

COMPLAINT OF DISCRIMINATION IN HOUSING AND PUBLIC ACCOMMODATION

Jane Doe

Complainant [REDACTED] is a 78-year-old woman who brings this Complaint after she was denied admission to an assisted living facility because she is transgender. As a result, she was forced to languish unnecessarily in an inpatient acute care hospital facility.

Ms. [REDACTED]^{Doe}, through her representatives, files this Complaint against Respondent Sunrise Assisted Living, LLC. Sunrise Assisted Living, LLC discriminated against Ms. [REDACTED]^{Doe} on the basis of her gender identity, transgender status, and sex in access to a housing accommodation and a place of public accommodation by denying her admission to its assisted living facility in Jonesport, Maine because she is transgender. The particulars are as follows:

I. BACKGROUND.

1. The term “transgender” is used to describe someone whose gender identity is different from their assigned birth sex.

2. The term “gender identity” is a well-established medical concept, referring to one’s internalized, inherent sense of their own gender. For most people, gender identity is consistent with their assigned sex at birth. For transgender people, that is not the case. Transgender women are individuals assigned the sex of male at birth who have a persistent female gender identity. Transgender men are individuals assigned the sex of female at birth who have a persistent male identity.

3. Gender identity is biologically based and set early in life. It is now understood that being transgender is a natural variation of the human experience and implies no impairment in a person’s judgment, stability, or capabilities.

4. Because of the serious and disruptive distress accompanying a gender identity different from one's assigned birth sex, many transgender people go through a process of transition that involves living one's life fully in accordance with one's gender identity. Medical and mental health authorities agree that it is essential for the health and welfare of transgender people to live, function in society, and be regarded by others consistent with their gender identity.

5. The failure to treat a woman who is transgender appropriately and respectfully as a woman leads to profound harm. For example, if a woman who is transgender is rejected as she is, that will undermine her core identity and psychological health and lead to a range of debilitating psychological symptoms such as anxiety, depression, suicidality, and other attendant mental health issues. Medical and mental health authorities also agree that the living and support facilities that transgender people need to access must also be provided to those individuals in accordance with their gender identity and social role. The failure to treat a transgender woman in a residential or institutional setting as a woman predictably leads to psychological distress.

6. Like many older adults, transgender people may have a need for support, services, and care in their elder years.

7. Research also indicates that transgender older adults have a higher likelihood than the general population of needing a long-term care facility, including an assisted living facility. This difference is explained in part by underlying health disparities. Due to the effects of years of discrimination and stigma directed at transgender people that have been shown to negatively impact the physical and mental health of transgender older adults, transgender older adults are more likely to report disability, poor physical health, and poor general health, including a greater likelihood of vision, hearing and dental impairments.

8. Transgender people have been subjected to a long history of stigma, misunderstanding and discrimination. Transgender people continue to experience high rates of discrimination in education, employment, housing, and access to health care. In spite of the compelling need for safe and supportive elder facilities, numerous studies report that transgender people both fear and in fact experience discrimination in long-term care facilities. Maine, through the passage of L.S. 1196 in 2005, is among 22 states and scores of municipalities that have added gender identity to their human rights statutes to eliminate the profound and damaging denial of equal opportunity experienced by transgender people.

II. PARTIES.

9. Complainant ^{Jane Doe} [REDACTED] is a woman who is transgender. She was assigned the sex of male at birth but has a female gender identity and has known herself to be female from her early childhood. Ms. ^{Doe} [REDACTED] has lived as a woman for more than half a century beginning in her late teens and early adulthood.

10. Ms. ^{Doe} [REDACTED] has a history of numerous medical conditions and needs assistance with activities of daily living. She needs to live in an assisted living facility like that owned and operated by the Respondent.

11. Respondent Sunrise Assisted Living, LLC (“Sunrise”) is a Maine limited liability company located at 11 Ocean Street, Jonesport, Maine 04649. It is licensed as a Residential Care Facility by the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services.

12. Sunrise is part of a group of nine assisted living facilities in Maine operated under the umbrella name “Adult Family Care Homes of Maine” (“Adult Family Care Homes”).

13. According to the website of Adult Family Care Homes, the mission of its homes, including Sunrise, is to “provide exceptional care for those in need, in a safe, loving beautiful home ... and to provide high quality services, while maintaining a home style setting, for [its] residents.” Adult Family Care Homes, including Sunrise, is “dedicated to meeting the individualized needs of each resident 24/7” and to providing “a variety of living options, amenities, assistance, services, dining options, social programs and customized personal care.”

14. The website of Adult Family Care Homes lists the services it provides at Sunrise and its other homes. These services include meals, assistance with personal care, medication assistance, shopping, laundry and housekeeping, transportation to medical appointments, monitoring of medical conditions, and a compassionate and caring staff.

15. Sunrise solicits residents from and offers its facilities and services to the general public. A post on the public Facebook page of Adult Family Care Homes, for example, stated that “Sunrise Assisted Living in Jonesport will be opening soon ... [and] we look forward to serving you and your loved ones.”

III. FACTS.

16. On March 29, 2021, Ms. ^{Doe} [REDACTED] was living at another assisted living facility in Maine. On that day she was taken to the emergency room at Pen Bay Medical Center (“Pen Bay”) in Rockport due to a serious medical event.

17. Medical staff in the emergency department at Pen Bay determined that Ms. ^{Doe} [REDACTED] could not safely return to her current assisted living facility because of trauma she had experienced there.

18. Instead, although hospital staff determined that Ms. ^{Doe} [REDACTED] did not need inpatient acute care, she was admitted to Pen Bay in order for hospital staff to initiate the process of finding a new place for her to live.

19. During the period late March and early April 2021, a social worker from Pen Bay contacted Sunrise and spoke to Rhonda Chambers who identified herself as the Administrator. The social worker inquired about the placement of Ms. ^{Doe} [REDACTED] as a resident at Sunrise.

20. Ms. Chambers indicated that Sunrise had openings for new residents. She requested that the social worker fax to her various of Ms. ^{Doe's} [REDACTED] medical records and related documentation.

21. Upon information and belief, Sunrise has semi-private rooms and places a female resident with a female roommate.

22. At some time during the referral process the social worker told Ms. Chambers that Ms. ^{Doe} [REDACTED] is a transgender woman.

23. Shortly thereafter, Ms. Chambers informed the social worker that Sunrise was declining Ms. ^{Doe} [REDACTED] for acceptance to its assisted living home. Ms. Chambers stated that she was declining Ms. ^{Doe} [REDACTED] for acceptance due to her concern that Ms. ^{Doe} [REDACTED] wanted to reside in a room with a female roommate.

24. Upon information and belief, although Sunrise regularly and consistently places women in semi-private rooms with other women, it refused to do so for Ms. ^{Doe} [REDACTED] because she is a woman who is transgender.

25. Subsequent to Sunrise's denial of admission to Ms. ^{Doe} [REDACTED] a social worker or case manager at Pen Bay told Ms. ^{Doe} [REDACTED] that an assisted living facility had declined admission to her because she is transgender.

26. After Sunrise declined Ms. ^{Doe} [REDACTED] for acceptance, the social work and case management staff at Pen Bay continued to search for and contact other assisted living facilities with the goal of identifying a permanent housing placement for Ms. ^{Doe} [REDACTED]

27. In or about July 2021 Ms. ^{Doe} [REDACTED] was placed with and moved to another assisted living facility in Maine.

28. Sunrise's refusal to accept Ms. ^{Doe} [REDACTED] for admission to its assisted living facility contravenes the core principle of the Maine Human Rights Act that freedom from discrimination is a "civil right" and "infring[es] on the basic human right to a life with dignity." *See* 5 MRSA §§ 4552, 4581 and 4591.

29. Sunrise is a housing accommodation as defined in 5 MRSA § 4553(6) and discriminated against Ms. ^{Doe} [REDACTED] including in violation of 5 MRSA § 4581-A(1)(B) and (D), by denying her and withholding a housing accommodation because of her gender identity, transgender status, and sex.

30. Sunrise is a place of public accommodation as defined in 5 MRSA § 4553 (8) and discriminated against Ms. ^{Doe} [REDACTED] including in violation of 5 MRSA §§ 4591 and 4592 (1), by denying her access to and the accommodations of its facilities and services on account of her gender identity, transgender status, and sex.

JANE DOE



Submitted by her representatives:


Mary L. Bonauto

Mary L. Bonauto
GLBTQ Legal Advocates & Defenders
257 Deering Ave., #203
Portland, ME 04103
mbonauto@glad.org

Bennett H. Klein

Bennett H. Klein
Chris Erchull
GLBTQ Legal Advocates & Defenders
18 Tremont St., Suite 950
Boston, MA 02108
bklein@glad.org
cerchull@glad.org

JANE DOE

I,  SWEAR AND AFFRIM UNDER PENALTY OF PERJURY THAT THE ABOVE COMPLAINT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

DATE: 10/14/2021

Jane Doe

Jane Doe

