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Expanding Opportunities for Persons with Disabilities

March 11, 2021

Hon. Ron DeSantis
Governor of Florida
The Capitol
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GovernorRon.Desantis@eog.myflorida.com

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Re: Distribution of COVID-19 Vaccine Program to Persons with Disabilities in Florida

Dear Governor DeSantis, Dr. Rivkees, Administrator Gaynor and Director Mastandrea:

The undersigned urge you to endorse and require Florida's COVID-19 vaccination and testing programs to ensure that qualified persons with disabilities are given an equal opportunity to participate by providing accommodations to those who are unable to wait in line or are immunocompromised. We also urge you to remove barriers that hinder persons with disabilities, who are at higher risk of death, from receiving the COVID-19 vaccine.

While Florida is proceeding with the vaccination process, and some have even expanded the qualifications to those who have with certain disabilities, the availability of the vaccines is for those who are able to wait in vehicle or other lines, use computers to make appointments, and have readily available access to transportation. The current vaccine distribution plan relies on hospitals, long-term care facilities, supermarkets and pharmacies. Furthermore, the federal government is going to assist with five distribution points across Florida, with no provision for accommodations to persons with disabilities.

Special distribution to persons with disabilities is limited to vaccinating individuals at 3,000 long term care facilities and about 700 skilled nursing facilities. Out of the more than four million persons over 65 in Florida, only 175,000 reside in these facilities.

Other than the vaccine distribution centers and long-term care facilities, this administration has decided to give special status to certain populations of persons, including teachers, law enforcement officers, firefighters, those who survived concentration camps, veterans of the Bay of Pigs invasion, and those residents of selected senior condominiums.

Currently, there are no procedures for persons with disabilities to ask for assistance or accommodation for any part of the vaccination process.

There is an uncontroversial ethical, moral, and legal obligation to ensure that people with disabilities be immunized as a priority. Any group that demonstrates the highest rate of infection or transmission and the highest rate of complications or mortality must be given priority.

In 2010, the Florida Department of Health established a Pandemic Influenza Technical Advisory Committee and commissioned “Pandemic Influenza: Triage and Scarce Resource Allocation Guidelines,” which was completed in 2011. The Committee’s draft was not formally approved or adopted. Under “Basic Premises,” it notes that scarce resources are to be distributed to those who will benefit the most from such resources, as follows:

Ethical goals informing the department's recommendation to allocate resources include: reducing harms and promoting benefits; respecting equal liberty and human rights; ensuring that the burdens imposed by allocation are shared fairly and do not fall disproportionately on some of Florida’s residents. Public officials and healthcare workers should be professional and accountable, and their decision-making process should be open and transparent, culturally sensitive, and sustain public trust. The department recommends focusing on the treatment that would most likely be lifesaving and on those whose functional outcome would most likely improve with treatment. The ethical rationale for this recommendation is that it most likely secures the goals of public health emergency preparedness, including allocating resources, and minimizes the burdens that might result if decisions were made unfairly... In scarcity, efforts should focus on treatments most likely to be lifesaving and on patients most likely to improve with treatment. Decisions should minimize the burdens on others.

In determining who should receive a vaccine, a process must be developed to foster clinician confidence and public trust. A dash to the front of the line, or the drive to give priority to politically favored groups only serve to diminish public trust and dissuades and impedes those who are in greatest need.

All members of civil society need to be more inclusive and embrace those with disabilities to further the goals of respect, social justice, and equality for all. The challenge is to reach consensus on how these goals can be achieved or at least maximized, taking into adequate account that not

all members have the same abilities. Accordingly, the law, as well as ethical standards, requires modifications of normal practices to account for disabilities to be able to achieve these goals. As such, the aim must be to eliminate or minimize disparity of treatment between persons who are unable to access the vaccine without assistance, and whether that need is caused by the disability alone, or by the disability and other contributing socioeconomic or racial factors. For example, a person who is blind should not be required to hire a driver to go to a drive through vaccination station and wait hours for the person to be vaccinated. Similarly, a person with a mobility impairment should not be required to wait in a line at a community center when such waiting would cause additional pain.

Both the Americans with Disabilities Act as well as Section 504 of the Rehabilitation Act requires state and local governments to conduct their programs and services in a manner that does not discriminate against persons with disabilities as well as providing accommodations to the needs of a person with a disability to be able to equally participate in a program or service. This legal obligation contemplates costs that are not an undue burden to the budget of the state program.

There are many solutions that can be implemented in the State of Florida:

- 1) Have options other than a physician's attestation on a form to otherwise qualify to be immunized under Executive Order 21-47:
 - a) Publish a list of types of conditions which would entitle a person to be extremely vulnerable to COVID-19
 - b) Allow the person to present documentation that demonstrates a history of such condition to fulfill the eligibility criteria.
- 2) Provide a method to request an accommodation, including an email and phone number, as well as information that is not solely computer-based to help register for a vaccination.
- 3) Provide a fast-pass method to get a vaccine where the line is shorter or requires an appointment for those who cannot stand or wait for long periods of time.
- 4) Provide a method for immunocompromised people to obtain a vaccine without waiting in line or going into a hospital or vaccination center.
- 5) Provide paratransit, taxi, or rideshare vouchers to deliver and wait for people while they are vaccinated and monitored reactions, and then return them home.
- 6) Provide in-home vaccinations for those who cannot leave home or are severely immunocompromised. As this service is already being provided to select populations, it should not be denied to people with disabilities.

The duty to ensure that persons with disabilities receive accommodations is through every participant in the vaccine distribution process. This includes FEMA, as the operator of large-scale

vaccination points in Florida, the Florida Department of Health and their county partners, and even the pharmacies and supermarkets that the state has contracted with to provide these vaccines. Without developing a plan to consider the needs of Floridians with Disabilities, the federal, state, and local governments, are effectively allowing this extraordinarily at-risk population to be left behind and in danger.

We are urging you to consider immediate implementation of these recommendations and to protect the most vulnerable members of our state.

To discuss these concerns further, please contact Matthew W. Dietz at mdietz@justdigit.org or at (305) 669-2822, who can set up a meeting with community representatives.

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