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The Honorable Greg Abbott  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Dear Governor Abbott;

Thank you and the many Texas state agency and department leaders and staff for the massive efforts that you have undertaken to provide leadership and mobilize state resources to confront the COVID-19 pandemic.

I write to urge you to use your leadership and vision to take additional steps to protect the welfare of all Texans, but especially those with disabilities, during this crisis. Disability Rights Texas is Texas's designated Protection and Advocacy (P&A) entity. As you are aware, adults and children with disabilities are among those at the greatest risk in this crisis because so many are in institutions or incarcerated, homeless, seniors or medically compromised, or dependent on others for care.

Below, I outline additional steps that we believe are necessary to protect Texans with disabilities. Some are disability-specific, but others are universal measures, such as moratoria on utility shutoffs, and evictions. Although people with disabilities will be disproportionately affected by the loss of services and benefits during the pandemic, protecting everyone in this crisis is the best public policy. As you have recognized, Texas must ensure that all our citizens have access to a safe living situation, medical care and other resources to weather this crisis.

### **Public Benefits and Service Programs**

1. *Medicaid and non-Medicaid Home and Community Based services.* Texans with disabilities rely on community based supports and services funded through Medicaid, Social Services Block Grants and General Revenue. We request that you direct the Executive Commissioner of Texas Health and Human Services Commission to:
  - a. Ensure that recipients of community services have assistance when their care providers are sick or must self-quarantine by
    - i. providing guidance to community attendants to prevent the spread of COVID 19 in Texas,

- ii. creating emergency registries for back-up services and contracting with nursing agencies to provide back-up home care workers,
    - iii. allowing recipients to hire replacement providers with expedited background checks, processing documents or verifying citizenship to eliminate any unnecessary delay, and
    - iv. prohibit overtime limits so that available home care workers can fill unmet needs;
  - b. At the request of the Texas Department of State Health Services, Texas has received a share of personal protective equipment from the Strategic National Stockpile. DSHS is distributing the medical supplies to hospitals and health care providers across the state through the state's Hospital Preparedness Program. Please ensure that as these supplies are distributed to support Texas' health care workers as they work to respond to and mitigate the impact of COVID-19 in Texas, and community attendants and direct support professionals have also access to these Items.
  - c. Immediately offer expanded online provider orientations and permit online provider enrollment to increase the available community services provider workforce.
  - d. Require providers and service coordinators to immediately contact each recipient regarding their choices in developing a COVID-19 contingency plan for when their services and supports may be interrupted;
- 2. Establish or expand expedited recruitment processes for emergency back-up assistance for all formal and informal, government and non-government supports and services to close COVID-19 gaps and keep people independent
  - a. Provide funding to community organizations such as Independent Living Centers and developmental disability service providers to recruit and retain gaps in attendant services, and
  - b. If public health and medical resources or volunteers are needed to fill extreme gaps in services to recipients, provide immediate training and technical assistance to these personnel on self-directed assistance, optimizing health, safety, dignity, and independence as imperatives for maintaining the civil rights of people with disabilities and older adults.
- 3. Texas Medicaid : Direct the Executive Commissioner of Texas Health and Human Services Commission to:
  - a. Halt all terminations and redeterminations of Texas Medicaid eligibility

because continued and expanded access to medical care is critical;

- b. Request an expansion of Texas Medicaid waivers or a disaster waiver under Section 1135 to cover additional Texans, including adults between 26 and 65 and undocumented people, and non-medical support services such as housing, including
  - establishing a hotline,
  - increasing the number of individuals served under a waiver,
  - creating an emergency person-centered service plan,
  - expanding provider qualifications,
  - increasing the pool of providers who can render services,
  - Instituting or expanding opportunities for self-direction,
  - and/or permitting payment to HCBS providers when an individual is in a short-term hospital or institutional stay.
  - temporarily increase individual eligibility cost limits,
  - modify service, scope, or coverage requirements,
  - exceed service limitations,
  - add services to the 1115 and HCBS Medicaid waivers,
  - provide services in out-of-state settings, and
  - permit payment for services rendered by family caregivers or legally responsible individuals.
- c. Ensure continuity and availability of services for children and adults who receive in-home nursing and other services and supports through HCBS waivers, Medicaid State Plan services (including Community First Choice) and Local Intellectual and Developmental Disability Authorities and Local Mental Health/Behavior Health Authorities; and,
- d. For prescriptions, relax “refill-too-soon” rules, provide maximum extended day supplies, and ensure home or mail delivery.
- e. Alert consumers that if schools close or community services and supports are not available as a resource (because the caregiver is sick or the consumer is self-quarantined and the worker is afraid to come), that they will extend Unemployment and Disability Insurance benefits for additional weeks and suspend job search requirements; call on President Trump to declare a federal disaster and extend Disaster Unemployment Assistance to all those affected, as other states and members of congress have done.
- f. provide or fund back-up services such as respite, child care, CNAs, family member providers, etc.;
- g. Remove barriers, including those in purchase of service policies, that prevent the approval of respite, personal care services, and childcare – for example, 30-hour monthly caps on respite; prohibitions on paying live-in

- family members or roommates as respite or personal care providers, etc.;
- h. Ensure that institutions and group homes adopt screening and precautions for COVID-19, including universal access to sanitizer for residents and increased and free video and telephonic visiting for all facilities that have suspended family visits; and,
  - i. Clarify operational protocols for day programs and funded therapy services that remain open and mitigation measures for those that close. Release from state hospitals or place in the Conditional Release Program state hospital residents who are over age 60 or have disabilities and others at elevated risk, including by informing them of the means to request conditional release.
4. Direct TWC to extend Unemployment and Disability Insurance for an additional period and suspend program requirements to ensure continued financial supports; call on our State representatives to support federal emergency aid legislation that will provide direct financial assistance to individuals and families in their time of need.

## **Housing**

5. Impose a moratorium on evictions, foreclosures and termination of housing subsidies, a suspension of existing eviction filings and proceedings (including a halt to writs of possession or execution), and other measures that would impact persons with disabilities ability to live in the community. We urge you not to limit this moratorium to those whose wages have been affected by the pandemic; our public health requires that no additional people lose housing, whatever the reason.
6. Direct every public utility to halt all utility shut-offs and require them to restore services to all consumers who currently lack water, electric, gas or other essential services.
7. Call on all local governments and housing authorities to ensure their policies include people with disabilities while responding to COVID-19 and to ensure that their plans and response provide for accommodations to policies where appropriate.
8. Call on local governments to ensure that they are ensuring people with disabilities are included at the table and

9. Call on local governments to stop homeless encampment sweeps, set up hygiene stations at encampments, and increase cleaning without seizing the possessions that people need to isolate in place. Use the authority in your Executive Order to exercise the State's power to provide housing for homeless individuals who are at risk per CDC guidelines.
10. Call on local government to end all ticketing, arrests and vehicle impoundments of people living in vehicles for vehicle habitation and related parking violations.
11. Encourage Community Development Block Grant ("CDBG") grantees to explore HUD flexibility in how to address the needs of low-to-moderate income individuals during this response to COVID-19.

### **FACILITIES AND INSTITUTIONS (Including Youth in Congregate Care Settings)**

12. Improved screening and precautions in, all state hospitals, state supported living centers and residential treatment facilities, for COVID-19, including universal access to sanitizer for residents and staff.
13. Increase the use of free video and telephonic visiting, including access to personal electronic devices such as cell phones and computers, to facilitate communication at all facilities with family and others.
14. Ensure that youth in confinement have access to mental health and educational services.
15. Ensure continuity of care and appropriate placement opportunities for cross over youth in the TJJD system.
16. Continue to discharge individuals from SSLCs, psychiatric hospitals and residential treatment facilities who have been deemed appropriate for discharge who are not COVID-19 symptomatic and have housing resources. Continue to discharge these same individuals who are COVID-19 symptomatic if they have a place in the community to quarantine
17. Each facility must have plans in place to ensure adequate staffing once staff start calling in sick or are screened out of work upon arrival at the facility.
18. Facilities and institutions, including youth in congregate care settings, must have access to a sufficient number of testing kits so they don't have to be transported off campus for testing.

19. Access to testing kits is of particular importance to Persons with Intellectual Disabilities, a population determined by the Centers for Disease Control to be in a high risk group. Considering the current low staff-resident ratios and the difficulty with some residents traveling, COVID-19 testing should be available on all SSLC campuses.

### **Psychiatric Hospitals**

20. HHSC must develop alternatives to the use of emergency rooms for persons in crisis or on police officer emergency detention.
21. Develop strategies to engage individuals receiving services whose access to programming and activities are decreased which could lead to boredom, increased agitation and aggression.
22. HHSC must develop alternate facilities to address the overflow when hospital beds are not available and individuals need to access the necessary mental health treatment.
23. HHSC must develop quarantine areas or alternate facilities for individual who at admission show signs or symptoms of COVID-19, to ensure that they are not turned away at admission and are still able to access the necessary mental health treatment.
24. HHSC must develop areas within the facility to use as quarantine areas to ensure individuals who become COVID-19 symptomatic during hospitalization don't spread the virus, but are still able to access the necessary mental health treatment.

### **Foster Care**

25. DFPS must ensure continuity of care for physical and mental health services for foster youth in foster or group homes and congregate care settings.
26. DFPS must address the anticipated increased need for food and stipend assistance to foster homes and congregate care placements.
27. DFPS must ensure foster homes and congregate care placements have access to resources, including services for students with disabilities if school districts move to online instruction.

## **Community Mental Health**

28. Local Mental Health Authorities (LMHAs) must be provided testing kits and develop a protocol to determine who gets tested.
29. A strategy must be developed to ensure that individuals with disabilities living in the community have timely access to an adequate amount of medication for both physical and mental health.
30. Community providers must have a process to notify clients if staff that they came in contact with test positive or show symptoms of the virus.
31. LMHAs must ensure that individuals who receive services in their home, for example through ACT, have sufficient staff and protocols to ensure clients receive these necessary services.
32. LMHAs must ensure continuity of services for individuals who have in-office appointments but are following instructions to quarantine or self-isolate.
33. Ensure individuals receiving supported housing (or other housing assistance) are not evicted if they are unable to pay their portion of the service.
34. Local Mental Health Authorities must assist with day to day living services, e.g. utility payments, groceries, medication.
35. LMHAs must ensure adequate staff for crisis calls and mobile outreach services.
36. LMHAs must follow up on individuals, particularly those who have been actively involved and attending appointments previously, if they are not keeping appointments or have lost communication since March 1, 2020 who may be self-isolating.

## **Criminal Justice and Court Operations**

37. Call on local government to reduce county jail and juvenile justice populations by suspending the pre-trial detention of people arrested for non-violent offenses and releasing early all those scheduled for release within the next 60 days who have a housing option.
38. Call on Texas Department of Criminal Justice (TDCJ), Texas Juvenile Justice Department (TJJD), Texas Commission on Jail Standards (TCJS) and local government to adopt improved screening and precautions in all state and county

correctional facilities and prisons for COVID-19, including universal access to sanitizer for youth, detainees, inmates and staff; and increased and free video and telephonic visiting for all facilities

39. Direct TDCJ and all county sheriffs to release youth or parole prisoners and detainees who are over age 60 or have disabilities and others at elevated risk from jail, prison, and juvenile facilities, who have a housing option, including by informing them of the means to request parole.
40. Jails must expedite the plans for use of tele-docs in accordance with the Sandra Bland Act (SB 1849), particularly for clients diagnosed with a mental illness, to facilitate access to medications in jails that do not have a physician on staff.
41. Request that ICE and its Texas contractors release detainees at elevated risk from immigration detention facilities.
42. Urge the Chief Justice to modify state court procedures to extend timelines, permit easy continuances, electronic signatures, expand telephonic appearances

### **Education**

43. Ensure that students with disabilities are provided the assistive technology, large print materials, and classroom supplies that they rely upon at school for continued learning in the home setting during school closures.
44. Ensure that students with disabilities who are medically fragile are continued to be supported and referred to appropriate governmental and community agencies to ensure that their needs that would have been met at school are continuing to be met in the home setting during school closures.
45. Ensure that students with disabilities are provided appropriate mental health supports for continued learning in the home setting during school closures.

### **Response Considerations**

46. Ensure individuals with disabilities have equitable access to testing and any emergency and medical services that have been implemented to address COVID-19. When mobile testing is a primary access point for testing, provide alternate access for those who have limited or no transportation. Prohibit unnecessary placement of people with disabilities in nursing facilities and other institutions.

47. Provide effective communication and accessibility to all information related to the pandemic response.
48. Direct local units of government and leaders of state agencies to include people with disabilities and disability experts at all levels of government response to account for the needs and potential impact of individuals with disabilities throughout this process.
49. Ensure congregate facilities have policies and protocols in place to provide a continuity of services for individuals with disabilities or provide alternative means for care and placement in the least restrictive environment possible. Utilize Public Assistance ("PA") grants available through FEMA to afford life-saving emergency protective and response measures.
50. Guarantee the State Operation Center will adhere to equitable emergency operations by maximizing communication with vulnerable populations per CDC guidelines, follow FEMA's whole community approach and collaborate with disability experts and integrations specialists as problems emerge throughout this emergency, prioritize the most widespread and urgent concerns by responding promptly and effectively to afford sufficient notice to safeguard peoples civil rights.
51. Promote equitable access to emergency and public services regardless of immigration status.
52. Access all available resources, both state and federal to support health care infrastructure in addressing the medical needs of Texas' population.
53. In planning for upcoming elections, including primary run-offs, special elections and the November general election, ensure that voters with disabilities have access to the voting process and the ability to cast a private, independent ballot, by:
  - a. Clarifying and providing guidance to counties regarding who is eligible to cast a ballot by mail;
  - b. Ensuring counties have the resources to address an increase in the number of mail in ballots;
  - c. Ensuring that voters with disabilities continue to have access to accessible electronic voting machines and curbside voting options that enable them to vote independently; and

- d. Ensuring that in-person polling locations are physically accessible and that sufficient numbers of trained poll workers are available to provide assistance to voters

Thank you again for your continuing leadership, and for considering the additional steps outlined above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary Faithfull". The signature is written in a cursive style with a large initial "M".

Mary Faithfull  
Executive Director  
Disability Rights Texas