

## Practice Services Spotlight: Working with Hearing-Impaired Patients

### **Q: What laws govern physicians' obligations to hearing-impaired patients?**

A: Federal laws under the [Americans with Disabilities Act](#) (ADA) and state law under the [Virginians with Disabilities Act](#) set forth these regulations. Generally, these laws apply to businesses providing services to the public including professional offices of health care providers and hospitals.

### **Q: What do these laws require?**

A: Health care providers cannot refuse to treat a patient because of his or her disability status and must provide the patient with certain reasonable accommodations. In this context, reasonable accommodations are those necessary to ensure that deaf or hearing impaired patients receive the same benefits of health care services as non-hearing-impaired patients, including “effective communication” with their health care provider. A practice may be held liable under federal or state law if the communication is not effective for a particular patient.

### **Q: What types of tools and services are appropriate to ensure effective communication for my hard-of-hearing patients?**

A: Services include qualified interpreters or other effective methods of making verbally delivered information available to individuals with hearing impairments. Tools may include TTY telephones, note cards, captioned televisions, and assistive listening devices. Practices may not charge an extra fee to hearing-impaired individuals for interpreter services or other communication aids.

### **Q: How do I decide what type of auxiliary aid is best for the treatment of my patients?**

A: The decision of what type of auxiliary aid to provide should be made on a case-by-case basis.



A physician is not obligated to comply with the unilateral determination by a patient that an interpreter is necessary. The physician must be given the opportunity to consult with the patient and make an independent assessment of what type of auxiliary aid, if any, is necessary to ensure effective communication.

**Q: What is “effective communication” in terms of complying with the disability laws?**

A: Health care providers are required to furnish appropriate tools or services when necessary to ensure effective communication with hearing-impaired patients, and in some circumstances with their family members or health care decision makers, unless providing such a tool or service would fundamentally alter the nature of the services being offered by the practice or would result in an “undue burden.”

**Q: How is an “undue burden” defined?**

A: An “undue burden” is more than a mere inconvenience and must be a significant difficulty or expense. As long as the provision of an auxiliary aid or service does not impose an undue burden

on the provider’s business, the provider is obligated to pay for the aid or service. When an undue

burden can be shown, the provider still has the duty to furnish an alternative aid or service that would not result in such a burden, and to the maximum extent possible would ensure effective communication.

**Q: Where do I find a qualified interpreter if my patient and I come to the determination that one is necessary for effective communication?**

A: Under Virginia law, for certain purposes, a “qualified interpreter” is one who holds a national certification recognized by the Virginia Department for the Deaf and Hard of Hearing (VDDHH) or

one who is certified by the Virginia Quality Assurance Screening program (VQAS). VDDHH provides a [list of qualified interpreters](#).



**Q: What about using a patient’s friend or relative as an interpreter?**

A: This can be acceptable but only if the patient explicitly consents and the person can communicate with the patient accurately and impartially. It is unwise to assume that the patient wishes for his or her confidential medical information to be shared with someone who accompanies them to an appointment. Family members may be unable to interpret accurately in an emotional situation which is why the best approach is for the physician to offer the services of a qualified interpreter and to let the patient decide.

**Q: When a covered entity, such as a doctor, uses a certified Telecommunications Relay Service to contact patients with hearing or speech impairments, is the Relay Service a business associate of the doctor?**

A: Under the HIPAA Privacy Rule, a covered entity such as a doctor can contact a patient using a Telecommunications Relay Service (TRS), without the need for a business associate contract with the TRS. The sharing of protected health information between a covered health care provider and a patient through the TRS is permitted by the Privacy Rule under 45 C.F.R. 164.510(b), and a business associate contract is not required in these circumstances.

For further information and resources, please see the following links:

[ADA Business BRIEF: Communicating with People Who Are Deaf or Hard of Hearing in Hospital Settings](#)

[Improving Accessibility Tax Incentives Packet](#)

[National Institute of Health \(NIH\) Institute on Deafness and Other Communication Disorders](#)

[US Department of Justice: ADA Requirements for Effective Communication](#)

[US Department of Health and Human Services \(HHS\): Sample Policy and Procedure for Providing Auxiliary Aids for Persons with Disabilities](#)

[Virginia Department for the Deaf and Hard of Hearing](#)

[VDDHH List of Qualified Interpreters](#)

You Tube - Joint Commission Standards and Federal Laws: Improving Patient-Provider Communication [Part 1](#), [Part 2](#), [Part 3](#), [Part 4](#)