

Retirement Home Can Force Resident to Move to Higher Level of Care

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A federal court has ruled that a continuing care retirement community (CCRC) can force one of its residents to move from her private apartment to an assisted living unit.

Sally Herriot, 90, is a resident of Channing House, a CCRC in Palo Alto, California, that provides three levels of care -- independent living, assisted living and skilled nursing. Since moving to the facility with her now-deceased husband in 1991, Ms. Herriot has lived in a spacious independent living apartment. After Ms. Herriot returned from a hospital stay in 2006, Channing House determined that it was necessary to transfer her from her apartment to a much smaller, hospital-like assisted-living unit where she could be served by a trained nursing staff. Ms. Herriot, her family and her physician objected to the transfer, arguing that she is able to remain in her apartment with the help of round-the-clock private aides she had hired. Channing House rejected this arrangement.

Ms. Herriot subsequently filed suit in federal court, alleging that Channing House had discriminated against her based on her disabilities by refusing to accept her accommodation of hiring private aides. (See "[Retirement Home Resident Fights Move to Increased Level of Care.](#)" ElderLawAnswers, 3/3/2007.)

The U.S. District Court for the Northern District of California now rules that Channing House has a duty to provide Ms. Herriot with medical care based on her level of need, and that it cannot delegate that duty to private help hired by Ms. Herriot. The court finds that Channing House would be violating its legal obligations by accepting Ms. Herriot's plan to allow her to remain in her apartment. *Herriot v. House* (U.S. Distr. Ct., N.D. Cal., No. C 06-6323 JF (RS), Jan. 29, 2009).