



LONG TERM CARE COMMUNITY COALITION
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Working to improve long term care through research, education & advocacy

LONG TERM CARE (LTC) E- NEWSLETTER – October 2010: Volume 8, Number 8

Welcome to the [LTC E-NEWSLETTER](#), a monthly electronic newsletter of the [Long Term Care Community Coalition](#). Note to Readers: To go directly to an article, click on its page number in the Table of Contents. Once you are at the article, click on any underlined text for a link to more information or to send a message in “Spotlight on Advocacy.”

[Please support LTCCC’s work to protect the frail elderly and disabled who rely on long term care. Click here to donate \\$5 \(or whatever you care to give\).](#)

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- READ THE LATEST EDITION OF LTCCC’S QUARTERLY NEWSLETTER, *THE MONITOR*. 3
- LONG TERM CARE INFORMATION BOOKLET IN CHINESE AND ENGLISH FOR CHINESE CONSUMERS: *WHAT YOU NEED TO KNOW ABOUT LONG TERM CARE*. 3
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Federal Court Says Right to Choose Healthcare Provider Does Not Include Racial or Ethnic Preferences

In a recent ruling, the US Court of Appeals for the Seventh Circuit struck down a nursing home’s policy of honoring a resident’s demand for white-only care providers. The case, [Chaney v. Plainfield Healthcare Ctr., 2010 U.S. App. LEXIS 14804 \(7th Cir. Ind. July 20, 2010\)](#), held that a nursing home’s policy of informing an African-American nurse aide in writing every day that a particular resident "Prefers No Black CNAs" violated Title VII of the 1964 US Civil Rights Act. It overturned a US District Court ruling that had granted summary judgment for the nursing home.

To support its argument, the nursing home cited a number of cases which have upheld the right of gender discrimination in a healthcare setting. Responding to that argument, the Court of Appeals held that while Title VII permits a healthcare provider to honor an individual's preference for *same-sex* healthcare providers, it does not permit a provider to comply with an individual's preference for *same-race* healthcare providers.

[<http://www.lexisone.com/lx1/caselaw/freecaselaw?action=FCLRetrieveCaseDetail&caseID=1&format=FULL&resultHandle=647841a8fadf72d8a0288b27b88a7463&pageLimit=10&xmlgTotalCount=1&citation=2010 U.S. App. LEXIS 14804>]

New Report Assesses “Progress, Problems, and Opportunities” in Movement Toward Deinstitutionalized Long Term Care

The National Senior Citizen Law Center has issued a new report, [*10-Plus Years After the Olmstead Ruling: Progress, Problems, and Opportunities*](#), which looks at the progress made toward providing access to long term care outside of institutions, such as nursing homes, since the US Supreme Court's ruling in *Olmstead v. L.C.* in 1999. *Olmstead* affirmed a state's obligation to serve individuals in the most integrated setting appropriate to their needs. In the *Olmstead* decision, the Court held that the unjustified institutional isolation of people with disabilities is a form of unlawful discrimination under the ADA.

It has been widely acknowledged that there have been significant challenges to achieving the promise of *Olmstead*. Many consumers who do not want to be in a nursing home or adult home, and who could live safely outside of such a facility, are still relegated to such institutions because progress in implementing the *Olmstead* mandate has been slow. Last September, a NY State judge ruled in favor of adult home residents with psychiatric disabilities, finding that the state has “...discriminated against DAI's [Disability Advocates Inc.] constituents in violation of the integration mandate of the Americans with Disabilities Act and the Rehabilitation Act. In carrying out their administration of New York's mental health service system, (New York State has)...denied thousands of individuals with mental illness in New York City the opportunity to receive services in the most integrated setting appropriate to their needs.”

[<http://www.nyaprs.org/e-news-bulletins/2009/2009-09-09-8100.cfm>]

The National Senior Citizen Law Center report presents an overview of efforts to progress access to home and community based (HCBS) services over the years since *Olmstead*, such as relevant directives to the state Medicaid agencies, Medicaid waivers and the Money Follows the Person Program. It also presents specific recommendations for improving access to HCBS.

[<http://www.nsclc.org/about-us/nsclc-in-the-news/NSCLC%20Olmstead%20Report.pdf>]

We're on the Web!

www.ltccc.org: Our main website, with access to all of our issues, policy briefs and research.

www.assisted-living411.org: For information on assisted living, including consumer issues and policies.

www.nursinghome411.org: For information on developments in nursing home care, regulation and policy issues.

LTCCC Links of Interest

- View the latest enforcement actions against nursing homes in New York State.
- Read the latest edition of LTCCC's quarterly newsletter, *The Monitor*.
- Long term care information booklet in [Chinese](#) and [English](#) for Chinese consumers: *What You Need to Know about Long Term Care*.
- LTCCC study: *Government Monitoring & Oversight of Nursing Home Care* in [Word 2007](#) or [PDF](#).

If you are able to, PLEASE Support our work to protect ! [Click Here To Make A Tax-Deductible Donation On-Line](#) or send a check to LTCCC, 242 West 30TH Street, Suite 306, NY, NY 10001.

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