



Alabama Disabilities Advocacy Program  
Box 870395  
Tuscaloosa, Alabama 35487  
O (205) 348-4928  
F (205) 348-3909  
(800) 826-1675  
adap@adap.ua.edu  
<http://adap.ua.edu>

Via Electronic Mail

August 10, 2020

Dr. Scott Harris, State Health Officer  
Alabama Department of Public Health

**Re: Health Care Facility Visitation Policies for Patients with Disabilities**

Dear Dr. Harris:

I write on behalf of the Alabama Disabilities Advocacy Program (ADAP), Alabama's protection and advocacy agency, and the other agencies and organizations who have endorsed this letter. In these unprecedented times, we appreciate the diligent work of the Alabama Department of Public Health (ADPH), state agencies, and healthcare professionals.

We write to you, however, with deep concern about the impact of the State's current policy regarding visitors to patients with disabilities in hospitals, nursing homes, and long-term care facilities. The policy has the effect of denying some people with disabilities access to the in-person supports they require to ensure they can gain equal access to medical care as required by federal law.

The current [State Health Order](#), as amended on June 30, 2020, states the following:

**16. Hospitals and similar institutions.** Effective July 3, 2020, all Hospitals and Nursing Home/Long Term Care Facilities (including Assisted Living and Specialty Care Assisted Living Facilities) shall limit the entrance of visitors, as defined by the facility, and non-essential health care personnel, except for certain compassionate care situations such as maternity, end-of-life, and support for persons with disabilities, as well as any other situations where the presence of a caregiver would facilitate appropriate care.

Although we appreciate that the above-underlined language was added to the prior policy after we wrote to you about this issue, the language is insufficient. ADAP has received multiple reports from our constituents across the state that hospitals, nursing homes, and long-term care facilities are refusing to allow individuals with disabilities to be visited by support persons. This is understandable, given the lack of explanation or clarity in the wording of the policy.

The Protection and Advocacy System for the State of Alabama

Many states have adopted language explaining in far more detail the circumstances in which a support person for a person with disabilities will be permitted to visit, including [New York](#), [New Jersey](#), and [North Carolina](#). Connecticut recently modified its hospital visitation policy as the result of a U.S. Department of Health and Human Services Office of Civil Rights (OCR) [Complaint](#). OCR mediated a [resolution](#) to the Complaint that resulted in Connecticut's issuance of an Executive Order containing a policy which could serve as a model for Alabama. The Executive Order is [here](#).

The Connecticut policy ensures that individuals with disabilities, including those with physical, cognitive or intellectual disabilities, communication barriers, or behavioral concerns, are permitted a support person to accompany them. The policy states that the support person must be asymptomatic and not confirmed positive for COVID-19. It also allows the facilities to conduct temperature scans and deny entry to any individuals suspected of exposure, but only if the risks of such exposure cannot be mitigated.

We urge Alabama to revise its June 30, 2020, Safer at Home Order or to issue a separate order that requires all hospitals and other health care facilities to institute a Support Person Policy which provides for the following:

- Requires all hospitals and other health care facilities to allow designated persons to support disabled patients who may need such support. Such designated support persons may be a family member, personal care assistant, similar disability service provider, or other individuals knowledgeable about the management of a patient's care in order to physically or emotionally assist the patient or to ensure effective communication during the patient's stay in the Facility, provided proper precautions are taken to contain the spread of infection. More than one support person per patient may be designated, to ensure that access continues when a support person must leave to attend to his or her own well-being.
- Applies to all disabilities, including physical, communication, mental health, cognitive, and developmental disabilities.
- Acknowledges that the support person is different from a "visitor," because access to a support person is a reasonable accommodation under federal law that is meant to ensure equal access to medical care.
- Requires Facilities to provide personal protective equipment (PPE) to support persons to keep them safe. If the Facility does not have PPE for the support person, PPE supplied by the support person that the Facility finds adequate may be used.
- Includes procedures for screening support persons for COVID-19 symptoms and for supporters to safely take breaks and leave and re-enter the Facilities.
- Requires Facilities to provide notice of the Support Person Policy, including the requirements of the policy, at all Facility patient entry points and on the Facility's website, and to provide it to patients at the time services are scheduled or initiated. The policy should

be available in different languages and formats to ensure access to individuals who do not speak English and those individuals with vision impairments.

- Recognizes a Facility's legal obligation to ensure effective communication, regardless of the presence of a support person, which may require the use of qualified interpreters or assistive technology.
- Requires Facilities to undertake all efforts to support patients with disabilities employing virtual communication options whenever possible.
- Includes the name of a contact person designated within ADPH to whom questions of violations of the Support Person Policy can be addressed.

Please do not hesitate to contact me at [jtucker@adap.ua.edu](mailto:jtucker@adap.ua.edu) or 205-310-5906 if you have questions regarding this matter or would like additional information. Thank you for your attention to this matter.

Sincerely,



James Tucker, Esquire  
Director, Alabama Disabilities Advocacy Program

cc: Governor Kay Ivey (via email)  
Brian Hale, Esquire, General Counsel, Alabama Department of Public Health (via email)  
David White, Senior Policy Advisor to Governor Kay Ivey (via email)

Endorsing Organizations:

The Alabama Conference of Executives of The Arc  
Chris B. Stewart, President and CEO

Accessible Alabama  
Eric M. Peebles, PhD, CRC, President and Chief Executive Officer

Alabama TASH  
Susan Ellis, Secretary

Alzheimers of Central Alabama  
Miller Piggott, Executive Director

Alabama Service Providers Association,  
DeAnna Ferguson, President

The Disabilities Leadership Coalition of Alabama (DLCA)  
Bill Fuller, Executive Director/Legislative Counsel

Disability Rights and Resources  
Daniel G. Kessler, Executive Director

The Full Life Ahead Foundation  
Judy Barclay, Acting Director

People First of Alabama  
Susan Ellis, Executive Director

Protection and Advocacy for Individuals with Developmental Disabilities (PADD) Advisory Council  
Joshua Echols, Chair

Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council  
Amanda Deason, Chair

UAB Community Psychiatry  
Harry L. Findley, MSW, LICSW, Assistant Professor and Executive Director

United Ability  
Lee Yount, Interim CEO

United Cerebral Palsy Alabama  
Deana Aumalis, President, Board of Directors

United Cerebral Palsy of Mobile  
Glenn Harger, President/CEO

Volunteers of America Southeast  
Wallace Davis, CEO/President