



Updated: September 16, 2020

## Non-Discrimination in Medical Treatment for COVID-19

State health officials are aware of concerns from disability rights advocates and others that health care providers might consider an individual's disability status, race, or other impermissible factors when determining which patients to treat if health care facilities experience a shortage of resources due to a surge of patients needing life-saving care. Governor Brown, state health and human services officials, hospital system administrators and health care providers are working to prevent Oregon's health care system from being overwhelmed by COVID-19 hospital admissions and from experiencing the tragic health care decisions that care providers have confronted in other states and in other countries. (To find out more about how the state is responding to the COVID-19 emergency, visit the [Oregon Health Authority's novel coronavirus web page](#).)

Whether it is during the COVID-19 pandemic or a future health crisis, the people of Oregon are protected from discrimination in care by unambiguous federal and state laws.

### Federal Law Prohibits Discrimination

The federal Office for Civil Rights at the U.S. Department of Health and Human Services (HHS) issued guidance on March 28, 2020, reminding covered entities (health care providers and health insurers) of their federal legal obligations and responsibilities under Section 1557 of the Affordable Care Act and Section 504 of the Rehabilitation Act which **"prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and exercise of conscience and religion in HHS-funded programs."** Health care providers may not deny medical care to persons with disabilities "on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative 'worth' based on the presence or absence of disabilities. Decisions by covered entities about treatment should be based on an individualized assessment of the patient based on the best available objective medical evidence."<sup>1</sup>

### Oregon Law Prohibits Discrimination

In Oregon all persons are "entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, national origin, marital status or age". Places of public accommodation include hospitals and medical clinics.<sup>2</sup>

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<sup>1</sup> <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>.

<sup>2</sup> [ORS 659A.103 to 659A.145](#).

## **OHA Prohibits Discrimination in the Treatment of Oregon Health Plan (OHP) Members**

OHA recognizes that every OHP member's medical needs are unique and OHP providers, members and their authorized representatives, and their care team make individualized, clinically appropriate decisions that are based on medical necessity. No person, on the basis of mental, developmental, intellectual, or physical disability or a perceived disability, may be unlawfully denied full and equal access to the benefits of OHP services, including COVID-19 treatment, in the event of limited hospital or other health care facility resources and/or capacity. OHA does not discriminate in any of its programs based on age (over 18), national origin, color, pregnancy, disability, race, gender identity, religion, limited English proficiency, sex, marital status, sexual orientation, or other protected class under federal or state law.

### **Resources**

Any individual who believes they are being discriminated against, can get help at:

#### **Bureau of Labor and Industries, Civil Rights Division:**

<https://www.oregon.gov/boli/CRD/pages/index.aspx>

Phone: 971-673-0764

Email: [mcrdemail@boli.state.or.us](mailto:mcrdemail@boli.state.or.us)

#### **Oregon Health Authority, Office of Equity and Inclusion:**

<https://www.oregon.gov/oha/OEI/Pages/Public-Civil-Rights.aspx>

Phone: 844-882-7889, 711 TTY

Email: [OHA.PublicCivilRights@state.or.us](mailto:OHA.PublicCivilRights@state.or.us)

#### **Oregon Health Authority, Health Facility Licensing and Certification:**

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/HEALTHCAREPROVIDERSFACILITIES/HEALTHCAREHEALTHCAREREGULATIONQUALITYIMPROVEMENT/Pages/complaint.aspx>

Email: [mailbox.hclc@state.or.us](mailto:mailbox.hclc@state.or.us)

#### **Contact the Oregon Health Authority Ombuds Program for concerns about access to and quality of care for Oregon Health Plan/Medicaid members.**

Ombuds Program: 877-642-0450 / 503-947-2346 (message line only)

[OHA.OmbudsOffice@dhsoha.state.or.us](mailto:OHA.OmbudsOffice@dhsoha.state.or.us) or send a secure email from the Ombuds website:

<https://www.oregon.gov/oha/ERD/Pages/Ombuds-Program.aspx>

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**Document accessibility:** For individuals with disabilities or individuals who speak a language other than English, OHA can provide information in alternate formats such as translations, large print, or braille. Contact Mavel Morales at 1-844-882-7889, 711 TTY or [OHA.ADAModifications@dhsoha.state.or.us](mailto:OHA.ADAModifications@dhsoha.state.or.us).