



Advocates for Responsible Care
We will be their voice until their voices are heard.

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Rep. John Lewis
5th District of Georgia
343 Cannon House Office Building
Washington, D.C. 20515

Rep. David Scott
13th District of Georgia
225 Cannon House Office Building
Washington, D.C. 20515

Rep. Hank Johnson
4th District of Georgia
1133 Longworth HOB
Washington, D.C. 20515

Dear Representatives Lewis, Scott and Johnson:

I am writing as the President of Advocates for Responsible Care on behalf of 33 immigrant patients suffering from End Stage Renal Disease (“ESRD”), who were displaced from the outpatient dialysis clinic at Grady Hospital in Atlanta when the hospital decided to closed the clinic in the fall of 2009. Since then the patients have continued to received life sustaining outpatient dialysis treatments three times a week under a temporary transfer of care contract between Grady Hospital and Fresenius Medical Services, a for profit provider of dialysis care. The contract between Grady and Fresenius will expire next week on August 31st. The patients will succumb to blood toxicity build up and die within approximately two weeks without continued dialysis care.

On January 29, 2010, the Inter-American Commission on Human Rights addressed the United States Department of State pursuant to Article 25 of the Commission’s Rules of Procedure, requesting that the Government of the United States:

1. Instruct the competent authorities to take the urgent measures necessary to ensure that the [patients] have access to the medical treatment that may be required for their condition; and
2. Adopt these measures in consultation with the [patients].

(See the attached correspondence from the Inter-American Commission on Human Rights, dated January 20, 2010)

Since the early spring of this year an effort was undertaken by DeKalb Commissioner Larry Johnson to engage the Atlanta metro area providers of outpatient dialysis care in a dialogue facilitated through a series of roundtable discussions geared toward reaching a consensus solution that provides for the long term care needs of the patients by the August 31st deadline. The last of these roundtable discussions was held on August 23rd. As of the time of the writing of this letter, no firm solution has been achieved and the patients' fate remains in limbo.

The situation in Atlanta illustrates a much larger national crisis. As you know current federal law prohibits Georgia and other states from using the federal share of state Medicaid funds to provide medical care to undocumented and otherwise ineligible immigrant patients. At the same time hospitals that received Medicare funding are required to provide the same patients with emergency medical treatment until the presenting emergency medical condition is stabilized. As a result of these federal policies, in 2006 Georgia enacted changes in its Medicaid program that disallowed reimbursement for outpatient dialysis care for ineligible immigrant ESRD patients. The basis for this change is the characterization of ESRD as a chronic medical condition as opposed to being considered an emergency medical condition. As a further consequence, hospitals and clinics around the Atlanta metro area stop providing outpatient dialysis care for immigrant patients suffering from ESRD. In response, displaced immigrant patients from around metro Atlanta sought and received refuge and outpatient dialysis care from Grady Hospital until the fall of 2009, when Grady decided to close its dialysis clinic because of the financial strain that providing uncompensated dialysis care to the immigrant ESRD patients placed on the hospital.

At the time that Grady closed its clinic it offered assistance to the immigrant patients to return to their countries of origin, primarily Mexico. The offer promised paid airfare, 3 months of dialysis treatments, and help in securing health insurance to meet their long term dialysis care needs. During the period from August 2009 through December 2009, ten former Grady dialysis patients returned to Mexico. We have confirmed that at least 5 of those patients died shortly after their 3 months of promised dialysis treatment ended. We have been unable to confirm the status of two patients, they are presumed to have died. Another two patients are struggling on less than adequate dialysis care holding out for renal transplants. One of these two latter patients has a husband who remained in Atlanta and is sending money back to Mexico to try to maintain a basic level of dialysis to keep his wife alive. The other patient is receiving one dialysis treatment a week as she tries to stretch the resources she has available to sustain her care and life.

Unless there is some form of intervention to change the unfolding events, after next Tuesday the 33 displaced Grady dialysis patients remaining in Atlanta will have only the emergency rooms of local hospitals to seek humanitarian refuge and care to sustain their lives as a direct consequence of federal government policy. In order to gain access to emergency room dialysis these patients will have to wait until their blood toxicity levels reach a critical level and are on the verge of heart arrhythmia or stroke. Emergency room dialysis treatment is generally followed by inpatient admission to the hospital for several days. This cycle may be repeated every 6 to 8 days as opposed to the patients receiving treatments three times a week at an outpatient dialysis clinic. The current policy creates a greater strain on limited healthcare resources. Studies indicate that the current policy costs healthcare systems 3 to 5 times more in comparison to the cost of

allowing immigrant ESRD patients' outpatient dialysis care. For this very reason, some states have opted not to follow the direction of federal policy, and continue to provide access to outpatient dialysis care for immigrant ESRD patients.

In June 2009, Dr. Barry Straube, then Acting Director of the Office of Clinical Standards & Quality, and Acting Chief Medical Officer at the Centers for Medicare & Medicaid Services, published an article in a medical journal acknowledging the lack of uniformity among the states and the absence of a clear federal solution to the tensions between immigrant policy and our society moral and ethical commitment to providing medical treatment for needy and vulnerable patients.

Within the last day I have reached out to President James Wagner of Emory University, who also serves as Vice Chair of the Presidential Commission on the Study of Bioethics, to intervene in the pending crisis and call for further dialogue in search of a more humane solution than the termination of the patients' life support on August 31st. President Wagner confirmed Emory Healthcare is willing to accept 3 of the patients into the Emory outpatient dialysis clinics. While expressing his hope that the other hospitals and clinics in the Atlanta metro area would follow in the same manner, he did not obligate himself to facilitate further dialogue with those providers that have yet to commit to sharing in the ethical and moral commitment to provide medical treatment.

We are very near to an irreversible human tragedy taking place. Several lives have already been lost. I am urging you to intervene under your authority and privilege as representatives of the 4th, 5th and 13th congressional districts to make a congressional inquiry into the State Department's response to the January 29, 2010, request by the Inter-American Commission on Human Rights for the federal government to intervene in the crisis occurring in Atlanta that threatens the lives of 33 immigrants patients suffering from End Stage Renal Disease.

With Regards,

Dorothy Leone-Glasser
President, Advocates for Responsible Care

cc: U.S Ambassador Carmen Lomellin
Santiago Canton
President James Wagner
Comm. Larry Johnson

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<https://www.advocatesforresponsiblecare.org>

The Advocates for Responsible Care empowers individuals to achieve their maximum wellness with a strong voice as health care advocates effectively reducing cultural incompetency and health care delivery disparity.