



December 11, 2020

The Honorable Kevin Stitt
Governor of the State of Oklahoma
The Capitol, 2300 N Lincoln Boulevard
Oklahoma City, OK 73105

Dear Governor Stitt:

On behalf of the undersigned organizations representing people with chronic conditions and disabilities, thank you for your considerable efforts to address the coronavirus (COVID-19) crisis. We write today to comment on the state's draft document entitled "Hospital Crisis Standards of Care"¹ and to request the state of Oklahoma adopt a policy that clearly directs health care providers across the state to refrain from discriminating against people with pre-existing chronic conditions and disabilities in the provision of treatment during the COVID-19 emergency.

COVID-19 continues to present serious risk to Oklahoma's residents, including the patients our organizations represent. As of December 11, 2020, over 291,000 people in the United States have died as a result of COVID-19, including more than 1,900 individuals in Oklahoma.² Furthermore, over the last seven days, more than 22,000 cases in Oklahoma have been reported to the Centers for Disease Control and Prevention (CDC). Unfortunately, the state has reached a new record for the number of Oklahomans hospitalized with COVID-19, creating concern that we may reach a point where the need begins to outstrip capacity.^{3,4} As the spread of the virus shows no signs of slowing down, the capacity of our health care system will continue to be stressed. However, it is critical that our response not be based on discriminatory and outdated ideas about quality of life or the value of people with disabilities and chronic conditions to society.

As described in a March 28, 2020, bulletin issued by the U.S. Department of Health and Human Services (HHS) Office of Civil Rights (OCR), all allocation determinations must be based on individualized patient assessment rather than on the mere presence of an underlying condition or disability. In the bulletin, OCR states, "decisions by covered entities concerning whether an individual is a candidate for treatment

¹ <https://www.ok.gov/health2/documents/Hospital%20Crisis%20Standards%20of%20Care.pdf>

² <https://www.cdc.gov/covid-data-tracker/>

³ https://tulsaworld.com/news/local/covid-19-oklahoma-breaks-another-hospitalization-record-six-new-deaths-reported/article_8a1e3d0c-28e4-11eb-a958-0b40c474ecf5.html

⁴ <https://www.koco.com/article/pediatric-nurses-step-up-as-oklahoma-s-covid-19-hospitalization-numbers-hit-record-highs/34677190>

should be based on an individualized assessment of the patient based on the best available objective medical evidence.”

During these unprecedented times, it is important that health care workers have access to state-wide guidance that ensures all patients are evaluated on a case-by-case basis and decisions about who receives treatment are based on current clinical presentation – regardless of underlying health conditions. We are concerned that Oklahoma’s draft guidelines, dated April 7, 2020, use the mere presence of existing health conditions as a determining factor in deciding which patients receive ventilators in the event that there is an inadequate supply. The mechanical ventilation and external oxygenation allocation guidelines recommend assessing patient prognosis of long-term survival and list moderately severe chronic lung disease, moderate Alzheimer’s disease, end-stage renal disease and more as examples of comorbidities associated with significantly decreased long-term survival. Such provisions could result in the denial of life-saving care based on the presence of an underlying condition.

We urge you to work with our organizations, as well as disability rights organizations in Oklahoma to ensure that the state’s guidelines are centered on individual assessments of each patient and in accordance with the OCR bulletin. Several of our groups have endorsed additional guidance, written by disability rights professionals, on how to implement the bulletin in states.⁵ This should serve as additional assistance toward writing a plan that is equitable, just, and does not discriminate against the people we represent.

We look forward to working with you on revised state guidelines that safeguard the health and affirm the rights of Oklahomans living with disabilities and pre-existing conditions. If you have any questions regarding this letter, or if we may provide further information, please don’t hesitate to contact Adam Kellermann with the Cystic Fibrosis Foundation at akellermann@cff.org. Thank you for your consideration.

Sincerely,

American Diabetes Association
American Kidney Fund
Arthritis Foundation
Cystic Fibrosis Foundation
Epilepsy Foundation Oklahoma
National Multiple Sclerosis Society
National Organization for Rare Disorders
Oklahoma Bleeding Disorders Foundation

⁵ https://www.centerforpublicrep.org/wp-content/uploads/2020/04/Guidance-to-States-Hospitals_FINAL.pdf