



Alabama Disabilities Advocacy Program
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Via Electronic Mail

April 22, 2020

Dr. Scott Harris, State Health Officer
Alabama Department of Public Health

Re: Hospital Visitation Policies for Individuals with Disabilities

Dear Dr. Harris:

I write on behalf of the Alabama Disabilities Advocacy Program (ADAP), Alabama’s protection and advocacy agency, and the other agencies and organizations who have endorsed this letter. We are appreciative of the tireless work of the Alabama Department of Public Health, as well as all state agencies in this emergency – thank you.

We urge the Alabama Department of Public Health to add an exception to its March 19, 2020, [State Health Order](#) prohibiting visitation of all visitors and non-essential healthcare personnel to hospitals and other healthcare facilities during the COVID-19 emergency. The current Order includes an exception for “compassionate care situations such as maternity and end of life.” We strongly urge you to add a legally required exception for people with disabilities who may require a support person to stay with them during emergency room visits and hospitalizations in order to ensure equal access to medical care.

Individuals with disabilities who need communication or behavioral supports in hospital situations retain their rights to reasonable accommodations under federal law, including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act (ACA), even in a pandemic. The U.S. Department of Health and Human Services’ Office of Civil Rights described these obligations in a March 28, 2020 Bulletin “Civil Rights, HIPAA, and the Coronavirus Disease 2019 (COVID-10)”.¹

The American Academy of Developmental Medicine and Dentistry recently issued a [policy statement](#) addressing the detrimental effect of “no-visitor” policies on people with intellectual and developmental disabilities. As the statement notes, “the “No Visitors” policies may result in deleterious and sub-optimal clinical outcomes because vital bio-psycho-social information is not available to medical staff.”

¹ Bulletin at 3, available at <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>.

We urge Alabama to revise its March 19, 2020, State Health Order to add the exception for people with disabilities who need assistance from a support person in order to ensure that hospitals are complying with federal disability laws as they implement the State's Health Order. We also ask that you issue a directive stating that any hospital visitation policies barring visitors must include an exception with language like the following:

Patients with disabilities who need assistance due to the specifics of their disability may have one designated support person with them. This could include specific needs due to altered mental status, intellectual or cognitive disability, communication barriers or behavioral concerns. If a patient with a disability requires an accommodation that involves the presence of a family member, personal care assistant, or similar disability service provider who is knowledgeable about the management of their care to physically or emotionally assist them during their hospitalization, this will be allowed with proper precautions taken to contain the spread of infection.

To ease the burden on the designated support person, we recommend that the policy allow the individual with disabilities to designate two support people but allow only one support person to be present at a time, consistent with the New York State Policy which can be found at https://opwdd.ny.gov/system/files/documents/2020/04/doh_covid19_hospitalvisitation_4.10.20.pdf.

Please do not hesitate to contact me at jtucker@adap.ua.edu or 205-310-5906 if you have questions regarding this matter or would like additional information. Thank you for your attention to this matter.

Sincerely,

James Tucker, Esquire
Director, Alabama Disabilities Advocacy Program

cc: Governor Kay Ivey (via email)

Brian Hale, Esquire, General Counsel, Alabama Department of Public Health (via email)

David White, Senior Policy Advisor to Governor Kay Ivey (via email)

Endorsing Organizations:

The Alabama Conference of Executives of The Arc
Chris B. Stewart, President and CEO

The Arc of Alabama
Andrew Jackson Knight, Board President

The Arc of Baldwin County
Kathy Fleet, Executive Director

Accessible Alabama
Eric M. Peebles, PhD, CRC, President and Chief Executive Officer

Alabama Arise
Robyn Hyden, Executive Director

Alzheimer's of Central Alabama
Miller Piggott, Executive Director

Alabama Service Providers Association,
DeAnna Ferguson, President

The Disabilities Leadership Coalition of Alabama (DLCA)
Bill Fuller, Executive Director/Legislative Counsel

Disability Rights and Resources
Daniel G. Kessler, Executive Director

The Full Life Ahead Foundation
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Protection and Advocacy for Individuals with Developmental Disabilities (PADD) Advisory
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Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council
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