

## Recovery Housing and Federal Civil Rights

Greg Dorchak, Assistant U.S. Attorney  
Civil Rights Unit, U.S. Attorney's Office - Massachusetts



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## **Disability Rights Protections:** **Generally**

What? Federal disability rights laws protect individuals with disabilities from discriminatory treatment, when that treatment is based on disability.

Who? A disability is a physical or mental impairment that affects one or more major life functions.

Who must  
comply?

- Places of Employment
- State or Local Governments
- Places of Public Accommodations
- Recipients of Federal Funds
- Dwellings



## Disability Rights Protections: Generally

What Law Applies?

The Americans with  
Disabilities Act

- Places of Employment
- State or Local Governments
- Places of Public Accommodations

Section 504 of the Rehab Act

- Recipients of Federal Funds

The Fair Housing Act

- Dwellings



Who? A disability is a physical or mental impairment that affects one or more major life functions.

## Addiction is a Disability

*Physical or mental impairment* includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, **drug addiction, and alcoholism.**



## What is a Dwelling?

“Dwelling” means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

“Family” includes a single individual.

Who must  
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A dwelling?



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This includes sober homes, by whatever name they choose to be called: sober-living facility, residential recovery home, transitional housing, halfway houses, etc.

Who must  
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A dwelling?



## **Treatment intertwined with disability**

Treatment is inherently linked to disability. So when barriers are created for treatment, those barriers cannot be disentangled from disability.

See *Doe v. Deer Mountain Day Camp, Inc.*, 682 F. Supp. 2d 324 (N.D.N.Y. 2010)

"Even assuming the truth of Defendants' allegations, however, the fact that Adam may take medications with certain side effects is inseparable from the fact that Adam is HIV-positive. *Discriminating against Adam because of medicinal side effects, therefore, still constitutes discrimination on the basis of Adam's disability.*"



Jails  
Prisons  
Court Systems  
Parole Systems  
Nursing Facilities  
Hospitals  
Surgeons

## **Barriers to Treatment are unlawful**

Courts have routinely found that barriers to medications for OUD violate disability rights statutes.

See *Pesce v. Coppinger*, 355 F.Supp.3d 35 (D. Mass. 2018); *Smith v. Aroostook County*, 376 F.Supp.3d 146 (D. Maine 2018); *M.C. v. Jefferson Cnty.*, N.Y., 2022 WL 1541462, at \*4 (N.D.N.Y. May 16, 2022).

DOJ has also engaged in a number of enforcement actions for similar policies:





## Putting it all together

Sober home settings that have policies denying admissions to people because those people are prescribed a particular medication for OUD could violate federal civil rights statutes, including the Fair Housing Act, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.



## **One more thing:** **Sexual Exploitation in Housing**

Under the Fair Housing Act, landlords—including sober home operators—cannot demand sexual favors in exchange for rent or other privileges. Even when this conduct may not be criminal.

## **Protections for persons with substance use disorder**

Greg Dorchak, Assistant U.S. Attorney  
Gregory.Dorchak@usdoj.gov  
Civil Rights Unit, U.S. Attorney's Office - Massachusetts



DOJ Opioid Guidance (QR Code)

