

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW



Disability Rights Education & Defense Fund



April 3, 2020

Secretary Mark Ghaly, MD, MPH
California Health and Human Services Agency
1660 Ninth Street, Room 460
Sacramento, California 95814

Sent via email to Mark.Ghaly@chhs.ca.gov

Dear Secretary Ghaly:

We, the undersigned organizations, write to express our appreciation for the recent [Joint Bulletin](#) relating to non-discrimination in medical treatment for novel Coronavirus 2019 (COVID-19), dated March 30, 2020, and ask you to modify the guidance to more explicitly address discrimination against older adults based on age. This joint guidance from the Department of Health Care Services, Department of Public Health, and Department of Managed Health Care is an important reminder to providers and health systems that federal and state authorities prohibit discrimination in healthcare. In particular, we appreciate the explicit reminder that people with disabilities cannot be denied access to care.

Older adults in particular are particularly susceptible to COVID-19, which is why the joint guidance must go further to explicitly discuss discrimination on the basis of age. During a pandemic such as COVID-19 with limited resources, capacity, and time, healthcare providers may resort to internalized biases, including ageism. We have already seen examples in other countries that have prioritized younger patients receiving care over older adults. Therefore, the guidance must make clear that in addition to discrimination on the basis of disability, discrimination on the basis of age is also prohibited. Specifically, we ask that the "Treatment of Medi-Cal Beneficiaries" discussion be expanded to include age, actual or perceived. It should also include an explicit prohibition on triage and triage guidance that consider an individual's estimated remaining number of years of life and other factors that cannot realistically be operationalized without taking age into account. Such policies and practices would run counter to the legal authorities identified in the joint bulletin.

We appreciate everything you and your team are doing to ensure the safety and wellbeing of all Californians during this pandemic. Thank you.

Sincerely,

A handwritten signature in black ink that reads "K. Prindiville".

Kevin Prindiville, Executive Director
Justice in Aging

A handwritten signature in blue ink that reads "Andrew J. Imparato".

Andrew J. Imparato, Executive Director
Disability Rights California

A handwritten signature in blue ink that reads "Susan R. Henderson" followed by a horizontal line.

Susan Henderson, Executive Director
Disability Rights Education and Defense Fund

CC: Dr. Bradley Gilbert, California Department of Health Care Services
Kim McCoy Wade, California Department of Aging