



Center for Public
Representation

March 31, 2020
By Electronic Mail

Governor Charles Baker
Secretary Marylou Sudders
Lieutenant Governor Karyn Polito
Attorney General Maura Healey
Senate President Karen Spilka
Speaker of the House Robert DeLeo

Dear Governor Baker and other distinguished State officials:

On March 28th the U.S. Department of Health and Human Services' Office of Civil Rights issued a bulletin making clear that civil rights laws prohibiting discrimination on the basis of disability in HHS funded health programs or activities "remain in effect," including as they apply to the delivery of lifesaving care and treatment during the COVID-19 outbreak. This bulletin can be found at <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>

Consistent with advocates' March 25th letter to the Governor and other Massachusetts officials, the OCR bulletin directs that "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. 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."

We look forward to working with you to ensure this critical OCR guidance is implemented across the Commonwealth, and ask that you share the bulletin and our March 25th letter with your respective offices and the entities you oversee, including the private hospital systems and ethics committees that are responsible for operationalizing triage assessment protocols that comply with federal law. Thank you in advance for your leadership and consideration in this important matter.

Sincerely,

Danna Mauch, president and CEO
Massachusetts Association for Mental Health

Marlene Sallo, Executive Director
Disability Law Center

Cathy Costanzo, Executive Director
Kathryn Rucker, Senior Attorney
Center for Public Representation

Leo Sarkissian, Executive Director
The Arc of Massachusetts

Cc: Daniel Tsai, Acting Secretary, EOHHS; Joan Mikula, Commissioner, DMH; Monica Bharel, M.D., Commissioner, DPH; Jane Ryder, Commissioner, DDS; Toni Wolf, Massachusetts Rehabilitation Commission; Elizabeth Chen, PhD, Commissioner, Elder Affairs