

Virginia State Law and Healthcare Coverage for Transgender People

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Federal protections for transgender healthcare access are currently uncertain, and more transgender Virginians are reporting health insurance denials.

But transgender Virginians still maintain strong protections against health insurance discrimination under state law. Here are the current laws impacting healthcare coverage for transgender Virginians.

FEDERAL LAW THAT AFFECTS TRANS VIRGINIANS' COVERAGE

In summer 2025, the Supreme Court of the United States (SCOTUS) decided a challenge to Tennessee's ban on gender-affirming hormone therapy and puberty blockers for youth, *United States v. Skrmetti*. That decision found that prohibiting transgender youth from accessing this care was not discrimination on the basis of sex. Instead, the Court decided it was a prohibition on certain medical uses for the medication.

As a result, Tennessee's ban is still in effect. Now, some courts are using the logic of *Skrmetti* to erode federal sex-discrimination laws that have secured transgender people's access to healthcare coverage. These include Section 1557 of the Affordable Care Act, which makes it unlawful for any healthcare provider that receives federal funding to refuse to treat or discriminate against an individual based on race, color, national origin, sex, age or disability.

Before *Skrmetti*, the Fourth Circuit Court of Appeals, which covers Virginia, ruled that healthcare plans that categorically exclude coverage for gender-affirming healthcare are discriminating on the basis of sex and violate Section 1557.

But after *Skrmetti*, SCOTUS told the court to reconsider the case. And in *Anderson v. Crouch*, three judges on the Fourth Circuit reversed the prior decision and found Section 1557 does not require health insurance to cover gender-affirming care the same way it covers the care for other diagnoses, because denying the coverage is not discrimination on the basis of sex.

Title VII of the Civil Rights Act prohibits discrimination on the basis of sex in employment context, including through benefits like health insurance through your employer.

In 2020, SCOTUS held in *Bostock v. Clayton County* that discriminating against someone for being trans is discrimination on the basis of sex.

But *Skrmetti*'s reasoning is now being applied by some courts and the Equal Employment Opportunity Commission (EEOC), the administrative agency charged with enforcing Title VII, to find that healthcare plans excluding coverage for gender-affirming care is not discrimination on the basis of sex, and thus not prohibited by Title VII.

Because the current EEOC is hostile to transgender people and because we don't know yet how the full Fourth Circuit will treat sex discrimination claims by trans people post-Skrmetti, filing these types of claims now is risky and unlikely to succeed.

VIRGINIA STATE LAW THAT AFFECTS TRANS VIRGINIANS' COVERAGE

Virginia law prohibits health insurance companies from denying coverage for “medically necessary transition-related care.” Va. Code § 38.2-3449.1.

This means insurance companies subject to the law must cover care prescribed by a licensed physician to treat gender dysphoria.

This law covers group health insurance plans offered through your employer and individual plans purchased on the Marketplace. But it does not cover:

- Self-insured plans (in which your employer directly pays for medical expenses).
- Health insurance provided through the federal government (Medicaid, Medicare, Tricare, etc.), which is not subject to state regulation. Under the Trump administration, many of these plans have adopted or are in the process of adopting explicit coverage exclusions for gender-affirming care. These are being, or likely will soon be, challenged in court.

WHAT CAN YOU DO IF YOU ARE DENIED CARE

If you believe your health insurance company has denied coverage for medically necessary transition related care, you can:

1. Appeal the denial through your insurance's internal process.

To learn more about different types of denials of coverage for transgender-related healthcare visit Advocate For Trans Equality's resource: [Health Insurance - Understanding a Denial](#).

2. [File a complaint with Virginia's Bureau of Insurance \(BOI\)](#).

BOI is part of Virginia's State Corporation Commission, and it regulates insurance companies and investigates insurance complaints.

What BOI can do:

- Assist with Virginia issued policies.
- Contact the insurance company or agent for an explanation regarding your concerns.
- Review the company's response to make sure they followed Virginia insurance laws and your policy provisions.
- Share their findings and review the company's response.
- Help you understand your options when they don't have the regulatory authority to resolve the complaint.
- If you have a lawyer, they can get involved with their written permission.
- Locate an insurance policy when you provide the name of the company for a deceased individual.

What BOI can't do:

- Recommend an agent, company, or specific insurance product.
- Review medical records to decide if a claim should be paid or not.
- Act as your lawyer or get involved in a pending lawsuit.
- Determine who was negligent or at fault.
- Decide whose side of the story is true with differing accounts.
- Force a company to pay outside the terms of the policy provisions.
- Determine the monetary value of certain claims, like total losses, bodily injuries, and diminished value.

Complaints to BOI can also be helpful where the issue is a denial based on something other than medical necessity, such as the following:

- Discriminatory treatment such as misgendering.
- Problems with correcting one's name or gender on insurance records.
- Misinformation given by a representative about care being covered.
- Repeatedly processing a claim incorrectly.
- Denials for sex-specific care based on a gender-marker mismatch.

To learn more about the process and access a portal for submitting intakes online, visit BOI's health insurance discrimination page: [SCC – File a Complaint.](#)

PROTECTIONS FOR YOUR PRIVATE MEDICAL INFORMATION

Any private medical information in your appeal and/or complaint has legal protections. Those protections are:

- The Virginia Bureau of Insurance is a part of the State Corporation Commission, a state agency. It does not share complaint information with the federal government.
- The Health Insurance Portability and Accountability Act (HIPPA) is a federal law passed by Congress. HIPPA prohibits the disclosure of protected health information, including “individually identifying health information.” The Trump administration cannot unilaterally change its protections.

The Trump administration has thus far not indicated it will target health insurers or entities like the Virginia Bureau of Insurance to obtain personal medical information.

And when the Trump administration has targeted hospitals and other providers of gender-affirming care for youth with inappropriate requests for private medical information, providers have fought back and are winning.

For example, Boston Children's Hospital, Children's Hospital of Pennsylvania, QueerDoc (telehealth provider), and University of Pittsburgh Medical Center Children's Hospital have challenged DOJ subpoenas in court and had requests for individual patient information thrown out.

While HIPPA has exceptions for law enforcement purposes and disclosures required by law (such as court orders), healthcare entities can oppose these requests if they are for an improper purpose or are overbroad.

HOW WE CAN HELP YOU

The ACLU of Virginia and Equality Virginia want to hear from you.

If you, a family member, or a patient have been denied coverage for gender-affirming healthcare, you can contact the ACLU of Virginia at intake@acluva.org.

If you have experienced a denial of coverage for transition-related healthcare, you can share your story with Equality Virginia by [filling out this form](#).

The information you share will help our organizations better understand how widespread these denials are across the Commonwealth and strengthen our efforts to protect access to gender-affirming care for all Virginians.