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November 9, 2023

U.S. Department of Health and Human Services  
Office of Civil Rights  
Attention: Disability NPRM, RIN 0945-AA15  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue SW  
Washington, DC 20201

RE: RIN 0945-AA15

Sent via email to <http://www.regulations.gov/>

To Whom It May Concern:

The West Virginia Developmental Disabilities Council (WVDDC) appreciates the opportunity to comment on the proposed rule for *Section 504 of the Rehabilitation Act: Discrimination on the Basis of Disability in Health and Human Service Programs and Activities*. The WVDDC acknowledges the importance of Section 504 of the Rehabilitation Act of 1973 (Section 504) and commends the Administration's efforts in making updates to protect the rights of people with developmental disabilities. The proposed rule amendments integrate advances in the Americans with Disabilities Act (ADA), the Affordable Care Act (ACA), Supreme Court decisions and case law, and recent Executive Orders.

### **Community Integration**

The WVDDC strongly supports the emphasis on providing services in the most integrated setting. This is so important due to the U.S. Supreme Court's decision in the *Olmstead v. L.C.* case which upheld Title II of the ADA, and the lack of full implementation. Meaningful inclusion and integration continue to be a critical barrier to people with developmental disabilities and their ability to fully participate in their home and community. The Office of Civil Rights (OCR) continues to receive complaints from states concerning serious issues related to the most integrated setting requirement under the ADA. In fact, OCR is in receipt of several complaints from West Virginia citizens and advocacy organizations.

This proposed amendment aligns with the intent of the Developmental Disabilities Act (DD Act) which is rooted in the fundamental belief that, "disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in economic, political, social, cultural, and educational mainstream of United States society."

### **Combating Medical Discrimination**

The WVDDC supports the clause prohibiting biased medical decisions. Individuals with developmental disabilities often face healthcare disparities. Every life is valuable, and medical decisions should uphold this fundamental principle. We strongly support the proposed rule protecting the right to bring a support or communication partner to medical and healthcare settings. The COVID-19 pandemic created a harmful barrier to this right for people with developmental disabilities. Access to support or communication partners in the medical and healthcare setting is

essential for people with developmental disabilities to receive the care and treatment they need. This can be live saving for many.

**Accessibility of Medical Equipment**

Accessibility is required for equity to be achieved. The WVDDC supports the adoption of the U.S. Access Board's standards ensuring everyone can access vital healthcare.

**Digital Accessibility**

With the rise and focus on digital health, adopting WCAG 2.1, Level AA standards are crucial. The WVDDC supports efforts to make digital healthcare platforms accessible to everyone, including those with developmental disabilities.

**Child Welfare**

Eliminating all forms of discrimination in the implementation and provision of federally funded child welfare programs and activities is essential. The WVDDC supports the proposed rule clarifying the rights and needs of children, parents, and caregivers with developmental disabilities in these settings. Federally funded programs and activities must be provided in a manner to ensure equity in meeting the needs of people with developmental disabilities.

**Value Assessment Methods:**

The WVDDC appreciates the foresight in addressing potential discrimination in "value assessment methods." Cost containment should not discriminate against people with developmental disabilities. Federal programs must prohibit discriminatory methods to ensure everyone gets equal treatment and services.

The proposed rulemaking address challenges faced by individuals with developmental disabilities. We urge adoption for the betterment of all citizens.

Thank you for your consideration,



Tina E. Wiseman  
Executive Director

cc: Brandy Beery, WVDDC Chair