



ARCH Bulletin on COVID-19: June 15: Province issues Recommendations to Allow Visitors in Hospitals, but Fails to Address Rights of Persons with Disabilities

Chief Medical Officer of Health Recommends Hospitals Allow Visitors

On June 15, 2020 Dr. David Williams, Ontario's Chief Medical Officer of Health, issued a memo recommending that hospitals and other acute care health settings begin allowing visitors for patients in these facilities. Dr. Williams' memo stated that hospitals and other health care settings should revise essential visitor policies to allow visits by families, caregivers and others. Further, the memo recommended that visitor policies follow public health measures to prevent the spread of COVID-19. The memo was tweeted by Minister of Health, Christine Elliott:

<https://twitter.com/celliottability/status/1272888722372079619/photo/1>

Dr. Williams' June 15 memo was an update to the memo he issued on March 19, 2020, which strongly recommended that hospitals and other health care settings only allow "essential visitors" which were defined as "...those who have a patient who is dying or very ill or a parent/guardian of an ill child or youth, a visitor of a patient undergoing surgery or a woman giving birth."¹

In response to the March 19 memo, many hospitals developed visitation ban policies and practices that exclude support persons, attendants, communication assistants and other people who provide essential supports for persons with disabilities.

Visitation Bans Discriminate Against Some Patients with Disabilities

On May 26, 2020 ARCH wrote to Premier Ford and Minister Elliott expressing deep concern about the discriminatory impact that hospital visitation ban policies have on some persons with disabilities who require the presence of essential supports to

¹ Memorandum from Dr. David Williams, Chief Medical Officer of Health to all public and private hospitals, dated March 19, 2020, online:
http://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/memos/CMOH_Memo_Hospital_Visitors_Acute_Settings%20COVID-19_March_19_2020.pdf

access health care services on an equal basis as others.² Support persons, attendants and communication assistants provide essential disability-related accommodations, without which some people with disabilities cannot communicate effectively with health care staff about current symptoms, pain and health concerns; cannot make informed decisions about health care treatment; cannot give or refuse consent to treatment; and cannot access health care services. Support persons include paid support workers and chosen supports like family, close friends or members of a support circle or network.

When these in-person essential supports are denied, persons with disabilities are denied equal access to health care services. As a result of hospital visitation bans, some persons with disabilities have not received medical services they needed; other people with disabilities and their families have had to bear a tremendous burden to advocate for their support person, attendant or communication assistant to be granted entry; still others have decided that in the event of a medical emergency they will not contact 911 or go to hospital due to the fear of being there alone without the essential supports they require.

A number of disability groups, organizations and family groups have also expressed these concerns, including Autistics for Autistics Ontario, Communication Disabilities Access Canada³, Family Alliance Ontario⁴, and others.

Urgent Need for Ontario to Direct Hospitals to Allow Essential Supporters for Patients with Disabilities to Enter Health Care Facilities

For the moment, Dr. Williams' June 15 memo is helpful because it now recommends that hospitals and acute care settings allow visitors. ARCH calls upon hospitals to immediately update their visitation ban policies and allow family members, caregivers and others to accompany and provide support to patients with disabilities.

However, Dr. Williams' memo falls short because it does not give much-needed directions to prevent visitation ban policies from discriminating against persons with disabilities in the future. Ontario continues to fail to ensure that people with

² ARCH's May 26 letter is available on ARCH's website: <https://archdisabilitylaw.ca/resource/arch-letter-on-hospital-visitation-bans/>

³ <https://www.cdacanada.com/resources/covid-19/government-relations-to-advocacy/>

⁴ <https://family-alliance.com/equitable-access/>

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(416) 482-8255 (Main) 1-866-482-ARCH (2724) (Toll Free)

(416) 482-1254 (TTY) 1-866-482-ARCT (2728) (Toll Free)

www.archdisabilitylaw.ca

disabilities have equal access to health care services. In particular:

- The Province has not issued directives to hospitals and health care settings. The June 15 memo made recommendations, not directives. Recommendations merely encourage hospitals and health care settings to adopt the measures set out. Directives require hospitals and health care settings to implement measures. Without directives, the Province has left it up to each hospital to decide if and how it will implement the June 15 recommendations. ARCH continues to hear from people with disabilities and their families about hospitals denying patients access to their essential supporters due to visitation ban policies. Clear directives are required to ensure that all hospitals and health care settings uphold the right of persons with disabilities to have their essential supports with them. Clear directives provide for consistent implementation across the province. Without directives, it is likely that some hospitals and health care settings will continue to deny entry to essential supporters.
- The Province has not specifically addressed the needs of patients with disabilities. The June 15 memo recommends that hospitals allow visits for all patients. There is no distinction between visitors and essential supporters who are there to ensure that a patient with a disability can communicate effectively or access health services. Without this distinction, patients with disabilities may lose access to their essential supports if hospitals or the Chief Medical Officer decide to reinstitute visitation bans in the future.
- The Province has not stopped using the term “essential visitor”. ARCH and other disability groups have recommended that term “essential supporter” be used instead of visitor. Support persons, attendants and communication assistants are not visitors. They are persons who provide disability related accommodations that enable persons with disabilities to access health care services. The term “essential supporter” more appropriately recognizes the role that these persons play and the legal rights of persons with disabilities to have supporters provide essential disability-related accommodations.
- The Province has not urged hospital and acute care administrators to remind health care workers and hospital staff that persons with disabilities must be provided with disability-related accommodations necessary to enable them to communicate with and access health care services on an equal basis as

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others. These accommodations can include support persons, attendants and communication assistants. But they can also include services such as sign language or deaf interpreters; augmentative and alternative communication (AAC) aids such as tablets, smart phones, picture-and-text based communication boards and devices; and other customized tools. Some people may use AAC or tools independently, while others may require support to do so.

There is an urgent need for Ontario to develop directives that require hospitals and other health care settings to permit persons who provide essential supports for patients with disabilities to enter health care facilities. Essential supporters should be permitted to enter hospitals and health care facilities even when visitation bans are in place. Persons with disabilities are legally entitled to these disability-related supports and accommodations. Experience in other provinces shows that this can be done safely, while continuing to limit the spread of COVID-19.⁵

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/>

⁵ For a more detailed legal analysis and information about other province's visitation policies, go to ARCH's May 26 letter available on ARCH's website: <https://archdisabilitylaw.ca/resource/arch-letter-on-hospital-visitation-bans/>

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