

HHS OCR Achieves Resolution of Federal Complaint Challenging MedStar Health's Visitation Policies and Discriminatory Denial of Equal Access to Medical Care During COVID-19 Pandemic

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WASHINGTON, D.C. – In a resolution that applies to all MedStar Health Inc. (“MedStar Health”) care locations in Washington, D.C., Maryland, and Virginia, MedStar Health has agreed to end its discriminatory treatment of patients with disabilities, including William King, a 73-year old man with communication-related disabilities, and to modify its policies to ensure patients with disabilities can access the in-person supports needed to communicate and have equal access to medical care during the COVID-19 pandemic.

In response to a federal disability discrimination [complaint](#) filed on September 16, 2020, by Disability Rights DC at University Legal Services (DRDC) together with CommunicationFIRST, the Center for Public Representation, the Arc of the United States, the Autistic Self Advocacy Network, the Civil Rights Education and Enforcement Center (CREEC), Quality Trust for Individuals with Disabilities, and the Washington Lawyers’ Committee for Civil Rights, the Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services reached an agreement with MedStar Health to revise its no-visitor policies at all MedStar Health care locations to make clear that patients with disabilities who require support persons to communicate or otherwise access the programs and services of MedStar Health are entitled to access those in-person supports with appropriate coronavirus safety mitigation measures.

The District lacks clear, mandatory District-level guidance and policy to prevent discrimination against patients with disabilities. Instead, it has allowed health care entities like MedStar Health to set their own policies regarding in-person supports and other communication-related accommodations during the pandemic and gives these entities significant discretion to implement its policies. OCR’s resolution serves as a model for District-wide adoption.

MedStar also committed, in a separate resolution with Mr. King, to allow his support persons to accompany and stay with Mr. King at any MedStar Health care locations to ensure access to effective communication in his treatment consistent with MedStar Health’s revised policy.

The [complaint](#) alleged that MedStar Health discriminated against Mr. King in its implementation of its no-visitor policy by refusing to allow Mr. King’s support person to accompany him during his stay in the MedStar Washington Hospital Center and the MedStar National Rehabilitation Hospital and failing to provide technical auxiliary aids and services to ensure effective communication, in violation of federal law and subjecting Mr. King to serious risk of inadequate medical care, unnecessary physical and chemical restraints, and lasting emotional harm. With OCR’s leadership, the parties engaged in an Early Complaint Resolution process resulting in the agreement.

The new [MedStar Health policy](#) in part:

- Requires all MedStar Health care locations in the District of Columbia, Virginia, and Maryland to allow patients with disabilities to designate support persons to support them throughout their stay or visit at MedStar Health
- Recognizes that support persons may need to assist the patient with a disability regarding:
 - Needs that are not visually apparent to someone who does not know them (e.g., discomfort, hunger, thirst, pain)
 - Changes in their symptoms
 - Needs related to a history of trauma
 - Emotional self-regulation and anxiety management to prevent unnecessary use of physical and chemical restraints
- Acknowledges that MedStar Health has a continuing obligation during the pandemic to provide necessary aids and services and ensure effective communication and equal access to healthcare for patients with and without a support person.

“I am relieved that this is over and hope that MedStar will allow supporters for all people with disabilities that need them now that the policy has changed,” said **Mr. King**. “I filed this case because I wanted to help other people with disabilities so that no one has to go through what I went through. We are very thankful to everyone involved and to the hospital staff that helped me tremendously.”

“Our family was heartbroken that my father thought we left him in the hospital to die,” said **Valerie Turnquist**. “There are no words to express our deepest gratitude to Lyndsay Niles at DRDC, the other organizations who supported the case, and the Office for Civil Rights for expeditiously mediating a resolution. If your loved one has a disability, please ensure they have an advocate and do not ever stop fighting!”

“We are incredibly pleased with the outcome and grateful that OCR moved quickly to ensure that MedStar Health adheres to the communication and health care rights of Mr. King and other people with disabilities who seek equitable treatment in their health care,” said **DRDC Managing Attorney Lyndsay Niles**. “COVID-19 has not created but exacerbated the need for disability justice to end discrimination for people with disabilities in health care and other spaces. This resolution is an important step to help prevent the injustice and harm Mr. King was subjected to from happening to other patients with disabilities in the future.”

“Demonstrating leadership once again, OCR in this second resolution on discriminatory hospital visitation policies during COVID, has made clear that health care providers must follow the Americans with Disabilities Act and other federal laws to ensure patients with disabilities can access the in-person supports they may need,” said **Tauna Szymanski, Executive Director of CommunicationFIRST**. “This resolution makes clear that patients with disabilities have the right to support people even in states like Virginia and the District of Columbia that have not yet adopted a comprehensive statewide policy clarifying these rights.”

“Even in our nation’s capital and surrounding areas, many with intellectual and developmental disabilities are being deprived of basic rights during the COVID-19 pandemic, and we have already seen dire consequences from this discriminatory treatment. We thank OCR for today’s resolution and will continue to fight for the health and well-being of all people with disabilities,” said **Peter Berns, CEO, The Arc**.

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DISABILITYRIGHTSDC

Disability Rights DC (DRDC) at University Legal Services is the federally designated protection and advocacy program for people with disabilities in the District of Columbia. DRDC's mission is to ensure that District of Columbia residents with disabilities have the legal rights to which they are entitled, including the right to be free from harm, the right to individual choice, and the right to full inclusion in the community. <http://www.uls-dc.org/>



CommunicationFIRST

Because communication is a human right.

CommunicationFIRST

CommunicationFIRST is the only national, nonprofit, 501(c)(3) organization dedicated to protecting and advancing the civil rights of the more than five million people of all ages in the United States who, due to disability or other condition, are unable to rely on speech alone to communicate. Run by and for people with expressive communication disabilities, CommunicationFIRST advances its mission by educating and engaging the public, advocating for policy and practice reform, and engaging the justice system to ensure access to effective communication, to end prejudice and discrimination, and to promote equity, justice, inclusion, and opportunity for our historically marginalized community. <https://CommunicationFIRST.org>

Quality Trust

for Individuals with Disabilities

Quality Trust for Individuals with Disabilities

(QT) is a non-profit advocacy organization that has been advancing the interests of people with developmental disabilities (DD) since 2002. QT was founded as part of a settlement in the class action lawsuit (*Evans v. Bowser*) that closed Forest Haven, the institution for DC residents with DD. QT monitors the quality of the services provided and advocates for whatever changes or improvements are needed to enable people with DD to live full, healthy, and meaningful lives. QT has supported thousands of people with disabilities through our legal, lay advocacy, and monitoring programs, as well as systemic reform advocacy in DC and beyond. QT also is a national leader in advancing the decision-making rights of people with disabilities through the use of alternatives to guardianship, including Supported Decision Making. <https://www.dcqualitytrust.org/>



Center for Public
Representation

Center for Public Representation (CPR)

CPR is a national, nonprofit legal advocacy organization that has been assisting people with disabilities for more forty years. CPR uses legal strategies, systemic reform initiatives, and policy advocacy to enforce civil rights, expand opportunities for inclusion and full community participation, and empower people with disabilities to exercise choice in all aspects of their lives. CPR has litigated systemic cases on behalf of people with disabilities in more than twenty states and has authored amici briefs to the United States Supreme Court and many courts of appeals. CPR is both a national and statewide legal backup center that provides assistance and support to the federally-funded protection

and advocacy agencies in each state and to attorneys who represent people with disabilities in Massachusetts. www.centerforpublicrep.org



The Arc of the United States

Founded in 1950, The Arc of the United States is the nation’s largest community-based organization of and for people with intellectual and developmental disabilities (“I/DD”), with over 600 chapters nationwide. The Arc promotes and protects the human and civil rights of people with I/DD and actively supports their full inclusion and participation in the community throughout their lifetimes. The Arc has a vital interest in ensuring that all individuals with I/DD receive appropriate protections and supports to which they are entitled by law. <https://thearc.org/>



The Autistic Self Advocacy Network (ASAN)

ASAN is a 501(c)(3) nonprofit organization run by and for autistic people. ASAN was created to serve as a national grassroots disability rights organization for the autistic community, advocating for systems change and ensuring that the voices of autistic people are heard in policy debates and the halls of power. Our staff work to advance civil rights, support self-advocacy in all its forms, and improve public perceptions of autism. ASAN’s members and supporters include autistic adults and youth, cross-disability advocates, and non-autistic family members, professionals, educators, and friends. <https://autisticadvocacy.org/>



Civil Rights Education and Enforcement Center (CREEC)

CREEC is a nonprofit membership organization whose goal is to ensure that everyone can fully and independently participate in our nation’s civic life without discrimination based on disability or other protected status. Our scope is nationwide and we have offices in Colorado, California, and Tennessee. Through our Accessibility Project, CREEC works to ensure that people with disabilities have equal access and opportunities. <https://creeclaw.org/>



Washington Lawyers’ Committee

Founded in 1968, the Washington Lawyers’ Committee for Civil Rights and Urban Affairs works to create legal, economic and social equity through litigation, client and public education and public policy advocacy. While we fight discrimination against all people, we recognize the central role that current and historic race discrimination plays in sustaining inequity and recognize the critical importance of identifying, exposing, combatting and dismantling the systems that sustain racial oppression. <https://www.washlaw.org>