



TENNESSEANS WITH DISABILITIES WELCOME STATE'S IMPROVED GUIDELINES: REVISIONS PROHIBIT DISCRIMINATION IN HEALTHCARE RATIONING

For Immediate Release
June 26, 2020

NASHVILLE, TN - Tennessee has issued revised guidance prohibiting healthcare providers from discriminating against people with disabilities even when public health emergencies such as the COVID-19 pandemic necessitate rationing of scarce resources. In response to a complaint filed by disability rights advocates ([View complaint](#)), the Tennessee Department of Health and COVID-19 Unified Command have revised the "Guidance for the Ethical Allocation of Scarce Resources During a Community-Wide Public Health Emergency as Declared by the Governor of Tennessee." The revised document replaces the prior version released in July 2016 ([View revised document](#)).

The revised guidance has effectively put Tennessee health providers on notice: Tennesseans with disabilities must be treated equally in healthcare decisions including those made during the COVID-19 pandemic or other public health emergencies. The protections of the Americans with Disabilities (ADA) and similar laws are not curtailed during emergencies.

"We appreciate Tennessee's prompt response to our complaint and willingness to meet the needs of people with disabilities by addressing issues beyond those we initially raised," said Brian Keller, Public Policy Attorney at Disability Rights Tennessee.

Key revisions to the guidelines include:

- Removal of categorical exclusions based on disability in favor of individual assessments. An individual can no longer be excluded from treatment based solely on a diagnosed disability.
- Narrowing the scope of survivability assessments from one year to imminent survival.
- Requiring reasonable modifications when necessary due to disability. This includes modifications to survivability assessment tools. For example, a person's speech disability may negatively impact these assessments even though she does not have a lower likelihood of imminent survival.

In addition to these key changes, the revised guidelines incorporate civil rights requirements issued by the Office of Civil Rights for the Department of Health and Human Services and encourage hospitals and long-term care facilities to modify visitor policies on a case-by-case basis when they can do so safely.

Martie Lafferty, Director of the Accessibility Project at the Civil Rights Education and Enforcement Center expressed appreciation for the timing of Tennessee's revisions saying, "In this moment of public health uncertainty, as we anticipate with dread a second wave of COVID-19 infections, it is gratifying that Tennessee has taken this important step to ensure equal access to healthcare under all circumstances. Tennesseans with disabilities no longer need to fear they will be treated as second class citizens when seeking medical treatment during a public health emergency."

Carol Westlake, Executive Director of the Tennessee Disability Coalition added, “We’re incredibly grateful to the State for its quick and decisive action. While this important and updated guidance lays out a comprehensive roadmap for healthcare administrators, it’s equally important for Tennesseans to understand their individual rights under state and federal laws. Because it takes time for top-down guidance to make it to frontline providers, it is critical for people with disabilities to know their rights and advocate for them.”

If you or a family member have a disability and are being negatively impacted by healthcare rationing or visitor policies at a Tennessee health care facility, please contact Disability Rights Tennessee at 1.800.342.1660 or by email at GetHelp@disabilityrightstn.org

Tennessee organizations which took the lead on filing the complaint that prompted Tennessee to issue these revised guidelines are the Civil Rights Education and Enforcement Center, Disability Rights Tennessee, The Arc Tennessee, and the Tennessee Disability Coalition. Individuals from these organizations are available for interviews as indicated below. In addition, multiple additional Tennessee and national organizations joined as complainants and/or counsel. Several individuals with disabilities joined as complainants. A full list of complainants and counsel follows.

To schedule an interview, please contact:

- Julie Yates, Civil Rights Education and Enforcement Center: jyates@creeclaw.org, 303-945-3204
- Kelsey Loschke, Disability Rights Tennessee: kelseyl@disabilityrightstn.org, 615-732-6965
- Loria Hubbard, The Arc Tennessee: lhubbard@thearctn.org, 615/417-7522
- Tom Jedlowski, Tennessee Disability Coalition: tom_j@tndisability.org, 615-972-4147

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Civil Rights Education and Enforcement Center (CREEC) is a nonprofit membership organization whose goal is to ensure that everyone can fully and independently participate in our nation’s civic life without discrimination based on race, gender, disability, religion, national origin, age, sexual orientation, or gender identity. <https://creeclaw.org/>.

Disability Rights Tennessee (DRT), formerly Disability Law & Advocacy Center of Tennessee, is the designated protection & advocacy agency for Tennessee. DRT provides free legal advocacy services to protect the rights of Tennesseans with disabilities. For 40 years, DRT has served over 50,000 people through direct services, education, and systemic advocacy. <https://www.disabilityrightstn.org/>

The Arc Tennessee is a grassroots, nonprofit, statewide advocacy organization for people with intellectual and developmental disabilities and their families. Founded in 1952, The Arc Tennessee is affiliated with The Arc United States and works collaboratively with local chapters across the state. The Arc Tennessee empowers people with intellectual and developmental disabilities and their families to actively participate in the community throughout their lifetime. <https://www.thearctn.org/>

The Tennessee Disability Coalition is a 501(c)3 nonprofit alliance of 40+ member organizations and individuals joined to promote the full and equal participation of people with disabilities in all aspects of life. With programs, policy, and purpose we collectively advocate for self-determination, independence, empowerment, and inclusion for people with disabilities in areas such as accessibility, education, healthcare, housing, and voting rights. For more information about the Tennessee Disability Coalition, please visit www.tndisability.org, email coalition@tndisability.org, or call (615) 927-3694.

Individual Complainants

Erin Brady Worsham
Jean Marie Lawrence
Toni and Wallace Corbin
John and Pam Bryan
Jennifer Aprea

Organizational Complainants (counsel indicated by *)

Disability Rights Tennessee

- Lisa Primm lisap@disabilityrightstn.org
- Sherry Wilds* sherryw@disabilityrightstn.org
- Brian Keller* briank@disabilityrightstn.org

Civil Rights Education and Enforcement Center

- Martie Lafferty* mlafferty@creeclaw.org

Tennessee Disability Coalition

- Carol Westlake carol_w@tndisability.org
- Donna DeStefano donna_d@tndisability.org

The Arc TN

- Loria Hubbard lhubbard@thearctn.org

The Arc of the United States

- Shira Wakschlag* Wakschlag@TheArc.org

Disability Rights Education and Defense Fund

- Claudia Center* ccenter@dredf.org
- Silvia Yee* syee@dredf.org

Autistic Self Advocacy Network

- Sam Crane* scrane@autisticadvocacy.org

The Bazelon Center for Mental Health Law

- Jennifer Mathis* jenniferm@bazelon.org

Center for Public Representation

- Cathy Costanzo* CCostanzo@cpr-ma.org
- Alison Barkoff* abarkoff@cpr-us.org

Samuel Bagenstos* sbagen@gmail.com

Epilepsy Foundation of Middle & West Tennessee

- Eliza Herzen director@epilepsytn.org

National Kidney Foundation

- Michelle Dicken, East and Middle TN michelle.dicken@kidney.org
- Mable Barringer, West TN mable.barringer@kidney.org

National Multiple Sclerosis Society

- Abby Emanuelson abby.emanuelson@nmss.org