

Disability Discrimination Ordinance Has More Teeth Than Denture Provider

By: Matthew Dietz

Mr. Larry McDowell presented to our office for a consultation on the afternoon of Thursday, March 17, 2016. When Mr. McDowell arrived, he needed to be guided by holding on to someone in order to get places in the office; he will need to bring someone with him who can assist him in walking as it is a liability for the office staff to physically guide him themselves. Mr. McDowell will also need assistance in going over treatment, signing paperwork, and etc.

We Apologize for Any Inconvenience.



When Larry McDowell went to Affordable Dentures in West Palm Beach, Florida, to have a dental procedure on March 17th, there was no reason that he could possibly believe that he wouldn't be able to get the same services as anybody else. But once Mr. McDowell reached the front desk, he was directed to follow someone to the examination room. Mr. McDowell then said, "I'm blind, could you help to where I'm going?" The employee at the desk said nothing. Once a member of the office staff arrived, Mr. McDowell asked for assistance to the examination room - Mr. McDowell asked to hold her elbow.

She said, "No. We can't help you unless you have someone to help you. We can't treat you unless you bring someone to assist you." Mr. McDowell then asked to speak to the dentist. When Mr. McDowell asked where the dentist was, the employee replied that he was in surgery and would be there for the next two hours. A patient who was watching the interaction told Mr. McDowell, "No he's not. He's standing right there." After the patient's remark, the employee said to Mr. McDowell, "The dentist doesn't want to speak to you today."

Mr. McDowell requested Affordable Dentures to email a copy of written reason to his sister, and they sent the above letter. It was then while Mr. McDowell was waiting in the office, an employee approached him and informed him he could not wait inside the office any longer and must leave, since the dentist would not be seeing him today—with the knowledge that Mr. McDowell had taken public transportation.

The Human Rights Ordinance of Palm Beach County provides more remedies than the Americans with Disabilities Act or the Florida Civil Rights Act by providing both monetary damages and requiring changes of businesses that discriminate against persons with disabilities. It also investigates complaints and attempts to resolve complaints before a lawsuit is necessary.

On July 18, 2016, Mr. McDowell filed a complaint against Affordable Dentures for disability discrimination in violation of the Housing and the Places of Public Accommodation Ordinance. The County did a full investigation and made a finding that Mr. McDowell was the subject of discrimination on March 7, 2017, and with the facilitation of the Palm Beach Office of Equal Opportunity, entered into a Conciliation agreement. While Affordable Dentures did not admit liability, it agreed to the following in an enforceable settlement with Palm Beach County.

1. Pay Larry McDowell thirty-five thousand dollars;
2. Provide Mr. McDowell a written apology in an accessible format so he can read it in his screen reader;
3. Affordable Dentures will not exclude persons with disabilities from its business;
4. Affordable Dentures will revise its policies and procedures to ensure that persons with disabilities (or their family members or companions) will receive accommodations and its policies will be modified to ensure that persons with disabilities will be provided necessary assistance when patronizing their business; and
5. Affordable Dentures will provide appropriate auxiliary aids and services to ensure effective communication.

Larry McDowell's needs were basic human needs, and the outright denial of needs bases solely on his disability transforms him, in the eyes of this medical provider into a human who is not worthy of these basic needs. Notwithstanding that the ADA is over 25 years old, it is common-place that medical professionals, who are dedicated to the health of their patients, are too often dismissive of their patient's disability-related needs. Most discrimination against persons with disabilities are not so blatant and ignorant as what occurred with Mr. McDowell.

Mr. McDowell did receive a written apology, not in an accessible format, but, it stated as follows:

Dear Mr. McDowell:

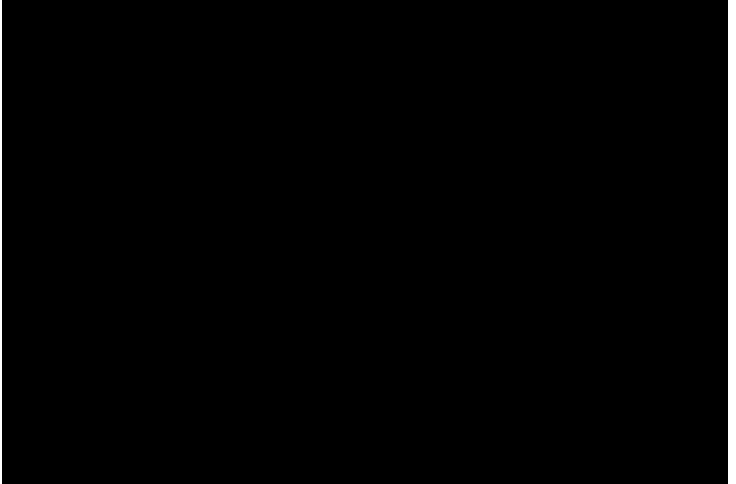
We are aware that your visit to our office for dental consultation on March 17, 2016 did not meet your expectations for the level of service that we strive to deliver. This entire incident has been the subject of substantial scrutiny and review and has resulted in changes to some of our procedures to avoid any such occurrences in the future.

Please understand that it is my personal policy and the practice in my office that all patients and other visitors to our facility are treated with dignity and respect. My staff and I sincerely regret that you left our office feeling that you had not received the level of care you deserve. We apologize for any shortcoming on our part, no matter how unintended it was.

This non-apology does not admit that there was anything wrong with the refusal of services to Mr. McDowell and further implies that Mr McDowell was hypersensitive or irrational in taking offense at the discrimination that he felt.

However, this is not an issue of perception of slight, the greater issue is that because of the type of behavior exhibited by Affordable Dentures, persons with disabilities are less likely to receive needed health care. According to a Disability Healthcare Access Brief published by the Disability Rights Education and Defense Fund, 19% of people with disabilities reported that they did not receive medical care needed in the previous year, compared to 6% of nondisabled persons.¹ People with disabilities tend to be in poorer health and to use health care at a significantly higher rate than people who do not have disabilities.

However, a binding conciliation agreement and a substantial settlement ensures compliance, especially when a law with teeth is more powerful than a pair of dentures.



Cheech and Chong - Nice Dreams - Paul Rubens and his classic non-apology for stealing the money

¹ <http://dredf.org/public-policy/health-access-to-care-old/disability-healthcare-access-brief/>