

# Effective Communication in Healthcare Settings

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## Session Agenda

1. Relevant Federal Disability Discrimination Laws
2. ADA requirements for Effective Communication
3. Vision/Blind and Effective Communication
4. Cognitive disabilities and Effective Communication
5. Deaf/Hearing loss and Effective Communication
6. Establishing an Effective Communication Office Policy
7. Resources

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## Federal Disability Discrimination Laws

- **Title II of the Americans with Disabilities Act** – applies to all public (state and local) healthcare providers.
- **Title III of the Americans with Disabilities Act** – applies to all private healthcare providers.



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## Federal Disability Discrimination Laws

- **Section 504 of the Rehabilitation Act of 1973** – applies to federal healthcare services and facilities; and healthcare providers who are also recipients of federal financial assistance, (such as federal Medicaid funds) or by federal research grants.
- **Section 1557 of the Affordable Care Act** – applies to all healthcare providers.



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## Barrier-Free Healthcare Initiative

- U.S. Attorney's offices across the nation are partnering with the Civil Rights Division to target their enforcement efforts.
- This initiative will make sure that people with disabilities, especially those who are deaf or hard of hearing, have access to medical information provided to them in a manner that is understandable to them.

<http://www.ada.gov/usao-agreements.htm>

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## Title III of the ADA

- Title III of the Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities by places of public accommodation.

42 U.S.C. §§ 12181 - 12189.

- Private healthcare providers are considered places of public accommodation.

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## Healthcare Providers under Title III

Hospitals, nursing homes, psychiatric and psychological services, offices of private physicians, dentists, health maintenance organizations (HMOs), and health clinics are included among the healthcare providers covered by the ADA.



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## Healthcare Providers under Title III

Title III of the ADA applies to all private healthcare providers, regardless of the size of the office or the number of employees.

28 C.F.R. § 36.104.



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## Healthcare Providers under Title III

If a professional office of a doctor, dentist, or psychologist is located in a private home, the portion of the home used for public purposes (including the entrance) is considered a place of public accommodation.

28 C.F.R. § 36.207



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## Effective Communication

- Disabilities that affect hearing, seeing, speaking, reading, writing, or understanding may use different ways to communicate.
- Information must be as clear and understandable to people with disabilities as it is for people who do not have disabilities.



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## Effective Communication

Healthcare providers have a duty to provide appropriate auxiliary aids and services when necessary to ensure that communication with people with disabilities is as effective as communication with others.

28 C.F.R. § 36.303(c)



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## Effective Communication: Who?



- Customers, clients, and other individuals with disabilities who are seeking or receiving the services of the medical center.
- May not always be "patients" of the healthcare provider – Auxiliary aids and services may need to be provided to spouses, partners, family members, etc. with disabilities.

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## Effective Communication

- The means used to provide effective communication is determined on a case-by-case basis – person’s needs and situation.
- “Auxiliary aids and services” are devices or services that enable effective communication for people with disabilities.
- Consult with the individual to determine what communication method or technology will be effective for him or her.



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## People with Visual Impairments

People with visual impairments often receive important health care-related information in standard print, which they can't read.



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## Common Scenario

One woman with low vision reported that she learned only after years of taking her thyroid medication at dinnertime that taking the medication with food weakened the drug's effects, which may have compromised her treatment.

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## People with Visual Impairments

- medical exam, test, and lab results
- information explaining diagnoses or treatment
- prescription medication instructions
- explanations of informed consent or end-of-life policies and procedures
- physical therapy instructions and instructions for the management of chronic conditions
- childbirth preparation resources, prenatal care materials

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## Visual Impairments

Where information is provided in written form, ensure effective communication for people who cannot read the text.

- Consider the context,
- the importance of the information,
- the length, and
- complexity of the materials.



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## Communication - Print materials

- Alternative formats - Braille, large print text, electronic format, audio recordings.
- If little time to have it produced in an alternative format, reading the information aloud may be effective (Qualified Reader).
- Example – reading what services you provide, etc.



**Large  
Print**



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## Common Scenario

### Confidentiality Issues

Individuals, who are blind, often report feeling frustrated and embarrassed after being forced to reveal their confidential financial information or details about highly personal and private physical and mental health concerns out loud in public in front of strangers.



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## Intellectual and Cognitive Disabilities

- Allow plenty of time to teach a new task.
- Use repetition with precise language and simple wording.
- Treat adults as adults and children as children.
- Do not pretend to understand if you do not.



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## Intellectual and Cognitive Disabilities



- Ask additional questions to clarify any information a patient may be sharing with you.
- Reduce distractions.
- Use pictures or objects to convey meaning, if appropriate.
- Allow a “wait time” for the patient to process information or respond to a question or to make a comment.

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## Auxiliary Aids and Services for Individuals with Speech Disabilities

- speech synthesizers\*
- communication boards\*
- sign language interpreting
- access to laptop computer/keyboard for typed communication, tablets/iPad, etc.

\* Speech synthesizers and communication boards are personal devices. Medical offices should allow individuals to bring them and use them for effective communication purposes.

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## Auxiliary Aids and Services for Individuals who are Deaf or Hard of Hearing

- qualified ASL interpreters
- note-takers
- written materials
- assistive listening systems/devices
- closed caption decoders, open and closed captioning
- TTYs/TDDs, telephone relay service, video phones, and video relay service
- Communication Access Real-time Translation
- exchange of written notes.

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## Deafness

For individuals who are deaf and use sign language, the most effective auxiliary aid or service which a medical office can provide is usually the service of qualified sign language interpreters, who are trained in medical terminology.



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## Common Scenario

A deaf patient ended up in hospital after a heart attack, attributed to medical error (medication prescribed without benefit of an interpreter)

(Medical Interpreting Task Force, WA State)

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## Qualified Sign Language Interpreter

“An interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary... includes sign language interpreters, oral transliterators and cued-language transliterators”.

28 C.F.R. § 35.104

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## Common Scenarios

- Asking sick children to interpret for their deaf parent
- Pressuring a deaf man to lip-read and interpret for his deaf-blind wife
- Ignoring request (including repeated requests) and relying on written notes



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## Family Members as Interpreters?



# No!

Family members do not meet the requirements of a “qualified” interpreter because they usually cannot remain impartial, and often do not have the language skills, or training to effectively and accurately interpret a medical appointment.

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## Qualified Sign Language Interpreter

Recommendation:

- Interpreters working in medical settings should have some form of national certification in addition to medical interpreter training.
- Such certification and training serves as an indication of competence.



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## Communication - Simple situations

- Brief or simple face-to-face exchanges - very basic aids are usually appropriate and effective.
- For example, exchanging written notes may be effective when a deaf person asks for a copy of a form to fill out.
- Using a “smart phone” to write and exchange messages.



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## Communication - Complex situations

### Complex or lengthy exchanges

- an interpreter (sign language, oral, cued speech) or
- CART (Communication Access Real-time Translation)
- Examples – interviews, counseling sessions, community events, meetings, etc.
- Written transcripts or closed captions on video for pre-scripted situations such as speeches, presentations, etc.



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## Video Remote Interpreting (VRI)

### Definition:

“An interpreting service that uses video conferencing technology over dedicated lines or wireless technology offering high-speed, wide bandwidth video connection that delivers high quality video images...”

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## Video Remote Interpreting (VRI)



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## Video Remote Interpreting

New Regulations 35.160(d); 36.303(f)

- Performance standards
- Quality of video and audio
- Dedicated high speed connection
- Picture
  - Clear, sufficiently large, and sharply delineated
  - Heads, arms, fingers
- Voices clear and easily understood transmission
- Quick set-up and training of users

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## Problems with VRI Include:

- Patient is prone
- Patient is in pain or under the influence of substances (anesthesia, medications) that impair ability to focus on screen
- Size and distance of the device – can't see it well (e.g. laptop sized screen placed at the foot of the bed)

\*Medical Interpreting Task Force

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## Problems with VRI Include:

- Patient has visual impairments (e.g. deaf-blind) and cannot see the screen well/clearly
- Equipment blocking visual sight lines
- Insufficient signal strength, weak audio
- Multiple deaf people (family members) cannot all see the screen and be seen by the camera
- Interpreters (VRI) cannot see the context, identify who is entering/leaving, who is talking, what they are doing
- Staff lack training how to use the device

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## When VRI is Effective

- When the patient is feeling able to sit up and to concentrate e.g. for non-serious visits to the ER, or as a patient is getting ready to be discharged

\*Medical Interpreting Task Force



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## When VRI is Most Effective

The most effective communication for emergencies/urgent care is a combination of an on-call interpreter and VRI –

- procedure of asking the deaf, hard-of-hearing or deaf-blind patient their most effective means of communication – (preference)
- If requested, calling the on-call interpreter,
- Meanwhile, if possible, using the VRI to get initial patient information

\*Medical Interpreting Task Force

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## Choosing Appropriate VRI Provider

Many healthcare facilities have arrangements with remote language translation companies to provide translation for patients who speak other languages. Such companies add on ASL interpreting as one of their options:

- Are these interpreters qualified?
- Is interpreting for Deaf patients, a Disability Accommodation under the ADA, or a Language Accommodation?

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## Communication Access Realtime Translation

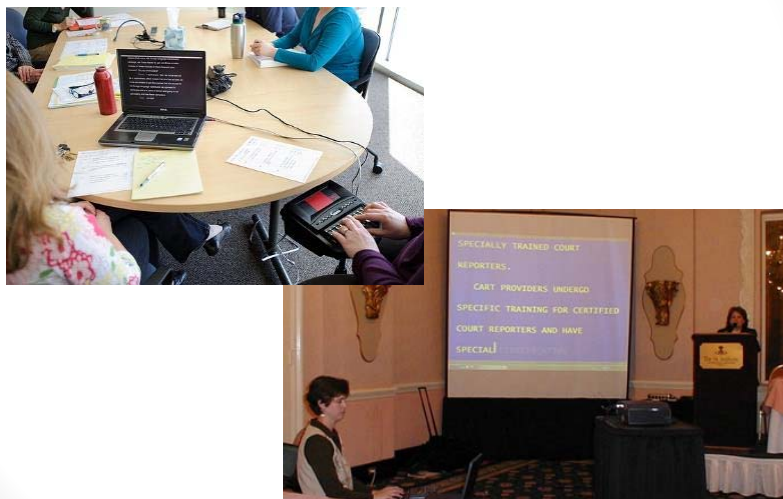
For individuals who are deaf but do not rely on sign language for communication and who have good levels of reading comprehension, the appropriate auxiliary aid or service is usually the use of transcription services, such as Communication Access Realtime Translation (CART).

28 C.F.R. § 35.104.

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## Communication Access Realtime Translation (CART)



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## Undue Burden and Fundamental Alteration

- The ADA does not require the provision of any auxiliary aid or service that would result in an undue burden or in a fundamental alteration in the nature of the goods or services provided by a health care provider.

28 C.F.R. § 36.303(a)

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## Undue Burden and Fundamental Alteration

- An individualized assessment is required to determine whether a particular auxiliary aid or service would be an undue burden.



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## “But it Costs too Much!”

- A health care provider is expected to treat the costs of providing auxiliary aids and services as part of the overhead costs of operating a business.
- As long as the provision of the auxiliary aid or service does not impose an undue burden on the provider’s business, the provider is obligated to pay for the auxiliary aid or service.

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## Undue Burden and Fundamental Alteration

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

28 C.F.R. § 36.303(f).

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## Developing Policies and Procedures

- Healthcare providers are encouraged to enact internal policies and procedures that address the specific communication needs of the entity and the patrons they serve.
- Drafting policies and providing training on the protocols for arranging auxiliary aids and services keeps staff members informed with how to comply with the ADA

\*Colorado Commission for the Deaf and Hard of Hearing

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## Establish an Effective Communication Office Policy



- Frontline staff should ask deaf patients what their preferred communication needs are and document this in the patient's medical records.



- Build a database of qualified sign language interpreters and referral agencies with expertise in medical settings.

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## **An Effective Communication Policy Includes:**

- Definition of who is entitled to auxiliary aids and services (Persons who are deaf, visually impaired, companions, etc.)
- Examples of services and auxiliary aids the entity has available
- How to respond to a request for auxiliary aids (such as interpreters)
- How long it should take to respond to requests

\*Colorado Commission for the Deaf and Hard of Hearing

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## **An Effective Communication Policy Includes:**

- Where devices (like assistive listening systems or VRI equipment) are stored
- Names of subcontractors that provide auxiliary services (such as interpreters, CART, Braille)
- Hours of when subcontractors are available to provide services
- Procedures for obtaining a qualified interpreter last minute or during an emergency

\*Colorado Commission for the Deaf and Hard of Hearing

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## An Effective Communication Policy Includes:

- When it is appropriate to exchange written notes and when an interpreter should be called
- Who is considered a “qualified interpreter”
- Language about friends, family, children and impartial parties being unqualified to interpret
- Appropriate and inappropriate times and settings to use Video Remote Interpreting (if applicable)

\*Colorado Commission for the Deaf and Hard of Hearing

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## Resources

- Regulations, appendices, standards are available at DOJ’s ADA web site at [www.ada.gov](http://www.ada.gov)  
 For answers to specific questions, DOJ toll-free ADA information line:  
 800-514-0301 (Voice)  
 800-514-0383 (TTY)
- Network of ADA Centers: 800-949-4232 (Voice/TTY)
- U.S. Access Board [www.access-board.gov](http://www.access-board.gov)

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## Resources

National Association of the Deaf

<http://www.nad.org>

National Federation of the Blind

<https://nfb.org>

Registry of Interpreters for the Deaf

<http://www.rid.org>

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## Common State Resources

- Disability-related Agencies
- State Office of Deaf and Hard of Hearing Services
  - Deaf and Hard of Hearing Regional Centers
- Department of Services for the Blind
  - Council for the Blind
- Interpreter Referral Agencies

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# Questions?



QUERY ME



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