



August 25, 2020

Governor Greg Abbot
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

Electronically sent to: sarah.hicks@gov.texas.gov ; CCOMRequests@gov.texas.gov
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Dear Governor Abbot:

On behalf of the undersigned organizations representing people with chronic conditions and disabilities, thank you for your ongoing efforts to address the COVID-19 pandemic. We write today to follow up on our previous correspondence dated April 29, 2020, and to request that the state of Texas act now to adopt crisis standards of care guidelines that clearly direct health care providers across the state to refrain from resource allocation practices that discriminate against people with pre-existing conditions and disabilities in the provision of treatment during the COVID-19 pandemic.

COVID-19 continues to present serious risk to Texas residents, including the patients we represent. According to publicly available data from the CDC, as of August 24th, over 176,000 people in the United States have died as a result of COVID-19, including more than 11,300 in Texas.¹ Furthermore, over the last seven days, more than 42,400 cases in Texas have been reported to the CDC—the highest in the nation. As the spread of the virus shows no signs of slowing down, the capacity of our healthcare system will continue to be stressed. Unfortunately, Texas has already reached a point where need outstrips capacity; we have heard recent reports of hospitals in the state running out of intensive care beds and ventilators to treat COVID-19 patients.²

During these unprecedented times, it is important that healthcare workers have access to state-wide guidance on how to equitably allocate scarce medical resources – guidance that, to our knowledge, has not yet been adopted by the state of Texas. We fear that without such resources, providers on the front lines will not be adequately equipped to make equitable choices about which patients receive life-sustaining care during the ongoing pandemic.

One disabled Texas man, Mr. Michael Hickson, died after being denied COVID-19-related treatment at a hospital in Austin based solely off of a “quality of life” assessment.³ This hospital’s denial of treatment to

¹ <https://www.cdc.gov/covid-data-tracker/>

² <https://www.texastribune.org/2020/07/14/texas-hospitals-coronavirus/>

³ <https://thetexan.news/austin-hospital-withheld-treatment-from-disabled-man-who-contracted-coronavirus/>

Mr. Hickson is in direct violation of the US Department of Health and Human Services (HHS) Office of Civil Rights (OCR) bulletin that states, “persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person’s relative ‘worth’ based on the presence or absence of disabilities or age.”⁴

We urge you to work with our organizations, as well as other patient and disability rights organizations in Texas, to develop statewide guidance in accordance with the OCR bulletin that ensures all patients are evaluated on a case-by-case basis and that decisions about who receives treatment are based on current clinical presentation – regardless of underlying health condition or disability. Several of our groups have endorsed additional guidance, written by disability rights professionals, on how to implement the bulletin in states.⁵ We hope this document helps the State of Texas draft guidance that is equitable and does not discriminate against the people we represent.

We look forward to working with you to develop guidelines for our state that safeguards the health and affirms the rights of those in Texas living with disabilities and pre-existing conditions. If you have any questions regarding this letter, or if we may provide further information, please don’t hesitate to contact Rachel Patterson with the Epilepsy Foundation at rpatterson@efa.org.

Sincerely,

American Kidney Fund
Arthritis Foundation
Cystic Fibrosis Foundation
Epilepsy Foundation Central & South Texas
Epilepsy Foundation Texas – Houston/Dallas-Fort Worth/West Texas
National Multiple Sclerosis Society
National Organization for Rare Disorders

Cc: Phil Wilson, Executive Commissioner, Texas Health and Human Services
Dr. John Hellerstedt, Commissioner, Texas Health and Human Services

⁴ <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>

⁵ https://www.centerforpublicrep.org/wp-content/uploads/2020/04/Guidance-to-States-Hospitals_FINAL.pdf