

NEWS RELEASE

Monday, May 4, 2020



Connecticut Denies Equal Access to Medical Care for Individuals with Disabilities Hospitalized During Covid-19; Federal Office for Civil Rights Called on to Order State to End Unlawful Discrimination

Disability Rights Connecticut, Coalition of Advocates File Formal Complaint To End Illegal Disability Discrimination Concerning Hospital Covid-19 Visitation Policies

Stating that people with disabilities are being “denied their right to equal access to proper medical care and treatment” when hospitalized during the Covid-19 pandemic in Connecticut, Disability Rights Connecticut today filed a formal complaint with the Office for Civil Rights (OCR) of the U.S. Department of Health & Human Services, urging the federal agency to “immediately investigate and take swift action” to uphold the equal rights of individuals with disabilities and advise Connecticut to “eliminate its discriminatory guidance and instead develop revised, mandatory, uniform, standards.”

Disability Rights Connecticut and other advocacy organizations in Connecticut have, for more than a month, sought the issuance of policy guidance by the state Department of Public Health (DPH), to assure that Connecticut has a uniform policy in place for hospitals to adhere to that would allow a patient support person for hospitalized individuals with disabilities. Such policy guidance is in place in states including New York, New Jersey, Oregon, Illinois and California.

DPH has not issued such guidance; instead, the state Department of Developmental Disabilities (DDS) issued guidance addressed not to hospitals but to families, released last week, stating that it was developed with the Connecticut Hospital Association (CHA) and the DPH. The DDS guidance states that the CHA “will strongly recommend and work with hospitals to allow one support person to accompany an individual served by DDS.”

That guidance has numerous flaws and falls short of ensuring that the rights of individuals with disabilities are protected, the complaint details.

Disability Rights Connecticut is joined in the federal filing by the national organizations of the Center for Public Representation, CommunicationFIRST, and The Arc of the United States, and the Connecticut organizations of The Arc of Connecticut and Independence Northwest: Center for Independent Living of Northwest CT.

The 12-page filing with the Office for Civil Rights describes in detail the circumstances surrounding the hospitalization of three individuals in recent weeks, each in a different Connecticut hospital, where the lack of a statewide policy allowing a patient support person to be present during hospitalization resulted in violations of the equal rights of the individuals with disabilities, in violation of federal law, and jeopardized their quality of care. The individuals include a 27-year-old woman, 48-year-old man and 73-year-old woman.

In urging action by the OCR, the complaint alleges that “the actions taken by Governor Lamont and his administration unlawfully discriminate against persons with disabilities.” DRCT and its co-filers urge OCR to “advise Connecticut that it must eliminate its discriminatory guidance and instead

develop revised, mandatory, uniform, standards for allowing patient support providers within hospital settings during this public health emergency.”

Proposed policy guidance, outlining “one uniform patient support policy for people with disabilities,” is included in the complaint, modeled after policies in place in other states, which would permit hospitals to make individualized determinations, based on the statewide guidance, and “allow access in accordance with proper precautions to contain the spread of infection.”

According to the complaint, as a result of Connecticut’s current policy, individuals with disabilities are being denied equal access to medical treatment, including by being denied effective communication; being deprived of their right to make informed decisions and provide informed consent; being subjected to the unnecessary use of physical and chemical restraints; being denied adequate and necessary medical treatment and care; and being subjected to substantial and lasting emotional harm.

The guidance issued by the state “guarantees no real protection because neither DDS nor CHA have authority over hospitals in Connecticut,” the complaint points out. “By issuing policy that cannot be enforced the Governor is in effect sanctioning the hospital’s illegal behavior,” the complaint states. “Instead of ensuring that all individuals with disabilities are afforded reasonable accommodations, Connecticut is excluding tens of thousands of people from equal access to the benefit of hospital services offered to others.”

This action alleges violation of federal disability rights laws, including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act (Section 504) and Section 1557 of the Affordable Care Act (ACA).

Connecticut hospitals currently have strict “no visitor” policies, which began in March. The only exceptions in place allow one visitor into the hospital for the following reasons: end-of-life; pediatric care; labor/delivery; and outpatient surgery/procedures.

“Connecticut’s policy enumerating exceptions to no-visitor policies inexplicably excludes certain people based on their disability diagnosis and whether or not they receive services from the state,” the complaint goes on to explain. “As such the policy contains illegal eligibility criteria that screens out individuals with disabilities from accessing services. Compounding its illegal actions further, Connecticut issued a policy that is unenforceable, thereby perpetuating the ongoing discriminatory conduct by the hospitals.”

With the exception of three Connecticut hospitals operated by Nuvance Health, which also operates hospitals in New York, not a single Connecticut hospital makes an exception to its visitation prohibition for support persons for individuals with disabilities.

More information about Disability Rights Connecticut, and a copy of the filing with OCR, is available at www.disrightsct.org.

###

Media Contact:
Bob Joondeph, Interim Executive Director
bob.joondeph@disrightsct.org

Disability Rights Connecticut
846 Wethersfield Avenue, Hartford, CT 06114
Phone: (800) 842-7303 (toll-free in CT), (860) 297-4300 (voice)
www.disrightsct.org



Disability Rights Connecticut, a statewide non-profit organization, advocates for the human, civil, and legal rights of people with disabilities in Connecticut. DRCT provides legal advocacy and rights protection to a wide range of people with disabilities, and assists individuals with problems such as abuse, neglect, discrimination, access to assistive technology, community integration, voting, and rights protection issues. DRCT also addresses issues through policy advocacy, education, monitoring, and investigation. DRCT replaced the state Office of Protection & Advocacy for Persons with Disabilities in 2017, and is the Protection & Advocacy System for Connecticut. www.disrightsct.org



Center for Public Representation is dedicated to enforcing and expanding the rights of people with disabilities and others who are in segregated settings. CPR uses legal strategies, advocacy, and policy to design and implement systemic reform initiatives to promote their integration and full community participation. Working on state, national and international levels, CPR is committed to equality, diversity and social justice in all its activities. <https://www.centerforpublicrep.org/>



CommunicationFIRST is the only national, nonprofit, 501(c)(3) organization dedicated to protecting and advancing the civil rights of the more than five million people of all ages in the United States who, due to disability or other condition, are unable to rely on speech alone to communicate. <https://CommunicationFIRST.org/>



The Arc Connecticut is our state's oldest and largest advocacy organization for people with intellectual and developmental disabilities (I/DD) and their families. The ARC Connecticut is a chapter of The Arc of The United States. In Connecticut, our 13 Arc local chapters deliver over \$100 million in jobs, supports and services to thousands of people in 162 communities. <https://thearcct.org/>



The Arc of the United States is the nation's largest organization of and for people with I/DD. The Arc promotes and protects the human and civil rights of people with I/DD and actively supports their full inclusion and participation in the community. <https://thearc.org/>



Independence Northwest: Center for Independent Living of Northwest CT, Inc., is a federally and state recognized Center for Independent Living, IN is responsive to our communities and provides systems advocacy to ensure that people with disabilities aren't discriminated against by lack of architectural or attitudinal accessibility and public policy. <https://www.independencenorthwest.org/>