



Maine Human Rights Commission

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INVESTIGATOR'S REPORT

MHRC No. PA17-0014

March 22, 2018

Honey Seekins (Ellsworth)

v.

Acadia Hospital (Bangor)

I. Summary of Case:

Complainant Honey Seekins, who accompanied her daughter while accessing healthcare services at Respondent Acadia Hospital, a hospital, alleged that Respondent discriminated against her based on her disability when it asked unlawful questions about and imposed improper conditions on her use of her service animal. Respondent denied discriminating against Complainant, and stated that Complainant was allowed to use her service animal at the hospital. The Investigator conducted a preliminary investigation, which included reviewing the documents submitted by the parties and holding an Issues and Resolution Conference ("IRC"). Based upon this information, the Investigator recommends a finding that there are reasonable grounds to believe that Respondent discriminated against Complainant based on her disability.

II. Jurisdictional Data:

- 1) Date of alleged discrimination: December 1, 2016.
- 2) Date complaint filed with the Maine Human Rights Commission ("Commission"): January 9, 2017.
- 3) Respondent is a place of public accommodation and is subject to the Maine Human Rights Act ("MHRA") and applicable regulations.
- 4) Complainant is not represented by counsel. Respondent is represented by Megan E. Randlett, Esq.

III. Development of Facts:

- 1) Complainant provided the following in support of her claims:

Complainant is [REDACTED] [REDACTED] and uses a service animal to guide her. On December 1, 2016, she went to Respondent's hospital; she was accompanied by her service animal, which wore a harness stating, "Guiding Eyes for the [REDACTED] Upon entering, an employee ("Employee") asked Complainant if the dog

¹ [REDACTED] is a *per se* disability without regard to severity under 5 Maine Revised Statutes ("M.R.S.") § 4553-A(1)(B). Respondent does not dispute that Complainant is [REDACTED].

was a service animal, and whether she had signed a service agreement (“Agreement”) for it. *See* Exhibit A. Employee said that she needed to sign the Agreement, which imposed a number of conditions on the dog’s handler, in order to bring her dog into the hospital. She was handed a form warning that a person may be charged with a Class C Crime if she claims an animal is a service dog but the dog is not trained to perform a service. *See* Exhibit B. Complainant believed Respondent discriminated against her by asking her to sign its Agreement and causing her to feel dissuaded from bringing her service animal to future appointments.

2) Respondent provided the following in support of its position:

Respondent denied discriminating against Complainant. Although it was Respondent’s practice to ask people accompanied by dogs whether the dog is a service animal and then request that person sign its Agreement, Respondent has not denied anyone using a service animal access to its facility. Employee had no recollection of this specific incident but provided that she has never told anyone that they would be denied entry if they did not sign the Agreement.

3) The Investigator made the following findings of fact:

- a) Complainant is [REDACTED] [REDACTED] and uses a service animal to guide her. Complainant’s service animal was trained to perform guide services for Complainant, including through a month-long training for Complainant and her dog with route and guide training.
- b) On December 1, 2016, Complainant took her daughter to Respondent’s facility for treatment. She entered the front door of the hospital wearing large dark fit-over glasses; her leashed service animal wore a harness stating, “Guiding Eyes for the [REDACTED]”
- c) While at the front desk of the hospital, Employee requested that Complainant sign Respondent’s Agreement for her dog. The Agreement stated that the handler agreed to be responsible for the following: using a collar or harness on the animal along with a short leash of 24 inches or less; asking others to respect the service dog’s training and tasks by avoiding any talking to, touching, or feeding of the animal; feeding, watering, removing waste, and exercising the animal; and arranging care, including veterinary care, when needed.
- d) Complainant was also given an “Animal Interaction with Patients, Visitor, and Staff Check List” which stated that a person may be charged with a Class C Crime if she claims an animal is a service dog if the dog is not trained to perform a service.
 - i. Respondent’s statement about misrepresenting an animal as a service animal is incorrect. Misrepresenting an animal as a service animal is a *civil* violation, punishable by a fine of up to \$1000 per occurrence. *See* 17 M.R.S. § 1314-A. Civil violations are not crimes. *See* 17-A M.R.S. § 4-B. In Maine, a Class C crime is punishable by a term of imprisonment of up to five years. *See* 17-A § 1252.
- e) Respondent has no policy, and has given no instructions to Employee, on what to do when the need for the service animal is readily apparent.
- f) Respondent has no record of denying access to someone for refusal to sign the Agreement. Respondent also has no record of someone refusing to sign the Agreement.

- g) Complainant felt that the Agreement was an undue “hurdle to cross” to use her service animal and that the checklist unfairly threatened her with the potential of both civil and criminal liability.
- h) Complainant stopped bringing her service animal with her to the hospital after this incident.

IV. Analysis:

- 1) The MHRA requires the Commission to “determine whether there are reasonable grounds to believe that unlawful discrimination has occurred.” 5 M.R.S. § 4612(1)(B). The Commission interprets this standard to mean that there is at least an even chance of Complainant prevailing in a civil action.
- 2) The MHRA makes it unlawful “[f]or any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others.” 5 M.R.S. § 4592(8).² A service animal must be permitted in all areas where the public is permitted to go. Me. Hum. Rights Comm’n Reg. Ch. 7, § 7.16(C)(7).
- 3) A public accommodation may make two specific inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask whether the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. These inquiries may not be made when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (*e.g.*, the dog is observed guiding an individual who is blind or has low vision, pulling a person’s wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). Me. Hum. Rights Comm’n Reg. Ch. 7, § 7.16(C)(6).
- 4) Complainant has shown that she was discriminated against based on her use of a service animal for a disability, with reasoning as follows:
 - a. Complainant entered the hospital with dark glasses and a dog with a harness that read “Guiding Eyes for the [REDACTED] It should have been “readily apparent” that the animal was performing a task for an individual with a disability and it was therefore impermissible for Employee to inquire further.
 - b. Further, Respondent’s Agreement requested that Complainant agree to requirements stricter than the law allows, such as exercising the service animal. The nature of the Agreement and the circumstances surrounding the request to sign the Agreement imply that it is not optional, and that the service animal will be excluded from the hospital if the individual refuses to sign. This tends to show that Respondent’s actions were unlawful.

² A service animal is “a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.” 5 M.R.S. § 4553(9-E)(B).

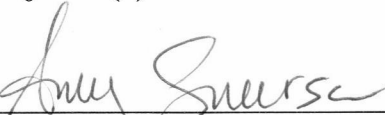
- c. The effect, if not the purpose, of the Agreement and checklist is to discourage the use of a service animal in the facility. Notably, the checklist stated that misrepresenting an animal as a service animal was a Class C crime, which is threatening and inaccurate. In fact, the experience discouraged Complainant from bringing her service animal to the hospital for future visits.

5) Discrimination on the basis of disability is found.

V. Recommendation:

For the reasons stated above, it is recommended that the Commission issue the following finding:

There are **Reasonable Grounds** to believe that Acadia Hospital discriminated against Honey Seekins on the basis of disability (use of a service animal), and the claim should be conciliated in accordance with 5 M.R.S. § 4612(3).



Amy M. Sneirson, Executive Director



Joseph H. Hensley, Investigator

Service Dog Agreement

I, Honey Seekin⁵ acknowledge that my dog is a service dog as defined by the Americans with Disabilities Act of 1990, including ADA changes to this act in March of 2011 regarding service dogs, and the Maine Human Rights Act and will hold my dog, canine, to the standards outlined in the act.

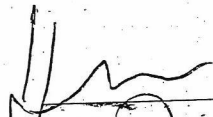
I understand that Acadia Hospital may ask me to remove my service dog from the facility and the grounds if:

- The animal is out of control (e.g. barking, growling, snarling, biting, lunging, jumping up on, scratching, smelling genital ~~et~~ al. of patient/visitors/staff, and licking the wound/medical device/bandage of any person) and the handler does not take effective action to immediately control it.
- The animal poses a direct threat to the health and safety of others (e.g.; slipping out of collar or harness, refusing to stay on a short leash of 24 inches or less, gets in the way of safe walking, has open sores, has draining eyes(s), coat/fur looks unhealthy/patchy, has diarrhea, etc.)
- The animal is not housebroken

I, the handler, agree to be fully responsible for the following:

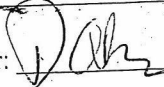
- Use collar or harness on the animal
- Use short leash of 24 inches or less
- Ask others to respect the service dog's training and tasks by avoiding any talking to, touching, or feeding of the animal
- Feed, water, toilet, scoop poop, and exercise the animal
- Arrange for care/supervision if separated
- Arrange for vet if animal is injured or sick

Signature of Handler:

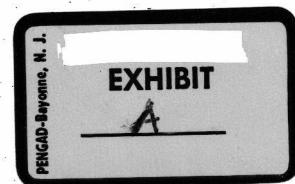


Date: 12-1-16

Signature of Acadia Staff Member:



Date: 12-1-16



**Animal Interaction with Patient, Visitor, and Staff
Check List**

Acadia Hospital Staff please ascertain if the animal (dog) presenting is identified as a pet, therapy dog, or service animal:

- **Pet**
 - Patient pets are not allowed on the hospital campus, with one exception (see IDD CL-139).
 - Should a person present with a pet not falling under exception outlined in IDD CL-139, person will need to represent to the hospital at a time when their pet is not accompanying
 - Although not recommended, pets may be left in vehicles for short periods of time such as 5-10 minutes BUT NEVER IN HOT WEATHER. Pets left in vehicles in hot weather even for short periods of time may be at risk of death from heat stroke and staff may call police for assistance in rescuing the animal

- **Therapy Dog**
 - Therapy dogs are specially trained dogs whose purpose is to provide emotional support, therapeutic contact, and comfort to people in various settings
 - To ensure the safety and therapeutic benefit of the animals and our patients and staff there are certain requirements for therapy dogs and their handlers in order to be permitted to provide services at Acadia Hospital:
 - Scheduling of Therapy Dogs is reviewed, coordinated and approved by designated staff from Education Services Department.
 - Please provide contact information to reach Dan Johnson, PhD, LCPC by calling 973-6824
 - Should a person present with a pet not falling under exception outlined in IDD CL-139, person will need to represent to the hospital at a time when their therapy dog is not accompanying unless scheduled through education
 - Although not recommended, pets may be left in vehicles for short periods of time such as 5-10 minutes BUT NEVER IN HOT WEATHER. Pets left in vehicles in hot weather even for short periods of time may be at risk of death from heat stroke and staff may call police for assistance in rescuing the animal

- **Service Animal**

Please ask and document: "What task or service is the dog trained to perform?", and initiate service animal contract:

legally blind

- Service Dogs according to the ADA, as of March 15, 2011, and the Maine Human Rights Act, service animals are now clearly defined as dogs that are specifically trained to do work or perform a task for the benefit of an individual with a disability.
- Per the ADA, other animals wild or domestic, **do not qualify** as a service animal.
- Dogs that are not trained to perform tasks that mitigate the effects of a disability, **including dogs that are used purely for emotional support are not service animals.**
- A person may be charged a Class C Crime when he claims an animal is a Service Dog but the dog is not trained to perform a service

