

**Written Statement Submitted by SAGE and Outright International  
13th Session of the United Nations Open-ended Working Group on Ageing  
3-6 April 2023**

**Right to Health and Access to Health**

**I. Introduction**

SAGE and Outright International welcome the opportunity to provide a statement at the 13th Session of the United Nations Open-ended Working Group on Ageing on the right to health and access to health services. SAGE is the world's largest and oldest organization dedicated to improving the lives of LGBTQ+<sup>1</sup> elders. Outright International works for better LGBTIQ lives, collaborating with partners around the globe to strengthen the capacity of the LGBTIQ human rights movement, document and amplify human rights violations against LGBTIQ people, and advocate for inclusion and equality. SAGE and Outright are committed to ensuring that older adults impacted by ageism, homophobia, biphobia, transphobia and interphobia have access to dignified and culturally appropriate healthcare, in the United States and around the world.

Health disparities among LGBTI elders are rooted in a history of discrimination and stigma that has led to a lack of legal and social recognition, a reliance on chosen family to provide care, and inadequate access to inclusive services.<sup>2</sup> These challenges are exacerbated at the intersections of identity, especially among elders who are women, transgender, gender non-binary, intersex, and/or from groups that are systematically discriminated against because of racism, classism and ableism. Presently, there is no international legally binding instrument that specifically protects the rights of older persons. Many governments around the world have failed to ensure that aging populations, particularly LGBTI older adults, can access their fundamental right to health.<sup>3</sup> As such, addressing health disparities faced by LGBTI older people requires comprehensive, intersectional strategies and international cooperation.

**II. Health Legal Landscape in the United States and Beyond**

In the United States, legal provisions guarantee older persons' rights to access physical and mental health services. These include the 1965 Medicare and Medicaid Act that provides health insurance for individuals sixty-five or older, the 1965 Older Americans Act, which provides federal funding for community-based health and wellness programs, and the 2010 Affordable Care Act, which expands access to health insurance coverage for older adults. Similarly, the

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<sup>1</sup> In 2022, SAGE made the decision to update SAGE's organizational language and shift from LGBT+ to LGBTQ+ (lesbian, gay, bisexual, queer and questioning and other sexual orientations and/or gender identities). This decision was made in response to direct feedback from the SAGE community. As an LGBTQ+ organization committed to diversity, equity and inclusion, SAGE continues to evolve and adapt to be fully inclusive of the communities that we serve.

<sup>2</sup> "LGBT Aging: A Review of Research Findings, Needs, and Policy Implications." Williams Institute, 9 Apr. 2020, <https://williamsinstitute.law.ucla.edu/publications/lgbt-aging/>.

<sup>3</sup> "Human Rights to Health ." *World Health Organization*, World Health Organization, <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>.

1967 Age Discrimination in Employment Act provides equal job opportunities for older workers, protecting access to employer-provided health insurance, and section 1557 of the Affordable Care Act prohibits healthcare providers who receive federal funding to refuse to treat an individual based on age, sex, disability, race, or national origin.

These steps, among others, aim to ensure that older adults can access affordable and quality health care and services without discrimination. However, many of the aforementioned protections fail to explicitly name LGBTI older adults as a protected group. Here, a lack of intersectional policy analysis contributes to a gap between policy intent and implementation for marginalized subpopulations. For example, LGBTI older adults are not recognized as a “greatest social need group” under the Older Americans Act, despite the fact that LGBTI older adults report worse mental and physical health than heterosexual, cisgender and endosex older adults, and face additional barriers to receiving health care and social support.

The passage of comprehensive non-discrimination bills is essential in ensuring that the rights of LGBTI persons are enumerated and protected. Around the world, there are calls for the passage of such legislation, ranging from the Equality Act in the United States<sup>4</sup> to the Sexual Orientation and Gender Identity Expression Equality Bill currently stalled in the Philippines.<sup>5</sup>

### **III. Recommendations**

SAGE and Outright International express their commitment to work alongside States to realize the rights of older people, particularly those of whom experience compounding marginalization. In the spirit of advancing the rights of all people, the following are recommended steps that States should take:

- Increasing the enumeration of the health rights of LGBTI older persons within existing legislation that purports to protect the rights of older persons generally.
- Expanding the legal definition of family to be inclusive of LGBTI elders who are disproportionately likely to care for and be cared for by “chosen family,” or individuals to whom they are not legally or biologically related, recognizing the increased health advantages this brings.
- Ensuring all older persons have access to quality and affordable health care services regardless of immigration or detention status.
- Increasing financial investment in establishing LGBTI-welcoming affordable housing for economically insecure LGBTI older adults, as access to stable housing is an evidence-based health intervention.
- Investing in international partnerships and collaboration to further advance efforts to realize the full human rights of all older people, including through supporting the adoption of the proposed Convention on the Rights of Older Persons.
- Passing comprehensive non-discrimination legislation that protects against discrimination in accessible health care, housing, and other public goods and serves on all grounds,

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<sup>4</sup> *H.R. 5 - 117th Congress (2021-2022): Equality Act*. <https://www.congress.gov/bill/117th-congress/house-bill/5>.

<sup>5</sup> “Sogie Equality Bill, a Breathing Space for LGBT+.” *PIA*, <https://pia.gov.ph/features/2021/08/12/sogie-equality-bill-a-breathing-space-for-lgbt>.

including the grounds of sexual orientation, gender identity and expression, sex characteristics, and age.