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To: Hospital Administrators  
From: Heidi L. Reed, Commissioner, MCDHH  
Date: July 15, 2010  
Re: Requirements for Effective Communication Access for Deaf, Late-deafened, and Hard of Hearing Individuals in Hospital Settings

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Under Massachusetts law, General Laws, Chapter 6, Section 194, the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH), serves as the principal agency of the Commonwealth, on behalf of Deaf and hard of hearing persons, and advocates, provides and coordinates promulgation of public policies, regulations and programs. MCDHH provides referral and screening of credentialed ASL interpreters for the purpose of improving accessibility and quality of interpreter services. MCDHH also increases public awareness of Deaf and hard of hearing individuals and provides services to the Deaf and hard of hearing population. The Commission works closely with constituent groups to inform and train the public on their rights pertaining to communication access.

Pursuant to those roles, MCDHH works to ensure that people who are Deaf or hard of hearing are afforded their right to "effective communication" in medical settings. MCDHH has received complaints that certain medical facilities have not met their legal obligation to provide effective communication. A failure to provide effective communication can have significant adverse effects on the emotional and physical well being of patients who are Deaf or hard of hearing.

This letter has a four-fold purpose: 1. to clarify the obligation of your medical facility to afford effective communication to patients who are Deaf or hard of hearing; 2. to set forth the recommended components of your facility's effective communication compliance efforts; 3. to describe MCDHH quality assurance efforts on behalf of its constituents; and 4. to let you know about resources available from the Commission to help educate your staff about those obligations.

I. Obligation to provide effective communication to patients who are Deaf or hard of hearing

The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. (ADA) and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 prohibit discrimination against individuals with disabilities, including depriving them of the full and equal enjoyment of the goods, services, facilities, or accommodations of any place of public accommodation, including hospitals and other health care providers. To ensure an equal opportunity to use their services, hospitals and other health care facilities must provide "effective communication" to individuals who are Deaf or hard of hearing by providing appropriate "auxiliary aids and services," including the provision of qualified American Sign Language (ASL) interpreter services and assistive listening devices.

## II. Recommended components of your facility's effective communication efforts

As set out more specifically below, the key elements of a hospital's effective communication access strategy are a. notice, b. the coordination and provision of interpreter services, and c. the provision, where appropriate, of assistive listening devices.

### **a. Notifying constituents of the hospital's communication access efforts:**

1. Hospitals are advised to post information at the point of intake and in the emergency room indicating it will provide effective communication accommodations, including ASL interpreter services upon request.
2. At the point of intake, it is recommended that the hospital provide each person with a written statement of the hospital's responsibilities pertaining to effective communication accommodations including ASL interpreting services.
3. Each hospital is advised to have written grievance procedures for persons who believe that they did not receive the appropriate level of effective communication access through ASL interpreting or other communication access accommodations at the hospital. In addition, the hospital should provide information about where, internally and externally, to file grievances.

### **b. Coordination and provision of communication access:**

#### ASL Interpreter Services:

1. Hospitals are advised to designate a Communication Access Coordinator responsible for obtaining reasonable accommodations such as ASL interpreter services for Deaf and Hard of Hearing persons coming for inpatient, outpatient and emergency treatment. MCDHH provides Referral of certified ASL interpreters for daytime/scheduled appointments in hospital settings, and for daytime emergencies. Hospitals may contact MCDHH at 617-740-1600 to request ASL interpreter services on weekdays from 9:00 am - 5:00 pm.
2. Where feasible, hospitals may hire interpreters with valid certification from the National Registry of Interpreters for the Deaf (RID) as hospital staff, and schedule these interpreters to be available for emergencies occurring during evening, weekend, and holiday hours.
3. Certain emergencies, such as rape kit administration, require a legally credentialed interpreter or one who has received specialized training and approval from MCDHH. For these emergencies, hospitals must obtain legal interpreters by calling the 24/7 MCDHH hotline at 1-800-249-9949.
4. Hospitals are advised to prepare for evening/weekend/holiday emergencies by contacting credentialed ASL interpreters and establishing on-call agreements by which these interpreters can be reached. MCDHH provide a list of credentialed and approved ASL interpreters. Interpreters referred by MCDHH are CORI screened and have provided evidence of TB vaccinations. The hospital is responsible for verifying all other vaccinations and obtaining and complying with relevant HIPAA agreements.
5. If a hospital is contacted by an interpreter whose name is not on the list obtained from MCDHH, the hospital may verify the interpreter's credentials by accessing the website of the National Registry of Interpreters for the Deaf at <http://www.rid.org/>.
6. The hospital should have designated staff on each shift trained to contact the on-call interpreter(s) and obtain the required services in the event of an emergency. This staff person should be trained to call the MCDHH hotline to obtain a legally credentialed interpreter when the emergency involves a legal incident.

7. In the event of an emergency, if an on-call ASL interpreter cannot be immediately obtained, the hospital may inform the Deaf or Hard of Hearing individual of the availability of an interpreter through a Video Remote Interpreting (VRI) service and obtain the Deaf and Hard of Hearing individual's verification that he/she is able to communicate through a VRI service. Notification may be provided in writing or through a pre-recorded message in ASL with English captions in CD format.

8. It is recommended that hospitals utilizing VRI have designated staff on each shift that is trained to utilize VRI equipment in the event of an emergency, and related instructional materials will be posted on or near the VRI equipment.

**c. Provision of Assistive Listening Devices:**

Assistive Listening Devices and Systems (ALDS) may be requested by some individuals who are hard of hearing. ALDS enhance a person's ability to hear a conversation on a one-to-one basis or in a group setting. It is recommended that a hospital have ALDS available upon request as a reasonable accommodation.

**d. Provision of Communication Access Real Time Translation ( CART) Services:**

Communication Access Real Time Translation may be requested by some individuals who are late-deafened. CART enables a person to read a real time transcript of a conversation on a one-to-one basis or in a group setting. It is recommended that a hospital have CART available upon request as a reasonable accommodation.

III. MCDHH quality assurance efforts on behalf of its constituents

MCDHH will work towards ensuring quality assurance in the following ways:

1. Whenever a complaint is received from constituents, the Commission will monitor for patterns of non-compliance.
2. The Commission will provide information and referral to complainants about where complaints may be appropriately filed.
3. In response to complaints received, the Commission may offer expertise and assistance to hospitals in meeting their communication access obligations.

IV. Resources available from the Commission to help educate you and your staff about your effective communication obligations:

MCDHH maintains a team of staff members to provide Communication Access Training & Technology Services (CATTs). Hospitals seeking technical assistance in providing communication access accommodations are encouraged to contact Debra Lobsitz by email at [Debra.Lobsitz@massmail.state.ma.us](mailto:Debra.Lobsitz@massmail.state.ma.us) or by phone at 617 740-1668 V and 617 740-1768 TTY to request CATT's assistance. Please contact us for assistance as needed. Our goal is to ensure that Deaf and Hard of Hearing persons have full access to the full range of hospital services. We look forward to working with you on these important issues.