

Disability Rights Tennessee (DRT) is a nonprofit legal services organization dedicated to protecting the rights of Tennesseans with disabilities.

DRT is the federally mandated Protection & Advocacy System for Tennessee.



Providing effective communication to patients who are deaf, hard of hearing, or deaf-blind isn't just good business. It's the law.

EFFECTIVE COMMUNICATION

Some people with disabilities use different ways to communicate. For example, people who are deaf generally communicate through sign language. When effective communication is provided, everyone involved can understand and convey relevant information. This is achieved through auxiliary aids/services that make communication possible between all parties.

ADA REQUIREMENTS

The Americans with Disabilities Act (ADA) and related laws require health care providers to ensure effective communication with patients and their companions. This requirement includes providing auxiliary aids and services at no cost to their patients with disabilities.

People who are deaf, hard of hearing, or deaf-blind should be asked about their communication needs in order to determine the most effective auxiliary aids and services. Examples include:

- Qualified Sign Language Interpreter
- Exchange of Written Notes
- Video Remote Interpreting Services
- Open or Closed Captioning
- Instant or Text Messaging
- Note Taker

For the majority of people who were born deaf or became deaf as children, American Sign Language (ASL) is their primary language and English is their second language. Most individuals who are deaf need the services of a qualified sign language interpreter in order to understand complex or lengthy communications.

All Health Care Providers Must Ensure Effective Communication

The following list is not all inclusive, but merely serves to indicate the wide range of medical providers required to ensure effective communication to patients with disabilities.

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

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QUALIFIED SIGN LANGUAGE INTERPRETERS

- 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, but are not limited to 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 Department of Justice (DOJ) requirements at 28CFR§ 36.303 (f):
 - (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 does 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;
 - (4) Adequate training to users of the technology and other involved individuals so that they may efficiently set up and operate VRI.
- 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 shot.

Key Points for Health Care Providers

- Health care providers must provide effective communication to patients and companions.
- Health care providers cannot require people who are deaf, hard of hearing, or deaf-blind to bring another individual, such as a family member, to help communicate with them.
- Health care providers are responsible for paying the cost of qualified auxiliary aids or services. The fee is an overhead cost of running a business.
- Generally, the patient/companion must request an auxiliary aid or service before the health care provider has an obligation to provide it. However, it may be helpful for a provider to offer to provide a sign language interpreter or other auxiliary aid/service if he or she is having difficulty communicating with a patient/companion.
- Generally, providing sign language interpreters and other auxiliary aids/services will not constitute an undue financial or administrative burden or fundamentally alter the nature of health care programs and services. Health care providers should determine whether providing a particular auxiliary aid or service constitutes an undue financial or administrative burden by looking at their overall resources, including the resources of any parent organizations. The fact that the cost of providing an auxiliary aid or service to one patient/companion may be more than the fees paid by that person is NOT a sufficient reason for a provider to refuse to provide an auxiliary aid or service.
- The aid/service the provider chooses MUST result in effective communication. The person with the disability is the best judge of whether they understand the information.
- Regardless of the number of people they employ, the ADA requires health care providers to ensure effective communication with patients and their companions.

This document is provided for general reference purposes only. None of the information in this document is legal advice. To obtain legal advice regarding these issues, you should consult an attorney. Alternative formats available upon request.

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