

Coalition of Civil Rights Groups and Legal Scholars Release Report on Intersectional Medical Discrimination During COVID-19

Washington, D.C. – Today, a coalition of civil rights groups and legal scholars announce the release of a new report: [“Examining How Crisis Standards of Care May Lead to Intersectional Medical Discrimination Against COVID-19 Patients.”](#) Crisis standards of care are used to decide who should receive priority for treatment when there are not enough resources to serve everyone. The report explores and addresses how crisis standards of care may perpetuate medical discrimination against people with disabilities, older adults, higher weight people, as well as Black, Indigenous, and other people of color, in hospital care. Many face pervasive negative biases and inaccurate assumptions about their value, quality of life, capacity to communicate and make decisions, and likelihood of survival. During this pandemic, these biases can have deadly consequences when hospitals must make decisions about which critically ill patients should receive treatment.

The report provides an explanation of crisis standards of care policies implemented by states and hospital systems and how they may discriminate against marginalized individuals and communities, the principles that should apply to prevent discrimination, the relevant civil rights legal framework, and recommended strategies to ensure that crisis standards do not discriminate during the pandemic or in the future. The report highlights the deaths of Michael Hickson—a Black father of five with multiple disabilities—and Sarah McSweeney—a white woman with significant disabilities—who were denied life-sustaining treatment by physicians who expressed clear biases regarding the value of their lives.

“The intersectional discrimination about access to and prioritization for treatment during the pandemic is prevalent, persistent and undeniable. The civil rights community must work together to address this blatant, discrimination that literally involves life and death issues. The connections between race and disability have never been clearer.” said Cathy Costanzo, director of the Center for Public Representation.

The authors of the report include the Bazelon Center for Mental Health Law, the Lawyers’ Committee for Civil Rights Under Law, The Arc of the United States, the Center for Public Representation, Justice in Aging, Disability Rights Education and Defense Fund, the National Disability Rights Network, the Autistic Self Advocacy Network, Professor Jasmine Harris of the University of California, Davis School of Law, and Professor Natalie M. Chin of the City University of New York School of Law.

Many of the advocates, including the Center for Public Representation, who authored this report have been involved in [filing a number of complaints](#) with the U.S. Department of Health and Human Services, Office for Civil Rights challenging medical discrimination by states and hospitals, including discriminatory crisis standard of care plans, no-visitor policies, and inaccessible COVID-19 testing sites. Through this work, advocates have reached resolutions with a number of states and hospitals that make significant progress toward preventing medical

discrimination during COVID-19. However, as outlined in this report, much work remains to be done to ensure every individual, regardless of their identity, receives equal access to care during this pandemic and in the future.

“We have learned, painfully, that the impact of the pandemic is not equal. It has ravaged communities of color, people with disabilities, and older adults in a most unequal way. It is now our mission to ensure that the medical care, vaccines, and treatments for COVID-19 are equally available to all who need it,” said Steven Schwartz, the Legal Director of the Center for Public Representation.