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LGBTQ+ Older Adults: Updates and Emerging Threats

Webinar Transcript

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Denny Chan:

Hi, everyone, welcome to today's webinar. I know folks are still trickling in, so thank you for joining us today. This is a joint webinar brought to you by Justice in Aging, our friends at Sage, and Lambda Legal. And the title is LGBTQ Older Adults: Updates and Emerging Threats. This is in some ways a part two based on a webinar that we all did back last year ([Issues Facing LGBTQ+ Older Adults in 2025 and Beyond](#)). And so we're here to tell you some updates of things that have happened, some things that we're continuing to watch, and also welcome your questions, and we'll get to some Q&A at the end of today. In terms of webinar logistics, everyone is on mute, and we ask that you use the questions function for all substantive questions, as well as if you are running into any tech issues. If you are having problems getting onto the webinar, please send an email to our inbox, trainings@justiceinaging.org, and we'll make sure to get that taken care of.

All of our training materials, including today's webinar, but previous trainings, can be found in our resource library, which is linked here, as well as a recording will be posted to our Vimeo page, which is also linked here. And if you do need closed captioning, you can enable that in the Zoom control panel. And I'm going to pass it over to Aaron who will do an intro for himself as well as Sage.

Aaron Tax:

Hey, everyone. I am Aaron Tax, I use he/him pronouns, I head up government affairs at [Sage](#). We are the nation's largest and oldest organization dedicated to improving the lives of LGBTQ+ older folks. We are founded in New York City in 1978, where we currently run four LGBT-friendly senior centers, two low-income apartment buildings, and provide direct services to folks in, I believe, all the boroughs. We also do direct services... or provide direct services in South Florida in both Miami-Dade and Broward. In addition to that, we have a whole bunch of national programs and initiatives, including our federally-funded National Resource Center on LGBTQ+ aging.

We have a new initiative called SAGEYou, which is... you might think of it as a virtual senior center, a place for folks to connect wherever they live all across the country, and to find resources about how to age more successfully and with the support they need. We have our LGBT Housing Initiative. And then I oversee our government affairs team where, in a nutshell, we try to make sure that federal, state, and local aging policies are inclusive of the needs of LGBT folks and people living with HIV. And then on the flip side, if something is moving forward in the LGBT space, that folks are thinking about the needs of older people, same thing with respect to the advocacy in the HIV space. So I'll leave it there. Our huge thanks to Justice in Aging as always for organizing this and our partners at Lambda Legal for joining us too. Thanks again.

Denny Chan: Great. Thank you, Aaron. I'm going to pass it to Kell for his intro as well as Lambda's intro.

Kell Olson: Thank you, Denny, and thank you all for having me. My name is Kell Olson, I use he/him pronouns. I'm an attorney with [Lambda Legal](#) and our designated strategist for issues of aging. Lambda Legal was founded in 1973 and is a national legal organization working to achieve the full recognition of the civil rights of LGBT people and everyone living with HIV. In addition to the cases we litigate directly, Lambda Legal also operates a legal help desk, and while we do not offer legal advice through that help desk, we do offer information and resources to help people with legal issues. We're best known for our work in the courtroom, we also do policy and education work, and we are the oldest legal organization that is committed to our mission of serving these populations. We're really glad to be here today.

Denny Chan: Great. A big thank you to Kell and Aaron for joining us. My name is Denny Chan... I forgot to introduce myself at the beginning. So my name is Denny Chan, I'm our Managing Director for Equity Advocacy here at Justice in Aging, and I use he/him/his pronouns. Justice in Aging is a national legal advocacy organization dedicated to using the power of law to fight senior poverty, and particularly of interest for today's webinar since our founding in 1972, we focused our legal advocacy efforts on those groups of older adults who have been historically marginalized and excluded from justice, including women, older adults of color, LGBTQ older adults, as we will talk about today, and older adults with limited English proficiency. We have a commitment to justice here at Justice in Aging that we believe in order to advance our mission, everyone, as they age, has to have access to what they need without discrimination and without regard to their social identities.

And so we push for policies that will ensure those people experiencing barriers will get access to the programs and services that they need. All right. So if you haven't already, you should feel free to join our network at justiceinaging.org. You can click sign up, or you can also send an email to info@justiceinaging.org, and you will get all of our emails about resources related to LGBTQ older adults, and other older adults with low income, notifications about our trainings, other

fact sheets, and much, much more. All right. So I'm going to pass it now over to our colleague, Sahar. And before I pass it over to Sahar, I'll just flag that we have a couple of blocks of content for you all today. We're going to be talking a bit about who LGBTQ older adults are. This is something that we covered in our last webinar, but we're going to do a refresher. And for a deeper dive, we'd refer you back to last year's training.

We'll talk a bit about the changes implicated for older adults who are LGBTQ under H.R. 1, the One Big Beautiful Bill, that was passed last year, and some updates around gender-affirming care. Aaron's going to talk a bit about a California Supreme Court decision, as well as some changes we are expecting with the Older Americans Act, and then Kell's going to give us a litigation update at the very end, and we will have some time for Q&A. And so with that, I'm going to pass it over to Sahar for her introduction and for her to kick us off on LGBTQ older adults. Thanks.

Sahar Takshi:

Thank you, Denny. Hello, everyone. My name is Sahar Takshi, she/her pronouns. I'm a senior attorney at Justice in Aging, and I work with Denny on our equity advocacy team. I want to kick us off today by giving a little bit of information about LGBTQ+ older adults. Next slide, please. So while there are data limitations that make national estimates difficult, there are reliable studies that indicate that there are approximately 2.7 million LGBTQ+ people who are over the age of 50 in the United States, and 1.1 million who are over 65. And many advocates estimate that this number is expected to grow to 7 million older adults identifying as LGBTQ+ by the year 2030, which is not that far away. We do know, however, for a fact that LGBTQ+ people experience many inequities often as a result of inequities and discrimination that begins in younger age, such as those relating to employment or healthcare, and these transform into unique and exasperated barriers once they are older.

For example, nearly a third of LGBTQ+ older adults live below 200% of the federal poverty line, 30% report having at least one disability, and LGBTQ+ older adults are twice as likely as their non-LGBTQ+ counterparts to rely on Medicaid as their primary source of healthcare coverage. So that's a little bit about the population that we're going to talk about. Next slide, please. Next, I'm going to jump into our first major topic, which is H.R. 1, also known as the... this was a major reconciliation bill that was passed last year and is sometimes referred to by its sponsors as One Big Beautiful Bill. So some top line impacts, as I mentioned, H.R. 1 became law last summer, but we're going to be feeling its impacts over the next several years. So today, I'm going to focus on the impacts that we expect to see for older adults in healthcare and long-term care settings.

So first and foremost, H.R. 1 cut Medicaid spending by over \$900 billion over the next 10 years. And of course, we know that health needs are not expected to decrease in that time, so these cuts will surely shift the pressure onto state budgets, meaning, that we expect states to make difficult decisions to cut back on services, eligibility, and provider reimbursements. These cuts are going to

harm not only people who use Medicaid, but also those who are enrolled in Medicare and rely on Medicaid to fill in important coverage gaps, or to make their high premiums more affordable.

H.R. 1 also added multiple eligibility restrictions for accessing Medicaid. The one that we're going to focus on for today's webinar are work requirements, but some other restrictions include those relating to immigrants, as well as recertification... more frequent recertification requirements. And finally, H.R. 1 included \$500 billion in cuts to Medicare over the next 10 years. Next slide, please. So let's dive into the impacts on Medicaid. As I mentioned, the cuts will shift costs to the states, and as a result of that, there are a few specific ways that we anticipate this will impact older adults. The first is that states will look to cut what are considered optional services, and unfortunately, a majority of these optional services are used primarily by older adults. For example, under the Medicaid statute, home and community-based services are considered an optional service, and we'll be talking more about that on the next slide.

Another optional thing is the Medicaid special income rule, which allows people with somewhat higher incomes to qualify for Medicaid if they require a nursing home level of care. A second impact of H.R. 1 that we expect is restricting eligibility under the aged and disabled program, which allows for greater eligibility for older adults, as well as the Medicare Savings Program, which makes Medicare premiums, deductibles, and copays more affordable for low-income individuals. And lastly, we may see provider reimbursement rates go down, which will surely worsen existing shortages in long-term care facilities with home health providers and other direct care workers who help older adults age with dignity. Next slide, please.

So let's talk more about the specific impacts for home and community-based services, also known as HCBS. As I discussed earlier, we believe that HCBS is highly a risk, in fact, it is, it makes up over half of all of the optional Medicaid spending across the country, and this will surely have negative impacts for LGBTQ+ older adults. Millions of older adults rely on HCBS as an alternative to being institutionalized, for example, entering a nursing facility when they would rather continue aging in their homes. And for LGBTQ+ older adults, HCBS is almost always preferred, in part because institutional settings carry an increased risk of discrimination. So funding cuts under H.R. 1 are likely to mean that we will see a drop in the number of people who are able to access HCBS at all, we're also likely to see a longer wait list for HCBS. We might also see the types of services that are offered go down. Next slide, please.

All right. Lastly, I want to talk about the Medicaid work requirements, which is one of the eligibility restrictions introduced under H.R. 1. Under H.R. 1, work requirements would mean that people who are under the age of 65 would need to demonstrate that they're performing 80 hours of community engagement monthly, whether that's working, or participating in trainings, or other types of similar programs. There are some exceptions for individuals with certain

disabilities and those who are caregivers, however, it would still lead to over 5 million people without any healthcare coverage as a result, including LGBTQ+ older adults who are not yet 65 or who don't otherwise fall into an exemption.

Even those who are exempt from work requirements might be impacted because the verification and documentation systems required to carry this out would be administratively burdensome and particularly hard for older adults to navigate. And those administrative burdens would make it hard for everyone to access Medicaid because it slows down the systems, and it causes delays and errors. Before I pass it back to my colleague, Denny, I want to flag that Justice in Aging is hosting a webinar on February 5th that will dive more into Medicaid work requirements. So if you're interested in learning about that, I highly encourage you to register, and if you can't make it, you will receive the slides and recording later on. All right. Well, thank you very much. I'm going to pass it back to Denny Chan for the next section.

Denny Chan:

Thanks, Sahar. So Sahar's section really focusing on H.R. 1 and the impacts to LGBTQ older adults. We will be flagging at the end of our presentation a fact sheet that we worked on with our friends at Sage that really spells out what H.R. 1 means for LGBTQ older adults, and really, why Medicaid is so important. So we'll direct you to that resource when we get there. I'm going to talk a bit about gender-affirming care, there are many names. The administration has a certain name for gender-affirming care, we're going to use the words gender-affirming care in this context. This was something that certain political... politicians tried to get into H.R. 1, the One Big Beautiful Bill, but did not end up moving in any specific way, but there have been a number of updates since we last spoke last year for last year's webinar. Just like almost everything else on this webinar, what I'll be reviewing is changing really on a regular basis in sometimes unpredictable ways, whether it's through litigation, policymaking from the administration.

So we encourage you, especially if you're watching the recording, to make sure that you're getting the most accurate and up-to-date information as possible, especially for a topic like gender-affirming care. So gender-affirming care, I'm going to start with just an overview of what it is, so we have a common understanding. It is a broad approach to healthcare and support that recognizes and respects an individual's gender identity, ensuring that all individuals can live healthy, fulfilling lives by addressing their unique needs. This is the definition that I took from HRC. And then under the World Health Organization, they've sort of specified that gender-affirming care in this context can range from lots of different things. That broad approach that we talked about in the first bullet really applies across the board. So it could be counseling, it could be changes to social expression, medications, for example, hormone therapy, and in some cases, surgery.

So that's the little bit of context around what gender-affirming care is, and we're using the acronym GAC. In terms of policy developments, I wanted to flag for

you a couple of different things, and I will note that this is particularly true for minors, so this is where the bulk of the policymaking has been. In subsequent slides, in just a minute, I'll talk about the impact and what this means for LGBTQ older adults, but at least with respect to the policymaking from this administration and what's been tied up a lot in the courts is a focus on youth. So as you might know, and what we covered in our last webinar last year was that the president signed an executive order 14187, just actually one year ago. So today marks the one-year anniversary of that executive order, which was really using and stating that it was the administration's belief and policy stance that gender-affirming care should not be provided to minors, and spelling out a whole host of actions for the administration to take to follow that administrative or that policy position.

Since that executive order was signed, did a number of things, and most notably, late last year, before the holiday, issued two notices of proposed rulemaking. The first would [prohibit the use of federal Medicaid dollars to fund procedures for individuals under 18 in state Medicaid plans](#). So basically, it would prohibit, with some notable exceptions, the use of Medicaid funding through the state plan mechanism to provide gender-affirming care to individuals under 18. In that same rulemaking, there was also a prohibition through CHIP, the Children's Health Insurance Program for individuals under 19. [The second notice of proposed rulemaking would revise what's known as the conditions of participation](#) for hospitals that receive Medicare and Medicaid funding that would prohibit them, in order to participate and receive funding from Medicare and Medicaid, from performing gender-affirming care on children.

I should note that these notices of proposed rulemaking are still active. So you can, today, submit comments, and that comments are due February 17th. Again, as I have emphasized at the beginning of this slide, the focus of the administration's policymaking has been on minors. There has been, as I will detail in the next slide, very little changes to gender-affirming care and access, at least from a policymaking perspective, for older adults. But again, those comments are due February 17th. The links in the slide are to both the notices of proposed rulemaking where you can submit comments to regulation.gov. At the same time last year on December 19th, [Secretary Kennedy issued a declaration](#) where he noted that gender-affirming care for youth did not meet standards of care. I will note that that declaration was immediately challenged several days later by a number of state attorneys general in court, and there has been a pause on essentially enforcement of that declaration while the litigation has been pending.

That litigation did not touch on the notices of proposed rulemaking, although the issues are, as you can appreciate, related. Okay. So what does this mean for older adults, and specifically for older adults who are LGBTQ looking for gender-affirming care under Medicare? It has been the longstanding case that Medicare... there has been no national coverage determination for gender-

affirming care in the Medicare context. So the same rules that applied before this administration took office continue to apply. Medicare should not deny coverage for healthcare just because that care is typically provided to people of a specific gender. Under Medicare, gender-affirming surgeries are approved on a case-by-case basis in accordance with the World Professional Association for Transgender Health, WPATH, Standards of Care. We just released earlier this month with partnership from our friends at Sage, [a fact sheet on Medicare and transgender older adults that's linked here, what advocates need to know](#).

So if you're looking for a deeper dive on Medicare and gender-affirming care for trans older adults, feel free to look at that resource. And now, that wraps up our section, I'm going to pass it over to Aaron to talk a bit more about that California Supreme Court case that I mentioned, as well as some developments that we are potentially monitoring with respect to the Older Americans Act. So thank you, Aaron.

Aaron Tax:

All right. Well, thanks so much, Denny, and feel free to go to the next slide. So I'm going to talk about the LGBT Long-term Care Facility Residents' Bill of Rights. So a little bit of history, the very first one in the country was written just over 10 years ago by an attorney named Daniel Redmond, who's currently practicing in the San Francisco Bay Area. And that was the very first one in the country, so that was a city ordinance in San Francisco. And since that time, there's now roughly 10 of these all across the country, one city, one county, one district, and seven states. So again, San Francisco was the first one to become law, that was in April of 2015. That was followed by the first statewide one in California in October of 2017. That was followed by the District of Columbia, Montgomery County, Maryland, New Jersey, Oregon, New York, Massachusetts, and last but not least, Connecticut last summer.

There are currently a number of other ones in process where we and our partners on the ground are advocating for them, or a similar law to be passed, and that's in Minnesota, Illinois, Pennsylvania, and the city of Atlanta. I should note, if you're interested in working on one of these in your community, by all means, reach out and we're happy to partner with you. So what does the California law say, and what do these other laws that are on the book say? We'll look at the California one as a good example of this because that was the subject of the litigation that Denny referenced. So the first section involves findings, it talks about the history of stigma and discrimination that LGBTQ+ folks and people living with HIV have faced throughout their life course. It references an online learning tool, some of these bills mandate trainings.

And then in section three of the California statute, it's really the heart of it, and it talks about not only definitions, but a lot of prohibitions. So you can't deny someone admission to a long-term care facility, or transfer them, or whatnot based on their sexual orientation, gender identity, or HIV status. Room assignments must be based on gender identity. I'm not going to go through every last bit of the law, but the one that really kind of rose to the top in the

litigation is the provision that says that folks cannot willfully and repeatedly fail to use a resident's preferred name or pronouns after being clearly informed of the preferred name or pronouns. So you can't intentionally misgender someone. There's also a posting requirement, a record-keeping requirement, and some rules around privacy and confidentiality. So as Denny mentioned, there was a legal challenge to this law by a group called Taking Offense, and they had been dubbed, quote, unquote, "God's lawyer" on the cover of everyone's favorite magazine, California Lawyer.

And apparently, they take offense at a lot of things. So they weighed in on a whole bunch of issues, including abortion, evolution, homeschooling, parents' schools, and the right to die. So this group, Taking Offense, decides to challenge the law, and their main beef with the law is they say this impairs their free speech rights. And so they take this to court and they win in court, and they won in the appeals court, where the appeals court ruled in July of 2021 that this law was arguably impeding employee's right to freedom of speech. Sage joined Justice in Aging in an amicus brief as the challenge of the law went to the California Supreme Court. And thankfully, earlier this year... Oh God, I don't have the date on my calendar, I think it was this year... maybe it was late last year, the California Supreme Court rejected the First Amendment claim.

And in short, what the [California Supreme Court](#) said is that this law is regulating conduct and it only incidentally impacted people's speech. So the court said, quote, "That it properly regulates discriminatory conduct aimed at vulnerable seniors who typically constitute a captive audience residing in long-term care facilities that have become in effect their homes." It further said, quote, "The pronouns provision constitutes a regulation of discriminatory conduct that incidentally affects speech." And it distinguished a case that some of you have might have heard about from 1995 called *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, this is where an LGBT group wanted to march in the St. Patrick's Day parade in that city. And it said, quote, "By contrast, the present case does not involve any analogous creative product or expressive association." The one little wrinkle to the California statute that we don't see in any of the other ones across the country is it does have a criminal misdemeanor provision to it.

And the court addressed this by saying, quote, "It seems apparent that the legislature does not intend for such criminal penalties to be imposed except as a last resort in the most egregious circumstances." So in short, the court was okay with that provision. And again, I think it was... I don't know if it was intentionally put in there or not, I don't believe so, because this law happened to amend an underlying statute, but in none of the other laws across the country are there criminal provisions just like this California law. So with that, let's go to the next slide where we're going to talk about the Older Americans Act. All right. So what is the Older Americans Act? The Older Americans Act came about 1965 under Lyndon Johnson's Great Society as a counterpart to Medicare and Social Security. Arguably speaking, if Medicare is there to take care of your medical

needs, and social security is there for your financial needs as you get older, the Older Americans Act is everything else that should enable you to age in place in your community.

So it funds programs like home delivered meals, congregate meals, meals in senior centers, those sorts of things, tour assistance, transportation assistance, legal assistance, again, all sorts of programs that are designed to enable folks to age in place in their community. It's funded to the tune of approximately \$2 billion a year, and at least kind of at present until recently, it's been administered by an agency called the Administration for Community Living, which falls under the US Department of Health and Human Services. The Trump administration has announced that it plans to get rid of the Administration for Community Living and merge it with a newly created entity called the Administration for Children, Families, and Communities. Kind of sounds like the administration for the whole world, but they're just lumping them all together in this new administration. Hasn't technically happened yet, but they have, for example, fired all the regional administrators of ACL, and unfortunately, gotten rid of a whole lot of staff from ACL as it, again, tries to reorganize the agency.

So ACL, again, administers the law, and then money gets funneled down to the 56 or so State Units on Aging across the country, and the more than 600 area agencies on aging all across the country. And they, in turn, fund service providers, just like Sage, who provide services directly to older folks all across the country. So that's kind of generally what the OAA is, and how it's funded, and how it works. It is currently being reauthorized, meaning, the law is currently being updated. It is stalled in Congress at this moment. And knock on wood, advocates are trying to make sure it does get updated sometime soon. While the law is being reauthorized, the other news on where the law is, is the law has some regulations, and they were updated for the first time in roughly 30 years in February of 2024. And in the regulatory update in that process, Sage and other folks on this call today advocated for some tweaks to the language in terms of how the law is implemented.

There are certain populations defined in the statute as populations of greater social need, and typically, these groups are defined by cultural and social isolation. And we think back to some of the issues that you heard earlier in this presentation about some of the challenges that LGBT folks face, and the challenges that older people living with HIV have faced throughout their life course, and they fit the definition of greatest social need quite well. So during the regulatory update, again, we advocated with others on this call today, and others around the country, for the Administration for Community Living to say in the regulations themselves that, in fact, LGBT folks and people living with HIV are these so called populations of greater social need. And ACL agreed, and it did say that when the regs got rolled out in February of 2024. So that was really good news. People all across the country working in this space were really happy to see that and put those regulations to work. Unfortunately, we have

heard through the grapevine that the administration plans to open up those regulations again, which is quite unusual, I would say.

And you'll be shocked to know the only thing they're planning on changing in these regs, which are hundreds of pages long, is to remove the language around LGBT folks and people living with HIV. We don't believe they have any substantive reason for doing this, we believe it's purely based on animus, and it's arbitrary and capricious. And that's where it stands at this moment, we don't know if or when exactly that's going to happen, but we're trying to prepare for that moment. And here is our ask for you, as you think about the potential of these regs being undone and this language about LGBT folks and people living with HIV being removed, one thing we want folks to start thinking about is how you might submit a comment when this opens up for a 30-day comment period, which we expect to happen.

And I'm going to highlight some of the things that you might want to talk about if these regs are opened up. Perhaps you could write a comment talking about your experience you have regarding LGBT folks or people living with HIV and serving them, your expertise, any data you have about these populations, stories that you can share about these folks, the burden, or not, of implementing these regs, we don't think it is burdensome, how the regs have been impactful, how they've been useful, and how important this work is in making sure that all older people, including LGBT folks and people living with HIV have the services and supports they need to remain independent. So with that, I'm going to turn it back to Denny or Kell for the next part of the presentation.

Denny Chan:

Thank you, Aaron. Before Kell hops on, I just wanted to flag that we are still running our Q&A. So to the extent that you have questions about what people have talked about, whether that's H.R. 1, gender-affirming care, Aaron's pieces around the LGBTQ Older Adults Bill of Rights, as well as this piece around the OAA, feel free to start dropping them in the chat. What usually happens is we get a flood of questions at the end, and it helps us just even to sort what people are asking about if we get them as they come in. So encourage you to use the Q&A function now and during Kell's presentation. Also, on the piece around the OAA regs, we are watching that very closely. You can be sure that you will hear from all of us when that notice or proposed rulemaking does go live. We will be back.

So this is not your last chance, but Aaron's forecasting what we are expecting, and hopefully, planting the seed for you all to start thinking about how you might want to weigh in during that comment period, which again, we suspect will be a 30-day comment window. And there will be advocacy both during that and after that to try to mitigate the impact as much as possible. Okay. So I'm going to go back off mute and off camera, back on mute and off camera, and welcome Kell, who will do a portion around identity documents as well as funding restrictions, and then we'll get to the Q&A. So take it away, Kell. Thanks.

Kell Olson:

Thank you, Denny. At Lambda Legal, we're engaged in a full range of legal issues affecting LGBTQ people and people living with HIV, but today, I'll just address a couple of topics given the time we have available here. So first, I'll speak to identity documents as that continues to be the number one request for information from our legal help desk. And second, I'll speak to the status of legal challenges to the administration's terminating or conditioning federal funding that supports social services as that clearly impacts the work many of you do. First, turning to identity documents. Having accurate identity documents is incredibly important for all people, and in particular ways, for transgender people. That is because having identification that does not match a person's current presentation can out them as transgender in a number of situations where they have to show their identification, risking harassment or violence. And just as importantly, preventing updates to demographic information on identity documents like passports undermines the purpose of having that information on the document, which is, generally, to verify that the document belongs to the holder.

That is why we update our pictures, our other demographic information like our height and weight as we grow. The status of federal identification for transgender people in particular continues to be the subject of active litigation. The current administration changed the US passport policy, which had previously allowed changes to gender markers on passports to match gender identity, current gender. Multiple cases were filed and had some initial success, including those that I've listed on the slide here, the Schlachter case brought by Lambda Legal, the Orr case brought by the ACLU, and those cases had successfully blocked the administration's new policy, allowing people for a longer period of time in 2025 to be able to update their passports. On November 6th of 2025, the Supreme Court granted the government's request for a stay of that order. So it's a little tricky because it's a block of a block, but essentially, what that means is that the Supreme Court ended the order that had allowed plaintiffs and class members in the Orr case to continue to obtain accurate passports.

So the current state of affairs is that that order reinstated the state department's passport policy adopted in January 2025, requiring the passports only be issued bearing an individual's sex designated at birth. To be clear, as you're talking with people about the current status, current passports are still valid whether or not they reflect a person's sex assigned at birth. If you have a current passport with an updated gender marker, it still works, it's still valid, you can still use it. We at our help desk are always interested in hearing from anyone that has any problems using current passports, and so far, we are not hearing of any people unable to use current passports with an X marker or with an updated gender marker.

However, if someone at this point applies to obtain a new passport, or to renew their passport, or to get a passport with a changed name, you can do generally name changes, but if you're going back into the system and trying to update

anything with a gender marker or update your passport, you will get a passport that lists your sex assigned at birth if the State Department can determine that, regardless of what marker you request. These cases will continue, the litigation is still active, as with many of the things we'll talk about today, because these cases take multiple years to work their way through the system. Most of these determinations are technically preliminary, and they're preliminary for a number of years before you reach the end of a case. So this isn't the final word on this, but this is the current status.

As Denny mentioned, these things change very rapidly, so it's important to always make sure you have the most accurate and up-to-date information at any given time when someone's trying to update their identity documents, which is why at the end of this slide, I'm going to talk about the best places to reach that updated information. But first, I just want to talk about state identity documents, because that is of course a separate issue, and it varies state to state when we're talking about birth certificates, or driver's licenses, or other identity documents. The general trend through the end of 2024 was to allow updates, we had gradually had success in multiple states that were left not doing that and bringing them up to current standards.

Most of those avenues still remain, some places have regressed, some states have pulled back on their policies and imposed new barriers to changing gender markers, in particular, on birth certificates or driver's licenses. So far, this legislation, we're already seeing a handful of bills pop up proposing limits or bans on changing gender markers on birth certificates and driver's licenses. Of course, those things will continue to unfold as the legislative sessions proceed, and we'll see if any of those make it through. And they're different, some set a higher bar for changing a gender marker, like surgery, some block it altogether. People are still getting gender updates on documents, it's still worth checking in and seeing what people can do to have as many accurate documents as they can.

Here are the resources I recommend to get the most current information. The Advocates for Trans Equality, which is that [A4TE Document Center](#) referenced on this slide, I'll have a further slide that gives you sort of a snapshot of what that looks like, but they have really the most current information as to state by state, how to go through the process to update your identity documents. And then for particular individual questions that can't be addressed through that general resource, the [Lambda Legal Help Desk](#) at lambdalegal.org is a great place to go next. So the next couple of slides give snapshots of where you can find some of these updates as things change. So this slide talks about... is a page from the Lambda Legal website, and if people need these links, just let us know in the Q&A and we can make sure we get you them for updates on the passport litigation. Also, if you just look for that ACLU FAQ on the Orr case, they are keeping an updated FAQ as well, as those things change and develop.

And then on the next slide, you'll see what that A4TE resource looks like for the documents center. So you'll see there's a dropdown where you can choose your state, you can choose what type of document you're trying to update, and you can try to get some updated information there. It's a good place to have people start and then see if they run into any issues so that they can reach out to us for more information. The other issue I wanted to cover today was in the area of funding restrictions. So we continue to see dozens of cases challenging the current administration's interference with funding that has been appropriated to social services and research, either through the direct termination of grants or funds or through the conditioning of funds in ways that might frustrate the entire purpose of the funding. For example, certifications that you will abide by new administrative policies that apply certain terms of executive orders to the work.

For example, a very recent decision out of Rhode Island blocks certain conditions imposed in a notice of funding opportunity for HUD Continuum of Care Youth Homelessness Program, which included a bar on applicants who acknowledge the identities of transgender people. So those kind of conditions continue to be challenged. The big picture is that there are lots of cases that are still in flux. We have dozens of cases and multiple jurisdictions brought by various organizations and individuals that have provided some sort of relief from these restrictions. In a previous seminar... in our previous webinar, I discussed the types of claims that are brought to challenge some of these actions and to discern which of these are possible just policy shifts and which are really unlawful, because they maybe conflict with the statute in a way they can't, or they're overly vague, or they're frustrating the purpose of the funding, or the process was flawed and unlawful in a certain way, for example. And so this slide is just a very quick summary of what we really went into in depth last time.

Today, what I wanted to do was a different sort of path at it, sort of talking about some of the trends that we're seeing in this landscape of complicated web of litigation, and to maybe give a little more practical content about how to determine which actions are in effect and aren't, and whether they apply to you or not. To be clear, I'm not going to be able to tell any individual person whether a condition has been blocked as to them or not, and hopefully, the next slides will show you why, but I'll give you some tips on how to get there. So the trends we're seeing is that we have narrowed relief that is as applied to just people bringing a lawsuit. So that trend continues and will continue. And that means if the government is found to have done something unlawful with a condition, a court is not automatically going to be able to tell the government that they can no longer do that to anyone, they might be limited to telling the government that they cannot do that to the person who brought the lawsuit.

So this makes it, of course, much more complicated to find out what's in effect and what is not. We're also seeing many unsettled issues of law that are specific to the funding arena, where do people have to bring a lawsuit? It differs based

on whether you're challenging a condition or whether you're trying to enforce a contract given to you by the United States government. And as you can imagine, in this area, whether to characterize a case as one or the other type is complicated, and we're getting varying opinions that are going to keep playing out over the next number of years.

Therefore, it's important to rely upon someone tracking your local situation and your particular funding streams to know where you stand. So the next slide gives an example of one way that some of us track some of these issues. I am not connected to Just Security, but this is at justsecurity.org, one resource that I use and that a lot of folks use, there are others. This site, for example, tracks 597 challenges, as of this morning, to actions by the current administration, and you're able to filter by issue. So under the issue dropdown, if you look at government grants, loans, and assistance, you'll see 125 cases, and it bumps up to 147 if you include the DEI-related issue, which kind of sweeps in a couple more related cases that challenge conditions based on those executive orders. So you have about 150 cases, which is why it's difficult for me to answer any particular question about any one.

54 of those are categorized, as of today, as having provided some relief to plaintiffs, either by having a government action blocked permanently or temporarily. And that temporary is... again, because these cases play out over time, so the court might enter an order at the beginning of a case that only lasts while the case is being litigated, and then there will be another final order at the end. So some things to look at and try as you're getting ahold of these things, if your city or state has sued, you might be more likely to have a funding stream that comes through the state or city to you be affected by one of these orders. So on this slide, I gave an example, you could look, for example, if you're in Colorado, you could try searching by Colorado and see that a couple of cases are pulled up.

And you'll notice that it's not just a case that says State of Colorado, it's this one that says State of New York, and that's because, often, you don't see all of the plaintiffs in a case name or in a case document. You don't even see, if you look at an order, all of the plaintiffs listed on the top of that order, you often only find the full list of plaintiffs if you go back to the original document in a lawsuit, which is the complaint. And so this site does a nice job of putting that really important document in easy view for you. So if you clicked on complaint at the State of New York site, you'd be able to see that Colorado and other states are also listed in part of this case and part of the relief that was given. Another way you can filter, which I've shown on the next slide, is by focusing on funding stream.

And I will say just as one caveat that these searches aren't perfect, especially for the city and state. I tried a few things to test it out, some things were caught, some things weren't. So this is just a way to get started, but it's not an absolute match. So for example, here, I filtered by Continuum to try to catch HUD

Continuum of Care funding related cases, and there were actually four results here, you can see a couple of them on the screen. And if you looked at the King County case and clicked on that second amended complaint, which is the most recent one, you would see a list of over 60 counties, municipalities, and other local housing and transportation agencies who are all plaintiffs, and from across the country, because you can have plaintiffs that reach beyond the region where the case was brought. So the relief that plaintiffs have gotten in that case would stretch to all of those entities.

I want to... instead of... Well, I'll just give one quick example, but I know we want to wrap up and leave some more time for questions here. But just as a little context of the kind of cases we're looking at here, for example, the King County case, challenge conditions imposed in the gender ideology, DEI, Hyde Amendment, and Immigration Executive Orders as applied to HUD and DOT grants that fund housing and services designed to provide long-term stability to people and families experiencing homelessness. And so on the next slide, you see a little snapshot of the order that was entered in that case.

The highlighting is a little bit below the line instead of on it, but essentially, this is just an example of an order and why it's difficult to sometimes read these and why it's a little bit of a puzzle. So it's enjoining certain funding as defined in the motions, so then you have to go back and find those, just as applied to the HUD plaintiffs. And again, that's where you'd have to go back to the complaint, because the top of this order is only going to list one plaintiff and not all of them. And so it gives you perhaps a glimpse into a complicated situation, and hopefully, helps you identify what questions to ask and to maybe interpret answers you're getting that seem complicated or uncertain. Another resource, again, that I'll reiterate is just being in touch with your local entities or attorney's general offices that may be involved in some of this litigation.

There are a number of states that are coming together in coalition and challenging conditions, and so that's one way to keep track of what applies to you. And for those of you who are just interested in looking at what kinds of orders these courts are entering, it can give you an idea of what conditions and sort of red flags of what types of conditions are potentially problematic and contrary to law. That's it.

Denny Chan:

Great. Thank you, Kell. I'm going to ask all of our presenters to come back on screen now or on camera. These are some resources that we've mentioned, and I know that folks have been dropping resources into the chat. So here, we have a resource that Justice in Aging and Sage worked on last year around [supporting LGBTQ older adults, basic needs](#), as well as the Medicare fact sheet that I mentioned, the A4TE Document Center that Kell flagged, as well as the Lambda Legal Help Desk. And this slide has our contact information. So I'll leave that up as we try to rapid fire, go through some questions.

As I predicted, we got a bunch after I asked people to submit questions. So I've tried to group them in my head as much as possible, and I will start first with you, Aaron, because I do think there were a couple of buckets that people are asking about based on what you talked about. So one is that there were a number of questions from folks who are interested in moving local LGBTQ Long-Term Care Bill of Rights in their areas, whether that's local or state level. And so thoughts and advice on how to get started, where to get started, who should they be talking to? What's your quick and fast on that?

Aaron Tax: Sure. So you'll see my email up here, feel free to email me. Sage is happy to help, but we have our limits, we have a relatively small team. So what our role typically is is to help provide technical assistance, meaning, we can help with drafting, talk about lessons learned in other states or other jurisdictions, but where we really lean on partners is for the legwork on the ground, we don't have those relationships in communities and states all across the country. So for example, we're working right now, as I mentioned, in Illinois, where we have great partners on the ground, including AIDS Foundation Chicago, Equality Illinois, and other partners. And they're really doing the legwork to move the ball forward in Illinois, but where we helped out was the drafting and talking again about some of the issues we've seen come up in other jurisdictions.

So by all means, feel free to email me, we're happy to help, and we're more familiar with doing them at the state level, but one thing we do want to explore, particularly in the South and particularly in red states, is trying to move these laws in cities where we can. So by all means, reach out, and we're happy to chat and happy to help you out.

Denny Chan: Thank you, Aaron. I'm going to stick with you, and also flag for folks, I know that we are running on the clock on this one, and we have 29 open questions. So whatever we don't get to, we will follow up with folks. We have your contact information based on the webinar registration, so we will reach out at some point. But another bucket, Aaron, for you was people really getting very excited, in a good way, around wanting to weigh in on the OAA potential changes. So can you remind us where we are with that? And then as you and I have talked about in terms of strategy, what you can forecast for folks when the notice of proposed rulemaking drops, what should they be expecting from us in terms of how to weigh in?

Aaron Tax: Sure. So it could happen tomorrow, it could happen months from now, it could happen next year, we don't know. All we know is we expect it to happen. And one little tip off is there was something posted in the federal register about this late last year, which seemed to say it was moving forward, but then it stalled. So we expect it to happen. And in terms of what you can do to help and the timing, as Denny said, if and when it happens, we will be sure to share it on our list. So if you're not on [Sage's Action Squad list](#), I encourage you to get on that list. If you're not on the Justice in Aging list that Kell and Sahar shared a little bit

earlier, I encourage you to get on their list. So you'll definitely hear it from our organizations across social media and on our list.

And when it happens, we expect there'll be a 30-day comment period, during which time, you can weigh in with your thoughts about why the action the administration is taking is arbitrary and capricious and is not based on anything of substance, it's merely based on animus. And everyone on this call, I presume, has its own area of expertise. So some of you might be direct service providers, you can speak about that experience. If you're data experts, you can talk about the data on the subject. If you're researchers, you can talk about the research you know about these populations and why they're in greater social need, so on and so forth. So we want this to be authentic, and people to share their expertise and their stories. And if you're an LGBT older person yourself, share your story of challenges accessing aging services and supports, or successes, and why language like this is so important.

So I think long story short, stay tuned, we'll let you know when the moment happens. And when it happens, we encourage you to write in with your comments. And we'll create a system for you to do that, so don't worry about it being complicated or having to poke around the federal register, between us and Justice in Aging and the other groups, we're going to make it easy for you.

Denny Chan:

Thank you, Aaron, for that. I'm going to shift now to Kell, because there is a bucket of questions, I'm going to try to summarize this bucket the best I can in two minutes, around passports and birth records, sex assigned at birth. Can you remind us... and I know some of this you discussed, but can you give us a quick reminder where the litigation's at? Are people still able to update birth certificates that are consistent with their gender identity? How does that relate to the passports, and what we can expect from litigation?

Kell Olson:

Yeah. So I was trying to grab a few of these as we went. As for the specific birth certificate change question, it is state by state, depends on the state you live in, and that's why that Advocates for Trans Equality website document center's where to start, and that website is transequality.org, or Google [A4TE Document Center](#) and you will get there. So that's for checking on the current status. Someone asked about the potential outcome as to the ultimate decision in that Orr v. Trump case, I wish I could tell you what the ultimate outcome would be. We have a couple of indicators, the fact that the Supreme Court initially flagged that at least one of the justices thought of the gender marker on a passport as being just some historical information, like where you were born, is some indicator that there could be a bad outcome from, at least, or initial impression by some justices.

I'm hoping that the practical points went out there, which is that we use demographic information to be updated so that a customs official can tell that you are the person holding your document, so it doesn't make sense that that would be historical, just like I don't have on my passport that I weigh eight

pounds and however many ounces, because a lot has changed since I was born. So having an F on my passport, for example, does not help... as a transgender person, does not help that customs official matched that document to me. And so I think the practical education will be really important in getting the right outcome in these cases to really talk about how we use IDs and why.

So yeah, that's where we are. It's going to continue to be litigated, it will continue being an issue over the next couple of years. I don't know how the State Department's determining sex assigned at birth, which was another question, a lot of those documents that are referenced in the question are in the control of the state. So the clearest example would be someone who has changed their passport gender marker in the past and had to check that special box that we have to check when we're doing that. And so that would be in the federal system. So I don't know if they're going to catch everyone or not with that. There are also some questions about misgendering litigation and other things, there have been a good decision out of the California Supreme Court in that regard.

I would like to say that if people are having issues with misgendering and facilities, that Lambda Legal would definitely appreciate hearing about those, flagging those, targeting our advocacy toward that. And there are state and local policies that can be enforced. So please do reach out and share those stories with us so we can be in touch and assess what's going on.

Denny Chan:

Thanks, Kell. I know we are a little bit over time, so I want to just give a big thank you to Kell, Aaron, and Sahar for their presentations today, for all of you for sticking with us for the past hour. To Kell's point, these are the issues that we're watching, we want to hear from you all if things are going well or not going well for the clients that you serve. Similarly, when I was talking about Medicare and gender-affirming care, giving you the state of the land, and telling you that the policy developments are really as they relate to minors, but we do know that there could be a potential chilling effect for older adults who are seeking similar care. So when things are working well, when things aren't working well, please do reach out and let us know what you're seeing on the ground. Our emails are here on the slide, and this recording will be made available to everyone who registered. Thank you again to Kell, Aaron, and Sahar. Thank you to all of you, and we'll be in touch. Thank you.