EFFECTIVE COMMUNICATION IN MEDICAL SETTINGS

Is your office familiar with how to interact with individuals with disabilities? Are you aware that providing effective communication is a legal requirement?

UNIQUE COMMUNICATION NEEDS

Healthcare providers encounter patients with a variety of backgrounds and issues. Unique patient needs may create barriers in providing quality patient care. A potential obstacle to providing care to individuals with disabilities can be difficulty in communicating information to the patient and any companion with whom it is appropriate to communicate. However, by understanding the legal implication of effective communication in health care settings, medical providers can overcome this difficulty and focus on providing quality healthcare services.

ADA REQUIREMENTS

The Americans with Disabilities Act (ADA) requires health care providers to ensure effective communication with patients and companions with disabilities. This requirement includes providing auxiliary aids and services free of charge. For individuals who are deaf or hard of hearing, a qualified sign language interpreter is an example of an auxiliary aid/service. Similarly, a person who is blind may request an audio version of follow up instructions.

All Health Care Providers Must Ensure Effective Communication

The following list is not all inclusive. It indicates the wide range of medical providers who are required to ensure effective communication with patients with disabilities.

- Audioligists
- Dentists
- Health Clinics
- Hospitals
- Mental Health Professionals
- Nursing Homes
- Outpatient Surgery Services
- Physical Therapists
- Physicians
- Prosthetic/Orthotic Service Providers

Individuals with disabilities should be consulted about their communication needs in order to determine the most effective auxiliary aids and services. Examples include:

- Qualified Interpreter
- Video Interpreting Services
- Instant or Text Messaging
- Exchange of Written Notes
- Open or Closed Captioning
- Note Taker
KEY POINTS FOR HEALTH CARE PROVIDERS

- Individuals with disabilities must be provided the same level of communication as those without disabilities.
- Individuals with disabilities cannot be required to bring another individual, like a family member, to communicate with them.
- Medical providers cannot refuse to serve someone solely due to disability.
- Health care providers are responsible for paying the cost of the auxiliary aids or services. The fee is an overhead cost of running a business.
- Generally, the patient must request an auxiliary aid or service before the health care provider has an obligation to provide it.

Medical providers are allowed to refuse to provide a specific auxiliary aid/service if it would constitute a fundamental alteration or be an undue financial burden. Undue burden includes factors such as the overall financial resources of a medical office and the cost of the aid/service. Typically, it is very difficult to meet either of these standards.

- Regardless of the people they employ, the ADA requires medical providers to ensure effective communication with patients and their companions who have disabilities.
- Whatever aid/service is provided, it MUST result in effective communication. The person who is deaf is the best judge of whether they understand the information provided and whether the medical staff understands what they are conveying.

POTENTIAL TAX INCENTIVES
Small businesses may be entitled to tax credits or deductions for making programs or services more accessible to individuals with disabilities. More information is available at the ADA Business Connection website: ada.gov/business.htm

FAQ: Qualified Sign Language Interpreter v. Written Notes

- For the majority of people who were born deaf or became deaf as children, sign language is their primary language and English is their secondary language. For this reason, most individuals who are deaf need the services of a qualified sign language interpreter in order to understand complex or lengthy communications.
- Short written notes may be effective for simple communications such as when a patient is dropping off a lab sample or getting a weekly allergy injection.
- A qualified sign language interpreter can interpret competently, accurately, and impartially via an on site appearance or video remote interpreting (VRI). Examples of when to provide a qualified sign language interpreter include when obtaining patient history or symptoms, discussing medical tests or medications, requesting informed consent or providing a diagnosis and treatment plan. Keep in mind, VRI will not work for every patient/companion or situation.
- Medical providers that use VRI for communication must ensure their VRI service complies with DOJ regulations: “(1) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; (2) A sharply delineated image that is large enough to display the interpreter’s face, arms, hands, and fingers, and the participating individual’s face, arms, hands, and fingers, regardless of his or her body position; (3) A clear, audible transmission of voices; and (4) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.” 28 CFR § 36.303(f).