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SMALL TOWN NEWS

Health

Benefits Sought For Same Sex And Domestic Partnerships

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The Hays Free Press of Buda, Texas

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Texas State University and all cities in Hays County have not instituted a policy or ordinance that specifically prohibits discrimination based on sexual orientation or gender identity, leading some to question the validity of statewide health benefits.

Employees who are receiving state health insurance plans through the cities of San Marcos, Buda, Kyle and the university cannot extend coverage to their domestic partners because the status is not established by Texas law.

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Although these entities comply with state and federal Equal Employment Opportunity laws that prohibit discrimination based on race, color, religion, sex, national origin, age or disability, they are not required to include other protective language.

Sylvia Holmes, Texas State staff attorney, conducts presentations for university employees and students about legal issues facing the lesbian, gay, bisexual, transgender and queer communities.

"Doing what we can to avoid these contingencies, that's what (the Texas State Attorney for Students office) can help with," said Holmes, adding that state and federal laws are fluid and constantly changing.

Although there is no legal recognition for same-sex couples at the state level, the cities of Austin, El Paso, San Antonio and Fort Worth, as well as the counties of Dallas, El Paso and Travis offer domestic partnership benefits to their employees.

Travis County, for instance, accepts and maintains a registry of domestic partnership agreements, a private document that "describes the legal rights and responsibilities between two individuals of any gender in a long-term relationship."

These domestic partnership agreements may be used by employers to grant health insurance and other benefits.

Heather Steed, benefits manager for Texas State Human Resources said because the university is a state entity it offers full-time employees retirement, health and other benefits through the Employee Retirement System of Texas. Steed said this agency decides who is covered by its plans.

As of December 2010, at least 22 states, including the District of Colombia, provide state employees with some type of domestic partner benefits, according to the National Conference of State Legislatures. About a dozen states extend retirement benefits to domestic partners.

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These health insurance policies are not exclusive to same-sex domestic partnerships.

Laramie McWilliams, assistant coordinator of Texas State's Leadership Institute, said she is unable to cover her male partner Jeremy Bohac through her Texas State insurance plan because of their decision not to marry.

"I don't want to marry him to have insurance together," said McWilliams, whose young daughter, Hazel Bohac, is covered through her Texas State insurance plan.

In 2005, a constitutional amendment of the Texas Defense of Marriage Act passed by 76 percent of voters. The act states that marriage is between one man and one woman, despite the federal act stating otherwise.

The U.S. Supreme Court declared that legally married same-sex couples deserve equal rights to benefits under federal law that are provided to heterosexual marriages.

The company that Bohac, an oil field engineer, worked for and received health insurance through recently dissolved, McWilliams said, leading him to find independent contract work that puts his health insurance in jeopardy.

Without Bohac insured, McWilliams said they can just hope nothing bad happens to him because the out-of-pocket cost of health insurance is too expensive.

Recent conversations have brought up the question of marriage.

McWilliams recalled an instance when Hazel brought her a flower bouquet with a request that she give it to her daddy, Jeremy Bohac, when they got married.

McWilliams and Bohac's decision to live together unmarried include personal ideologies and past experiences with the tradition.

"I can marry him tomorrow and have him covered," she said. "I have very close family friends who can't say the same."

Holmes said that although marriage offers legal protections, for same-sex couples it can be a "catch-22," especially when the relationship ends.

The Texas Supreme Court heard oral arguments last week regarding two cases where same-sex couples legally married in Massachusetts are now seeking a divorce in the Texas, where same-sex marriage is not recognized. No decision is expected to be made until the spring.

Despite the Supreme Court's ruling that the federal Defense of Marriage Act (DOMA) was unconstitutional, the law says that no state is required to recognize same-sex marriages that are performed legally in 12 states and the District of Columbia.

The Texas Defense of Marriage Act prohibits any state political entity from recognizing the union of same-sex couples, making it difficult to extend health insurance coverage to domestic partnerships for those employed by a city, county or school district.

To some, state health insurance plans may discriminate based on sexual orientation, but Texas State and the cities of San Marcos, Buda and Kyle have made concerted efforts to provide equal opportunities for students and employees, respectively.

For example, Texas State's Affirmative Action/Recruitment Plan and the City of San Marcos's code of ordinances include language that legally protects employees from being discriminated against based on their sexual orientation, while the City of Buda covers marital status in its Employee Handbook & Personnel Policy.

Trey Hatt, a San Marcos spokesperson, said no discrimination complaints have been filed with the city in recent years.

Those who would like to file a complaint can do so at the city attorney's office.

City of Buda employees can report harassment complaints to their supervisor or department head.

Similarly, Sandra Duran, Kyle's human resources director, said city employees can file a complaint with her, their supervisor or City Manager Lanny Lambert.

Since she has worked in the department for the last five years, Duran said no one has filed a discrimination complaint.

At Texas State University, on-campus discrimination complaints can be filed with the Texas State Office of Equity and Access.

Out of 67 discrimination complaints received by the office since 2009, only one complaint from this year specifies its basis was due to sexual orientation. This may be because discrimination complaints before 2011 were not sub-categorized.

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