



DEPARTMENT OF HEALTH & HUMAN SERVICES  
OFFICE OF THE SECRETARY  
Office for Civil Rights  
1(800) 368-1019  
[www.hhs.gov/ocr](http://www.hhs.gov/ocr)



June 9, 2015

Dear Hospital Administrators:

The U.S. Department of Health and Human Services, Office for Civil Rights (“OCR”) and the Puerto Rico Hospital Association write this letter to increase awareness of an important issue affecting the provision of medical services to deaf and hard of hearing individuals – the provision of auxiliary aids and services to ensure effective communication. OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (“Section 504”), Title II of the Americans with Disabilities Act (“ADA”) and Section 1557 of the Patient Protection and Affordable Care Act (Section 1557). These Federal laws require hospitals, health care providers, clinics, medical practices and other entities to provide services to persons with disabilities in a non-discriminatory manner. This includes providing appropriate auxiliary aids and services to deaf and hard of hearing patients and their family members when necessary to ensure effective communication with service providers.

A group of health professionals established the Puerto Rico Hospital Council with the Puerto Rico Department of State on June 25, 1942 with the purpose of maintaining and strengthening the union of public and private health care institutions in Puerto Rico and with the objective of helping these institutions achieve excellence in the provision of health services while maintaining the proper balance of cost controls and benefits for the provider. On March 29, 1976, the name of the Hospital Council was changed to the Puerto Rico Hospital Association.

Through the years, the Puerto Rico Hospital Association has grown and strengthened due to the effort, enthusiasm and leadership of its members, who have built the Puerto Rico Hospital Association’s positive image in the local, national and international community by always providing quality services to the patients they serve.

Last year, the Puerto Rico Hospital Association signed an agreement with Language Services Associates which provides the terms and conditions upon which the Members of the Puerto Rico Hospital Association shall procure, and LSA shall provide, Video Remote Interpreting (VRI) Services. This is one of several options that may be available for communication with deaf and hard of hearing individuals.

Effective communication is critical in health care settings. Failure to ensure effective communication in such settings may lead to a misunderstanding of a patient’s symptoms and thus to an inappropriate diagnosis and delayed or improper medical treatment. It may also result in miscommunications concerning important medical instructions and warnings or medication information.

Section 504 and the ADA require hospitals, health care providers, clinics, and medical practices and other entities to provide auxiliary aids and services when needed to communicate effectively with people who have communication disabilities such as hearing and speech deficits. Auxiliary aids and services may include: qualified interpreters, computer-aided transcription services (also called CART), assistive listening devices, captioning, note-takers, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, closed caption decoders, telecommunications devices for deaf persons (TDDs), videotext displays and other effective methods of making oral information and communication accessible.

The services or aids that must be provided to ensure effective communication will depend upon the abilities of the person who is deaf or hard of hearing, the primary method used by the person to communicate and the complexity and nature of the communications that are required. For complicated and interactive communications, a qualified sign language interpreter may be required for effective communication. Situations where a sign language interpreter may be required include, but are not limited to, discussing a patient's symptoms and medical condition, medications, and medical history; explaining and describing medical conditions, tests, treatment options, medications, surgery and other procedures; providing a diagnosis, prognosis, and recommendation for treatment; obtaining informed consent for treatment; communicating with a patient during treatment, testing procedures, and during physician's rounds; providing instructions for medications, post-treatment activities, and follow-up treatments. However, for brief and relatively simple interactions that do not involve the discussion or provision of medical care, exchanging written notes will likely be effective communication.

For additional information on communicating with deaf and hard of hearing individuals in hospital settings please refer to the following linked resources that both OCR and the United States Department of Justice have published on their websites:

[www.hhs.gov/ocr/civilrights/resources/specialtopics/hospitalcommunication/index.html](http://www.hhs.gov/ocr/civilrights/resources/specialtopics/hospitalcommunication/index.html);  
[www.hhs.gov/ocr/civilrights/resources/factsheets/effcomm.html](http://www.hhs.gov/ocr/civilrights/resources/factsheets/effcomm.html); [www.ada.gov/hospcombr.htm](http://www.ada.gov/hospcombr.htm);  
[www.ada.gov/effective-comm.htm](http://www.ada.gov/effective-comm.htm)

These resources also include some material on effective communication with persons who have other disabilities, as well as individuals who have limited English proficiency, and related privacy issues under the Health Insurance Portability and Accountability Act.

We recognize that family members play a vital role in a patient's care and their participation is often critical to ensuring health care services are accessed and understood. However, an accurate exchange of information is critical for a health care provider to correctly diagnose and provide appropriate care and treatment to a patient. While persons who are deaf or hard of hearing are often accompanied to medical settings by family members and friends who they use as interpreters, these individuals often lack the impartiality and specialized vocabulary needed to interpret medical information effectively and accurately. This is often the case with minor children. Section 504 and the ADA place responsibility for providing effective communication, including the use of qualified interpreters, directly on health care providers. Under the ADA guidelines established by the United States Department of Justice<sup>1</sup>, a health care provider can rely on a companion to interpret in only two situations:

---

<sup>1</sup> See ADA regulation 28 CFR 35.160(c)(2) and (3)

- (1) In an emergency involving an imminent threat to the safety or welfare of an individual or the public, an adult or minor child accompanying a person who uses sign language may be relied upon to interpret or facilitate communication only when a qualified interpreter is not available.
- (2) In situations not involving an imminent threat, an adult accompanying someone who uses sign language may be relied upon to interpret or facilitate communication when a) the individual requests this, b) the accompanying adult agrees, and c) reliance on the accompanying adult is appropriate under the circumstances. This exception does not apply to minor children.

See: [www.ada.gov/effective-comm.htm](http://www.ada.gov/effective-comm.htm)

OCR and the Puerto Rico Hospital Association ask that you take steps to ensure that your facility provide all individuals with disabilities, including individuals who are deaf or hard of hearing with full and equal access and effective communication to healthcare services provided by your facility.

OCR and the Puerto Rico Hospital Association remain willing to support you in your voluntary efforts to comply with Federal and Puerto Rico Public laws and regulations. If you need additional information about any of the aforementioned regulations or seek guidance, please contact the Hospital Association or OCR for further information.

Thank you for your attention to these matters.

Sincerely,

/s/

---

Jaime Plá-Cortés  
Executive President  
Puerto Rico Hospital Association

/s/

---

Jocelyn Samuels  
Director  
Office for Civil Rights  
U.S. Department of Health and Human Services