

# Access to Support For Patients With Disabilities

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## Policy Statement

The center shall facilitate access to support for patients with disabilities in a manner to prohibit discrimination and to provide for the health and safety of the patients. This policy shall be clearly communicated to the residents with disabilities.

## Policy Interpretation and Implementation

### Definitions:

*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.

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(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.

*Definition of a support person:*

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.

**Procedure:**

1. A copy of this policy will be provided to current residents/resident representatives and going forward prior to or upon admission.
2. A copy of the Maryland Departments of Disability and Health notice, entitled Notice-Access with Disabilities in Health Care Settings (September 24, 2020) will be posted in the center in an area accessible to all patients.
3. Center will 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 and provide a copy to patients.
4. The center Executive Director will be the point of contact for this policy. The Executive Director is available by calling the center’s main telephone number.
5. This policy shall be in effect for all operating hours so that requests for support persons can be honored.
6. 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
7. A patient may designate up to two support persons during their stay, but only one may be present at any given time.
8. A patient may change who they want to be a support person(s) through coordination with the point of contact for this policy.
9. Patients with disabilities, regardless of diagnosis or symptoms of COVID-19, are permitted to have access to support persons.
10. In compliance with the center entrance screening policy, a support person is to enter and exit only authorized entryways/exits, is to be screened for COVID-19 symptoms upon initial entry to the center and again for symptoms,

including fever, every 8 hours while in the facility. Support person(s) with a diagnosis of active COVID-19, COVID-19 signs/symptoms, or recent close contact to someone with COVID-19 shall not be permitted to enter the center to serve as a support person. If possible to mitigate risks, other methods to accomplish support such as virtual communication will be attempted. Patients are free to discuss other options that achieve this objective with the Executive Director.

11. Support person(s) are required to follow the appropriate infection control measures as indicated by the center. The center will provide the appropriate personal protective equipment (PPE) needed with instructions for donning and doffing and conservation of PPE. If required, PPE must be worn continuously and correctly.
12. Support person(s) shall be provided access in the facility for restrooms, food, and drink.

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13. When a support person cannot be present with the patient, the care team will ensure regular communication with a support person of information relevant to the support person's involvement with the care of the patient. These communications should be in real time whenever practicable and provide sufficient detail and time for the support person to raise concerns or recommendations. The care team must facilitate appropriate interpretation for support persons when needed. These communications must comply with the Health Insurance Portability and Accountability Act (HIPAA) and other privacy laws, regulations, and standards. These communications will be documented in the electronic health record.
14. Support persons may also initiate communication with the patient by calling the unit. The facility strives to offer virtual visits between patients and support persons whenever possible, and support persons and patients should ask members of their care team for more information about the availability of and how to use these services.

<b>References</b>	
<b>RA Regulatory Reference Numbers</b>	
<b>Key Tag Numbers</b>	
<b>Other References</b>	<p>MDH Notice – Support Persons For Individuals With Disabilities (September 24, 2020)</p> <p>MDH- Access to Support for Patients with Disabilities in Health Care Settings - Frequently Asked Questions (FAQ) (September 24, 2020)</p> <p>MDH- NOTICE - Access to Support for Patients with Disabilities in Health Care Settings (September 24, 2020)</p>

<b>ated Documents</b>	
<b>Version</b>	September 30, 2020