

Via Email Only

April 17, 2020

Phil Wilson
Acting Executive Commissioner
Texas Health and Human Services
P.O. Box 13247
Austin, Texas 78711

Re: Clarification of HHSC's Guidance to Hospitals on Essential Visitors

Dear Acting Commissioner Wilson,

I write on behalf of Disability Rights Texas, the state designated protection and advocacy agency, concerning the issue of allowing support persons to stay with people with disabilities during ER visits and hospitalizations. Currently, the Texas Health and Human Services Commission's "Guidance to Hospitals to Prevent Spread of COVID-19 in Texas" states that,

Essential visitors include government personnel; one designated caregiver acting on the patient's behalf, such as a parent of a minor or a legally authorized representative; patient family members no more than one at a time; clergy members authorized by the hospital; and additional family members of patients at the end of life or presenting at the emergency department, subject to hospital policy.

See <https://hhs.texas.gov/about-hhs/communications-events/news/2020/03/hhs-provides-expanded-guidance-hospitals-prevent-spread-covid-19-texas> (emphasis added).

While this appears to cover support persons for people with disabilities, we urge HHSC to add clarifying language specifically adding support persons. More importantly, the qualifying language that HHSC's Guidance is "subject to hospital policy" renders the Guidance merely advisory, and thus fails to protect the rights of persons with disabilities. As such, we urge you to issue a statewide policy that expressly guarantees, even during this pandemic, that 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).

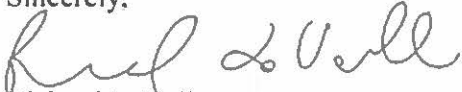
We propose that HHSC's clarified policy remove the loophole giving hospitals the choice to comply and that it include language similar to the following:

Patients with disabilities who need assistance due to the specifics of their disability may have designated support persons 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 assist them physically or emotionally during their hospitalization. this will be allowed with proper precautions taken to contain the spread of infection.

Thank you for your time and consideration to this very important issue. If you have any questions, I can be reached at rvallo@disabilityrightstx.org.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard LaVallo".

Richard LaVallo
Legal Director

Brown, Esther (HHSC)

From: HHSC CTS_Assignments
Subject: Clarification of HHSC's Guidance to Hospitals on Essential Visitors
Attachments: 20200417 Letter to HHSC re Hospital Guidance.pdf

From: Ketriska Phillips <kphillips@disabilityrightstx.org>
Sent: Friday, April 17, 2020 12:31 PM
To: Wilson, Phil (HHSC) <Phil.Wilson@hhsc.state.tx.us>
Cc: Richard Lavallo <rlavallo@disabilityrightstx.org>; Ron.Lucey@gov.texas.gov; randi.turner@gov.texas.gov
Subject: Clarification of HHSC's Guidance to Hospitals on Essential Visitors

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Mr. Wilson,

See the attached letter from Disability Rights Texas. If you have any questions, please contact Richard LaVallo via email rlavallo@drtx.org or phone at 512.407.2746. Thanks.

Ketriska Phillips
Disability Rights Texas
2222 W. Braker Ln.
Austin, Texas 78758
512.407.2736 direct
512.454.4816 phone
512.454.3999 fax

Be Counted! Learn more about the importance of counting all people, including those with disabilities, on our special [Census 2020 webpage](http://www.DRTx.org/en/2020census) at www.DRTx.org/en/2020census

¡Se contado! Infórmate sobre la importancia de contar a todas las personas, incluyendo aquellas con discapacidades, [en el Censo 2020](http://www.DRTx.org/es/censo2020): www.DRTx.org/es/censo2020

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