



**DEPARTMENT OF DISABILITIES**

*Carol Beatty, Secretary*

**DEPARTMENT OF HEALTH**

*Robert R. Neall, Secretary*

September 24, 2020

Casey Shea, Esq.  
Disability Rights Maryland  
1500 Union Ave., Suite 2000  
Baltimore, Maryland 21211-1982

Dear Disability Community Stakeholders:

Thank you for your letter to the Maryland Departments of Health (MDH) and Disabilities (MDOD) on August 26, 2020 regarding various recommendations on changes to healthcare facility visitor and reasonable accommodation policies for individuals with disabilities and their support persons.

Please see the attached two notices and FAQ, which we believe address your concerns. Both MDH and MDOD will post these notices on our respective websites. We will continually monitor developments in this important area and will make additional changes in guidance as appropriate.

Please let us know if you have any additional questions or concerns. Please do not hesitate to contact MDOD Deputy Secretary Christian J. Miele at [christian.miele@maryland.gov](mailto:christian.miele@maryland.gov) or MDH Director of Governmental Affairs Webster Ye at [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov).

Carol A. Beatty  
Secretary  
Department of Disabilities

Robert R. Neall  
Secretary  
Department of Health



**DEPARTMENT OF DISABILITIES**  
*Carol Beatty, Secretary*

**DEPARTMENT OF HEALTH**  
*Robert R. Neall, Secretary*

**NOTICE - Access to Support for Patients with Disabilities in Health Care Settings  
(September 24, 2020)**

All licensed Maryland hospitals, related institutions, freestanding medical facilities, freestanding ambulatory care facilities, chronic disease centers, hospice care facilities, comprehensive rehabilitation facilities, nursing homes, and assisted living programs (collectively health care providers) shall adopt policies **on or before October 1, 2020** that both comply with applicable U.S. Centers for Disease Control and Prevention (CDC) guidance and State and federal regulations and recognize the rights and needs of individuals with disabilities. **This Notice replaces the Notice to Patients with Disabilities in Hospital Settings from May 11, 2020.**

Such policies shall include, at a minimum:

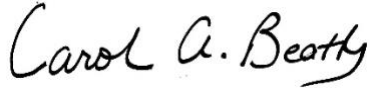
- Provisions authorizing support persons to accompany, visit, and stay with individuals with disabilities during their visits to health care providers.
- Provisions for the designation of support persons who may accompany, visit, and stay with individuals with disabilities during their visits to health care providers.
- Provisions defining a support person as a family member, personal care assistant, similar disability service provider, or other individual knowledgeable about the management or care of the patient who is authorized to assist the patient in making decisions.
- Provisions establishing a process for individuals with disabilities to propose other reasonable accommodations that also comply with the health care's infection control policy.

Health care providers shall also adopt policies regarding communications with families and caregivers of patients with disabilities who do not have a support person present during the patient's visit. Health care providers shall explain these policies to patients' support persons, preferably before the patients arrive at the health care provider.

All support persons shall be subject to screening for COVID-19 symptoms upon arrival at the health care provider and periodically during their stay, if appropriate. Persons with COVID-19 symptoms shall not be permitted to serve as a support person and must immediately leave the hospital. In addition, health care providers shall provide appropriate PPE, and all support persons shall be required to don that PPE and comply with health care provider policies regarding use and conservation of that PPE.

All health care providers shall provide a copy of their policies regarding support persons for those with disabilities to all patients and shall post a copy of this notice in an area accessible to all patients. In addition, health care providers shall post a copy of the attached notice regarding remedies for violation of this notice in an area accessible to patients and shall provide a copy to all patients.

Failures to comply with this notice may result in the imposition of sanctions in accordance with applicable regulations.



---

Carol A. Beatty  
Secretary, Department of Disabilities



---

Robert R. Neall  
Secretary, Department of Health



**DEPARTMENT OF DISABILITIES**

*Carol Beatty, Secretary*

**DEPARTMENT OF HEALTH**

*Robert R. Neall, Secretary*

## **NOTICE – SUPPORT PERSONS FOR INDIVIDUALS WITH DISABILITIES (SEPTEMBER 24, 2020)**

State and federal law prohibits discrimination against individuals based on disability. In addition, the Secretary of Health and the Secretary of the Department of Disabilities require all licensed Maryland hospitals, related institutions, freestanding medical facilities, freestanding ambulatory care facilities, chronic disease centers, hospice care facilities, comprehensive rehabilitation facilities, nursing homes, and assisted living programs (collectively health care providers) to adopt policies allowing support persons for individuals with disabilities to stay with those persons during visits to health care providers (the Access Notice).

If you believe that one of the listed health care providers is violating the Access Notice, you may file a complaint with the Maryland Department of Health's Office of Health Care Quality by following the process described here:

<https://health.maryland.gov/ohcq/Pages/Complaints.aspx>.

If you believe that you are a victim of discrimination because of your disability, you may file a complaint with any of the following:

Effective October 1, 2020, you may file a complaint with MDH's Office of Equal Opportunity, Equal Access Compliance Unit and/or the Maryland Commission on Civil Rights.

Office of Equal Opportunity Programs  
Maryland Department of Health  
201 W. Preston Street, Suite 422  
Baltimore, MD 21201  
Phone: 410-767-6600

Fax: 410-333-5337

MD Relay: 711

Email:

Delinda Johnson Blake, Equal Access Compliance Manager at  
[delinda.blake@maryland.gov](mailto:delinda.blake@maryland.gov)

Andrea Gillespie, Equal Access Compliance Officer at  
[andrea.gillespie@maryland.gov](mailto:andrea.gillespie@maryland.gov)

AND/OR

Maryland Commission on Civil Rights (MCCR)

6 Saint Paul Street, Suite 900

Baltimore, MD 21202

Phone: 800-637-6247 | 410-767-8600

MD Relay: 711

Online: <https://mccr.maryland.gov/Pages/Intake.aspx>

You also may file complaints with the following federal agencies if you believe you have been subject to discrimination by a health care provider:

U.S. Department of Justice (via mail)

Civil Rights Division

950 Pennsylvania Avenue, NW

4CON, 9th Floor

Washington, DC 20530

Online: <https://civilrights.justice.gov/report/>

Fax: (202) 307-1197

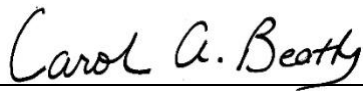
More information on the DOJ complaint process may be found by visiting:

[https://www.ada.gov/filing\\_complaint.htm](https://www.ada.gov/filing_complaint.htm)

**AND/OR**

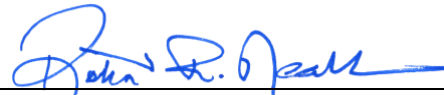
Centralized Case Management Operations  
U.S. Department of Health and Human Services (via mail)  
200 Independence Avenue, S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201  
Email to [OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov)  
Online: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

More information on the HHS complaint process may be found by visiting:  
<https://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process/index.html>



---

Carol A. Beatty  
Secretary, Department of Disabilities



---

Robert R. Neall  
Secretary, Department of Health



**DEPARTMENT OF DISABILITIES**

*Carol Beatty, Secretary*

**DEPARTMENT OF HEALTH**

*Robert R. Neall, Secretary*

**Access to Support for Patients with Disabilities  
in Health Care Settings - Frequently Asked Questions (FAQ)  
(September 24, 2020)**

On September 24, 2020, a revised joint notice was issued by the Maryland Department of Health and the Maryland Department of Disabilities entitled “Access to Support for Patients with Disabilities in Health Care Settings”. The purpose of the notice was to notify health care facilities to adopt visitation policies that comply with both applicable U.S. Centers for Disease Control and Prevention (CDC) guidance and federal regulations and recognize the needs of individuals with disabilities.

The information outlined in this document is restricted to use during the state of emergency declared by Governor Hogan to manage the COVID-19 pandemic and will expire immediately upon termination of the state of emergency.

Below are FAQs to assist health care facilities in developing visitation policies in compliance with the revised joint notice.

**1. What is the definition of “disability”, as used in the notice?**

The definition of disability is the Americans with Disabilities Act definition:

42 U.S.C. § 12102

As used in this chapter:

- (1) Disability - The term “disability” means, with respect to an individual—
  - (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
  - (B) a record of such an impairment; or
  - (C) being regarded as having such an impairment (as described in paragraph (3)).
- (2) Major life activities
  - (A) In general

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of “disability” in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

(B) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.



(E)

(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) reasonable accommodations or auxiliary aids or services; or

(IV) learned behavioral or adaptive neurological modifications.

(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(iii) As used in this subparagraph—

(I) the term “ordinary eyeglasses or contact lenses” means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(II) the term “low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

## **2. What is the definition of a support person in a health care facility setting?**

A support person may be a family member, personal care assistant, similar disability service provider, or other individual knowledgeable about the management or care of the patient who is authorized to assist the patient in making decisions.

**3. What types of patients would a support person be appropriate for in a health care facility setting?**

Types of patients that a support person would be appropriate for in a health care facility setting include but are not limited to:

- i. Patients with intellectual or developmental disabilities,
- ii. Patients with physical disabilities or limitations,
- iii. Patients with neurocognitive disorders

**4. Who can fill the role of a support person?**

- a. A support person may be a family member, personal care assistant, similar disability service provider, or other individual knowledgeable about the management or care of the patient.
- b. A patient may designate up to two support persons during their stay, but only one may be present at any given time.

**5. What considerations are there for support persons and COVID-19 symptoms?**

- a. Patients with disabilities, regardless of diagnosis or symptoms of COVID-19, are permitted to have access to support persons.
- b. In compliance with the health care facility policy, a support person is assessed for COVID-19 symptoms upon initial entry to the health care facility.
- c. Individuals with COVID-19 symptoms shall not be permitted to serve as a support person

**6. What are the considerations for PPE use?**

- a. Support persons shall be provided appropriate PPE, including instruction on how to utilize and conserve PPE.
- b. Support persons will conform with PPE procedures.

**7. Are support persons restricted to the room of the person with a disability?**

No, support persons are permitted to access restrooms, food, and drink while in the health care facility.

**8. How does an individual request to be designated as a support person?**

- a. All health care providers shall provide a copy of their policies regarding support persons for patients with disabilities.
- b. Health care facilities shall post a copy of “NOTICE - Access to Support for Patients with Disabilities in Health Care Settings (September 24, 2020)” in an area accessible to all patients.
- c. The health care facility support person policy shall contain point of contact information.
- d. Health care facilities shall be capable of processing support person requests during all operational hours.