

# Proceedings

FROM

## The Fourth International Conference on Transgender Law and Employment Policy

**TRANSGEN '95**

JUNE 1995

HOUSTON, TEXAS, U.S.A.

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**NOTE: APPENDIX I: CASE STUDIES OF DISCRIMINATION AGAINST THE TRANSGENDERED was received and added just days before publication. It was too good to pass up. The report is a demonstration of what merely four transgendered citizens can do in a short period of time and without a lot of money to educate and influence local Human Relations Advisory Councils. Use it as an example of what to do and how to do it in your own area.**

MINIMUM CONTINUING LEGAL EDUCATION

STATE BAR OF TEXAS



Minimum Continuing Legal Education

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ATTN: PHYLLIS RANDOLPH FRYE  
INTERNATIONAL CONFERENCE ON TRANSGENDER LAW AND EMPLOYMENT  
5707 FIKENZA STREET  
HOUSTON, TX 77035-5515

COURSE TITLE: TRANSGEN '95: YOUR JOBS, INSURANCE & HEALTH RIGHTS AND DOCUMENTS  
COURSE DATE(S): 6/14/95 TO 6/18/95 COURSE LOCATION: HOUSTON, TX  
COURSE NO.: 297524245 SPONSOR NO.: 2975 EXP. ATTEND.: 20

NOTIFICATION OF ACCREDITATION OF CLE ACTIVITY

THE ABOVE REFERENCED CLE ACTIVITY THAT YOUR ORGANIZATION SUBMITTED FOR ACCREDITATION IN TEXAS HAS BEEN REVIEWED AND ACCREDITED AS FOLLOWS:

	PARTICIPATORY HOURS	ETHICS HOURS
MCLE AND STATE BAR COLLEGE	11.50	1.50

# HEALTH LAW STANDARDS

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**Preface Note:** The following standards were drafted at the 1993 International Conference on Transgender Law and Employment Policy. The standards were subsequently presented to the Harry Benjamin Standards of Care Committee as an alternative to the Benjamin Standards. Since 1993, there has been some revision of thought concerning validity of the term "transsexual" since it identifies a change of gender rather than recognizing the predisposition of the individual to identify with a particular gender which may vary from the natively assigned gender based solely on the cursory visual inspection of genitalia. Since the condition is pre-existing there is no real "change" of gender, but a recognition of the individual's actual gender identification. Only as medical science studies this area will the pre-existence be proven; however, in the absence of firm scientific proof, the current medical, anthropological and anecdotal evidence supports the concept. The use of the term "transsexual" can still be applied since it is in common use; however, a cautionary caveat should be used to show it is denotatively and connotatively suspect. —TF

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## HEALTH LAW STANDARDS OF CARE FOR TRANSSEXUALISM

**Principle 1.** Transsexualism is an ancient and persistent part of human experience and is not in itself a medical illness or mental disorder. Transsexualism is a desire to change the expression of one's gender identity.

**Principle 2.** Persons have the right to express their gender identity through changes to their physical appearance, including the use of hormones and reconstructive surgery.

**Principle 3.** Persons denied the ability to exercise control over their own bodies in terms of gender expression, through informed access to medical services, may experience significant distress and suffer a diminished capacity to function socially, economically and sexually.

**Principle 4.** Providers of health care (including surgical) services to transsexuals have a right to charge reasonable fees for their services, to be paid in advance, and to require a waiver of all tort liability except negligence.

**Principle 5.** It is unethical to discriminate in the provision of sex reassignment services based on the sexual orientation, marital status, or physical appearance of a patient.

**Standard 1.** Physicians participating in transsexual health care shall provide hormonal sex reassignment therapy to patients requesting a change in their sexual appearance subject only to (1) the physician's reasonable belief that the therapy will not aggravate a patient's health conditions, (2) the patient's compliance with periodic blood chemistry checks to ensure a continued healthy condition, and (3) the patient's signature of an informed consent and waiver of liability form. If the patient is married, the physician may not require divorce but may also require the spouse to sign the waiver of liability form.

**Standard 2.** Physicians providing hormonal sex reassignment therapy shall collect and publish on an annual basis the number of hormone prescriptions they have issued and the number and general nature of any complications and complaints involved. The publication requirement of this Standard shall be satisfied by providing the collected statistics in writing, together with other current information on the potential risks and complications of sex hormone therapy, to all prospective patients inquiring into the physician's hormone therapy services.

**Standard 3.** Surgeons participating in transsexual health care shall provide sex reassignment surgery to patients requesting a change in their sexual appearance subject only to (1) the surgeon's reasonable belief that the surgery will not aggravate pre-existing health conditions, (2) the surgeon's reasonable determination that the patient has been under hormonal sex reassignment surgery for at least one year, and (3) the patient's signature of an informed consent and waiver of liability form. If the patient is married, the surgeon may not require divorce may also require the spouse to sign the waiver of liability form.

**Standard 4.** Surgeons providing sex reassignment surgery shall collect and publish on an annual basis the number of sex reassignment surgeries they performed and the number and general nature of any complications and complaints involved. The publication requirement of this Standard shall be satisfied by providing the collected statistics in writing, together with other current information on the potential risks and complications of sex reassignment surgery, to all prospective patients inquiring into the surgeon's sex reassignment services.

Standard 5. Physicians and surgeons shall not divulge the name or identity of any patient requesting or receiving sex reassignment services except as explicitly directed in a notarized written request by the patient.

Health Law Standards of Care for Transsexualism First Adopted at the 2nd International Conference on Transgender Law and Employment Policy, August 1993.

The Health Law Standards of Care for Transsexualism Shall Be Reviewed and Amended by Consensus, As Necessary, at Each Annual International Conference on Transgender Law.

The International Conference on Transgender Law and Employment Policy Shall Use Its Best Efforts to Disseminate these Health Law Standards to All Persons Involved in the Medical Treatment of Transsexualism.

**Form 1. INFORMED CONSENT AND WAIVER OF LIABILITY**

I, \_\_\_\_\_, having been fully informed in writing of the potential risks and complications of hormonal or surgical sex reassignment, do hereby choose of my own free will and consent to undertake this treatment because I want to alter my physical appearance to more closely reflect my gender identity.

I hereby release Dr. \_\_\_\_\_ of any and all liability for my decision to undertake a change of my sexual appearance and, for long-term use of hormones or for sex reassignment surgery, to affect on a permanent, irreversible basis my current sexual functioning. I promise not to sue Dr. \_\_\_\_\_ for any of the consequences of my hormonal sex reassignment or surgical sex reassignment unless those consequences are the result of negligence in the conduct of my hormone therapy or in the carrying out of my surgery.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

Patient Signature: \_\_\_\_\_

NOTARY:



FORM 2: SPOUSAL WAIVER OF LIABILITY

I, \_\_\_\_\_, am presently married to \_\_\_\_\_ ("Patient"). I understand that Patient wishes to alter his or her physical appearance to more clearly reflect his or her gender identity, and has been trying to do so for at least \_\_\_\_\_ year(s). I have been actively involved in, and fully support, Patient's sex change process.

I have been fully informed of the nature of transsexualism and transgender surgery. I fully understand that the surgery or hormonal therapy which Patient will undergo will transform Patient into the opposite sex. I fully understand that the surgery and the effects of long-term use of the hormones is not reversible, and that Patient will never be able to sire or bear children after the surgery or long-term hormonal therapy. I also understand that the sex reassignment process involves dangers and risks including, but not limited to, post-operative infection, depression, emotional changes and other physical and psychological changes. It is with my full knowledge and consent that my spouse, the Patient, undergo transgender surgery or hormonal therapy to cause a change of their sex to occur.

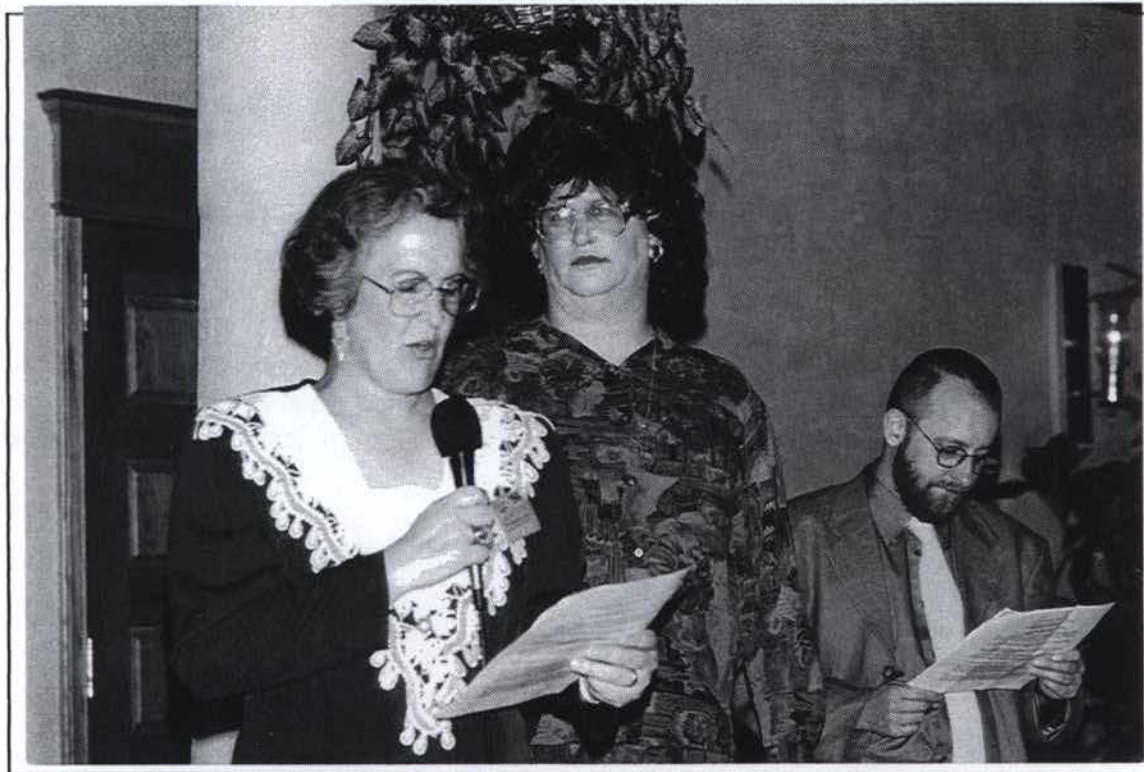
I hereby release and hold harmless Dr. \_\_\_\_\_ from any and all claims arising out of performance of transgender surgery or hormonal therapy, actual negligence excepted. I fully understand that I will not be able to seek monetary damages for any loss of sexual companionship between Patient and myself, the loss of Patient's ability to sire or bear children or any similar problems which may arise from the performance of the transgender surgery or hormonal therapy.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_  
Spouse Signature: \_\_\_\_\_

NOTARY:

# INTERNATIONAL BILL OF GENDER RIGHTS

*(As adopted June 17, 1995, Houston, Texas, U.S.A.)*



**(L-R) Phyllis Randolph Frye, Executive Director, ICTLEP; Jane Ellen Fairfax, Chairperson of the Board, TRIESS; and Stephen Whittle, Attorney and Law Professor, Manchester University, U.K. perform a reading of the IBGR during the Fourth International Conference on Transgender Law and Employment Policy**

The restatement of the International Bill of Gender Rights (IBGR) was first drafted in committee and adopted by the International Conference on Transgender Law and Employment Policy, Inc. (ICTLEP) at that organization's second annual meeting, held in Houston, Texas, August 26-29, 1993.

The IBGR has been reviewed and amended in committee and adopted with additions and revisions at subsequent annual meetings of ICTLEP in 1994 and 1995.

The IBGR strives to express fundamental human and civil rights from a gender perspective. However, the ten rights enunciated below are not to be viewed as special rights applicable to a particular interest group. Nor are these rights limited in application to persons for whom gender identity and role issues are of paramount concern. All ten parts of the IBGR are universal rights which can be claimed and exercised by every human being.

The IBGR is a theoretical expression which has no force of law absent its adoption by legislative bodies and recognition of its principles by courts of law administrative agencies and international bodies such as the United Nations.

However, individuals are free to adopt the truths and principles expressed in the IBGR, and to lead their lives accordingly. In this fashion, the truths expressed in the IBGR will liberate and empower humankind in ways and to an extent beyond the reach of legislators, judges, officials and diplomats.

When the truths expressed in the IBGR are embraced and given expression by humankind, the acts of legislatures and pronouncements of courts and other governing structures will necessarily follow. Thus, the paths of free expression trodden by millions of human beings seeking to define and express themselves, and give meaning to their lives, will ultimately determine the course of governing bodies.

The IBGR is a transformative and revolutionary document but it is grounded in the bedrock of individual liberty and free expression. As our lives unfold these kernels of truth are here for all who would claim and exercise them.

This document, though copyrighted, may be reproduced by any means and freely distributed by anyone supporting the principles and statements contained in the International Bill of Gender Rights.

The IBGR remains subject to review and revision by ICTLEP. Proposed revisions to the IBGR and comments should be forwarded to International Bill of Gender Rights Project, P.O. Box 930, Cooperstown NY 13326, U.S.A.

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### **The Right To Define Gender Identity**

*All human beings carry within themselves an ever-unfolding idea of who they are and what they are capable of achieving. The individual's sense of self is not determined by chromosomal sex, genitalia, assigned birth sex, or initial gender role. Thus, the individual's identity and capabilities cannot be circumscribed by what society deems to be masculine or feminine behavior. It is fundamental that individuals have the right to define, and to redefine as their lives unfold, their own gender identities, without regard to chromosomal sex, genitalia, assigned birth sex, or initial gender role.*

**Therefore, all human beings have the right to define their own gender identity regardless of chromosomal sex, genitalia, assigned birth sex, or initial gender role; and further, no individual shall be denied Human or Civil Rights by virtue of a self-defined gender identity which is not in accord with chromosomal sex, genitalia, assigned birth sex, or initial gender role.**

### **The Right To Free Expression Of Gender Identity**

*Given the right to define one's own gender identity, all human beings have the corresponding right to free expression of their self-defined gender identity.*

**Therefore, all human beings have the right to free expression of their self-defined gender identity; and further, no individual shall be denied Human or Civil Rights by virtue of the expression of a self-defined gender identity.**

### **The Right To Secure And Retain Employment And To Receive Just Compensation**

*Given the economic structure of modern society, all human beings have a right to train for and to pursue an occupation or profession as a means of providing shelter, sustenance, and the necessities and bounty of life, for themselves and for those dependent upon them, to secure and retain employment, and to receive just compensation for their labor regardless of gender identity, chromosomal sex, genitalia, assigned birth sex, or initial gender role.*

**Therefore, individuals shall not be denied the right to train for and to pursue an occupation or profession, nor be denied the right to secure and retain employment, nor be denied just compensation for their labor, by virtue of their chromosomal sex, genitalia, assigned birth sex, or initial gender role, or on the basis of a self-defined gender identity or the expression thereof.**

## **The Right Of Access To Gendered Space And Participation In Gendered Activity**

*Given the right to define one's own gender identity and the corresponding right to free expression of a self-defined gender identity, no individual should be denied access to a space or denied participation in an activity by virtue of a self-defined gender identity which is not in accord with chromosomal sex, genitalia, assigned birth sex, or initial gender role.*

**Therefore, no individual shall be denied access to a space or denied participation in an activity by virtue of a self-defined gender identity which is not in accord with chromosomal sex, genitalia, assigned birth sex, or initial gender role.**

## **The Right To Control And Change One's Own Body**

*All human beings have the right to control their bodies, which includes the right to change their bodies cosmetically, chemically, or surgically, so as to express a self-defined gender identity.*

**Therefore, individuals shall not be denied the right to change their bodies as a means of expressing a self-defined gender identity; and further, individuals shall not be denied Human or Civil Rights on the basis that they have changed their bodies cosmetically, chemically, or surgically, or desire to do so as a means of expressing a self-defined gender identity.**

## **The Right To Competent Medical And Professional Care**

*Given the individual's right to define one's own gender identity, and the right to change one's own body as a means of expressing a self-defined gender identity, no individual should be denied access to competent medical or other professional care on the basis of the individual's chromosomal sex, genitalia, assigned birth sex, or initial gender role.*

**Therefore, individuals shall not be denied the right to competent medical or other professional care when changing their bodies cosmetically, chemically, or surgically, on the basis of chromosomal sex, genitalia, assigned birth sex, or initial gender role.**

## **The Right To Freedom From Psychiatric Diagnosis Or Treatment**

*Given the right to define one's own gender identity, individuals should not be subject to psychiatric diagnosis or treatment solely on the basis of their gender identity or role.*

**Therefore, individuals shall not be subject to psychiatric diagnosis or treatment as mentally disordered or diseased solely on the basis of a self-defined gender identity or the expression thereof.**

## **The Right To Sexual Expression**

*Given the right to a self-defined gender identity, every consenting adult has a corresponding right to free sexual expression.*

**Therefore, no individual's Human or Civil Rights shall be denied on the basis of sexual orientation; and further, no individual shall be denied Human or Civil Rights for expression of a self-defined gender identity through sexual acts between consenting adults.**

## **The Right To Form Committed, Loving Relationships And Enter Into Marital Contracts**

*Given that all human beings have the right to free expression of self-defined gender identities, and the right to sexual expression as a form of gender expression, all human beings have a corresponding right to form committed, loving relationships with one another, and to enter into marital contracts, regardless of their own or their partner's chromosomal sex, genitalia, assigned birth sex, or initial gender role.*

**Therefore, individuals shall not be denied the right to form committed, loving relationships with one another or to enter into marital contracts by virtue of their own or their partner's chromosomal sex, genitalia, assigned birth sex, or initial gender role, or on the basis of their expression of a self-defined gender identity.**

## **The Right To Conceive, Bear, Or Adopt Children; The Right To Nurture And Have Custody Of Children And To Exercise Parental Capacity**

*Given the right to form a committed, loving relationship with another, and to enter into marital contracts, together with the right to express a self-defined gender identity and the right to sexual expression, individuals have a corresponding right to conceive and bear children, to adopt children, to nurture children, to have custody of children, and to exercise parental capacity with respect to children, natural or adopted, without regard to chromosomal sex, genitalia, assigned birth sex, or initial gender role, or by virtue of a self-defined gender identity or the expression thereof.*

**Therefore, individuals shall not be denied the right to conceive, bear, or adopt children, nor to nurture and have custody of children, nor to exercise parental capacity with respect to children, natural or adopted, on the basis of their own, their partner's, or their children's chromosomal sex, genitalia, assigned birth sex, initial gender role, or by virtue of a self-defined gender identity or the expression thereof.**

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Note: The IBGR has been adapted in part from two earlier documents which expressed similar but differently worded concepts of human rights from a gender perspective. JoAnn Roberts, of King of Prussia, Pennsylvania, authored and disseminated a "Bill of Gender Rights" in 1990. That same year, without prior knowledge of the Roberts' document, Sharon Stuart of Cooperstown, NY, published an article in the convention newsletter of the International Foundation for Gender Education (IFGE) proposing a "Gender Bill of Rights." The present document represents an evolution from these two seminal versions as refined in committee by those working with the International Conference on Transgender Law and Employment Policy (ICTLEP).

## PROSTITUTION COMPARED TO ABORTION

4A

Houston Chronicle

Sunday, Aug. 13, 1995

# Prostitution compared to abortion

## Woman with Jane Roe II alias sues to make profession legal

By **MAYA BELL**  
Orlando Sentinel

MIAMI — She was a high-priced call girl who lived a life of deceit, anger and fear.

She couldn't open an honest bank account or brag about her clients. She was frightened whenever she saw a cop. She seethed when her hometown mayor published the names of men arrested for picking up prostitutes, certain it would ruin many lives.

She calls herself Jane Roe II and, borrowing the alias of the Texas woman whose lawsuit legalized abortion 23 years ago, she has launched what she considers the final round in the battle for women's rights: legalizing prostitution.

A Palm Beach County resident, Jane Roe II is relying on the historic Roe vs. Wade decision in asking U.S. District Judge Jose Gonzalez to declare Florida's prohibition against prostitution illegal. Her argument is novel and, now that the judge has twice refused to dismiss it, is reigniting an age-old debate on the world's oldest profession.

A business manager and mother of grown children, Roe II contends that her right to sell sex is guaranteed by the same privacy right that protected the original Jane Roe's decision to terminate her pregnancy. In that case, the U.S. Supreme Court ruled that women have a right to privacy in deciding whether to end their pregnancies in the early stages.

After all, Roe II reasons, if a

woman has the right to pay an abortion doctor to remove a fetus from her womb, she has the right to sell the use of her body. The latter transaction just happens to be more financially beneficial to the woman.

For Roe II, the issue boils down to economic equality for women. She recites a number of absurdities surrounding the issue:

Women can give away sex — they can sleep with their bosses for a promotion or with an acquaintance who buys them dinner — but they can't charge for it without being called criminals.

Making the rounds on TV and radio talk shows, Roe II's attorney, Elliot S. Shaw, says he is astonished by the depth of support for legalization. Donations from listeners are beginning to flow to his West Palm

Beach office.

Echoing the sentiments of the ACLU and other supporters, Gloria Allred, a women's rights attorney in Los Angeles, recently advocated legalization on CNN's *Crossfire*. She notes that women can earn money posing nude for photographers or acting in erotic films. They can dance provocatively for customers in a bar. They can sell their voices to strangers excited by phone sex. They even marry men they don't love and have sex with them for the rest of their lives in exchange for financial support.

"Where we draw the lines in the name of morality have become absurd," Allred said. "Basically, you can have sex for free, but as soon as you charge for it, that's a crime."

### Comment from the Executive Director:

I saw the above article recently and it rang home for our people. The first two paragraphs about the fear and hiding were true enough. So was the following comment about various legal rights. There is a right to privacy, and there is a limited right to terminate a pregnancy. In the third column it reads, "Women can give away sex — they can sleep with their bosses for a promotion or with an acquaintance who buys them dinner — but they can't charge for it without being called criminals."

We the transgendered do not really have a legal right to privacy. We don't have many legal rights at all, especially in the employment area. Yet "regular and normal" people flaunt gender all the time with impunity. An entire culture of people who do not own cows or horses, ranches or farms, crossdress in country and western attire, in country and western bars and use such apparel to enhance their self-esteem or to get off sexually. These trans-WEST-ites do not fear because of their crossdressing, but we do.

Something is wrong with this picture!

Phyllis Randolph Frye