



United States Department of Justice
United States Attorney's Office
Eastern District of Virginia

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Re: Informational Meeting on the ADA's Effective Communication Requirements in
Healthcare Settings

Dear Colleagues:

Title II and Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-34 & 12181-89, prohibit discrimination on the basis of disability in a range of covered areas, including healthcare services. The ADA applies to all types of private and state and local government healthcare providers, including, but not limited to, hospitals, skilled nursing facilities, urgent care centers, physicians, dentists, optometrists, mental health providers, and medical equipment providers. Further, the ADA applies to all services that covered entities provide, including in-person medical services, telehealth appointments and websites.

Pursuant to the ADA, healthcare providers are required to ensure that communication with people with disabilities is as effective as communication with people without disabilities. Healthcare providers are required to take affirmative steps including furnishing appropriate auxiliary aids and services, such as qualified sign language interpreters to individuals who are deaf or hard of hearing, accessible electronic technology to individuals who are blind or have low vision, and speech-to-speech transliterators for individuals who have speech disabilities. Further, healthcare providers may not decline to provide treatment to an individual solely because they have a disability and may need auxiliary aids and services.

The Department of Justice ("DOJ"), including this office, is committed to protecting the civil rights of individuals with communication disabilities. We have [investigated and enforced](#) the ADA against numerous healthcare providers due to their failures to comply with the ADA's effective communication requirements. In our District, our investigations have been resolved with voluntary settlement agreements. Common issues that we have identified during investigations, include:

- Failures to provide sign language services for emergency medical services and/or services provided outside of business hours.

- Failures to provide qualified sign language interpreters, including specialized interpreters, such as tactile interpreters, for medical appointments when necessary under the circumstances.
- Requesting an individual with a communication disability to bring an individual with them to interpret.
- Reliance on staff members to facilitate communication for people with disabilities when they have a little knowledge of sign language but are not qualified interpreters.
- Reliance on family members or friends to facilitate communication.
- Reliance on an ineffective method of communicating due to administrative ease, such as using lip-reading, or attempting to communicate through written notes, as a replacement for a sign language interpreter.
- Denial of healthcare services because an individual who is deaf requires sign language services.
- Failure to provide appropriate auxiliary aids and services, including sign language interpreters, for a patient's companion (such as a parent or a spouse).
- Failure to ensure effective communication with individuals who are hard of hearing, who may require less commonly used auxiliary aids and services such as communication access realtime translation ("CART").
- Over-reliance on video remote interpreting ("VRI") even when it is not effective due to, among other things, the condition of the patient and/or the VRI offered has technical issues, such as irregular pauses in communication.
- Use of electronic devices, such as kiosks, that are not accessible to individuals who are blind or have low vision.
- Providing a website that is not accessible to individuals with disabilities.

Through our enforcement work, we have often identified the following factors that seem to increase the likelihood that healthcare providers will fail to meet the ADA's requirements with regard to individuals with communication disabilities:

- Lack of knowledge of ADA requirements.
- Lack of a written ADA policy, or policies and practices that do not follow the ADA.

- Failure to provide appropriate ADA training to personnel, especially frontline personnel who interact with the public.

Our settlement agreements have often included civil penalties to vindicate the public interest against public accommodations under Title III of the ADA, which currently may be up to \$111,614 for a first violation and \$223,228 for subsequent violations. 42 U.S.C. § 12188(B)(2)(c); 28 CFR 36.504(a)(3). Additionally, we have obtained compensatory damages for the aggrieved individuals. We encourage healthcare providers to review the ADA’s non-discrimination requirements to ensure that their policies and practices are ADA compliant.

To assist the community, my office is organizing an online informational meeting for the public, including personnel at healthcare providers, on Tuesday, June 6, 2023 at 1 pm. We want to provide information on steps healthcare providers can take to comply with the ADA’s effective communication requirements and also provide an opportunity for questions and collaboration. We invite the public, including all personnel from healthcare providers to this meeting. To register for the meeting click [here](#).

The Department of Justice has issued helpful technical assistance publications that provide a plain language explanation of a healthcare provider’s legal obligations pursuant to the ADA’s effective communication provision: “[ADA Requirements: Effective Communication](#),” “[ADA Business BRIEF: Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings](#)” and “[Guidance on Web Accessibility and the ADA](#)”. Additionally, the remedial provisions in ADA settlement agreements entered into by healthcare providers provide a roadmap to steps that covered entities can take to comply with the ADA. *E.g.* Settlement Agreements with [Goochland Powhatan Community Services](#), [Brookside Rehabilitation & Nursing Center](#), [Spotsylvania Regional Medical Center](#), [Rite Aid Corporation](#) & [Lincare, Inc.](#)

If you have any questions or additional relevant information, please feel free to email me at steve.gordon@usdoj.gov or call me at (703) 299-3817. We look forward to speaking with you on June 6, 2023 at 1 pm.

Sincerely,

Jessica D. Aber
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By: _____/s/
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