



Non-Discrimination Compliance Information for Providers

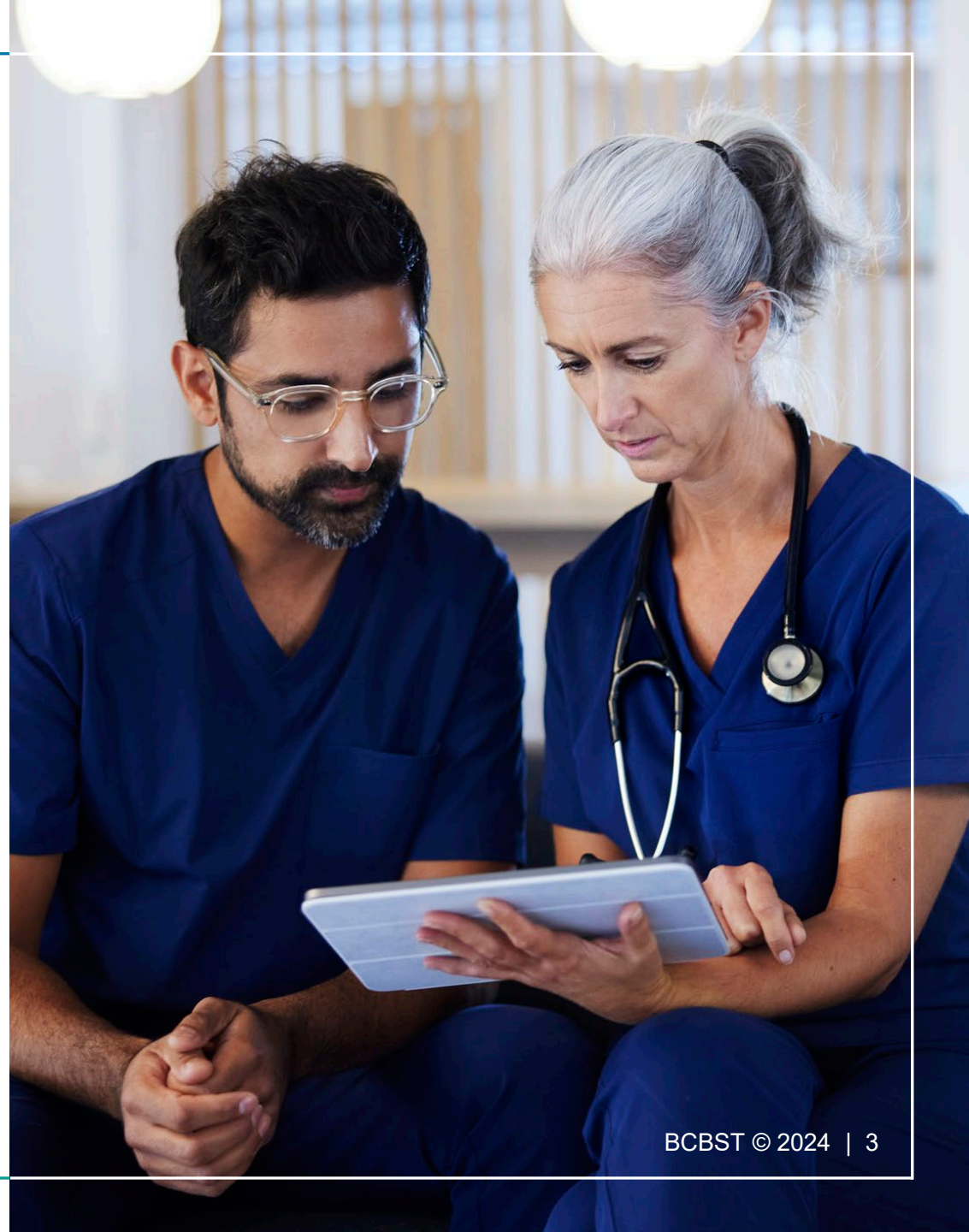


Discussion Topics

- › Cultural Competency in Health Care
- › Title VI of the Civil Rights Act
- › Section 504 of the Rehabilitation Act of 1973
- › Title II of the Americans with Disabilities Act of 1990
- › Title III of the Americans with Disabilities Act of 1990
- › Affordable Care Act Section 1557
- › Age Discrimination Act of 1975
- › Filing a Discrimination Complaint
- › Resources



Please note: The information in this presentation applies to all network providers caring for our BlueCare Tennessee and CoverKids members.



Cultural Competency in Health Care

Important Definitions

Culture and Cultural Competency in Health Care

- › **Culture** – “... the sum total of values, beliefs, standards, languages, thinking patterns, behavioral norms, communication styles, etc., of a group of people, institutions or organizations that guides decisions and actions and is transmitted from one generation to another.”

- › **Cultural knowledge** – “... familiarization with selected cultural characteristics, history, values, belief systems and behaviors of the members of another ethnic group.”

Source for all definitions: *State of Tennessee Department of Finance and Administration Manual*

Culture and Cultural Competency in Health Care

- › **Cultural awareness** – “... developing sensitivity and understanding of another ethnic group. This process involves internal changes in terms of attitudes and values. Cultural awareness also refers to the qualities of openness and flexibility that people develop in regards to others. Cultural awareness should be supplemented with cultural knowledge.”
- › **Cultural sensitivity** – “... knowing that cultural difference, as well as similarity, exists without assigning values (i.e., better or worse, right or wrong) to those cultural differences.”

Important Definitions

Culture and Cultural Competency in Health Care

- › “**Cultural competency** in health care describes the ability of systems to provide care to patients with diverse values, beliefs and behaviors, including the tailoring of health care delivery to meet patients’ social, cultural and linguistic needs.” (*Becoming a Culturally Competent Health Care Organization, American Hospital Association/Health Research and Educational Trust*)
- › **Cultural competency** – “... the effective integration and transformation of knowledge about individuals and groups of people into specific standards, policies, practices and attitudes used in appropriate cultural settings to increase the quality of health care, thereby producing better health outcomes.” (*State of Tennessee Department of Finance and Administration Manual*)

Important Definitions

Cultural Competency in Health Care

The cultures of patients and providers may be affected by:

- › Education level
- › Income level
- › Geographic residence
- › Identification with community groups
 - Examples: religious, professional, community service, political, etc.
- › Individual experiences
- › Place of birth

Important Definitions

Cultural Competency in Health Care, cont.

The cultures of patients and providers may be affected by:

- › Length of residency in the U.S.
- › Age
- › Race
- › Ethnicity
- › Sex
- › Gender
- › Disabilities
- › Veteran status



Important Definitions

Values and Attitudes

Culture shapes how people experience their world. It's a vital component of how services are delivered and received.

Cultural competence begins with an awareness of your own cultural beliefs and practices, and recognition that people from other cultures may not share them.

This means more than speaking another language or recognizing the cultural icons of a people. It means changing prejudgments or biases about a person's cultural beliefs and customs.

Important Definitions

Cultural Competency in Health Care

It's important to promote mutual respect. Cultural competence is rooted in respect, validation and openness towards someone with different social and cultural perceptions and expectations than your own. People tend to view their own culture as the best. Some individuals may be threatened by, or defensive about, cultural differences.

Moving toward culturally appropriate service delivery means being:

- › Knowledgeable about cultural differences and their impact on attitudes and behaviors;
- › Sensitive, understanding, non-judgmental and respectful when dealing with people whose culture is different from your own;
- › Flexible and skillful in responding and adapting to different cultural contexts and circumstances.

Important Definitions

Cultural Competency in Health Care

According to the Agency for Healthcare Research and Quality (AHRQ), cultural competency is often seen as encompassing only racial and ethnical differences. In a literature review, the AHRQ adopts a broader definition, which also includes persons with disabilities and persons identifying as lesbian, gay, bisexual, transgender, intersex, queer/questioning, or asexual (LGBTQ+).



In this presentation, we'll discuss information relevant to promoting diversity and cultural competence in your organization.

Title VI of the Civil Rights Act of 1964

What Is Title VI?

Title VI is a federal law that protects individuals from discrimination because of their race, color or national origin in programs that receive federal financial assistance, such as:

- › Medicare
- › Medicaid
- › CoverKids
- › Public health services grants/awards
- › Loans
- › Land use

Health Care Provider Responsibility

Recipients of federal financial assistance may not:

- › Deny an individual a service, aid or benefit on the grounds of race, color or national origin.
- › Provide a benefit or service that's different, or provided in a manner that's different, from the way the service or benefit is provided to other individuals served by the recipient.
- › Subject an individual to segregation or separate treatment.
- › Use different treatment or criteria in determining persons' eligibility for benefits, or in selecting sites or locations of facilities that exclude protected individuals.

Improving Access to Care

Executive Order 13166 – “Improving Access to Services for Persons with Limited English Proficiency”

- › On Aug. 11, 2000, former President Bill Clinton signed Executive Order 13166. This Executive Order requires federally funded agencies to examine, identify, develop and offer services to those with limited English proficiency (LEP).
- › The Executive Order also requires federal agencies to take reasonable steps to ensure meaningful access to their programs by individuals with LEP and their beneficiaries.

How Do You Determine if a Person Has LEP?

- › People who don't speak English as their primary language or have a limited ability to read, write, speak or understand English are considered to have LEP.
- › Providers must offer language assistance to BlueCare Tennessee or CoverKids patients with LEP or their representative, if requested.
- › Under Section 504 of the Rehabilitation Act of 1973, auxiliary aids and services must be provided to people with LEP who are also blind or deaf to ensure equal access to information.

Interpreter Services

- › **Providers** are responsible for offering interpretation services to people with LEP free of charge, at the point of service. This means providers are financially responsible for interpreter services.
- › An **exception** to the **provider** being financially responsible occurs when language assistance services are directly requested by a BlueCare Tennessee enrollee from a provider and the provider has an agreement with the enrollee's managed care organization (MCO) for the MCO to accept financial responsibility for the interpretation services.
- › Providing interpretation services is essential and helps ensure that patients understand the information you share with them and how to use their medications appropriately.

Providing Cost-Effective Language Assistance

Ways to provide cost-effective language assistance services include:

- › Training bilingual staff.
- › Using telephone and video conference services.
- › Standardizing patient resources and documents.
- › Using qualified translators, interpreters or volunteers to avoid errors.

Hiring an Interpreter

When deciding to use an interpreter, please consider:

- › Language proficiency – The interpreter should demonstrate proficiency in both English and the other language.
- › Industry knowledge – The interpreter should demonstrate knowledge of the specialized terms or concepts associated with the services being rendered.
 - Example: In a medical setting, the interpreter should be familiar with medical terminology.
- › Confidentiality – The interpreter should demonstrate an understanding of the need for confidentiality and impartiality and understand their role.

Please note: Language services should be available at the point of service. If you have an appointment with a person with LEP, please arrange interpreter/language services ahead of time so they're available during the visit.

Additional Tips for Providing Language Services

When Title VI requires the availability of language assistance, please:

- › Let the person know an interpreter can be provided at no cost to them.
- › Don't require a patient with LEP to bring their own interpreter. If a person wants to bring their own interpreter, please consider the competence, confidentiality or appropriateness of the interpreter when making a decision about the request.
- › Don't rely on family members or friends of the person with LEP to interpret communication for them. Similarly, a person's minor children should never serve as an interpreter.

Written Translations – Vital Materials

- › Vital written materials should be translated.
- › Whether or not a document is considered vital depends on the:
 - Importance of the program.
 - Information and service involved.
 - Consequences associated with providing potentially inaccurate information or delaying information.
- › Vital written materials could include:
 - Consent forms, complaint forms, member handbooks, provider directories, newsletters, application forms, and notices advising of free language assistance.



Written Translations – Non-Vital Materials

Non-vital materials may include:

- › General information about a program that's intended for informational purposes only
- › Menus
- › Third-party documents
- › Forms
- › Pamphlets

Written Translations

Safe Harbor

- Safe Harbor requires translation for vital documents when a group of people with LEP includes 1,000 or more individuals or makes up 5% of the eligible population.
- If fewer than 50 people in a specific language group make up 5% of the eligible population, providers receiving federal financial aid must offer the vital materials orally in the primary language of the group, free of charge.

Note: When translating documents, please consider the reading level of the audience who'll use the material. Our website has a function that allows users to translate content into languages other than English.

Responding to Communications Written in Other Languages

It may be necessary to have documents written in a patient's primary language translated for your staff. Consider these tips for interpreting and responding:

- Use qualified translators to translate the written material into English and then to translate your reply into the patient's primary language. It's helpful to hire translators who are familiar with medical terminology.
- Respond in the patient's primary language using a reading level that matches the original document.
- Be aware of cultural competency needs in both documents.
- Establish a policy for staff so they know who to contact for translation help.

Language Assistance Planning

Designing an effective language assistance plan consists of several parts:

1 Identifying individuals with LEP

- › Use language identification cards, encounter data, posted notices and census results to help you identify people who may need language assistance and their primary language. If fewer than 50 people in a specific language group make up 5% of the eligible population, providers receiving federal financial aid must offer the vital materials orally in the primary language of the group, free of charge.

Language Assistance Planning

Designing an effective language assistance plan consists of several parts:

2 Identifying methods for language assistance

- This would include not only determining the types of language assistance available, but also how to:
 - Respond to callers with LEP.
 - Respond to written communications from people with LEP.
 - Obtain translation services.

Language Assistance Planning

Designing an effective language assistance plan consists of several parts:

3 Training Staff

- › Make sure your team members are familiar with your office's policies and procedures for language assistance.

4 Letting patients know language services are available

- › Explain that interpreter services will be available, as needed, during appointments free of charge.

5 Reviewing your plan regularly and making updates, as needed

- › Ensure your plan remains applicable and provides a meaningful benefit to your patients.

Section 504 of the Rehabilitation Act of 1973

What Is Section 504?

- › Section 504 of the Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability.
- › The non-discrimination requirements of the law apply to employers and organizations that receive financial assistance from any federal department or agency, including the U.S. Department of Health and Human Services.
- › Section 504 ensures that individuals with disabilities have the right to participate in, and have access to, program benefits and services.

Who's Protected Under Section 504?

- Under this law, individuals with disabilities are defined as people with a physical or mental impairment that substantially limits one or more major life activities.
- Major life activities include caring for yourself, walking, seeing, hearing, speaking, working, performing manual tasks and learning.
- As it relates to employment, qualified individuals with disabilities are persons who, with reasonable accommodations, can perform the essential functions of the job they've been hired to perform.

Prohibited Acts of Discrimination

- Prohibited acts of discrimination apply to the availability, accessibility and delivery of services, as well as employment and the administrative activities of organizations receiving federal financial assistance.
- Recipients of federal financial assistance may not deny, on the basis of disability:
 - Qualified individuals the opportunity to participate in or benefit from federally funded programs, services or other benefits.
 - Access to programs, services, benefits or opportunities to participate as a result of physical barriers.
 - Employment opportunities, including hiring, promotion, training and fringe benefits, for which they're otherwise entitled or qualified.

Americans with Disabilities Act

Title II

- Title II applies to state and local government entities. Subtitle A protects qualified individuals with disabilities from discrimination on the basis of their disability in services, programs, and activities provided by state and local government entities.
- This part of the law pertains to public entities and public transportation and prohibits disability discrimination by all public entities at the local and state level.
- The regulations cover access to all programs and services offered by the entity.

Title II, cont.

- Access includes physical access, as described in the ADA Standards for Accessible Design. It also includes programmatic access, which may be obstructed by discriminatory policies or procedures used by the entity.
- Accommodations may vary based on the needs of the applicant or employee with a disability. Not all individuals with disabilities (or even all individuals with the same disability) will require the same accommodations.

Title III

Public Accommodations (and Commercial Facilities)

Under Title III, no individual may be kept from the full and equal enjoyment of goods, services, facilities or accommodations of any place of “public accommodation” due to a disability. A person who owns, leases or operates a place of “public accommodation” may not discriminate against people with disabilities.

"Public accommodations" include most places of lodging (such as inns and hotels), recreation, transportation, education and dining, along with stores, health care providers and places of public displays. They must provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity. They must also eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy available goods and services.

Title III, cont.

Public Accommodations and (Commercial Facilities) must:

- Make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities, unless doing so would fundamentally alter the goods and services provided.
- Furnish auxiliary aids when necessary to ensure effective communication, unless doing so would cause an undue burden or fundamentally alter the goods and services provided.

Title III, cont.

Public Accommodations and (Commercial Facilities) must:

- › Remove architectural and structural communication barriers in existing facilities where readily achievable. If removing barriers isn't possible, provide applicable alternatives.
- › Offer equivalent transportation services and purchase accessible vehicles in certain circumstances.
- › Maintain accessible facilities and equipment.

Affordable Care Act Section 1557

What Is ACA Section 1557?

Section 1557 is the nondiscrimination provision of the Affordable Care Act (ACA). The law prohibits health programs or activities that receive federal financial assistance or are administered by an executive agency or an entity established under Title I of the ACA from discriminating against people because of their race, color, national origin, sex, age or disability. Section 1557 has been in effect since the ACA was enacted on March 23, 2010.

ACA Section 1557 Requirements

- All covered entities must post a notice of consumer civil rights. Covered entities with 15 or more employees are also required to have a civil rights grievance procedure and designate an employee to coordinate compliance.
- Under a new requirement, covered entities are also required to post information telling consumers about their rights and letting those with disabilities or LEP know about the right to receive communication assistance. They're also required to post taglines in the top 15 languages spoken by individuals with LEP in the states in which the covered entity operates, advising consumers of the availability of free language assistance services.
- Additionally, covered entities must provide equal access to health programs and activities regardless of sex and to treat individuals consistent with their gender identity. For more information, review the resources on slide 48.

Age Discrimination Act of 1975

What Is the Age Discrimination Act of 1975?

Modeled after the Civil Rights Act of 1964 Title VI provisions and Section 504 of the Rehabilitation Act, the Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities that receive federal assistance. It applies to educational programs, health care services, housing, welfare, food stamps and rehabilitation programs.

Discrimination Complaints

Who's Eligible to File a Complaint?

Anyone receiving services from, contracting or subcontracting with, participating in, or employed by an agency, organization, program or institution receiving state or federal funding may file a complaint alleging violation of the regulations stated in:

- › Title VI of the Civil Rights Act of 1964
- › Section 504 of the Rehabilitation Act of 1973
- › Title II of the Americans with Disabilities Act of 1990
- › Section 1557 of the Affordable Care Act
- › Age Discrimination Act of 1975

Discrimination Complaints

Filing a Discrimination Complaint

Contact us or the state and federal organizations listed on the next slides to file a discrimination complaint. Write to:



**BlueCare Tennessee
Non-Discrimination
Compliance
Coordinator**

1 Cameron Hill Circle

Chattanooga, TN 37402



**CoverKids Non-
Discrimination
Compliance
Coordinator**

1 Cameron Hill Circle

Chattanooga, TN 37402

Discrimination Complaints

Filing a Discrimination Complaint

TennCare, Office of Civil Rights Compliance	Tennessee Human Rights Commission Title VI Compliance Program
Call: (615) 507-6474 or 1-855-857-1673 TRS: 711 Ask/877-779-3103	Call: (615) 741-5825 or 1-800-251-3589 For Spanish: 1-866-856-1252
Write to: 310 Great Circle Rd. Floor 3W Nashville, TN 37243	Write to: Central Office Tennessee Tower 312 Rosa Parks Ave, 23rd Floor Nashville, TN 37243
Email: HCFA.Fairtreatment@tn.gov	

Discrimination Complaints

Filing a Discrimination Complaint

U.S. Department of Health & Human Services – Office of Civil Rights	U.S. Department of Health & Human Services – Southeast Region Office of Civil Rights
Call: 1-800-368-1019 TTY/TDD: 1-800-537-7697	Call: 1-800-368-1019 TTY/TDD: 1-800-537-7697
Write to: 200 Independence Ave., SW Room 509F/HHH Building Washington, DC 20201	Write to: Sam Nunn Atlanta Federal Center Suite 16T70 61 Forsyth Street, SW Atlanta, GA 30303
Email: ocrmail@hhs.gov	Email: ocrmail@hhs.gov

Filing a Complaint – Important Notice

In accordance with the applicable laws and regulations, all complaints received alleging any form of discrimination will be thoroughly investigated and resolved.

No enrollee, contractor, subcontractor, grantee or employee should be subjected to any form of retaliation, which may include threats, coercion, intimidation or discrimination, because they filed a complaint, testified, or assisted or participated in an investigation, proceeding or hearing.

Resources

Resources

Where to Find More Information

Title VI of the Civil Rights Act of 1964

- › Review the entire act here: [justice.gov/crt/fcs/TitleV](https://www.justice.gov/crt/fcs/TitleV).
- › The Office for Civil Rights also offers related resources and directions for filing a complaint: [hhs.gov/ocr/index.html](https://www.hhs.gov/ocr/index.html).

Limited English Proficiency

These phone lines can help locate organizations that specialize in meeting the medical needs of patients with LEP:

- › **Language Line:** 1-800-874-9426
- › **Institute of Foreign Language:** (615) 741-7579
- › **AVAZA Language Services:** 1-866-452-6482

Resources

Where to Find More Information

Limited English Proficiency, etc.

- › For more information about providing cost-effective language assistance, please see: bluecare.bcbst.com/forms/Provider%20Forms/BlueCare-Civil-Rights-Diversity.pdf.
- › [“I Speak” Statements Card](#)
 - Consider displaying this card for your patients to identify their primary language. Published by the United States Department of Agriculture, Food and Nutrition Service, the card features 49 languages.

Where to Find More Information

Section 504 of the Rehabilitation Act of 1973

- › Review a fact sheet about your rights under this legislation here: [hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/504.pdf](https://www.hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/504.pdf).
- › Read the entire section here: [dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973](https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973).

Resources

Where to Find More Information

Click the appropriate links below to review the full text of each legislation.

Titles II and III of the Americans with Disabilities Act of 1990

› ada.gov/ada_title_II.htm

› ada.gov/topics/title-iii/

Affordable Care Act Section 1557

› hhs.gov/civil-rights/for-individuals/section-1557/index.html#:~:text=Section%201557%20prohibits%20discrimination%20on,covered%20health%20programs%20or%20activities.

Resources

Where to Find More Information

Click the appropriate links below to review the full text of each legislation.

Age Discrimination Act of 1975

- › [dol.gov/general/topic/discrimination/agedisc#:~:text=The%20Age%20Discrimination%20Act%20of,that%20meet%20the%20Act's%20requirements.](https://www.dol.gov/general/topic/discrimination/agedisc#:~:text=The%20Age%20Discrimination%20Act%20of,that%20meet%20the%20Act's%20requirements.)

Resources

Where to Find More Information

Promoting Cultural Competence

The American Hospital Association/Health Education Research Trust has developed a guide for health care providers about cultural competency and its importance: [aha.org/ahahret-guides/2013-06-18-becoming-culturally-competent-health-care-organization](https://www.aha.org/ahahret-guides/2013-06-18-becoming-culturally-competent-health-care-organization).

Three educational modules are available through the American Medical Association Ed Hub™ about LGBTQIA+-affirming primary care. You can earn continuing medical education credits for completing these courses: edhub.ama-assn.org/howard-brown-cme/by-topic.

The National LGBTQIA+ Health Education Center, a program of the Fenway Institute, offers a variety of resources for health care providers here: lgbtqiahealtheducation.org/resources/.

Thank You



BlueCare Tennessee, an Independent Licensee of BlueCross BlueShield Association