



**NEVADA DISABILITY
ADVOCACY & LAW CENTER**

NEVADA'S PROTECTION & ADVOCACY SYSTEM FOR INDIVIDUALS WITH DISABILITIES

April 7, 2020

Governor Steve Sisolak
State Capitol
Office of the Governor
101 North Carson Street
Carson City, Nevada 89701

Dear Governor Sisolak:

Nevada Disability Advocacy & Law Center (NDALC) is Nevada's protection and advocacy system designated by the Office of the Governor of the State of Nevada. NDALC is mandated to provide protection and advocacy services for Nevadans who have mental, developmental, and/or physical disabilities pursuant to the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. §10801, *et seq.*, the Developmental Disabilities Assistant and Bill of Rights Act, 42 U.S.C. §15041, *et seq.*, and other enabling statutes. NDALC appreciates the work by the stakeholders that went into the 2017 Nevada Crisis Standard of Care Plan.

However, NDALC with other disability advocacy groups are concerned about potential disability-based discrimination in medical treatment through rationing of medical treatment during this COVID-19 pandemic. Federal disability rights laws—including the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act—continue to be in effect during this time of emergency. These laws broadly protect people with disabilities against discrimination in receiving medical treatment.

On March 28, 2020 the U.S Department of Health and Human Services (HHS) issued a Bulletin entitled "Civil Rights, HIPAA and the Coronavirus Disease 2019": <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf> which states that anti-discrimination laws remain in effect and 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. Decisions by covered entities concerning whether an individual is a candidate for treatment should be based on an individualized assessment of the patient based on the best available objective medical evidence.

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Some basic considerations to avoid disability discrimination that should guide state and healthcare officials during this pandemic have been developed by disability advocacy groups. A summary of these principles are:

- The lives of people with disabilities are equally worthy and valuable as those of people without disabilities.
- People with disabilities must have an equal opportunity to receive life-sustaining treatment.
- The fact that an individual with a disability requires support (minimal or extensive) to perform certain activities of daily living is not relevant to a medical analysis of whether that individual can respond to treatment.
- Doctors and triage teams must refrain from employing assumptions and stereotypes about the worth or quality of the life of a person with a disability in making decisions about medical treatment.
- Doctors and triage teams must not assume that they are free from conscious or unconscious bias in making critical life and death health care decisions, given the reality that people with disabilities have long experienced discrimination in receiving medical care.
- To avoid discrimination, doctors or triage teams must perform a thorough individualized review of each patient and not assume that any specific diagnosis is determinative of prognosis or near-term survival without an analysis of current and best available objective medical evidence and the individual's ability to respond to treatment.
- Doctors and triage teams must not reallocate ventilators of individuals with disabilities who use ventilators in their daily lives and come to the hospital with symptoms of COVID-19. Individuals with disabilities who use ventilators in their daily lives should be allowed to continue to use this personal equipment if they receive COVID-19 treatment at a hospital.

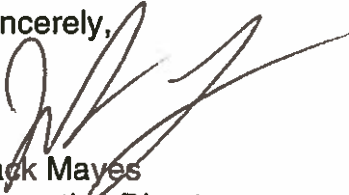
More detail about this issue can be found at the Center for Public Representation's website: https://www.centerforpublicrep.org/wp-content/uploads/2020/04/Guidance-to-States-Hospitals_FINAL.pdf. Enclosed is a copy for your easy reference.

NDALC appreciates your strong leadership in protecting the lives of Nevadans, including Nevadans with disabilities, during this health crisis.

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NDALC is available to discuss disability related issues/concerns with your Office or others during the pandemic.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jack Mayes', written over the word 'Sincerely,'.

Jack Mayes
Executive Director

Encl. Center for Public Representation document