

## State Continues Refusal to Prevent Discriminatory Rationing of COVID-19 Care; State Legislature Considers Stepping In to Require Protections

The Connecticut State Legislature may step in to require the Department of Public Health (DPH) to issue uniform guidelines to Connecticut's hospitals to ensure that the rights of people with disabilities, older adults, and Black, brown, indigenous and Asian people are protected from discrimination amidst the continuing COVID-19 public health crisis.

Despite repeated requests from [38 advocacy organizations](#) across Connecticut – some dating back nearly a year – DPH continues to refuse to act, potentially putting lives in danger in the absence of clear, consistent, uniform guidelines to prevent discrimination in the event that rationing of life-sustaining treatments becomes necessary during the continuing COVID-19 health crisis.

Legislation to prohibit discrimination in the rationing of health care by a health care provider in a public health emergency is to be considered by the General Assembly's Public Health Committee.

The proposal, [Senate Bill 566](#), has been formally introduced by Sen. Matthew Lesser and Rep. Gary Turco, and is expected to be the subject of a public hearing during the current legislative session, which is largely being held remotely due to safety precautions.

"This is an important public health issue that merits our attention, sooner rather than later," said **Representative Turco**. "It is very concerning that DPH has not acted. Every Connecticut resident should be assured that the quality of care they receive will not be diminished by discriminatory practices. Unfortunately, we still see inconsistent, incomplete, highly questionable, or non-existent policies across our state."

Since last week, when the statewide coalition again called on the Lamont Administration to delay no further, there has been no response. Efforts to have DPH issue guidelines for all Connecticut hospitals have been underway since last March, as the pandemic was first intensifying, urging Standards of Care guidelines to be issued to all providers following the model of other states which acted quickly in the spring of 2020. Since then, many other state health departments, including in [Utah](#) and [Tennessee](#), have provided this kind of essential statewide guidance.

"The state should not be afraid of its own shadow. Rather, it should step up and finally institute a statewide policy for all hospitals to adhere to. It is unconscionable that we see the same avoidance of responsibility repeated day after day, week after week, month after month. The people of Connecticut – *all* the people of Connecticut – expect and deserve better," said **Stephen Byers, attorney with Disability Rights Connecticut**. "There's simply no good reason not to have a uniform policy to prevent discriminatory practices if rationing of care becomes unavoidable. Since DPH inexplicably refuses to act, we are hopeful that the legislature will."

In recent days, Connecticut's state epidemiologist has indicated that due to the spread of highly contagious virus strains, case numbers may again go up in late February or early March. And Gov. Lamont has asked "what happens if this highly infectious strain takes off in Connecticut."

The U.S. Department of Health and Human Services (HHS) publishes facility-level data for hospital utilization, aggregated on a weekly basis. The most recent data for Connecticut, published last week, indicated that Adult ICU Occupancy was above 85% at Day Kimball Hospital, Lawrence & Memorial Hospital, Manchester Memorial Hospital, Middlesex Hospital, St. Francis Hospital & Medical Center, and Yale-New Haven Hospital. Overall Inpatient Occupancy reached or exceeded 80% at 12 hospitals in the state. The numbers prompted one hospital's chief nursing officer to say "It doesn't give us a whole lot of wiggle room, quite honestly."

With no action taken in Connecticut, several hospitals issued their own highly problematic guidelines, which effectively discriminated against people with disabilities, older adults, and Black, brown, indigenous and Asian people (such as applying tests of likely survival for five years after discharge, a test directly discriminating against older people and people of color with inherently shorter lifespans).

The [latest information provided by Connecticut hospitals](#) to DPH shows the disparities and dangers of the lack of a uniform state policy, with nearly two-thirds failing to include adequate policies to protect against discriminatory practices. Yet, DPH continues to refuse to issue uniform statewide guidance.

"What are they waiting for? They've been asked to get started for almost a year. There's no good reason to ignore the imperative to protect every Connecticut resident from discriminatory practices in COVID-19 care. Black and brown people have seen what happens when proper care is delayed or denied. Why is DPH risking waiting until it is too late?," said **Catherine John of Black and Brown United in Action**.

"There is no consistency among hospitals, and prohibited discrimination is in some cases endorsed and justified, and in other cases not prohibited within their policies," DRCT, the CT Coalition on Aging, Unidad Latina en Accion and Black and Brown United In Action wrote to Acting DPH Commissioner Deidre Gifford in December on behalf of the larger coalition. "The inconsistent and problematic responses from the hospitals confirm the urgent need for uniform guidance from DPH to all hospitals prohibiting the affirmative discrimination that it turns out several hospitals have adopted as unwritten policy, and requiring the inclusion of basic protections to ensure that explicit or implicit bias by individual providers does not result in discrimination."

"The arguments for inaction are no longer defensible," said **Marie Allen of the Connecticut Area Agencies on Aging**. "The people of Connecticut need to know when uniform guidelines will be issued to hospitals so they can feel confident that hospital decisions and appeals processes are transparent and shared with patients and caregivers."

#### **Accompanying Documents**

- [HOSPITAL STATUS UPDATE \(PDF\)](#)
- [LIST OF ORGANIZATIONS PARTICIPATING IN COALITION \(PDF\)](#)
- [11 PROTECTIONS TO PREVENT DISCRIMINATION \(PDF\)](#)