

OKLAHOMA DISABILITY LAW CENTER, INC.

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April 13, 2020
By Electronic Mail

Governor Kevin Stitt
Secretary of Health and Mental Health Jerome Loughridge
Lt. Governor Matt Pinnell
Attorney General Mike Hunter
Senate President Pro Tem Greg Treat
Speaker of the House Charles McCall

Dear Governor Stitt and other distinguished State officials:

We write on behalf of the Oklahoma Disability Law Center (ODLC), the state designated protection and advocacy agency, and all Oklahoman's living with disabilities. ODLC urges the Governor, the Covid-19 Command Center and the Oklahoma State Department of Health to immediately adopt a statewide policy on hospital visitation during the Covid-19 emergency that includes exceptions for people with disabilities who may require a support person to stay with them during emergency room visits and hospitalizations. Currently, Oklahoma hospitals are each developing their own visitor policies that, in many cases, exclude guardians and caregivers of people with disabilities from participation in their care. Individuals with disabilities who need communication or behavioral supports in hospital situations retain their rights to reasonable accommodations under federal law, including the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act and Section 1557 of the Affordable Care Act (ACA), even in a pandemic.

In order to assist the OSDH and the Governor, ODLC has reviewed several policies from various states and hospitals and guidance from our national advocacy partners. We propose that Oklahoma immediately issue a directive stating that hospital visitation policies barring visitors must include an exception with language substantially similar to the following:

“Patients with disabilities who need assistance due to the specifics of their disability may have one designated support person with them. This could include specific needs due to altered mental status, intellectual or cognitive disability, communication barriers or behavioral concerns. If a patient with a disability requires an accommodation that involves the presence of a family member, personal care assistant or similar disability service provider, knowledgeable about the management of their care, to physically or emotionally assist them during their hospitalization, this will be allowed with proper precautions taken to contain the spread of infection.”

(See Rush University Medical Center policy found at <https://www.rush.edu/patients-visitors/covid-19-resources/rush-coronavirus-covid-19-patient-and-visitor-updates>)

In an effort to ease the burden on the patient's designated support person, we recommend that the policy allow the individual with disabilities to have two designated support people but to allow only one support person to be present at a time.

We are on the precipice of a statewide crisis in access to care, as the Governor has so aptly pointed out in recent press briefings. We applaud the strategic steps being taken to avert a crisis in managing both the rates of COVID-19 infection and the comprehensiveness of the State's response. Once again, Oklahoma has an opportunity to be a national leader on these issues, by acting to establish equitable, democratic and nondiscriminatory exceptions to hospital visitation policies that would otherwise deny equal access to healthcare to countless individuals with disabilities across the State.

We stand ready to assist in these efforts, and can quickly bring to bear a range of local and national resources and expertise, including emerging best practices, to support the Governor, the COVID-19 Command Center, and the Oklahoma State Department of Health. At a minimum, we ask that you confirm your receipt of this letter and make clear how the State intends to address the disability community's concerns regarding discriminatory visitation policies.

Thank you in advance for your consideration of this most important issue, and for your long-standing commitment to Oklahoma's citizens with disabilities.

Sincerely,



Melissa Sublett,
Executive Director



Brian S. Wilkerson
Director of Litigation and Legal Services

CC Deputy Secretary of Health and Mental Health Carter Kimble
Commissioner of Health Gary Cox
Chief of Staff Jeff Peters