



ARCH Bulletin on COVID-19: Ontario Health's Clinical Triage Protocol for Major Surge in COVID Pandemic

What is Ontario's Clinical Triage Protocol?

A draft document called the Clinical Triage Protocol for Major Surge in COVID Pandemic, dated March 28, 2020 from Ontario Health, is meant to help doctors make difficult decisions about who will receive critical health care during the COVID-19 pandemic if there are not enough medical resources. Doctors will only have to make these hard decisions if there are too many people in the hospitals and there is not enough beds or ventilators or other life-saving medical equipment.

At this time, this document referred to as the Triage Protocol, is only a draft and it is not to be followed by doctors. Currently, doctors have enough life-saving health care equipment for everyone who needs it. Doctors and nurses might have to make these decisions in the future. That is why it is important that doctors have the right information to help them make these decisions in a fair and equal way.

As a person with a disability, you have the right to health care which includes different accommodations to make health care accessible for you. In Ontario, this right is in a law called the *Human Rights Code* and it says that all persons with disabilities must be treated equally and accommodated to the point of undue hardship. This right also applies when receiving critical care like in an Intensive Care Unit at a hospital.

What are ARCH's concerns with the Triage Protocol?

The Triage Protocol was not given to the public by the Government but some groups, including ARCH, read the Triage Protocol. ARCH and many disability groups think that the Triage Protocol does not follow human rights law and discriminates against persons with disabilities.

What Steps has ARCH taken?

On April 8, in working with other members and leaders in disability communities, ARCH wrote a letter to the Ontario Government to tell them to make changes to the Triage Protocol so that it does not have a negative impact on persons with disabilities. ARCH asked the Ontario Government to make changes so that persons with disabilities get equal access to life-saving health care equipment. ARCH sent the letter around to persons with disabilities and organizations that represent persons with

disabilities. There was a lot of support and the letter was signed by 4828 people, 204 groups and organizations, and the Ontario NDP Caucus.

On April 21, the Government sent some organizations, including ARCH, a letter responding to some of these concerns. The letter from the Government said that the Triage Protocol was not final and there were still changes to be made to it. The Government also said that it would be speaking with the Ontario Human Rights Commission and other human rights experts to make sure that any Triage Protocol will treat persons with disabilities equally.

On April 22, ARCH wrote to the Government to thank them for their letter. ARCH also told the Government that it welcomed that they were going to be speaking with the Ontario Human Rights Commission and other human rights experts. But ARCH told the Government that it was worried that even though the Triage Protocol was not final and was still going to have changes made to it, there needs to be a clear statement that this draft Triage Protocol should not be used by doctors. ARCH also told the Government that it should speak to persons with disabilities and disability organizations about the Triage Protocol.

On May 13, ARCH sent another letter to the Government. This letter said that ARCH was worried that it had not heard about the Government speaking to any persons with disabilities or disability organizations about the Triage Protocol. ARCH again told the Government that it must speak to persons with disabilities to hear what they thought about the Triage Protocol and how it would affect them if they had to go to the hospital during COVID-19. ARCH worked with disability groups to write the letter.

The letter also told the Government about the laws that they would be breaking if they did not make some changes to the Triage Protocol. The letter focused on the *Canadian Charter of Rights and Freedoms* which gives all Canadians certain rights that should not be broken by the Government.

ARCH's letter of May 13 asks the Government to:

- Consult with persons with disabilities and experts about how to make the Triage Protocol follow human rights law;
- Tell the public about the changes being made to the Triage Protocol, so the public can ask questions and be included;
- Make specific changes to the draft Triage Protocol and remove the particular disabilities that are mentioned;
- Create ways to make sure that if the Triage Protocol needs to be followed, that

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there are safeguards in place to make sure that persons with disabilities are not negatively impacted;

- Write in the Triage Protocol that doctors cannot treat persons with disabilities differently than other persons; and
- Write in the Triage Protocol that persons with disabilities must be given accommodations when at the hospital.

You can view all of ARCH's letters discussed above on ARCH's website, please use the following link:

<https://archdisabilitylaw.ca/covid/>

Persons with disabilities who live in Ontario can call ARCH for free, confidential legal information and summary advice. To find out about the kind of legal advice ARCH provides and how to book an appointment, please use the following link: <http://archdisabilitylaw.ca/services/>

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