WA complaint – claimants and advocates came together quickly to strategize and draft a complaint to respond to the discriminatory plans of Washington State.

- Claimants:
  - Disability Rights Washington
    - private non-profit organization
    - designated Protection and Advocacy System for the State of Washington
    - protect and promote the human and civil rights of people with all physical, sensory, mental, or developmental disabilities pursuant to the federal protection and advocacy acts and state law.¹
  - Self Advocates in Leadership
    - statewide coalition of self advocates in Washington State
    - advances the rights of people with developmental disabilities.
    - shape public policies that affect the lives of people with developmental disabilities.
  - The Arc
    - nation’s largest organization of and for people with I/DD.
    - promotes and protects the human and civil rights of people with I/DD
    - actively supports full inclusion and participation in the community.

**WA PLANS**

- WA DOH and group of hospitals
- UWMC

- Plans were developed by doctors and bioethicists
- Plans not made public until local and national media coverage of their existence
  - "Washington state and hospital officials have been meeting to consider what once was almost unthinkable — how to decide who lives and dies if, as feared, the coronavirus pandemic overwhelms the state’s health care system."²

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- plan “will assess factors such as age, health and likelihood of survival in determining who will get access to full care and who will merely be provided comfort care, with the expectation that they will die.”

- **WA DOH guidance**
  - Consider “loss of reserves in energy, physical ability, cognition and general health” to outpatient or palliative care.
  - highly subjective open-ended exclusionary factor that invites physicians to make allocation decisions based on unchecked bias about quality of life of patients with disabilities that does not reflect the actual value those patients place on their lives.

- **University of Washington Medical Center (UWMC) guidance**
  - priority to treating younger and healthier
  - leaves those who are older and sicker—people with disabilities—to die.
  - “overall survival” as “healthy, long-term survival, recognizing that this represents weighting the survival of young otherwise healthy patients more heavily than that of older, chronically debilitated patients.”

**WA COMAPLAINT**

combined the bias found in medical settings with the anti-discrimination laws designed to eliminate bias discussed earlier

- One of the most important principles of disability discrimination law is that it prohibits covered entities from acting based on myths, stereotypes, and unfounded assumptions about people with disabilities.
- Unfortunately bias against disability is pervasive
  - we pointed to several examples

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• studies that show bias in the medical field,
• how training creates and perpetuates bias,
• how doctors offer people with disabilities options to die they would never suggest to people without disabilities due to the perception that a life with a disability is not a life worth living, and
• how some bioethicists are openly hostile to the idea that certain classes of people with disabilities should be afforded the same rights as non-disabled people.

Therefore we focused on the language that:
• “loss of reserves in energy, physical ability, cognition and general health”
• And the focus on the “long-term survival” of “young,” “healthy” patients
• we stressed that all decisions must be individualized determinations, based on current objective medical evidence.\(^7\)
  • not generalized assumptions about a person’s disability.
  • not misguided assumptions that people with disabilities experience a lower quality of life, or that their lives are not worth living.
  • not based on the perception that a person with a disability has a lower prospect of survival generally.
  • not perception that a person’s disability will require the use of greater treatment resources.
  • Must be focused on prospect of surviving the condition for which the treatment is designed—in this case, COVID-19
  • Must be clear from best available medical evidence that the individual will die in the very short term whether treatment is provided or not.

• Into Ivanovna – discuss how this issue impacts the members of SAIL and others with disability