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## Effective Communication for D/deaf people in Healthcare Settings

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**D/deaf people have a right to effective communication in healthcare settings** under the Americans with Disabilities Act (“ADA”) and the Affordable Care Act (“ACA”). 28 C.F.R. §§ 35.160(b)(1), 36.303(a); 45 C.F.R. § 92.102(a). This means communication with D/deaf patients and companions must be “as effective as” communication with hearing patients and companions. 28 C.F.R. § 35.160(a)(1).

Both public and private healthcare providers are obligated to follow the ADA. Title II of the ADA prohibits disability discrimination by public entities. 42 U.S.C. § 12132. Title III of the ADA prohibits disability discrimination by places of public accommodation, including healthcare providers. 42 U.S.C. § 12181(7)(F). The ACA prohibits disability discrimination by health care programs that receive federal funding, such as Medicare and Medicaid. 42 U.S.C. § 18116(a).

To ensure there is effective communication, public and private **healthcare providers are required to furnish auxiliary aids and services**, such as sign language interpreters. 28 C.F.R. §§ 35.160(b)(1), 36.303(c)(1). Aids and services must be provided in a timely manner, and in such a way as to protect the privacy and independence of the D/deaf patient. 28 C.F.R. §§ 35.160(b)(2), 36.303(c)(1)(ii).

The aids and services provided should be **those preferred by the D/deaf patient**. Healthcare providers must “give primary consideration to the requests” of the D/deaf patient or companion in determining what aids and services are necessary. 28 C.F.R. § 35.160(b)(2).

**Aids and services must be up to par.** Sign language interpreters must be qualified. 28 C.F.R. § 36.303(b)(1). Some states also require an interpreter to also be certified or licensed. Relatedly, the provider may not ask family or friends, especially children, to interpret, except in emergency situations. 28 C.F.R. § 35.160(c)(2). VRI is not an acceptable aid or service when the D/deaf patient: has limited movement; has vision or cognitive issues; is under the influence of drugs or alcohol; is in significant pain, including labor; and if there are space limitations in the room. 28 C.F.R. § 35.160(d) (incorporated by reference in 45 C.F.R. § 92.202(a)). Most significantly, if the medical issue is or could be complex, VRI is not an acceptable aid or service. *Id.*

Where VRI is acceptable, the healthcare provider must ensure that it has high quality, real time, full motion, sharply delineated video that does not have lags, choppy, blurry, or grainy images or irregular pauses in communication. The video must be large enough to display the participating interlocutors’ face, arms, hands, and fingers, regardless of their body position. *Id.* VRI must supply clear, audible audio. *Id.* Those involved with the VRI must be adequately trained to effectively and efficiently set up and operate it. *Id.*

We hope this information supports your compliance with ADA and ACA requirements. As you well know, **the stakes are significant**. “Effective communication is particularly critical in healthcare settings where miscommunication may lead to misdiagnosis and improper or delayed medical treatment.” Disability Rights Section, “[Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings](#),” U.S. Department of Justice (last updated Oct. 2003).

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More resources — including videos of common issues and best practices for effective communication with D/deaf patients and companions in healthcare settings — are available [here](#).

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