



**VIA EMAIL**

December 11, 2020

The Honorable Tom Wolf  
Office of the Governor  
508 Main Capitol Building  
Harrisburg, PA 17120

Dr. Rachel Levine, Secretary  
Department of Health  
625 Forster Street, 8<sup>th</sup> Floor West  
Harrisburg, PA 17120

Secretary Teresa D. Miller  
Department of Human Services  
333 Health and Welfare Building  
Harrisburg, PA 17105

**RE: Concerns re COVID-19 Interim Vaccination Plan Version 2.0**

Dear Governor Wolf, Secretary Levine and Secretary Miller,

We write in response to the COVID-19 Interim Vaccination Plan version 2.0 issued by the Pennsylvania Department of Health (DOH) on November 19, 2020 (“the DOH Plan”). We write to highlight concerns from the disability community with the plan as drafted.

The DOH plan must comply with the requirements of federal civil rights law, including the Americans with Disabilities Act, the Rehabilitation Act, and the Affordable Care Act, to ensure that individuals with disabilities have equal access to a vaccine. It is also essential that the plan for vaccine distribution prioritize individuals with disabilities who are at higher risk of COVID -19 because of their disability, receipt of necessary services by outside staff in their homes, or

placement in congregate settings. Further, public trust in the safety of any coronavirus vaccine is critical to the effectiveness of the fight to control the virus.

Given the history of racism in clinical trials and bias in healthcare delivery against communities of color and people with disabilities, some communities have developed a distrust of the healthcare system and may be reluctant to take the vaccine. To build trust and ensure the public understands the vaccine and allocation process, all materials regarding the vaccination protocol must be accessible to all members of the public, including to people with disabilities and with limited English proficiency.

We are pleased that the DOH Plan does not attempt to deny or deprioritize people with disabilities on the basis of disability diagnosis or projections of short or long-term survivability. Such denial or deprioritization would be violative of federal civil rights laws. We are also supportive of the DOH Plan's prioritization of high-risk populations in receiving a vaccine, including people with disabilities in congregate care settings and the workers providing care to those individuals.

However, the DOH plan does not adequately address some of the concerns raised above to protect the rights of people with disabilities at high-risk of COVID-19 and to provide equal access to a vaccine. **Therefore, we request the following revisions or additions to the DOH plan:**

- I. Include individuals with disabilities receiving home health services, home and community-based services, and other disability services in their homes

While the DOH plan recognizes that staff providing "home health services" should be prioritized, it fails to recognize that individuals with disabilities receiving services in their homes by staff should also be prioritized. The CDC identifies people with limited mobility or who cannot avoid coming into close contact with others who may be infected as a population having potentially increased risk of becoming infected with COVID-19. Individuals receiving services in their own homes from staff or family members are not able to maintain social distancing. This group should be included in Phase 1B, just as home health services workers and certain critical workers who cannot work remotely or maintain social distancing. Family members who provide home health services to loved ones outside their household likewise should be included in Phase 1B.

II. Include Intellectual and Developmental Disabilities as part of the disability definition and outreach

While the plan lays out that DOH will work with local entities to identify individuals with mental and physical disabilities for vaccine targeting, it is not inclusive of other disability groups. This list should be expanded to include individuals with intellectual and developmental disabilities to ensure that all populations within the disability community are being considered at each step of the vaccine distribution plan. This is critical given the nationwide data that shows that individuals with intellectual and developmental disabilities are twice as likely to die if they contract COVID.

III. Include State Hospital and Intermediate Care Facility residents as a priority

The DOH Plan includes residents of LTCF and other congregate settings in Phase 1A but does not include residents in the state psychiatric hospitals or intermediate care facilities. Many of those residents are long-term residents of those facilities and these settings are congregate care settings similar to the other settings included. Some residents have underlying health conditions as well as psychiatric, intellectual or developmental disabilities. These facilities have experienced outbreaks of the virus and have had to impose restrictions on visitation and activities for the residents, which, like in other congregate facilities, is very difficult for this population.

IV. Include individuals who have difficulty complying with mitigation measures due to a disability

Individuals unable to wear a face covering due to disability should be included in the DOH Plan's phased approach to vaccination. People unable to wear a face covering are both at higher risk of exposure to COVID-19 and present a higher risk of exposing others to COVID-19. The population of people unable to wear a face covering is defined using categories identified in the DOH Order Requiring Universal Face Coverings and CDC guidance.

The updated DOH Order Requiring Universal Face Coverings (Nov. 17, 2020) includes the following exceptions to the face covering requirement:

- If wearing a face covering would either cause a medical condition, or exacerbate an existing one, including respiratory issues that impede breathing, a mental health condition or a disability.

- If an individual is communicating or seeking to communicate with someone who is hearing-impaired or has another disability, where the ability to see the mouth is essential for communication.

CDC guidance includes the following groups as those who should not wear a mask:

- Anyone who has trouble breathing.
- Anyone who is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- Wearing masks may be difficult for some people with sensory, cognitive, or behavioral issues. If they are unable to wear a mask properly or cannot tolerate a mask, they should not wear one, and adaptations and alternatives should be considered.

For similar reasons, individuals with disabilities who have difficulty understanding or complying with preventive measures, such as hand washing and social distancing, or who may not be able to communicate symptoms of illness should be included in the phased allocation of the DOH plan. These individuals are at higher risk of exposure to COVID-19 for disability-related reasons and should be prioritized accordingly.

V. Consider multiple factors in identifying an individual's risk and prioritization

The DOH Plan generally categorizes risk, and consequently inclusion in Phase 1A, 1B, or 2, based on occupation, medical conditions, and residence in a congregate setting. The DOH Plan, however, does not consider additional risk if an individual has a combination of risk factors from different categories. For example, an individual may be a critical worker included in Phase 2 and have a medical condition included in Phase 2. DOH should consider whether people with multiple risk factors in Phase 2 should qualify for vaccination in Phase 1B.

VI. Ensure the accessibility of vaccine distribution for individuals with disabilities

The DOH Plan identifies vaccine access challenges as a consideration for Phases 2 and 3, but currently only indicates "TBD" for this consideration. DOH should be aware of and address all barriers to access for people with disabilities, including ensuring physical access to sites distributing vaccines and communication access to information related to a vaccine and its distribution.

## A. Physical Access to Vaccination Distribution

The vaccine should be available at all regular sources of care, through public health agencies, and at non-traditional sites of care which may be needed to reach underserved populations that face disparities in access to care.

Determining the location of vaccination sites should also take into consideration access to accessible transportation. Vaccine sites themselves must also be accessible to people with disabilities. This includes, for example, the provision of “drive-up only,” sites. Instead, states must make reasonable modifications, such as establishing mobile vaccination programs or providing no-cost transportation, to ensure that vaccinations are accessible to people with disabilities who do not drive or are in settings that do not provide transportation.

## B. Effective Communication Regarding COVID-19 Vaccination Program

Section 12 of the DOH Plan addresses public information and communication messages, methods, and materials for use in mass COVID-19 vaccination administration efforts to be led by the Office of Communications. The DOH Plan outlines types of communications (e.g., web-based, press briefings), key audiences (e.g., healthcare personnel, employers, public/consumers), and message dissemination. Section 10 of the DOH Plan summarizes methods for reminding vaccine recipients of the need for a second dose.

All communications regarding the vaccine and allocation program must be communicated effectively with people across all disabilities. This includes, but is not limited to, providing the information in plain language, in screen-reader accessible formats, in other alternative formats needed by people with disabilities, including graphic format that is understandable by people who may not be able to read, and in non-English languages spoken in the US.

Specifically, Section 12 of the DOH Plan does not provide any information for ensuring communications and distribution of information is accessible to individuals with disabilities and should be revised to include a plan for ensuring accessible communications. For example, the DOH Plan includes translation of COVID-19 vaccine information into Spanish, German, and Russian, but does not include translation into American Sign Language. Communication of information related to the vaccine should also be provided in plain language that is accessible to individuals with intellectual disability and other cognitive disabilities.

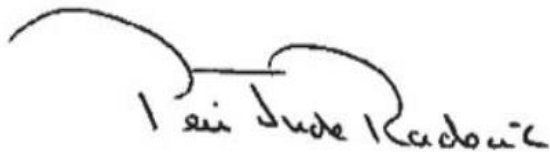
In Section 10, the DOH Plan provides for mailing of postcards, text messages, and phone calls to remind vaccine recipients of the need for a second dose, but

does not include information on how DOH plans to ensure reminder communications are accessible. For example, a postcard will be ineffective for a person who is blind, and a phone call may be ineffective for someone who is deaf. Section 10 of the DOH Plan should be revised to address how DOH will ensure reminders are accessible for individuals with disabilities. Further, the DOH Plan should address in Section 10 how DOH plans to ensure necessary vaccine second doses are administered to vaccine recipients for whom reminders are likely ineffective due to their disability.

Finally, to ensure that communications from DOH related to the vaccine and its allocation effectively reach communities of color in Pennsylvania, we recommend that communication be drafted in line with the National Standards for Culturally Linguistically Appropriate Services (CLAS) in Health and Health Care and the Blueprint for Advancing and Sustaining CLAS in Policy and Practice, as developed by the Office of Minority Health.

We thank you for your consideration of our concerns. We welcome the opportunity to discuss these concerns.

Respectfully,



Peri Jude Radecic  
Chief Executive Officer



Kelly Darr  
Legal Director



Jennifer Garman  
Director of Government Affairs

*On Behalf of:*

Liberty Resources, Inc.

Pennsylvania Assistive Technology Foundation

Pennsylvania Statewide Independent Living Council (PA SILC)

Northeast Pennsylvania Center for Independent Living

Institute on Disabilities, Temple University

PA Developmental Disabilities Council

RCPA

PA Families Need Nurses Now

PEAL Center

Legal Clinic for the Disabled

Center for Independent Living of Central PA

Pennsylvania Health Access Network

Center for Advocacy for the Rights and Interests of the Elderly (CARIE)