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For the Nursing Profession
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Residents To Transfer From Wheelchairs For Meals: Nursing Home Guilty Of Discrimination.

A long term residential care facility was licensed under state law to provide care to senior citizens who have an impaired capacity to live independently but who are not totally bedfast or in need of twenty-four hour medical or nursing care. The facility's policy was that residents in wheelchairs had to transfer to ordinary chairs when taking their meals in the dining room. Their wheelchairs were taken away by the staff and put in another room while meals were served and eaten.

A certain resident was able to transfer independently from his wheelchair to a regular chair per the facility's policy, but due to the progression of his ALS this became impossible. He was allowed for a time to sit in his wheelchair at a table by himself in the dining room.

A nursing facility cannot refuse to accept persons who cannot or who prefer not to transfer out of their wheelchairs for meals.

A nursing care facility, which tries to create a "disability-free atmosphere" by requiring residents to transfer from their wheelchairs or to be transferred with assistance to ordinary chairs for meals in the dining room, is guilty of disability discrimination.

COLORADO COURT OF APPEALS, 1996.

Then he was told his one-year contract with the facility would not be renewed, because he could not make the transfer from his wheelchair to a regular chair at mealtimes. He and his wife took their meals in their apartment for the rest of the year. Then they were removed from the facility by their family.

The Colorado Court of Appeals upheld the disability-discrimination lawsuit the family filed against the facility to contest its transfer policy. The court ruled that the state's fair housing law, which the court noted is virtually identical to the U.S. Fair Housing Act, requires reasonable accommodation to the needs of disabled individuals to allow them equal opportunity for access to the use and enjoyment of a residential care setting. **Weinstein vs. Cherry Oaks Retirement Community**, 917 P. 2d 336 (Colo. App., 1996).