Newly Signed State Law Protects LGBTQ Seniors and Those With HIV

The New Jersey law prohibits discrimination in long-term care facilities based on HIV status, sexual identity and other qualities.

March 5, 2021 By Trent Straube

Long-term care facilities in New Jersey cannot discriminate against seniors who are living with HIV or identify as LGBTQ, thanks to a bill signed into law this week by Governor Phil Murphy. In addition, reports NorthJersey.com, the law requires that staff be trained on these issues.

According to a statement from the governor, the new law outlines an LGBTQI+ Senior Bill of Rights that bans discrimination based on "a person's sexual orientation, gender identity, gender expression, intersex status or HIV status." Specifically, the law prohibits the following actions:

- Denying admission to, transferring, discharging or evicting a resident;
- Opposing a request by residents to share a room;
- Assigning or reassigning a room based on gender;
- Forbidding a resident from using a restroom based on gender;
- Repeatedly failing to use a resident's chosen name or pronouns despite being informed;
- Denying a resident from wearing clothing, accessories or cosmetics of their choice;
- Restricting a resident's right to engage with other residents or with visitors;

- Denying, restricting or providing unequal medical or nonmedical care; and

- Declining to provide any service, care or reasonable accommodation.

In the next decade, nearly 4.7 million LGBTQ elders are expected to seek long-term care, so it's important that staff at care facilities know how to treat members of the LGBTQ community with respect. New Jersey is leading the way on this front, and various organizations are doing the same. For example, the LGBTQ advocacy group Human Rights Campaign and SAGE (Advocacy & Services for LGBT Elders) have collaborated to launch the Long-Term Care Equality Index to develop tools that evaluate how facilities treat their clients. To read more about that effort, see "How Do Long-Term Care Facilities Treat LGBT Elders?"

> Great news for New Jersey long-term care residents living with HIV as Gov. Phil Murphy signs an LGBTQI+ Senior Bill of Rights prohibiting discrimination due to sexual orientation, gender identity and expression, intersex status or HIV status."https://t.co/5eJ33kg30v pic.twitter.com/bjkwOvcjUP
>
> — The Center for HIV Law and Policy (@hivlawandpolicy) March 5, 2021

According to HRC and SAGE, a national survey of LGBT older adults in long-term care facilities found that:

- Only 22% of respondents felt they could be open about their LGBTQ identity with facility staff;

- 89% predicted that staff would discriminate based on their sexual orientation and/or gender identity, and;

- 43% reported instances of mistreatment.

Similarly, an AARP survey found that more than 60% of LGBTQ adults older than 45 said they were worried about discrimination and harassment at long-term care facilities, reports NorthJersey.com.

New Jersey's governor said signing the LGBTQI+ Senior Bill of Rights "underscores this commitment to our LGBTQI+ older adults and people living with HIV in long-term care facilities by providing critical protections from discrimination. No one should ever feel ashamed for who they are, and everyone should be able to live with the dignity and equality that they deserve. Building a stronger and fairer New Jersey starts with ensuring that every individual is given the right to live their truth openly and freely."

"This law will provide much needed protections for LGBTQI+ and people living with HIV in long-term care," said New Jersey long-term care ombudsman Laurie Facciarossa Brewer, in the governor's press release. "Too often we see LTBTQI+ people going back in the closet when they go into long-term care, out of legitimate fear of discrimination, loss of dignity, and freedom. These protections will ensure that our LGBTQI elders can live free from discrimination in these settings."

"We are thrilled that Governor Murphy is signing the LGBTQ Senior Bill of Rights, which will bring much-needed protections to LGBTQ older adults and seniors living with HIV/AIDS," added Christian Fuscarino, the executive director of LGBTQ advocacy group Garden State Equality. "Through our work, we know LGBTQ older adults are at greater risk for social isolation, health issues, and poverty, and often have concerns about living in a long-term care facility. For many, they spent their entire lives fighting for the rights we now enjoy today—they deserve so much better. With this bill signed into law, providers at these facilities will be better equipped to care for these vulnerable populations."

A similar bill is advancing in Washington, DC. And in Florida, an affordable housing community for LGBTQ seniors is setting aside units for folks with HIV. To read about both, see "DC Bill Protects LGBT Seniors and Those With HIV. But There's a Catch."

In related news, read "Aging at Home" in which longtime HIV advocates share their insights on aging with HIV.

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