

# Sustaining Progress Toward LGBT Health Equity: A Time for Vigilance, Advocacy, and Scientific Inquiry

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**T**HIS ISSUE OF *LGBT HEALTH* marks the fourth year of publication of the journal. In the past 3 years, both *LGBT Health* and the field of LGBT health have made advances that can be attributed, in large measure, to progressive changes and support under the Obama administration. In the journal's inaugural editorial, I commented that *LGBT Health* was launching during a window of unprecedented opportunity to lay an enduring foundation for sustaining progress toward LGBT health equity.<sup>1</sup> From all indications, including the Republican Party Platform<sup>2</sup> and President-elect Trump's "Contract with the American Voter,"<sup>3</sup> also known as his "100-Day Action Plan," we will not have the same level of federal support from the incoming administration but, instead, may face opposition. Herein, I will review some of the recent progress toward LGBT equity and suggest that we have, indeed, established a solid enough foundation to maintain forward momentum despite the challenges that lie ahead. Now is a time to redouble our efforts. In addition to scientific inquiry and clinical enhancements, vigilance and advocacy will be vital to the preservation and full realization of our recent gains.

## Support for Health Research on Sexual and Gender Minorities

During the Obama administration, National Institutes of Health (NIH) funding of sexual and gender minorities (SGM) health research increased 10-fold.<sup>1</sup> A memorandum that President Obama issued in the second year of his administration called for the US Department of Health and Human Services (HHS) to address the needs of SGM populations.<sup>4</sup> Under the leadership of Kathleen Sebelius, his appointment as US Secretary of HHS, HHS responded by creating an Internal LGBT Coordinating Committee to ensure that SGM health concerns would be considered in all its activities, including those of the NIH. NIH, in turn, issued a stra-

tegic plan to advance research on the health and well-being of SGM<sup>5</sup> that closely followed the 2011 recommendations of the Institute of Medicine.<sup>6</sup> NIH also extended its research portfolio and created the Sexual and Gender Minority Research Office to coordinate NIH-sponsored activities on SGM health issues and to provide guidance to investigators. In October 2016, NIH officially designated SGM as a health disparity population.<sup>7</sup> This designation calls attention to the need for SGM health disparity research and created a home for related grant applications within the National Institute on Minority Health and Health Disparities.

President-elect Trump's top choice for Secretary of HHS is Rep. Tom Price whose record on SGM issues contrasts sharply with that of Kathleen Sebelius and her successor, Sylvia Mathews Burwell. During his service in the House of Representatives, he has consistently received poor ratings from the Human Rights Campaign on their Congressional Scorecard measuring support for LGBT equality.<sup>8</sup> Although Price's confirmation could potentially diminish NIH's current SGM inclusiveness, top Republicans have urged President-elect Trump to reappoint the current NIH director, Dr. Francis Collins, who served throughout the Obama administration.<sup>9</sup> The reappointment of Dr. Collins would minimize the probability of dramatic and abrupt changes at NIH. Even if Dr. Collins is not reappointed, currently funded research should not be in peril and we anticipate an increase in SGM health-related manuscript submissions in the next few years as that research is completed. We look forward to having the opportunity to publish this important work and contributing to its translation into tangible health benefits.

## Access to Healthcare

Both the Republican Party Platform and the President-elect's "Contract with the American Voter," call for repeal and replacement of the Affordable Care Act (ACA).<sup>2,3</sup> In addition to providing health insurance for low-income individuals, the ACA benefits particular SGM populations by preventing denial of coverage for preexisting conditions, including HIV infection; by preventing ceiling caps, including

<sup>1</sup>Based on a search of LGBT projects by fiscal years 2009–2015 using NIH Reporter. <https://federalreporter.nih.gov/Projects/visualize/?searchId=c7c37f14f4f240549f1f21e061739fe1&searchMode=Smart&filters> Accessed November 29, 2016.

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caps for HIV-related treatment; and by preventing categorical exclusions for medically necessary gender affirming care. If Congress moves swiftly to repeal the ACA without first developing adequate plans to replace it, many Americans with low incomes or preexisting conditions will suddenly be without insurance. Such a reckless move could not only have serious consequences for health but would be fiscally irresponsible, as it would increase dependency on emergency room care, the most costly form of healthcare. In addition, HIV treatment could be rendered unaffordable to perhaps the majority of those currently receiving it. Treatment as prevention is a cornerstone of programs to end the AIDS epidemic because it lowers viral loads and greatly reduces the likelihood of transmission.<sup>10</sup> If treatment is interrupted, there will be significant negative consequences for HIV prevention.

In light of Rep. Price's record as an active opponent of the ACA, his nomination to lead HHS signals that repeal or drastic modification of the ACA will be a top priority of the Trump administration. However, according to David Stacy, Government Affairs Director for the Human Rights Campaign, if the ACA is repealed "... you're not going to have your health care cut off in the immediate term ... there's going to be some sort of transition period."<sup>11</sup> For example, there has been discussion of immediate repeal with a delay in the effective date to allow several years to phase out the ACA.<sup>12</sup> An obstacle to full repeal is that Republicans will lack the Senate majority necessary to achieve it. The Senate's budget reconciliation process, however, does not require a majority and, with 50 votes, could be used to expedite modifications.<sup>12</sup>

### SGM Stigma and Discrimination in the United States

Other factors affecting the health of SGM are stigmatizing policies in domains outside healthcare. The Obama administration has been instrumental in ending several of them, for example, the repeal of "Don't Ask, Don't Tell" (which ended the US military's discrimination on the basis of sexual orientation), the establishment of marriage equality by the Supreme Court (with two of the five supporting opinions from Obama appointees), and the end of the policy that prevented transgender individuals from serving openly in the US military.

Additional SGM protections have been afforded by the Obama administration's guidance regarding the enforcement of federal statutes in a manner that precludes discrimination on the basis of sexual orientation and gender identity. For example, directives issued by his administration clarified that gender identity is a protected class in healthcare and in terms of access to educational facilities, including school restrooms.<sup>11</sup> Similarly, in the absence of more robust federal protections against employment discrimination for SGM individuals in the private sector, at the time of this writing, complaints can be filed with the Equal Employment Opportunity Commission (EEOC) under Title VII of the 1964 Civil Rights Act.<sup>13</sup> This is especially helpful in states that lack such protections.

Regardless of whether the incoming president agrees with the executive orders and other guidance issued by his predecessor, the federal laws and judicial rulings on which the orders were based will remain in force. In practice, this will mean that those who experience discrimination will still have legal recourse to file complaints in federal court and with the EEOC. Such gaps in federal protections call for ad-

vocacy at all levels of government: local, state, and federal. For the near future, however, marriage equality is on safe ground, because there are no term limits for Supreme Court justices and the five of those who ruled in its favor are still on the bench and constitute a majority.

### Global SGM Rights

Advances in SGM rights around the world were achieved in recent years in part as a result of diplomatic pressure from the United States. For example, the US State Department was authorized by law to appoint an independent officer to track international criminalization and violence on the basis of sexual orientation or gender identity and to encourage foreign governments to reform or repeal laws criminalizing consensual homosexual behavior.<sup>14</sup> In addition, a presidential memorandum directed federal agencies operating overseas to promote and protect the human rights of LGBT persons.<sup>14</sup>

The stance of the incoming administration on human rights worldwide, and the rights of SGM in particular, is less clear. The only pledge made to date by President-elect Trump on this subject was made during his election campaign, after the 2016 mass shooting at a gay nightclub in Orlando, Florida. At that time, he stated that he would protect LGBTQ *Americans* (emphasis added) against the violence and oppression of a hateful foreign ideology.<sup>14</sup> While President-elect Trump's views on the role of the United States in protecting SGM rights abroad are unknown, years before Mike Pence ran for Vice President, he publicly opposed identifying SGM people as constituting a minority group for which the United States should advocate internationally.<sup>14</sup> The Trump administration's stance on international SGM rights will likely be set by his Secretary of State. President-elect Trump's pick for that post is Rex Tillerson, ExxonMobil's CEO. The company, which regularly contracts with the US government, adjusted its anti-discrimination policies for US workers in 2015 following Obama's executive order requiring federal contractors to protect SGM against discrimination; however, the company does not currently protect SGM employees outside the US.<sup>15</sup>

### Moving Forward

In his victory speech, President-elect Trump promised to be a president for all Americans.<sup>16</sup> It is on us to hold him to his promise. SGM Americans are not seeking special rights or protections because they are SGM. Like all other Americans, SGM merit full protection under the constitution not because they are SGM but because they are Americans. Similarly, the human rights of SGM worldwide should be guaranteed simply because they are human. President Obama has said that we must wish President-elect Trump success in uniting and leading the country.<sup>17</sup> President-elect Trump's success must be measured in terms of America's success and no matter how successful his administration proves to be in implementing its agenda, America would be diminished by an administration that condones discrimination against anyone based on bigotry. Gallup Poll data make a strong case that positive views toward SGM issues are associated, sometimes strongly, with knowing someone who is gay or lesbian.<sup>18</sup> By living openly where it is safe to do so, SGM Americans can do much to shatter barriers of prejudice and indifference. For those discouraged by the outcome of the election, President Obama urged, "I just want you to know,

you have to stay encouraged.... Don't ever think you can't make a difference."<sup>19</sup> We should take his words to heart.

### LGBT Health Update

*LGBT Health* is still a young journal, but it has already achieved many important milestones, including quick inclusion in PubMed/MEDLINE, PubMed Central, and Web of Science and receipt of its first impact factor. Due to the number of quality submissions, we were able to increase the frequency of publication from quarterly to bimonthly in 2016. Full text downloads almost doubled from January through early December 2016 compared to the same period in the previous year. With the unwavering support of our publisher, Mary Ann Liebert, Inc., and the dedication of our editorial board and managing editor, we are committed to the dissemination of high-quality research in LGBT health and will ensure that submitted articles are reviewed promptly and published in a timely manner. Even with a significant increase in submissions during the past year, our average time from submission to first decision was only 32 days.

*LGBT Health* is the only peer-reviewed journal dedicated exclusively to promoting the health of SGM communities and individuals of all ages internationally. Equal rights and freedom from discrimination are central to ending the stigma that contributes to SGM health disparities. As we face the challenges ahead, *LGBT Health's* role as a forum for scientific inquiry and health advocacy will be more important than ever. We encourage you to participate in our mission and invite you to submit your original research, reviews, and perspective articles, as well as your feedback on recent content in the form of letters to the editor. *LGBT Health* gives priority to scholarship from any region of the globe that can be put into action to improve SGM health.

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