

**Virginia Department of Health**  
**Office of Licensure and Certification**

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Framework Document: Guidelines for Hospitals regarding Americans with Disabilities Act  
(ADA) Compliance

Focus: Patients who are Deaf or Hard of Hearing

Introduction

The purpose of this document is to provide guidance to licensed hospitals to ensure compliance with the requirements of the ADA and ensure patients and family members of patients who are deaf or hard of hearing are able to communicate effectively with health care providers. All hospitals within the Commonwealth of Virginia should have designated staff as a point of contact for all patients with special communications needs. Those designated staff members should be available 24 hours a day, 7 days a week.

Terms

The following terms have the following meanings within this document:

“Accommodations” means assistance, provision of aids or equipment, modification or adjustment to a procedure/process that allows an examination, procedure, treatment, or visit to be successfully completed for a person with a disability.

“Certified deaf interpreter” means a deaf or hard of hearing individual who is also a qualified interpreter. A certified deaf interpreter works as a part of an interpreting team along with a hearing interpreter. The certified deaf interpreter interprets a message from the deaf individual to the hearing interpreter and then the hearing interpreter relays the message to a hearing individual. A certified deaf interpreter has specialized training and/or experience in the use of gesture, mime, props, drawings and other tools to enhance communication. A certified deaf interpreter has knowledge and understanding of deafness, the deaf community, and deaf culture.

“Companion” means any family member, friend, legal representative or associate of a patient who is an appropriate person with whom the entity should communicate.

“Effective communication” means whatever communication is written or spoken must be as clear and understandable to individuals with disabilities as it is for individuals who do not have disabilities.

“Facility” means a hospital licensed by the Virginia Department of Health (VDH) Office of Licensure and Certification (OLC).

“Medical Record” means a continuous and accurate documented account of the services provided to a patient. A medical record may include records maintained in an electronic medical record.

“Qualified interpreter” means an interpreter with medical experience who currently holds at least one of the following credentials:

1. Certification from any national organization whose certification process has been recognized by the Department for the Deaf and Hard of Hearing; or
2. A current screening level of III or IV awarded by the Virginia Quality of Assurance Screening Program of the Department for the Deaf and Hard of Hearing; or
3. An equivalent screening level or equivalent recognized evaluation (Level III or IV) from any other state when i) the credentials meet the minimum requirements of the Virginia Quality Assurance Screening and ii) the credentials are valid and current in the state issued.

A facility may make a request of an interpreter to provide proof of certification in order to determine if an interpreter is a qualified interpreter.

### Identification and Assessment of Communication Need

- Each facility should develop and implement carefully constructed policies and procedures to assess patient communication needs and ensure that staff is trained in the use of those policies and procedures.
- Facilities should be encouraged to make reasonable efforts to identify and assess communication needs as early as possible. This should include when a patient is in route to the facility if feasible. For example through a conversation with ambulance personnel.
- When scheduling an appointment or upon admission/registration, staff should identify and assess if a patient has any communication needs or disabilities that may affect their ability to communicate and any accommodations required.
  - Facility staff should allow the patient to determine what accommodations are necessary to provide effective communication.
    - This should be done through a Special Needs Assessment Form such as the model form included in Appendix 1.
    - A facility should have a menu of potential accommodations; the menu should be presented to the patient to assist in the patient's determination.
    - Preference should be given to patient requests for specific accommodations. However, in cases when a request is denied the patient should be notified, the denial should be documented in the patient's medical record, and the patient should be informed about the appeal/complaint process.
    - Facility staff should be aware that a patient may benefit from a certified deaf interpreter.
    - If the patient is deaf-blind they may require a tactile interpreter.
  - Once identified, the communication need should be documented in the patient's medical record and arrangements for any accommodations required by the patient should be initiated.
  - Facility staff should re-assess communication need and accommodations if there is any indication that current accommodations are not effective. This should be documented in the patient's medical record.
- With the patient's permission, a "Broken Ear" sticker (the international symbol for hearing loss) or "Hard of Hearing" sticker should be applied to the patient chart to easily identify the Deaf and Hard of Hearing (DHOH) patient. If an individual relies on a sign language interpreter services, the "sign language interpreter" symbol should be included

on the patient chart. The facility should develop methods to include these symbols in the patient's medical record.

- Facilities should consider also utilizing information encoded within the patient's wrist band that will alert staff of their communication needs.
- Each facility should develop a method by which any contact with patients with special communication needs prompts an arrangement for appropriate accommodations.
- If a patient requests an accommodation, staff should complete the Special Needs Assessment Form (model form attached to this document in Appendix 1).
  - The patient should sign the Special Needs Assessment Form confirming that the request is accurate.
  - The signed Special Needs Assessment Form should be included in the patient's medical records.

### Emergent Situations

- In an emergent situation where the patient's medical condition might be compromised by waiting for an interpreter to arrive before beginning assessment and treatment:
  - Staff should render any necessary and appropriate medical treatment
  - Staff should use their best efforts to provide the most effective communication possible, including video interpreting services, until an interpreter arrives
    - Staff should be aware that in certain circumstances video interpreting services may not be appropriate due to the patient's medical situation. Such an assessment should be made by the patient's physician.
  - Staff should be aware of the universal sign for an emergency situation for patients who are deaf-blind, which is drawing the letter X on the back of the person who is deaf-blind with the fingertips.
  - Staff should document all event details in the patient's medical record.

### Provision of Accommodations

- **Facilities should have designated staff as a point of contact for all patients with special communication need. These designated staff members should be available 24 hours a day, 7 days a week.**
- Advanced notice should be given to the designated staff when a patient or a patient's companion with special communication needs and requested accommodations is presenting for a scheduled visit.
- Staff should provide the patient information regarding the anticipated time of delivery of a requested accommodation after a request is made.
- Staff should provide the appropriate accommodation in a timely manner. For example a request for an onsite interpreter should be provided within 2 hours and for an auxiliary aid within 30 minutes.
  - If a suitable interpreter cannot be located within the state time frame the facility should have a procedure that includes:
    - Documentation of reasonable efforts to contact interpreters
    - Provision for alerting supervisor/administrator
    - Provision for informing the patient of efforts undertaken, that these efforts have failed and that they are continuing

- Provision to ask the patient for a potential short-term alternative until a suitable interpreter can be provided
    - Provision to follow-up on the suggested alternative accommodation.
- Facilities should consider providing the following services and aids to DHOH patients:
  - Contracted face to face Sign Language Interpretation Services
    - Contracted interpreters should be available on request for American Sign Language (ASL) and be available 24 hours/7 days a week.
    - The designated staff should maintain an accurate and current list showing the name, phone number and hours of availability of ASL interpreter services.
    - Facilities should consider having on-staff interpreter services available, particularly if the facility is in an area with a large population of DHOH patients.
    - Use of video interpreting services until an onsite interpreter arrives is appropriate.
  - Video Interpreting Service
    - Facilities should consider utilizing a video interpreting service to meet the immediate communication needs of the patient and the medical professional in Emergency Departments.
    - Facilities should clearly and strongly communicate to all staff that video interpreting services should only be utilized until a face to face interpreter can be obtained.
    - Video interpreting services require high speed internet. Facilities should make Ethernet available in Wi-Fi dead zones. In areas where the internet is not reliable, video interpreting services should not be utilized.
    - Facilities should research whether their video interpreting service utilizes qualified interpreters and should utilize certified interpreters whenever possible.
    - Facilities should do ongoing testing to ensure that effective communication is occurring through video interpreting services.
    - Video phones may be utilized as a method of communicating.
  - Telephone Services for persons who are DHOH
    - Facilities may utilize a Telecommunication Device for the Deaf (TDD) and TTY relay service as methods of communicating over the telephone.
    - Instructions on how to operate TDD/TTY should be available through designated staff.
    - Video phones may be utilized as a method of communicating.
    - Hearing aid compatible/amplified/large number telephone/caption telephone
  - Services to alert persons who are DHOH when in waiting areas
    - Facilities should consider utilizing text messaging or vibrating pagers to alert patients who are DHOH.
  - Facilities should consider providing the following assistive devices and equipment for persons who are DHOH:
    - Portable amplifiers
    - Closed captioning for TV

- Flashing Light Door knocker signaler
  - Visual aids such as the Virginia Department of Deaf and Hard of Hearing visor alert card
  - Intake kits for hard of hearing patients
  - Ensuring all facility videos are closed captioned
  - Access to video phones
- Facilities should consider the following services and aids for Deaf-blind patients:
  - Contracted tactile ASL Interpreters
  - Staff who can communicate via finger spelling
  - Tactile communicators such as Brail talk
- Companions with communication needs should also be provided with requested accommodations when appropriate.
- All accommodations should be provided to the patient at no cost to the patient.

### Family/Friends as Interpreters

- Family members or friends should only be used as interpreters if the patient understands that an offer of an interpreter at no charge to the patient has been made by the facility and the patient specifically requested a family member or friend be utilized instead of a facility-provided interpreter. Such an offer and response should be documented in the patient's medical record.
- Staff should never express or suggest to a patient that family members or friends are required or encouraged to be used for interpreting.
- If the patient still chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy and conflict of interest should be considered. If the patient elects to use a family member or friend, the healthcare provider should ensure that a qualified interpreter sits in on the encounter to ensure accurate interpretation.
- Children under the age of 18 and/or other patients should never be used to interpret even at the request of a patient, in order to ensure confidentiality of information and accurate communication.
- Facilities should make good faith efforts to provide communication services to family members and friends of patients who do not meet the definition of companion and also have communication needs. Facilities are required to provide accommodations to companions.

### Documentation

- During any interaction with a patient with special communication and accommodation needs facility staff should document within the patient's medical record the method of and mode of communication, the accommodation utilized and the date and time.
- When using a qualified interpreter, the medical professional should document in the patient's medical record, the interpreter's name or identification number and a description of the encounter.
  - The patient should be provided an opportunity to provide feedback on the effectiveness of the interpreter. This information should be used by the facility in the future in selecting interpreters.

- All documentation should be done in a manner in which accommodations can be identified by all staff throughout the visit and verified on subsequent visits.
  - For example, should a patient have an electronic medical record, there should be an alert every time the record is opened to notify staff of the patient's communication needs
- Facilities should use the Special Needs Assessment Form (model provided in Appendix 1) for:
  - Identification and assessment of patient communication needs
  - Patient, friends or family requests for an interpreter and/or other aids
  - Staff response to requests for an interpreter and/or other auxiliary aids provided and/or used
  - Patient, friends or family refusal of an interpreter and/or other aids
  - Staff response to refusal of interpreter and/or other aids.
  - If an offer for a facility-provided interpreter is refused, the name of the family member or, friend the patient identifies as his/her interpreter
  - Arrival time of the interpreter
  - The time the requested auxiliary aid was provided

#### Providing Notice to People with Disabilities

- Facilities should post appropriate signage in public areas to notify individuals who need special assistance of their right to receive services and auxiliary aids at no cost to them.
- Signs should be posted in intake areas and other points of entry, including but not limited to the emergency department and patient access. This information should also be available on the facility's website.

#### Educating Staff on Policy and Procedure

- All staff should be provided notice of the facility's policies and procedures regarding communication with patients who are DHOH.
- All facilities should consult DHOH individuals or interpreters when developing their training materials. All facilities should consider including DHOH individuals or interpreters in their training exercises.
- Staff should be trained regarding these policies and procedures at orientation and annually.
- Staff that may have direct contact with individuals with disabilities should be trained in effective communication techniques, including effective use of interpreters.
  - These staff members should be made aware that some communication techniques may not be effective due to the patient's medical condition. i.e. Video interpreting services may not be appropriate when an individual has a visual impairment is immobile or when moving the individuals head would be detrimental etc...
- Staff should be educated on appropriate and culturally sensitive terminology and respecting individuals with disabilities.
- Staff should be educated on the appropriate individual to contact should they note a patient who may need communication assistance.

#### Complaint Process

- The Virginia Department of Health Office of Licensure and Certification encourages all patients who have complaints to contact facility staff with their concerns first.
- Facilities should have a policy and procedure regarding complaints, especially from individuals who are DHOH. Such policies should be provided to patients upon registration and discharge.
- In addition to regulatory compliance inspection, the Office of Licensure and Certification investigates consumer complaints regarding health care services received at the facilities it licenses or certifies, including hospitals.
- If the concerns in the complaint relate to the provision of health care services, an investigation is conducted and complainants receive notice of the results of that investigation.
- A patient may submit a complaint by calling or writing.
- To report a complaint via telephone an individual can call Toll Free: 1-800-955-1819 or (804) 367-2106
- To file a complaint in writing a patient should visit: <http://www.vdh.virginia.gov/OLC/Complaint/> and download a complaint form. Then the complaint form may be submitted via mail, fax or email.

Complaint Intake

Office of Licensure and Certification

**By US Mail:**

Virginia Department of Health  
9960 Mayland Drive, Suite 401  
Henrico, VA 23233-1463

OR

**By FAX:**

1-804-527-4503

OR

**By email:**

[OLC-Complaints@vdh.virginia.gov](mailto:OLC-Complaints@vdh.virginia.gov)

Resources:

VDH OLC: <http://www.vdh.virginia.gov/OLC/>  
804-367-2102 (Voice); 800-828-1120 (TYY)

The Virginia Department of Deaf and Hard of Hearing (VDDHH):

<http://www.vddhh.org/Default.htm>

(804)662-9502 (Voice/TTY)

Information and Technical Assistance on the Americans with Disabilities Act: [www.ada.gov](http://www.ada.gov)

Americans with Disabilities Act Information Line: 800-514-0301 (Voice); 800-514-0383 (TTY)

Virginia Association of the Deaf: [www.vad.org](http://www.vad.org)

571-350-8029 (VP)

The disability Resource Center: [www.cildrc.org](http://www.cildrc.org)

540-373-2559(Voice); 540-373-5890 (CAPTEL/TTY); 540-645-5378 (Video Phone)

Hearing Association of America Greater Richmond Chapter: [www.hlaagreaterrichmond.com](http://www.hlaagreaterrichmond.com)

**APPENDIX 1**

**At the first opportunity, please complete this form with the patient or companion and have it placed in the patient's medical record. Complete one form per person requesting accommodation.**

**Patient or Companion: If you or any companion assisting in your care has a special need, please indicate below:**

**O Patient's medical condition does not allow completion at this time.**

	<b>Patient</b>	<b>Companion/Legal Guardian</b>
<b>Are you deaf or do you have difficulty hearing?</b>	OYes ONo	OYes ONo
<b>Are you blind or do you have serious difficulty seeing, even when wearing glasses?</b>	OYes ONo	OYes ONo
<b>Do you have serious difficulty walking or climbing stairs?</b>	OYes ONo	OYes ONo
<b>Do you have any other special needs or disability that requires services or accommodations during your visit today?</b>	OYes ONo	OYes ONo
<b>If you have indicated a need above, do you or your companion need services or accommodations related to your identified need(s)?</b>	OYes ONo	OYes ONo

**Patient or Companion: Please describe type of accommodation requested and the date and time of the request:**

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**Patient or Companion: Do you have any special instructions for care providers? If so, please describe below:**

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**Staff: Please document in detail accommodation(s) requested and services given and the date and time provided. If an interpreter is utilized the interpreter's name or identification number should be provided. If a requested accommodation is not provided please document in detail why the requested accommodation was not provided.**

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**Patient or companion: If an interpreter was utilized please provide feedback regarding the effectiveness of the interpreter:**

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**Staff: Please document if a facility provided interpreter is refused the name of the family or friend the patient identifies as their interpreter. Please document any other auxiliary aids refused and the facility's response.**

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**By my signature below, I hereby certify that: (i) I have been given the opportunity to communicate whether I and/or my companion has a disability or special need requiring accommodation; (ii) I have had the opportunity to communicate my needs to staff as reflected above and that the above selections are true, accurate and complete; (iii) I understand that [INSERT PROVIDER NAME] will use reasonable efforts to accommodate my requests and that any accommodations provided will be given free of charge; and (iv) I have been provided notification of the facility's complaint process and the ability to lodge a complaint with the Virginia Department of Health Office of Licensure and Certification.**

\_\_\_\_\_  
**Signature of Patient/Patient Representative/Companion      Date Time**

**Print:** \_\_\_\_\_  
**Relationship to Patient:  Self  Parent  Family Member  Friend  other** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Employee Witness      Date Time**

**Print:** \_\_\_\_\_