



HUMAN
RIGHTS
CAMPAIGN®

WHAT WILL MARRIAGE EQUALITY MEAN FOR MY HEALTHCARE?

Will marriage equality affect my hospital visitation rights?

Hospitals are required by [federal regulations](#) to allow patients to choose who they want to visit them, regardless of their relationship. Additionally, hospitals are prohibited from barring visitors based on sexual orientation and gender identity. Unfortunately, although these rights have been in place since 2011, many people remain unaware of them, and some hospitals still adhere to outdated visitation guidelines that have narrow, noninclusive definitions of family. Marriage equality will make it easier for married LGBT patients to assert their visitation rights in these non-compliant hospitals.

Will marriage equality change my medical decision-making rights?

If you become mentally incapacitated and unable to communicate your medical wishes, a surrogate will make those decisions for you. [Federal regulations](#) require that hospitals defer to the surrogate a patient has designated – including same-sex partners – for medical decision making in the event of incapacitation. Unfortunately, if you do not have legal documents such as Advance Healthcare Directive that assigns your surrogate and outlines your medical wishes, hospitals will turn to what are known as state “[default surrogate selection priority lists](#)” and appoint a surrogate. A patient’s spouse is always at the top of these default surrogate lists. Marriage equality will ensure that spouses in same-sex marriages will make medical decisions for their spouses, should they become incapacitated.

Will marriage equality affect my health insurance options?

Legally married same-sex spouses already have the [right to enroll in any “family” or “spousal” plan](#) offered through an Affordable Care Act (ACA) Marketplace, and health insurance companies are required to treat same-sex spouses the same as opposite-sex spouses. In addition, if you are legally married, you and your spouse may apply jointly for financial assistance through the ACA marketplace in your state. Same-sex couples who are newly married in their home state will qualify for a “special enrollment” period of 60 days in order to enroll a spouse through the ACA. If you receive health insurance through your employer and your employer extends health insurance benefits to spouses, same-sex spouses must have equal access to these benefits. Federal courts have consistently determined that denial of spousal benefits to same-sex couples, when the benefits are otherwise generally available, is sex discrimination and is illegal.