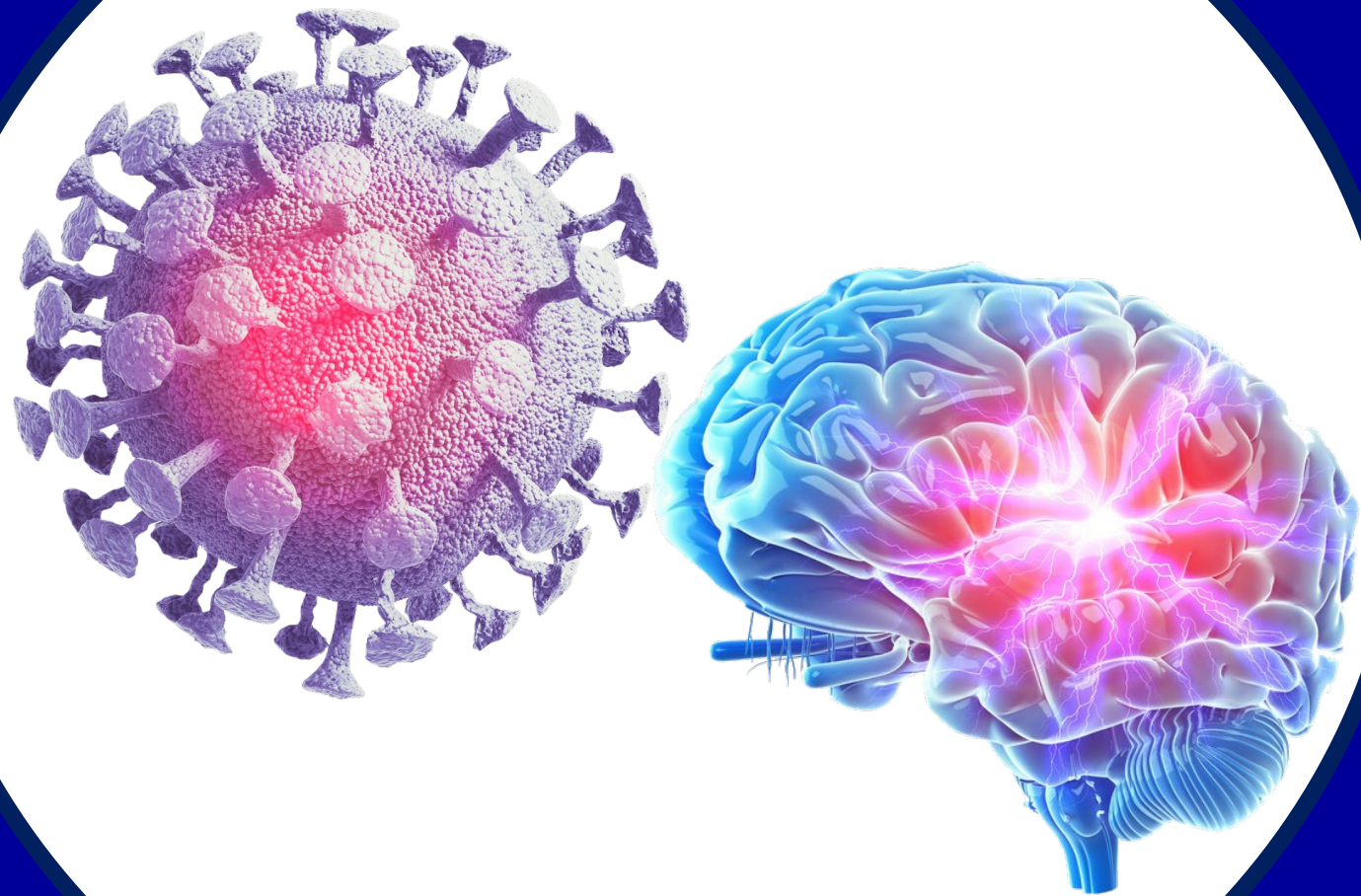


# Maintaining Equal Access During a Pandemic:

## Mental Health, Developmental Disabilities, and the ADA



*2021 Virtual ADA Conference for State and Local Governments*

*State ADA Coordinator's Office*

*Georgia State Financing and Investment Commission*

# Today's Presenters



**Talley Wells, Esq.**

Executive Director

North Carolina Council on Developmental Disabilities



**Cheryl Ann Frazier, MPA, CPM**

Assistant State ADA Coordinator

State ADA Coordinator's Office

Georgia State Financing and Investment Commission



# Session Objectives

- Review COVID-19 Statistics over the past 15 months
- Explore Statistics of COVID-19 related Mental Illness
- Provide a brief overview of the ADA
- Review Predictable Assessments for Mental Disabilities
- Identify ADA requirements for Title II entities
- Discuss the Olmstead v. L.C. case
- Identify mental disabilities that may be prominent in your recent encounters with citizens and clients
- Examine touchpoints of a Title II entity that may be impacted by the pandemic
- Discuss strategies to ensure the identified touchpoints are accessible
- Explore wellness recommendations for service providers



# Poll Question



Have you or someone you know been personally affected by COVID-19?



# COVID-19 Statistics – United States of America

Maps, charts, and data provided by CDC, updated daily by 8 pm ET<sup>†</sup>

TOTAL CASES

33,193,680

+10,150 New Cases

CASES IN LAST 7  
DAYS

92,937

TOTAL DEATHS

594,802

+225 New Deaths

CDC | Data as of: June 7, 2021 1:46 PM ET. Posted: June 7, 2021 3:59 PM ET





If someone becomes sick  
due to COVID-19, is that  
considered a disability?

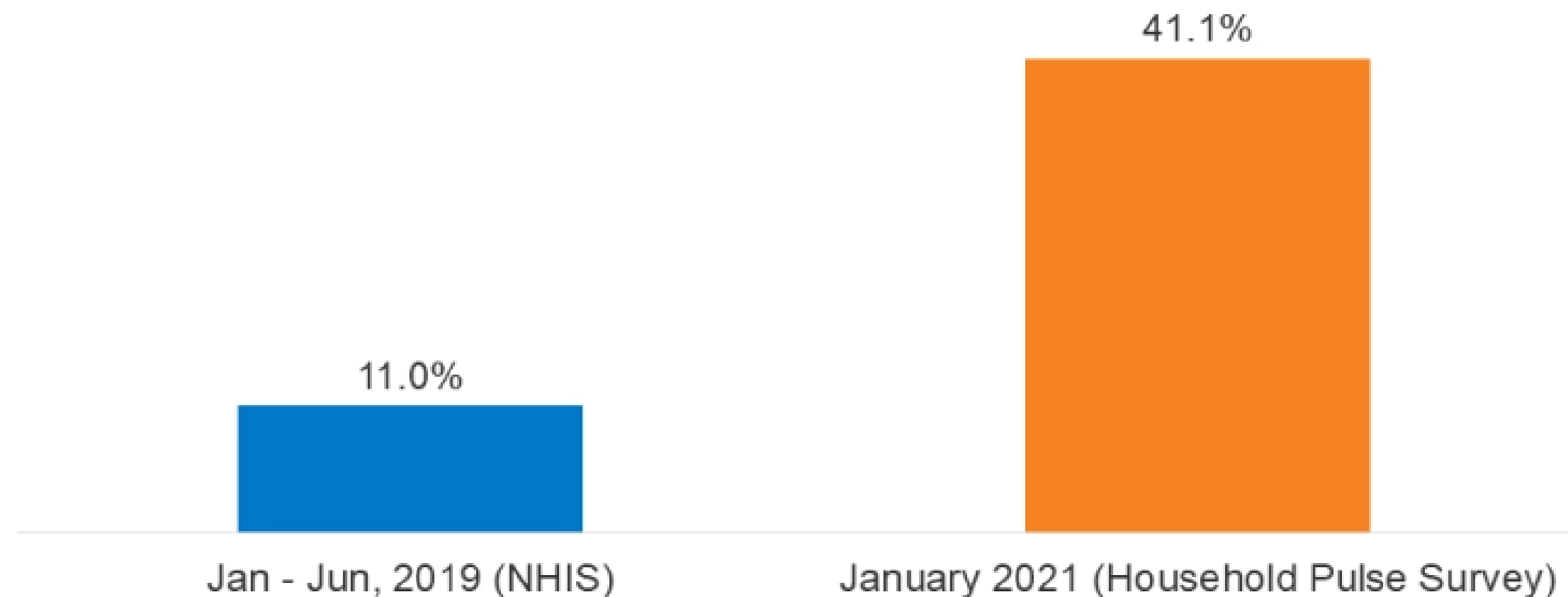




# Anxiety and Depressive Disorders before and during COVID-19

Figure 1

Average Share of Adults Reporting Symptoms of Anxiety Disorder and/or Depressive Disorder, January-June 2019 vs. January 2021



NOTES: Percentages are based on responses to the GAD-2 and PHQ-2 scales. Pulse findings (shown here for January 6 – 18, 2021) have been stable overall since data collection began in April 2020.

SOURCE: NHIS Early Release Program and U.S. Census Bureau Household Pulse Survey. For more detail on methods, see: <https://www.cdc.gov/nchs/data/nhis/earlyrelease/ERmentalhealth-508.pdf>

**KFF**

# Americans with Disabilities Act of 1990



- Civil Rights law
- Origins in the Civil Rights Act of 1964 and the Disability Rights Movement

The ADA generally uses the framework of Civil Rights Act of 1964 for coverage and enforcement and the terms and concepts of Section 504 for what constitutes discrimination.

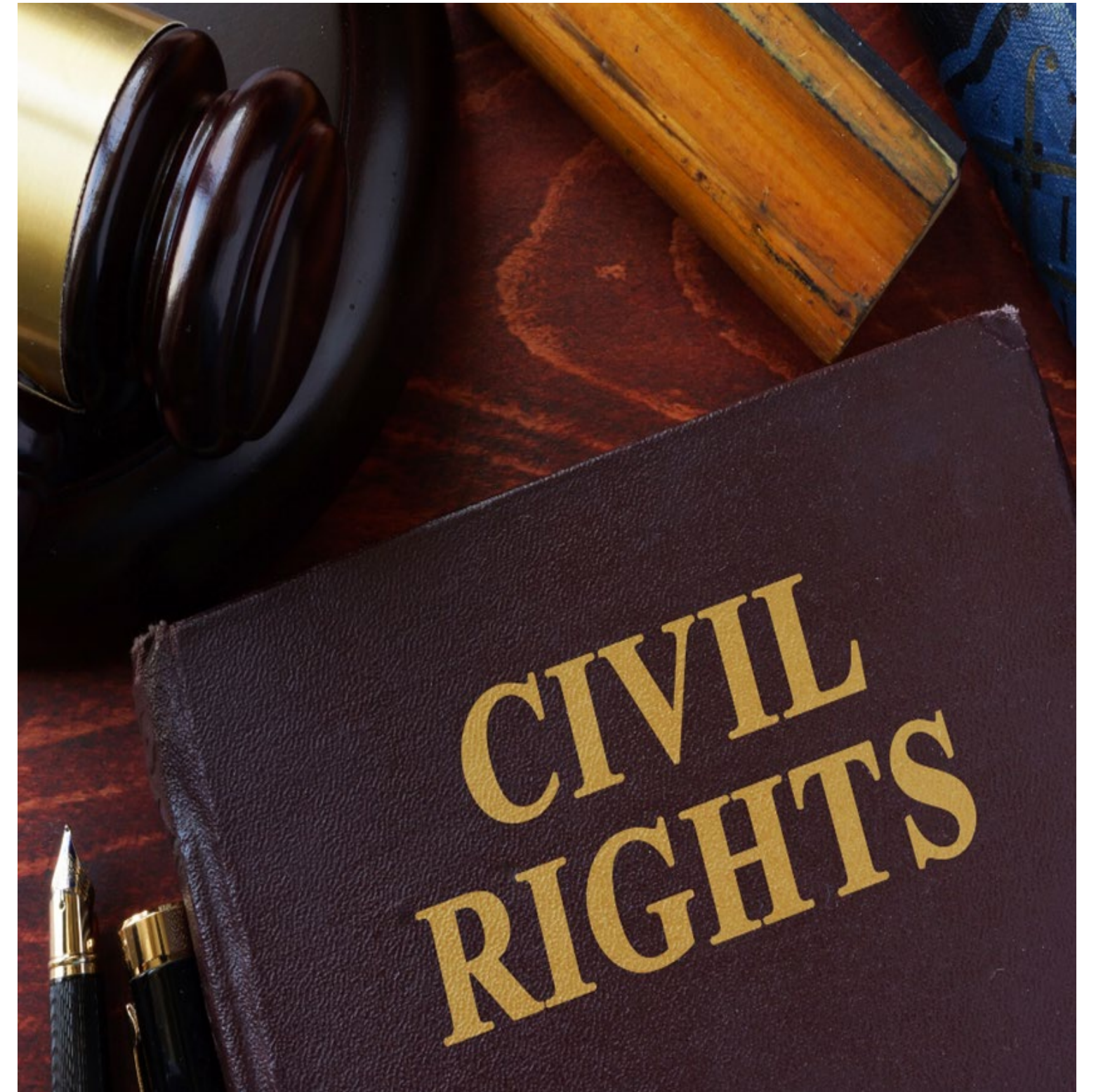


# ADA Title II

“... no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

42 U.S.C. 12132

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# Definition of Disability

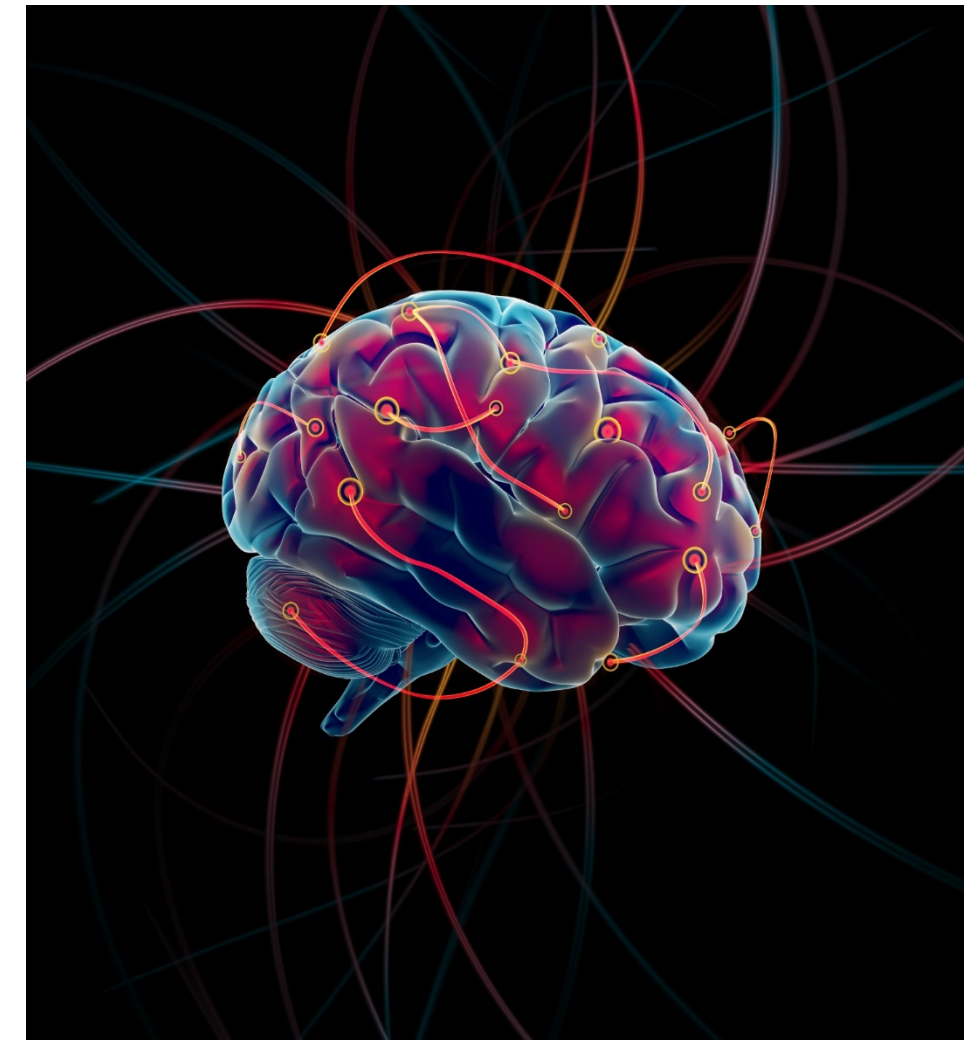
- A physical or mental impairment that substantially limits one or more major life activities;
- A record of such an impairment;
- Is regarded as having such an impairment.





# Predictable Assessments – ADAAA of 2008

- Major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia each substantially limits brain function;
- *Indicated by the State ADA Coordinator's Office* - COVID-19 (Coronavirus) infection can substantially limit breathing, lung function, organ function, etc.; and,
- *Indicated by the State ADA Coordinator's Office* – Dementia, Alzheimer's, Learning Disabilities, Dyslexia, Developmental Disabilities, etc.



28 CFR § 35.108 d.2.

# Qualified Individual with a Disability

**An individual is qualified if s/he meets the essential eligibility requirements of the program, benefit, or activity with or without:**

- Reasonable modifications to rules, policies or practices;
- Auxiliary aids and services; or
- Removal of architectural, communications or transportation barriers.



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# Integration Regulation

The “**integration regulation**” requires a “public entity [to] administer ... services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” [28 CFR § 35.130\(d\)](#).







# Olmstead

## “The Brown v. Board Decision for People with Disabilities”





# The Olmstead Decision

Olmstead held that people with disabilities who receive institution-level services from, or funded by, a public entity have the right to receive those services in the community rather than in an institution when

(1) their treatment professionals say they can do so,

(2) the individuals with disabilities don't object to moving out of the institution, and

(3) when doing so can be done so as a reasonable accommodation



# Georgia Today: Why 1 in 3 COVID-19 Deaths Is In A Long-Term Care Home

October 9, 2020 12:24 PM

By: [Steve Fennessy](#) and [Pria Mahadevan](#)

Heard on [Georgia Today](#)



COVID HAD A DEADLY  
IMPACT ON PEOPLE  
IN INSTITUTIONS



GEORGIA DEPARTMENT *of*  
COMMUNITY HEALTH



**Department of Human Services**  
STRONGER FAMILIES FOR A STRONGER GEORGIA



Georgia  
**DOL**

DEPARTMENT *of*  
LABOR



DEPARTMENT *of*  
JUVENILE JUSTICE



**GEORGIA**  
DEPARTMENT OF CORRECTIONS

Each State of Georgia agency should consider if and how Olmstead applies to it – directly or indirectly.

# Reasonable Modifications

The “**reasonable-modifications regulation**” requires public entities to “make reasonable modifications in policies, practices, or procedures” to avoid “discrimination on the basis of disability,” unless the entity can show the modifications would “fundamentally alter” the nature of the entity’s programs, activities, or services. [28 CFR § 35.130\(b\)\(7\)](#)





# Chat Question

What accommodations and modifications did your organization/agency make during the pandemic?





# Thought Question

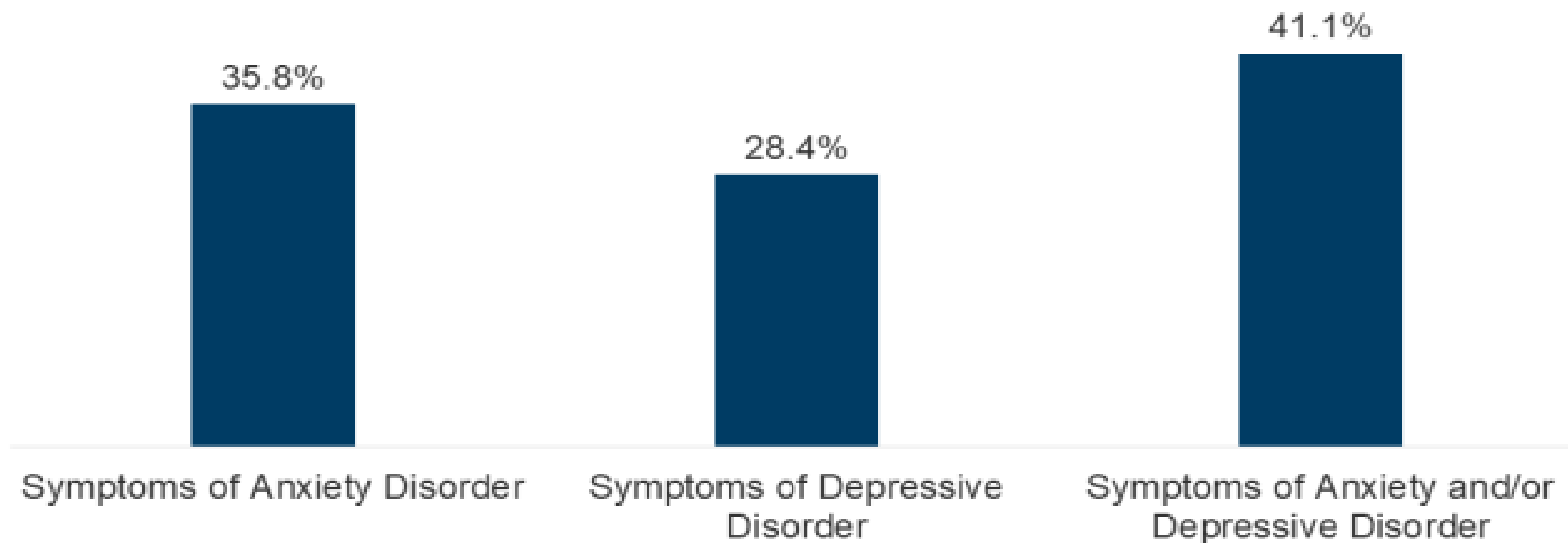
How do the changes your organization or agency made during COVID-19 impact modifications and reasonableness under the ADA?



# Anxiety and Depressive Disorders during COVID-19

Figure 2

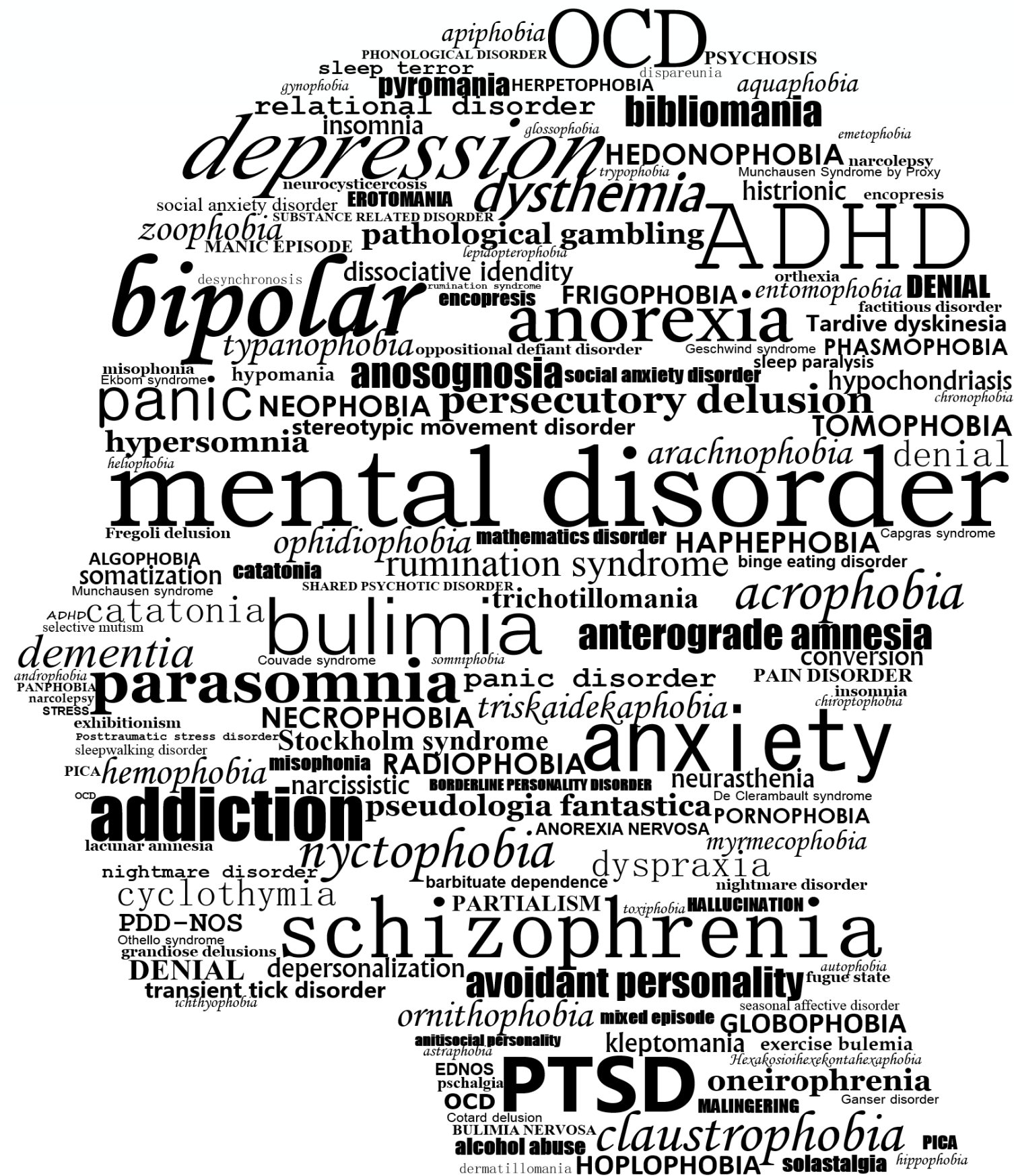
Share of Adults Reporting Symptoms of Anxiety or  
Depressive Disorder During the COVID-19 Pandemic



NOTES: These adults, ages 18+, have symptoms of anxiety or depressive disorder that generally occur more than half the days or nearly every day. Data shown is for January 6 – 18, 2021.

SOURCE: U.S. Census Bureau, Household Pulse Survey, 2020 - 2021.

**KFF**



# Poll Question

What are the most prominent mental health conditions you have identified (through assessment or lay person observation) in your encounters during the pandemic?



# **Mental Disabilities and concerns that may be more prominent in recent encounters**

- Depression
- Anxiety
- Post Traumatic Stress Disorder (PTSD)
- Paranoia
- Psychosis

- Grief
- Stress
- Suicidal ideations
- Feelings of defeat
- Sadness from isolation
- Worry



# Developmental and Cognitive Disabilities

Intellectual Disabilities  
Traumatic Brain Injury  
Developmental Disabilities  
Autism Spectrum Disorder  
Learning Disabilities  
Alzheimer's Disease and Dementia  
Many others

Photo by [Nathan Anderson](#) on [Unsplash](#)





Photo by [Nathan Anderson](#) on [Unsplash](#)

## Unique Challenges to Accommodations for Mental Health Diagnoses and /or Developmental Disabilities

- Mental Illness/Developmental Disabilities often less apparent than other disabilities.
- Accommodations also can be harder to identify
- Wide variety of different diagnoses, symptoms, and conditions requiring different accommodations.

# Possible Accommodations

- Breaks
- Timing and scheduling modifications
- Provide information in alternative formats to ensure it is understood
- Allow individual to assist
- Allow use of service or comfort animal
- When appropriate, ask the individual or his/her loved ones (if appropriate) for accommodations that worked in other settings



Photo by [Oladimeji Ajegbile](#) on [Unsplash](#)



# Additional Accommodations

- Simpler language
- Speaking slowly
- Pictures and visual tools
- Repeating information
- Ensuring directions are understood by asking for them to be repeated back
- Ask expert



Photo by [Paul Green](#) on [Unsplash](#)





# Documents and Forms

- Individuals may need assistance with documents and forms or for the materials to be simplified.
- Forms should be simple and only ask for the information that is necessary.
- Large print should be used for ease of reading.



Many individuals with cognitive or developmental disabilities can live independently, others can live independently with assistance.

Most do not need guardians and should not be required to have one when not necessary.

Photo by [Filios Sazeides](#) on [Unsplash](#)





# Assistance of Others

Maintain individual's privacy and dignity as much as possible

Family members or others who assist individual can be helpful but usually the individual should be consulted if others can assist

Even when guardian exists, individual has right to respect and usually to interact with who he/she chooses.

Photo by [Dane Deaner](#) on [Unsplash](#)





# Touchpoints of Title II entities that may be impacted by the pandemic

- Client-facing services (in-person and website encounters)
- Court proceedings
- Healthcare services
- Intake services (detention, medical, etc.)
- Interviewing of applicants
- Application process for social services
- Interactive Process with employees for Reasonable Accommodations
- Employee Assistance Programs
- Emergency services
- Delivery of Education services

# Strategies to ensure the Touchpoints are accessible and aligned with the ADA

- Assess your operations and agency communications
- Train your staff members and contractors
- Request assistance
- Ensure your clients and customers have direct contact information for your agency
- Public ADA notice
- Reasonable Accommodation/Modification Process
- Grievance Procedure
- Listen; Be patient; Take a team approach; Make informed decisions
- Inspect your expectations



# Vogue

JAN





## CARRYING A GREAT WEIGHT

**“Mental pain is less dramatic than physical pain, but it is more common and also more hard to bear. The frequent attempt to conceal mental pain increases the burden: it is easier to say, “My tooth is aching” than to say, “My heart is broken.”**

C.S. Lewis



# Wellness Recommendations for Service Providers



- **Experts say mental health issues and suicidal ideation are rising as the COVID-19 pandemic continues.**
- **They say the mental strain of the pandemic is particularly difficult for people in marginalized groups.**
- **They note men and people who live in rural areas are particularly vulnerable to suicidal ideation.**
- **Experts recommend people avoid becoming isolated, stick to a regular schedule, and look for uplifting moments in their week.**

[Suicidal Ideation Is Increasing During COVID-19: How Best to Cope \(healthline.com\)](https://www.healthline.com/health/suicidal-ideation-during-covid-19)



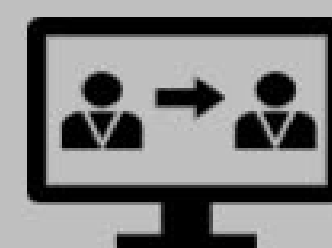
# Coping with COVID-19

**Take breaks  
from the news**



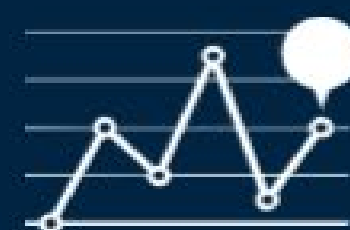
**Take care  
of your body**

**Make time to  
unwind**



**Connect with  
others**

**Set goals  
and priorities**



**Focus on  
the facts**

# BREATHE





# **Georgia Mental Health & Developmental Disability Resources/Organizations**

**Georgia Crisis & Access Line -- 1-800-715-4225.**

**Georgia Department of Behavioral Health and Developmental Disabilities (DBHDD)**

**Georgia Advocacy Office.** The Georgia Advocacy Office is the state's designated and federally mandated Protection and Advocacy Organization for people with disabilities.

**Crisis Intervention Teams (CITs) and Training:** Georgia law enforcement officers can participate in a 40-hour CIT training to effectively assist individuals with mental illness and other brain disorders who are in crisis. Trainings in CIT are held throughout the year. For more information, contact Pat Strode by telephone (770 234-0855) or via email at [cit@namiga.org](mailto:cit@namiga.org) .

**National Association of Mental Illness Georgia (NAMI Georgia)**

**Mental Health America of Georgia (MHA of Georgia)**

**Georgia Council on Developmental Disabilities (GCDD)**

## HELPFUL INFORMATION IN A CRISIS

- Call 911
- Georgia Mental Health Consumer Network – Peer2Peer Warm Line – 1-888-945-1414
- [Disaster Distress Helpline](tel:1-800-985-5990): 1-800-985-5990 (press 2 for Spanish), or text TalkWithUs for English or Hablanos for Spanish to 66746. Spanish speakers from Puerto Rico can text Hablanos to 1-787-339-2663.
- [National Suicide Prevention Lifeline](tel:1-800-273-TALK): 1-800-273-TALK (8255) for English, 1-888-628-9454 for Spanish, or [Lifeline Crisis Chat](#).
- [National Domestic Violence Hotline](tel:1-800-799-7233): 1-800-799-7233 or text LOVEIS to 2252



## HELPFUL INFORMATION IN A CRISIS

- [National Child Abuse Hotline](#): 1-800-4AChild (1-800-422-4453) or text 1-800-422-4453
- [National Sexual Assault Hotline](#): 1-800-656-HOPE (4673) or [Online Chat](#)
- [The Eldercare Locator](#): 1-800-677-1116 [TTY Instructions](#)
- [Veteran's Crisis Line](#): 1-800-273-TALK (8255) or [Crisis Chat](#) or text: 8388255
- **Coming Soon – 988**





# CONTACT US

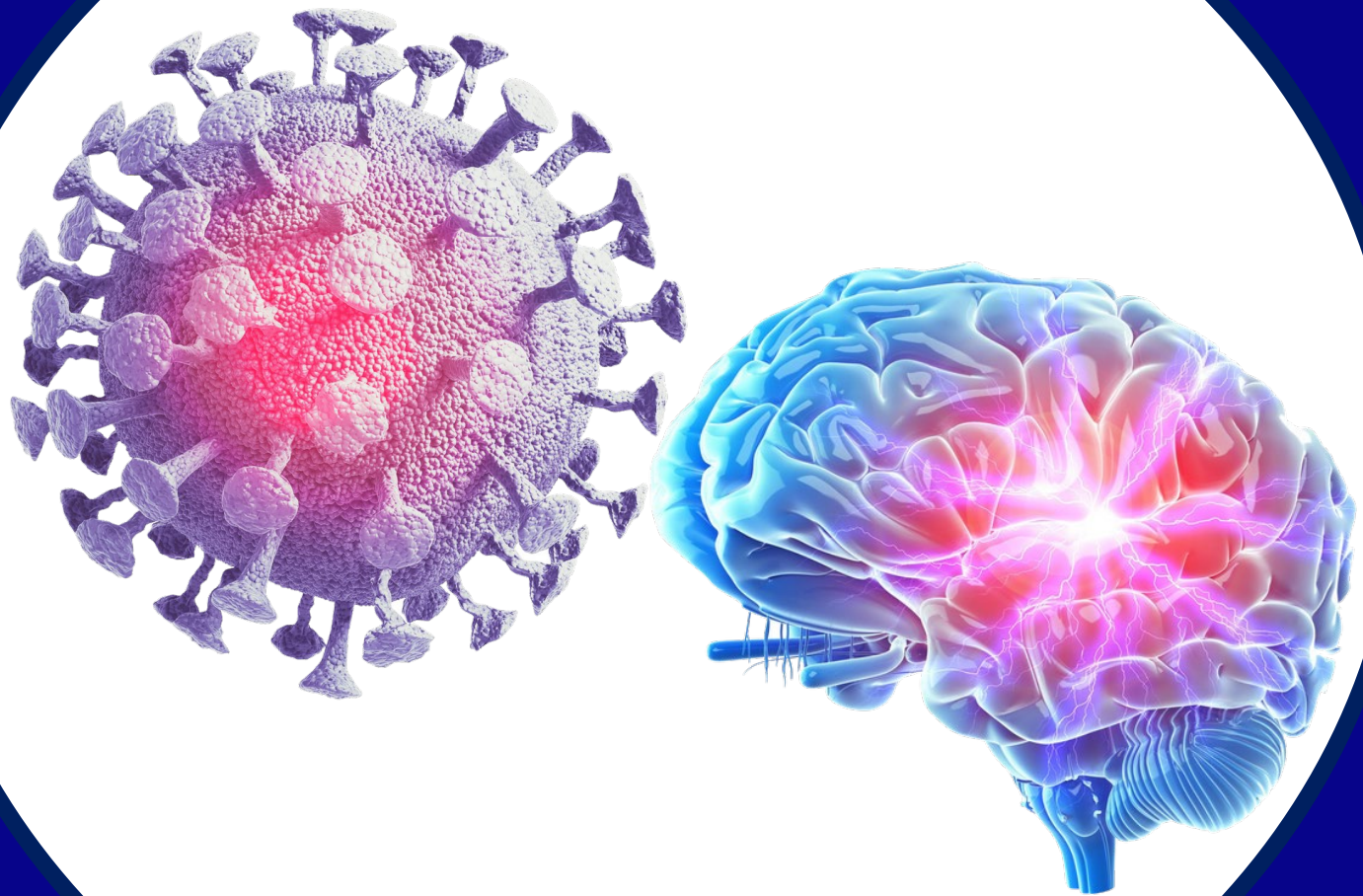
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