the Context of Gender Incongruence, Gender Dysphoria and Trans Health: S3 Guideline on Diagnosis, Counselling and Treatment in the Context of Gender” was published in 2018 and makes recommendations for the treatment of trans* people. In the Patient Guide to Trans* Health, the German Trans* Association has translated the S3 Guidelines in an understandable way, including a few recommendations on what to bear in mind during opposition and complaint procedures:

www.bundesverband-trans.de/leitfaden-fuer-behandlungssuchende/

You will find a list of TIN* counselling centres at the end of the brochure.

- However, many doctors are still insecure or not well informed or act as “gatekeepers” and may ask you to confirm that you have already been in psychotherapy for six months (this applies especially to trans* people).
- Many doctors are also unsure about hormone treatment for inter* and non-binary people, refuse treatment or set problematic (binary) standards.

No matter what the reasons are, for example, if your hormone treatment is not being covered or is not the way you want to, there are ways to achieve what you want. Counselling centres can help you get the desired treatment.

- Doctors can usually prescribe hormone drugs as a public health service prescription. The health insurance company covers most of the costs. You only have to pay a small statutory co-payment.
- If your doctor asks for a confirmation (e.g., from a therapist, psychologist or other specialist) that you are allowed to take hormone treatment, refer to the new S3 guidelines, which no longer require this.
- If your doctor still refuses, consider going to a different practice.

- Coverage of the cost for many other physical modifications is only possible if you send a request to your health insurance. This often leads to a rejection or the request for further (sometimes unnecessary) documentation.
- As each case is decided individually, it is difficult to make general statements about what you can do in your case.
- It is therefore advisable to obtain information and advice before you apply for health services. Even if you have made the application and it is rejected, legal or anti-discrimination advice may be useful.

SEXUALITY AND STI / HIV

HIV related discrimination is still common in the health care system and LGBTI* with HIV are even more at risk of being discriminated against. Besides prejudice, there is still a lot of completely outdated knowledge, even among doctors.

Being discriminated against because of your HIV status is not always obvious: sometimes you only get appointments just before the practice closes, very high and inappropriate hygiene measures are applied, or you are not treated at all.

Here too, you can prepare yourself well for medical consultations. The Deutsche Aids-Hilfe (the national German AIDS organisation) has published a brochure to protect people with HIV from discrimination.

www.aidshilfe.de/shop/pdf/9641



LEGAL GUIDE TO THE AGG / PATIENTS' RIGHTS

When it comes to health, discrimination and rights, many different laws may be relevant. We would like to show you where you can get more information. This overview does not, however, replace legal advice. If you need legal advice in an emergency, please contact a counselling centre.

You will find health care laws and regulations in various law books and professional codes of conduct:

- German Civil Code (BGB),
- Social Security Code (V) (SGB),
- Criminal Code (StGB),
- General Data Protection Regulation (GDPR),
- Medical Association's Professional Code of Conduct (including the principles and duties of the medical professions).



The treatment contract

- As in other areas of life (e.g., retail), two parties automatically enter into a non-written contract.
- If you go to see a doctor, this is the treatment contract (paragraph 630a to paragraph 630h BGB).
- Such a contract usually comes into effect when you enter a practice, and a doctor offers you treatment.
- The doctor thus undertakes to carry out the treatment, to document it, to inform you about the treatment in a comprehensible way (duty to inform), to have it carried out according to current medical standards, and to allow you to inspect your patient's file.
- The treatment contract applies to doctors, physiotherapists, hospitals, midwives and all other health care providers.

At the same time, you have obligations when you enter into a treatment contract:

- You have to cooperate with the treatment process: take prescribed medication, for example.
- You also have a duty to pay for the treatment: if you have statutory health insurance, the health insurance companies usually cover the costs. For services that are not covered by "statutory health insurance", you may have to negotiate with your health insurance company to have the costs covered.
- If you have private health insurance, the procedure is usually different: in simple terms, you first pay for the service yourself and will then be reimbursed by your health insurance company.

Duty to provide information

Practitioners have the duty to discuss the treatment with you and provide you with detailed information. This means:

- You must be given the opportunity to ask questions.
- Practitioners can also provide written information about a treatment, but never exclusively. If you sign a consent form, you must be given a copy.
- If you are in doubt, you can always get a second or third opinion from other doctors. You can get as many opinions as you want.

Treatment obligation

In principle, practitioners who are registered with the statutory health insurance funds are obliged to treat people with statutory health insurance. There are, however, also strict guidelines. For example, the obligation to treat you does not apply:

...if you do not follow the doctor's instructions, if you harass the practitioner, or if your trust relationship breaks down.

...if there are too many patients in the practice and the contractual care of all patients is no

longer guaranteed.

...if certain circumstances apply - such as the Covid 19 pandemic, for example - doctors can impose limits, such as admitting only emergencies, or a limited number of patients.

Free choice of a doctor

You are free to choose, in principle, which doctors you want to see (according to SGB V, paragraphs 76t & 95, section 3 (1)).

- This applies if you have statutory health insurance and are looking for a doctor registered with the compulsory health insurance system.
- This freedom of choice also applies to the practitioner: They can decide whether or not to enter into a treatment contract with you.
- However, as a patient covered by statutory health insurance, they are not allowed to refuse you arbitrarily or without substantive reasons.

For example, refusing treatment on the grounds that you are trans* and the doctor has no experience with trans* people is not an objective reason.

Obligation for emergency treatment

- Section 323c of the German Criminal Code (StGB) regulates the failure to provide assistance, which also applies to practitioners.
- They are obliged to provide treatment in an emergency if your life is in danger or if you are in unbearable pain, until the state of the emergency is resolved.

A similar regulation for emergencies is described below in the section on health care according to the Asylum Seekers' Benefit Act (AsylbLG).

Therefore, in the event of a dispute, it can be a matter of interpretation as to what extent the practitioner will help you. For example, if you go to a gynaecologist with severe abdominal pain, they may first prescribe painkillers and refer you to another practice to find the cause of the pain.

Rights to informational self-determination and data protection

According to the General Data Protection Regulation (GDPR) you have the right to decide on the storage, disclosure and deletion of your data.

- This applies to personal data such as age, gender identity, weight, place of residence, etc.
- This is data that allows you to be identified (there is room for interpretation here).
- You must, in principle, always agree that your data may be stored for treatment.
- All your data must be stored securely and only accessible to the staff. Patient history forms or other documents must not be left on the counter of surgeries / hospitals. Diagnoses or conversations must not be shouted out loudly and audibly for others to hear.

- You also have the right to view your stored data (medical records) at any time. However, if you want copies or transcripts, you may be charged for this. You must be informed beforehand how much this will cost.

Confidentiality / Tacit consent

Section 203 (1) of the German Criminal Code (StGB) regulates the duty of confidentiality in addition to the GDPR provisions. It states that practitioners may not “unlawfully disclose another’s secret, in particular a secret relating to that person’s personal sphere of life”. Violations will result in criminal prosecution.

This means in particular:

- Practitioners / employees may not disclose anything about your illness, your personal data or facts about your treatment to third parties.
- Third parties include relatives, family members and partners. This applies even after your death. You can, however, give your consent (in writing) by means of a release form.

However, there are some exceptions to the rule, for example

- If there is a “tacit agreement” (e.g. in case of hospital shift changes);
- If another law (e.g., the Act on the Prevention and Control of Infectious Diseases – in German: Infektionsschutzgesetz) stipulates that an illness must be reported;
- if there is another exceptional legal situation;
- if a patient endangers his or her own life or the lives of others.

Medical professional code of conduct

The medical professional codes of conduct set standards for how treatment and the professional practice of practitioners must be carried out.

Health care according to the Asylum Seekers’ Benefits Act (AsylbLG)

In Germany, the care of refugees is regulated uniformly. However, there is a distinction regarding how long people have been in Germany. According to paragraphs 1, 3 AsylbLG, all people receive the basic benefit (statutory health insurance via the health card) after they have been in Germany for at least 15 months.

If you have not been in Germany for at least 15 months, paragraphs 4, 6 AsylbLG regulate health care.

- It states that medical care is to be provided for acute illnesses and pain conditions.

Treatment also includes:

- the provision of medicine, bandages or services required for treatment (e.g. X-rays). This offers a lot of room for interpretation as to what is considered an “acute” or “pain condition”

More legal assessments and information can be found at: <http://gesundheit-gefluechtete.info/>

General Equal Treatment Act (AGG)

In addition to these laws, which regulate medical matters in particular, there is, for example, the General Equal Treatment Act (AGG), which makes it possible to take legal action against “discrimination” based on certain characteristics to a limited extent. However, it is not applicable to all areas of life and the health sector is only included to a limited extent.

The AGG:

- Refers to the following characteristics: “race”/ethnic origin, gender, religion/belief, disability, age, sexual identity.
- also applies (only to a very limited extent) in the health sector (private law contracts, e.g. health insurance, but with many exceptions) which allow discrimination, e.g. on the basis of age.
- it distinguishes between direct discrimination / indirect discrimination / (sexual) harassment.
- is intended to prevent / eliminate disadvantages / bring about positive action / provide compensation (e.g. compensation for damages).

More information:

[AGG-Guidline](#)

The Berlin State Anti-Discrimination Act (LADG)

In 2020, the state of Berlin became the first and so far only federal state to pass a State Anti-Discrimination Act (Landesantidiskriminierungsgesetz), which is intended to protect against discrimination by public authorities. In addition to the characteristics protected under the AGG, the LADG also includes the categories ‘anti-Semitic attribution’, ‘chronic illness’ and ‘social status’. In a case of suspected discrimination, the LADG contains a ‘lightening of the burden of proof’ in favour of discriminated people: so public bodies such as the Charité (a state-owned public corporation) have to defend their actions (which have been perceived as discriminatory) if it is credibly shown that they have violated the LADG. With Vivantes as a state-owned limited company, it is a little more complicated, but in the opinion of the State Anti-Discrimination Agency, the LADG is also applicable here in addition to the AGG. It provides for a claim for damages (in the case of financial damage) or compensation (compensation for pain and suffering), if applicable.

LIST OF MATERIALS AND CONTACTS

Here you will find information on where you can turn and/or find support:

- Material / useful information
- Counselling centres

We have first focused on Berlin. There are also portals for other regions where you can find what you are looking for.

Material / useful information:

Legal information

General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz - AGG*)
www.gesetze-im-internet.de/agg/

Guide of the Federal Anti-Discrimination Agency on the AGG
<https://bit.ly/2SQqDcH>

Information on complaints to the Medical Association of the federal state of Berlin
<https://bit.ly/3lNqQcO>
<https://bit.ly/2GO07ON>

FURTHER INFORMATION

Information on HIV and health care
www.aidshilfe.de/shop/

Legal assessments and information on health care for refugees
<http://gesundheit-gefluechtete.info/>

Queer health: family doctor's flyer for LGBTI* people
www.queeregesundheit.de/

Search for lgbtqi*-sensitive gynaecologists / midwives
www.gynformation.de/

Medical help for people without health insurance: Medibüro: Medical treatment and advice for people without health insurance
www.medibuero.de/ueber-uns/

Trans*-specific

Various publications on the topic trans*
www.bundesverband-trans.de/publikationen/

Guide for trans* people who are seeking treatment
<https://bit.ly/3lNr0Rs>

Guide and counselling for trans* / inter*
www.transintersektionalitaet.org/?page_id=97

Flyer for physicians with trans*-related information
<https://bit.ly/372Qooy>

Inter*-specific

Information for doctors, psychologists, therapists and other health professionals
<https://bit.ly/2H3i7Eq>

Medical interventions on inter* and their consequences: Facts & Experiences Folgen:
<https://bit.ly/3lCAi2S>

COUNSELLING SERVICES

Information and search functions on counselling and LGBTI* topics:

www.regenbogenportal.de/

Counselling Centre Database of the Federal Anti-Discrimination Agency:

<https://bit.ly/33Z2NBX>

Institution / Organisation	Link
Antidiskriminierungsstelle des Bundes	www.antidiskriminierungsstelle.de
Berliner Aids-Hilfe	www.berlin-aidshilfe.de/
Berliner Behindertenverband	www.bb-ev.de/kontakt/
Deutsche Aids- Hilfe	www.aidshilfe.de/beratung-diskriminierung
Deutsche Gesellschaft für Transidentität und Intersexualität e. V. (dgti)	www.dgti.org/
Familienplanungszentrum Balance	www.fpz-berlin.de
Gladt e. V.	www.gladt.de/
Hilfe für Jungs e. V.	www.jungs.berlin/
Hydra	www.hydra-berlin.de /
Intersexuelle Menschen e. V.	www.im-ev.de/
LADS	www.berlin.de/sen/lads/
Lambda BB	www.lambda-bb.de/beratung
Landesvereinigung Selbsthilfe Berlin e. V.	www.lv-selbsthilfe-berlin.de
Lara	www.lara-berlin.de/
Lesbenberatung Berlin e. V. / LesMigras	www.lesbenberatung-berlin.de, www.lesmigras.de
L-Support	www.l-support.net/
LSVD BB	www.berlin.lsvd.de/
LSVD BB / Miles	www.berlin.lsvd.de/projekte/miles/
Mann-O-Meter e. V.	www.mann-o-meter.de/
Mann-O-Meter e. V. / Maneo	www.maneo.de/
Migrationsrat Berlin	www.migrationsrat.de/
MUT - Traumhilfe für Männer*	www.mut-traumahilfe.de/
OII / IVIM Deutschland	www.oii germany.org
Patientenbeauftragte*r für Berlin	www.berlin.de/lb/patienten/
Quarteera e. V.	www.quarteera.de/
Queeres Regenbogenfamilienzentrum Berlin Ost	www.trialog-berlin.de/queeres-regenbogenfamilienzentrum-berlin-ost.html
Rad und Tat (Rut)	www.rut-berlin.de/
Reach Out	www.reachoutberlin.de/
Regenbogen-Familienzentrum des LSVD	
Register Berlin	www.berliner-register.de
Schulenberatung Berlin, u. a. StandUp (Antidiskriminierung), Fachstelle LSBTI*, Altern und Pflege, Inter*Trans*Beratung Queer Leben	www.schulenberatungberlin.de/
Sonntags-Club e. V.	www.sonntags-club.de/
Subway / Hilfe für Jungs e. V.	www.subway-berlin.de/
Tauwetter e. V.	www.tauwetter.de/de/
TBB – Türkischer Bund in Berlin-Brandenburg e. V.	www.tbb-berlin.de/
Trakine e. V.	www.trans-kinder-netz.de
TrIQ e. V.	www.transinterqueer.org/beratung/
Unabhängige Patientenberatung Deutschland	www.patientenberatung.de/de
Wildwasser e. V.	www.wildwasser-berlin.de/
Zentrum Überleben	www.ueberleben.org

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SELBSTBESTIMMUNG • AKZEPTANZ • VIELFALT



Landesstelle
für Gleichbehandlung –
gegen Diskriminierung

Fachbereich LSBTI

Senatsverwaltung
für Justiz, Verbraucherschutz
und Antidiskriminierung

