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IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

ARI ROBBINS
Plaintiffs,

v.

SWEDISH HEALTH SERVICES, INC.;
SWEDISH PLASTICS AND AESTHETICS;
PROVIDENCE HEALTH AND SERVICES;
and MARY PETERS, M.D.,
Defendants.

No. XXXXX

COMPLAINT

1. Ari Robbins is a 30-year old man who is transgender, which means he has a male gender identity even though the sex assigned to him at birth was female. Mr. Robbins has been diagnosed with gender dysphoria, a medical condition that requires treatment. To affirm his gender identity and treat his gender dysphoria, Mr. Robbins received a recommendation for chest reconstruction surgery from his therapist and a referral from his general care provider.

2. On his doctor’s referral, Mr. Robbins consulted with Dr. Mary Peters at Swedish Plastics and Aesthetics in December 2016. Dr. Peters told him the surgery was a “simple procedure” and scheduled his surgery for March 2017, the earliest suitable date. Mr. Robbins, a law student, structured his coursework and internships around his surgery date, and made arrangements with friends and family for his after-care.

1 **FACTUAL ALLEGATIONS**

2 **A. Gender Identity and Gender-Confirming Surgery**

3 16. “Gender identity” is a well-established medical concept, referring to one’s innate
4 sense of oneself as belonging to a particular gender. People who are designated female at birth
5 based on their external anatomy typically identify as girls or women. For transgender
6 individuals, however, the sense of one’s self—one’s gender identity—differs from the sex
7 assigned to them at birth.¹

9 17. The medical diagnosis for the incongruence between one’s gender identity and
10 one’s sex assigned at birth, where such incongruence results in clinically significant distress, is
11 “gender dysphoria” (previously known as “gender identity disorder”). Gender dysphoria is a
12 serious medical condition codified in the Diagnostic and Statistical Manual of Mental Disorders
13 (DSM-V) and International Classification of Diseases (ICD-10).

15 18. The widely accepted standards of care for treating gender dysphoria are published
16 by the World Professional Association for Transgender Health (“WPATH”). The WPATH
17 Standards of Care have been recognized as the authoritative standards of care by the leading
18 medical organizations, including the American Medical Association, the American
19 Psychological Association, and the American Academy of Pediatrics.

21 19. Under the WPATH standards, medically necessary treatment for gender dysphoria
22 may require steps to affirm one’s gender identity and transition from living as one gender to
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25 ¹ Individuals are usually assigned a sex at birth based on an examination of external anatomy. “Biological sex” is an
26 inaccurate description of the sex given to a person at birth because there are many biological components of sex
27 including chromosomal, anatomical, hormonal, and reproductive elements, some of which could be ambiguous or
in conflict within an individual. In addition, research indicates that gender identity has a biological component. For
purposes of classifying an individual for social and legal purposes, a person’s gender identity is the most important
determinant of a person’s sex.

1 another. This treatment, often referred to as transition-related care, may include hormone
2 therapy, surgery (sometimes called “gender-confirmation surgery,” “transition-related surgery,”
3 or “sex reassignment surgery”), and other medical services that align an individual’s body with
4 the person’s gender identity. The exact medical treatment varies based on the individualized
5 needs of the person. For many transgender men, one of the first and most important clinical
6 interventions is chest masculinization surgery. This surgery creates a typically masculine chest
7 contour for the patient through the removal of breast tissue.
8

9 20. According to every major medical organization and the overwhelming consensus
10 among medical experts, treatments for gender dysphoria, including surgical procedures, are
11 effective, safe, and medically necessary when clinically indicated to alleviate gender dysphoria.
12 If left untreated, gender dysphoria “can result in clinically significant psychological distress,
13 dysfunction, debilitating depression and, for some people without access to appropriate medical
14 care and treatment, suicidality and death.” American Med. Ass’n, *Resolution 122: Removing*
15 *Financial Barriers to Care for Transgender Patients* (June 16, 2008).
16

17 **B. Mr. Robbins Has a Medical Need for Gender Confirming Surgery**

18 21. Mr. Robbins is a 30-year-old man.

19 22. Mr. Robbins is transgender, meaning the sex assigned to him at birth was female,
20 but he has a male gender identity and is therefore male.
21

22 23. He is currently a law student at the University of Washington.

23 24. As early as kindergarten, Mr. Robbins has felt a dissonance between his sex
24 assigned at birth and his male gender identity.

25 25. Mr. Robbins came out as transgender in his early twenties and began binding his
26 chest in early 2014. Binding is the process of temporarily wrapping one’s chest to flatten the
27

1 breast tissue to create a masculine-looking chest. Ace bandages, sports bras, and compression
2 shirts are common methods of binding. Mr. Robbins began hormone replacement therapy in
3 2015.

4 26. For many men who are transgender, binding is a form of medical treatment that
5 maintains psychological well-being by allowing them to interact with the world consistent with
6 their male identity and to see themselves and be seen by others as male.

7 27. Mr. Robbins wore a binder whenever he was out in public. Binding is painful and
8 caused him shortness of breath, chest pain, soreness, rashes, severe neck and back pain,
9 headaches, and bruised ribs. The binding also made it difficult for him to move freely during
10 normal activity. Binding often forced him to skip exercising due to the severe pain and
11 discomfort.

12 28. Mr. Robbins also avoided airplane travel while wearing a binder due to the
13 negative responses he received from airplane security personnel when they discovered his
14 binder.

15 29. Taking the binder off was not an option for Mr. Robbins. The binder alleviated
16 many of Mr. Robbins symptoms of gender dysphoria, including depressive thoughts and anxiety.
17 Mr. Robbins also felt safer wearing a binder, as he believed it was less likely people would
18 identify him as transgender. Mr. Robbins feared violence, shame, and condemnation if people
19 were to discover that he was binding his breasts and is transgender.

20 30. From 2014-2015, Mr. Robbins' worked with a psychologist who assisted him
21 with treatment for gender dysphoria. Together, Mr. Robbins and his psychologist began
22 exploring the option of gender-confirming chest reconstruction surgery.

23 31. Mr. Robbins moved to Seattle in June 2015 for law school.
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1 32. Mr. Robbins always experienced discomfort from his binder, but when he began
2 law school, the pain became increasingly severe. Mr. Robbins spent most of the day sitting in
3 class and his binder caused him immense back pain, neck pain, and headaches. The pain
4 interfered with his ability to focus during school.

5 33. Due to his need to align his body with his gender identity, and the pain and
6 suffering he experienced due to his binder, Mr. Robbins' physician recommended gender-
7 confirming reconstructive chest surgery.

8 34. In 2016, Mr. Robbins' health care provider, Country Doctor Community Clinic
9 ("County Doctor"), referred him to Dr. Peters at Swedish Plastics and Aesthetics for a gender-
10 confirming chest reconstruction surgery.

11
12 **C. Defendants Denied Mr. Robbins Medical Treatment**

13 35. Dr. Peters is a plastic surgeon employed by Swedish with extensive surgical
14 experience.

15 36. Defendants accepted Mr. Robbins' referral and agreed to take his Medicaid
16 insurance.

17 37. During a December 2, 2016 consultation, Dr. Peters advised Mr. Robbins that she
18 would perform a circumareolar mastopexy. Dr. Peters advised Mr. Robbins that it was a common
19 and simple procedure, and that she had provided surgical services to transgender patients in the
20 past.

21 38. Dr. Peters showed Mr. Robbins a binder of examples of gynecomastia² surgeries
22 that she had performed throughout her career on non-transgender men who had similar builds
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27 ² Gynecomastia is swelling of the breast tissue in boys or men, caused by an imbalance of the hormones estrogen
and testosterone.

1 preoperatively to Mr. Robbins so he could see a range of postoperative possibilities. The surgical
2 procedure Dr. Peters planned to perform on Mr. Robbins is the same procedure for treating
3 gynecomastias.

4 39. In her notes of the consultation, Dr. Peters alternates between referring to Mr.
5 Robbins by male and female pronouns.

6 40. Defendants scheduled Mr. Robbins' surgery for March 15, 2017.

7 41. Mr. Robbins carefully timed the surgery so as not to conflict with his law school
8 schedule or summer internships.

9 42. Defendants prepared Medicaid prior authorization forms for Mr. Robbins' surgery
10 and faxed them to Apple Health Coordinated Care on December 2, 2016, the same day as Mr.
11 Robbins' consultation.

12 43. On December 7, 2016, Apple Health responded, stating that the prior
13 authorization forms could not be completed more than one month in advance of the surgery
14 date—in this case, February 15, 2017.

15 44. On February 15, 2017, the first day that Apple Health was able to accept the prior
16 authorization request for Mr. Robbins' surgery, Defendants resubmitted the prior authorization
17 forms.

18 45. On February 21, 2017, three weeks before the surgery was scheduled to occur,
19 April Jackson, the patient care coordinator at Swedish Plastic and Aesthetics, left Mr. Robbins a
20 voicemail rescinding the referral and cancelling the surgery. The patient care coordinator
21 explained that Dr. Peters "feels like she just does not have the expertise to take on the case."

22 46. Defendants did not offer to refer Mr. Robbins to another Swedish surgeon.

23 47. When Mr. Robbins called Swedish Plastics and Aesthetics to request additional
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1 information, the patient care coordinator informed Mr. Robbins that Dr. Peters could not handle
2 his surgery because it was a “transgender surgery” for which the Health Care Authority was
3 requiring extra documentation.

4 48. When Mr. Robbins pressed the coordinator to specify the required documentation,
5 the coordinator replied that the Health Care Authority required more measurements in
6 compliance with the Tanner Index.

7 49. Mr. Robbins advised the coordinator that the Tanner Index was irrelevant to his
8 surgery because it is used to establish medical necessity for transgender people to obtain breast
9 implants, which was not the surgery he had scheduled.

10 50. The coordinator acknowledged that Mr. Robbins was correct, and explained that
11 the extra paperwork requirement was related to other cases that Dr. Peters took that involved
12 transgender patients.

13 51. The coordinator said that “these cases” all required more documentation.

14 52. Dr. Peters’ office never identified any outstanding documents necessary to
15 perform Mr. Robbins’ surgery.

16 53. The coordinator informed Mr. Robbins that she had called several other
17 transgender individuals that day to cancel their scheduled surgeries.

18 54. Soon thereafter, Mr. Robbins’ referring provider, County Doctor, informed him
19 that it had received a fax from Swedish Plastics and Aesthetics stating, “We regret to inform you
20 after discussion with both Dr. Peters and the Plastics Manager, Dr. Peters has decided she does
21 not have the expertise to take on Transgender patients.”

22 **D. Mr. Robbins Has Suffered Serious Injury as a Result of Defendants’ Discrimination**

23 55. Defendants’ refusal to treat Mr. Robbins was harmful, humiliating, and extremely
24

1 disruptive to Mr. Robbins' life.

2 56. Mr. Robbins' distress from his gender dysphoria and the incongruence between
3 his chest and his gender identity was acute, and Defendants' refusal prolonged that distress.

4 57. Mr. Robbins felt judged and rejected by a health care provider with whom he had
5 shared personal and confidential information.

6 58. Mr. Robbins was forced to continue binding for many more months, causing him
7 physical pain that affected his schoolwork and personal life.

8 59. Mr. Robbins experienced severe headaches and neck pain from wearing the
9 binder, which intensified after his surgery was cancelled.

10 60. Mr. Robbins suffered severe emotional distress as a result of Defendants'
11 discrimination and the delay in receiving medically necessary treatment.

12 61. Defendants' discrimination was also extremely disruptive to Mr. Robbins' life.

13 62. It had taken many months for Mr. Robbins to get the referral to Defendants and
14 after their refusal, he had to start the entire process over. He was forced to schedule another
15 appointment with Country Doctor to get a new referral, find a new surgeon, and arrange for a
16 new consultation and set a new surgery date, all before his supporting documentation expired.

17 63. Due to the scarcity of surgeons accepting his health insurance, Apple Health,
18 Mr. Robbins had to drive to Idaho during 'finals week' of law school for his initial consultation
19 with a new surgeon.

20 64. Mr. Robbins was again required to travel from Seattle to Idaho for his surgery. He
21 also had to spend four days in an Idaho hotel recovering from his surgery.

1 advertise their services, including plastic surgery, to the general public.

2 84. Defendants customarily provide plastic surgery services.

3 85. On February 21, 2017, Defendants refused to provide plastic surgery services to
4 Mr. Robbins.

5 86. The fact that Mr. Robbins is a man who is transgender and seeking gender-
6 confirming surgery was the proximate cause in Defendants' refusal to provide him services.
7

8 87. Violations of the Washington Law Against Discrimination are per se violations of
9 the Washington Consumer Protection Act. RCW 49.60.030(3).

10 88. The conduct described herein constitutes discrimination on the basis of sexual
11 orientation in a place of public accommodation and therefore constitutes a violation of the
12 Washington Law Against Discrimination and the Washington Consumer Protection Act. RCW
13 49.60.215.
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15 89. Notwithstanding the Washington Law Against Discrimination and in the
16 alternative, the conduct described herein constitutes an unfair practice in trade or commerce and
17 an unfair method of competition that is contrary to the public interest and therefore violates the
18 Washington Consumer Protection Act. RCW 19.86.020. Defendants' actions injured
19 Mr. Robbins and Defendants are liable under the Washington Consumer Protection Act.
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21 90. As a result of Defendants' actions in violation of the Washington Consumer
22 Protection Act, Mr. Robbins is entitled to injunctive relief, as well as actual and treble damages.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff respectfully requests relief as follows:

25 A. Declare unlawful Defendants' violation of Plaintiff's rights, including his right to
26 be free from discrimination based on sex and gender identity under the Washington Law Against
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1 Discrimination, RCW 49.60, and his right to be free from unfair acts and practices in commerce
2 under the Washington Consumer Protection Act, which are contrary to the public interest, RCW
3 19.86.020;

4 B. That the Defendants and all other persons acting or claiming to act for, on behalf
5 of, or in active concert or participation with the Defendants, be enjoined from engaging in the
6 unlawful discriminatory conduct described above, which violates RCW 19.86;
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8 C. Award compensatory damages to Plaintiff in an amount to be proved at trial;

9 D. Award treble damages to Plaintiff pursuant to RCW 19.86.090;

10 E. Award Plaintiff's attorneys' fees and costs; and

11 F. Grant other and further relief as the Court may deem just and proper.
12

13 DATED this 20th day of December 2017.

14 Respectfully submitted,

15 AMERICAN CIVIL LIBERTIES UNION OF
16 WASHINGTON FOUNDATION

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