



**HAWAI‘I CIVIL RIGHTS COMMISSION
DISABILITY AND COMMUNICATION ACCESS BOARD**

**GUIDANCE FOR
HEALTHCARE PROVIDERS
IN ENSURING
EFFECTIVE COMMUNICATION**

Under Hawaii and federal law¹, discrimination on the basis of disability is prohibited in a public accommodation, including health care facilities and services. Health care providers have a duty to provide patients who are deaf, hard of hearing, and deaf blind with auxiliary aids and services, including qualified sign language interpreters to provide effective communication.

¹Hawai‘i Revised Statutes (H.R.S.) §489; Title III of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

WHAT IS AN AUXILIARY AID OR SERVICE?

An auxiliary aid or service is a means to achieve effective communication with a person who has a communication disability such as a vision, hearing or speech disability. An auxiliary aid or service allows the individual with a disability to enjoy full and equal enjoyment of a public accommodation. Qualified sign language interpreters are regarded as auxiliary aids or services. Sign language interpretation must be provided to allow a patient who is deaf, hard of hearing or deaf blind to effectively communicate with health care providers, i.e. physicians, nurses and other staff members.

WHO IS ENTITLED TO A SIGN LANGUAGE INTERPRETER?

Any individual who is deaf, hard of hearing, and deaf blind whose primary language is sign language or who express their preference for the use of sign language to communicate is entitled to the use of an interpreter. State and federal laws protect individuals against discrimination based on disability, and any individual who is deaf, hard of hearing or deaf blind is considered an individual with a hearing disability. The abilities of deaf, hard of hearing, and deaf blind individuals in written English or aural communication may not be considered when a sign language interpreter is requested. **Any patient who is deaf, hard of hearing or deaf blind, including those seeking or receiving services from a health care provider, is entitled to a qualified sign language interpreter if needed for effective communication.**

WHO IS COVERED BY THE LAW?

All health care providers are covered by Hawai'i and federal laws. Health care providers receiving federal financial assistance have the obligation to provide qualified sign language interpreters. **Private health care providers, regarded as places of public accommodations, have the same obligation, regardless of the size of the practice or the number of staff members.** The law applies to, among others, institutions, programs and service health care providers such as Medicaid or Medicare providers, physicians in private practice, clinics, hospitals, as well as other health care providers such as dentists, podiatrists, and mental health providers.

WHAT IS "EFFECTIVE COMMUNICATION"?

Health care providers must engage in effective communication with a patient who is deaf, hard of hearing or deaf blind to both receive information, and convey information. To consider if the patient who is deaf, hard of hearing, or deaf blind needs to communicate in sign language, health care providers are encouraged to consider the nature, length, complexity, and content of the communication, and the patient's methods of communication. **A qualified sign language interpreter is strongly recommended to explain diagnosis and prognosis, provision of informed treatment recommendations and decisions, and instances requiring**

the consent of the patient who is deaf, hard of hearing or deaf blind, among others. Sign language interpreters must be qualified, and be able to interpret effectively, accurately and impartially, both receptively and expressively using necessary specialized vocabulary. Qualified sign language interpreters must fulfill higher standards in their profession, as they must be able to interpret complex medical terminology. The use of family members or friends of the patient is not appropriate because of the qualifications to interpret effectively, accurately and impartially.

WHAT ARE THE HEALTHCARE PROVIDER'S RESPONSIBILITIES?

Health care providers should engage in an interactive process with the patient who is deaf, hard of hearing or deaf blind. Health care providers have an obligation to ensure effective communication when the patient expresses the need for it, or when it is evident. Before deciding what type of auxiliary aid or service is necessary, health care providers are strongly encouraged to consult the patient. If a patient who is deaf, hard of hearing or deaf blind requests a qualified sign language interpreter, deference should be given to the patient. Each patient who is deaf, hard of hearing, and deaf blind has different needs and preferences regarding the desired profile of interpreters, the sign language used and the specific services interpreters can provide, including American Sign Language and/or tactile interpreters. Health care providers have the responsibility to make arrangements with sign language interpretation services and to cover the cost. The cost may never be charged to the patient, and a health care provider shall not refuse to serve the person with a disability because his/her insurance company does not cover the costs. Training and development of internal policies are recommended.

CAN THE HEALTHCARE PROVIDER USE OTHER AUXILIARY AIDS AND SERVICES?

Health care providers have the ultimate decision regarding the use of auxiliary aids and services to ensure effective communication, and should consult with the patient. In limited situations, the provision of a qualified sign language interpreter may not be necessary, such as setting an appointment, or for routine situations such as doing a physical examination or taking medication. The effectiveness of alternative auxiliary aids and services varies among patients who are deaf, hard of hearing, and deaf blind and requires individualized assessment. Written communication may not be appropriate for a patient who is deaf, hard of hearing or deaf blind whose primary language is sign language. Also, the use of video remote interpreting does not replace the high standard of on-site interpretation and its use must be assessed with the patient's mode of communication, needs and preferences, and the specific situation. For example, when there is a walk-in consultation or an emergency visit, the health care provider should provide the most effective communication to the extent possible.

CONTACT INFORMATION:

For more information about the state and federal laws or need additional information, please contact:



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DISABILITY AND COMMUNICATION

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This fact sheet is a general summary of the state and federal laws and does not have the force or effect of administrative rules or Hawai'i laws. If there are any inconsistencies, the rules and Hawai'i law will control.