

Nursing home settles historic transgender discrimination complaint

Legal experts say the settlement signals to other assisted living facilities that they must abide by laws that bar discrimination against transgender people.

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By Benjamin Ryan

In a landmark settlement, a Maine assisted living facility has agreed to establish policies and procedures to ensure it is a welcoming place for LGBTQ seniors, after a 79-year-old transgender woman levied an accusation of discrimination.

When Marie King [filed her complaint](#) with the Maine Human Rights Commission in October, alleging that the Sunrise Assisted Living facility in the town of Jonesport refused her admission as a resident because she is transgender, it was believed to be the first complaint of this kind in U.S. history.

The settlement does not set a binding legal precedent. But legal experts nevertheless expect it to raise awareness that nursing homes and other assisted living facilities must abide by various state and federal laws barring them from discriminating against transgender people. The settlement also provides a roadmap for how such facilities can better serve the needs of LGBTQ seniors.

This development comes as more openly transgender adults are expected to enter their senior years — demographic growth in line with the overall increase in people older than 65, according to the Williams Institute. Research indicates that trans seniors are more likely than the general older population to need housing in assisted living facilities, in part because they are more prone to be alienated from family members, be in poorer health and live on lower incomes. At a video conference meeting based in Augusta on Monday, the Maine Human Rights Commission approved the terms of the settlement negotiated by the commission, the Boston-based GLBTQ Legal Advocates & Defenders (GLAD) and the Adult Family Care Homes of Maine, which runs nine assisted living facilities in the state, including Sunrise.

“I’m thrilled to see this positive outcome,” King said in a statement issued through her attorneys at GLAD. “I believe the new policies will keep others from experiencing mistreatment and will help people understand that transgender people are only seeking to be treated with dignity and respect like anyone else.”

Adult Family Care Homes of Maine did not admit guilt as a part of the settlement and continues to deny having discriminated against King. It has pledged to adopt a comprehensive policy barring discrimination against transgender people. The company will also require all of its staff attend a training, conducted by SAGECare, an LGBTQ+ cultural competency program run by SAGE, on serving this population. The nonprofit organization focuses on improving the lives of LGBTQ+ seniors.

Chris Erchull, a staff attorney at GLAD, said that many staffers of such facilities lack the education and awareness pertaining to transgender adults and their needs, and are unsure how to comply with the law.

“This is a groundbreaking case because it spells out for people what the minimum requirements of the law are and how to make sure that they comply with it,” Erchull said.

“By no means do I think this is an isolated incident,” Karen L. Loewy, senior counsel at Lambda Legal,

said of King's case.

The Williams Institute, a think tank at the UCLA School of Law, [estimates](#) there are at least 771,000 LGBTQ adults over 65 in the United States, including 171,100 transgender seniors.

“Our research has shown that LGBT older adults face barriers to receiving formal health care and social support that heterosexual, cisgender adults do not,” said Ilan Meyer, a Williams Institute researcher. “Hopefully, other residential facilities will also implement policies consistent with this settlement.”

[Nearly half of U.S. states](#), including Maine, bar discrimination based on sexual orientation or gender identity in both housing and public accommodation — legal categories that apply to assisted living facilities.

In the spring of 2021, a social worker at Pen Bay Medical Center, where King was receiving medical care, sought a placement for her at Sunrise. Initially, a social worker at the long-term care facility said there were vacancies. But according to King's complaint, when the Sunrise social worker learned she was transgender, she said they could not admit her because they did not want to place her with a cisgender woman roommate.

On March 14, 2022, the Maine Human Rights Commission voted 3 to 2 that King had reasonable grounds to claim that Sunrise discriminated against her on the basis of her gender identity, transgender status and sex, all of which are protected under the Maine Human Rights Act. This opened the door for the commission to potentially file a lawsuit.

The U.S. Department of Health and Human Services is in the process of conducting its own investigation to determine if Sunrise's alleged refusal to admit King as a resident violated the sex discrimination provisions of the Affordable Care Act. Courts have interpreted the 2010 law as barring discrimination based on gender identity in health care settings that receive federal funds, including assisted living facilities.

Additionally, the U.S. Supreme Court's 2020 *Bostock v. Clayton* decision established protection for LGBTQ people against workplace discrimination.

In an emailed statement to NBC News, John K. Hamer, an attorney at Rudman Winchell in Boston, which represents Adult Family Care Homes of Maine, said that the Sunrise social worker told King's social worker that Sunrise “was not an appropriate place for Ms. King” **because of the possibility that a cisgender woman roommate “was not comfortable having a transgender roommate.”** [My emphasis – Ed.]

“However,” Hamer stated, “Sunrise Assisted Living would not have denied Ms. King residency based on her transgender status had she applied for residency. Ms. King just never applied.”

He added that Sunrise “is happy to work with GLAD to enhance its existing policies and to provide training to ensure that such a miscommunication does not happen again.”

As a part of the settlement, the facility has agreed to provide a \$1,000 payment to King and an \$8,500 payment to GLAD for attorneys fees.

Aaron Tax, managing director of government affairs and policy advocacy at SAGE, said that the details of King's case “speak to the need for comprehensive, explicit national civil rights protections” for LGBTQ older people.

Sarah Warbelow, legal director at the Human Rights Campaign, pointed to survey data indicating that 70% of Americans support nondiscrimination protections for LGBTQ Americans. She said that the Maine settlement “really represents what people think should be happening: that LGBTQ folks have

access to remedies when they experience discrimination.”