

**REPORT OF THE  
VIRGINIA DEPARTMENT OF HEALTH**

**Report on the Status of  
Implementation - HB 1956  
Virginia General Assembly  
2015 Session**

**TO THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 20**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2015**



**Report on the Status of Implementation  
HB 1956  
Virginia General Assembly 2015 Session**

HB 1956 required the Virginia Department of Health (VDH) to work with stakeholders to develop guidelines for hospitals to ensure that hospitals are complying with the requirements of the Americans with Disabilities Act and patients and family members with sensory disabilities are able to communicate effectively with health care providers. This report provides a status of progress in implementing the provisions of the legislation.

**Progress toward meeting the provisions of HB 1956 includes:**

- HB 1956, as introduced, focused on the needs of patients who are deaf or hard of hearing, however, the enacted legislation more broadly directed development of a guidance document for patients with sensory impairments. The stakeholder engagement and thus the initial focus of the effort have been to develop guidance for hospitals in meeting the needs of their patients who are deaf or hard of hearing.
- The VDH's Office of Licensure and Certification (OLC) convened a stakeholder panel (roster attached) which met on November 6, 2015. Discussion focused primarily on the identification of issues and the strategies for addressing those issues.
- VDH OLC prepared a draft framework document (attached) and held a second meeting of the stakeholder panel on December 18, 2015. The panel:
  - Reviewed the draft framework document and provided recommended changes for a near-final Guidance Document focused on patients who are deaf or hard of hearing;
  - Discussed issues related to patients who are blind or visually impaired and discussed the need for a separate guidance document or independent chapter addressing the needs of those patients;
  - Identified additional areas of concern that can be addressed; and
  - Identified additional outside resources and a process for obtaining those resources for possible use in the development of the Guidance Document.
- Several hospitals (Mary Washington Hospital, Inova Fairfax Hospital) with model "best practice" procedures in place have been identified. The stakeholder panel is reviewing those practices for inclusion, in part or in whole, in the VDH Guidance Document.
- The stakeholder panel members have been provided the following resources for consideration in production of the Guidance Document:
  - The terms of *Heisley and United States v. Inova Health System*,
  - The VDH contacts and process for submitting a complaint about a hospital, and
  - The Department of Health Professions' contacts and process for submitting a complaint about a licensed health care professional.

## **Next Steps**

- OLC will compile the input from the December 18<sup>th</sup> stakeholder panel meeting and will prepare a near-final Guidance Document focused on patients who are deaf or hard of hearing.
- VDH plans at least one additional meeting of the stakeholder panel in January 2016.
- OLC will convene a second stakeholder panel to develop a companion guidance document or an independent chapter addressing the needs of the blind and visually impaired.

VDH is confident that an initial Guidance Document focused on patients who are deaf or hard of hearing will be finalized and published in early spring of 2016.

**HB 1956 Stakeholder Panel**

<b>Name</b>	<b>Association</b>	<b>Email</b>
Sara Heisler	Virginia Hospital and Healthcare Association	<a href="mailto:sheisler@vhha.com">sheisler@vhha.com</a>
Tom Dowling	Virginia Association of the Deaf	<a href="mailto:dowlingt@cox.net">dowlingt@cox.net</a>
Leslie Prince	VA Department for the Deaf and Hard of Hearing	<a href="mailto:leslie.prince@vddhh.virginia.gov">leslie.prince@vddhh.virginia.gov</a>
Gary Talley	VA Department for the Deaf and Hard of Hearing	<a href="mailto:gary.talley@vddhh.virginia.gov">gary.talley@vddhh.virginia.gov</a>
Kevin Koziol	Disability Resource Center of Rappahannock	<a href="mailto:kkoziol@cildrc.org">kkoziol@cildrc.org</a>
Star Grieser	Virginia Association of the Deaf	<a href="mailto:sgrieser@tcc.edu">sgrieser@tcc.edu</a>
Pam Jones (Thorpe)	Mary Washington Healthcare	<a href="mailto:Pamela.Jones@mwhc.com">Pamela.Jones@mwhc.com</a>
Kathi Mestayer	VA Department for the Deaf and Hard of Hearing	<a href="mailto:kwren@widowmaker.com">kwren@widowmaker.com</a>
Jennifer G. Fidura	Virginia Network of Private Providers	<a href="mailto:vnpp@earthlink.net">vnpp@earthlink.net</a>
Joe Szakos	Virginia Organizing	<a href="mailto:szakos@virginia-organizing.org">szakos@virginia-organizing.org</a>
Ronna Wertman	Virginia Organizing	<a href="mailto:ronna.wertman@gmail.com">ronna.wertman@gmail.com</a>
Arva Priola	The DisAbility Resource Center	<a href="mailto:arva16@outlook.com">arva16@outlook.com</a>



# DRAFT 12/18/2015

## 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 with Sensory Disabilities

### 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.

“Qualified interpreter” means an interpreter 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 awarded by the Virginia Quality of Assurance Screening Program of the Department for the Deaf and Hard of Hearing; or
3. A screening level or recognized evaluation 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.

### 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.
- 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. Hospital staff should consult with the patient to determine what accommodations are necessary to provide effective communication. Once identified, the communication need should be documented in the patient's medical record or electronic medical record and arrangements for any accommodations required by the patient should be initiated.
- 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 electronic medical records as well.

- Each facility should develop a means by which any contact for patients with special communication needs prompts an arrangement for appropriate accommodations.
- If a patient requests an accommodation, staff should complete the ADA/Special Needs Assessment 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 until an interpreter arrives
  - Staff should document all event details in the patient's medical record.

### Provision of Accommodations

- Hospitals should have a designated staff as a point of contact for all patients with special communication needs.
- Advanced notice should be given to the designated staff when a patient 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.
- Hospitals 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.
    - Hospitals should consider having on-staff interpreter services available, particular if the facility is in an area with a large population of DHOH patients.
  - Video Interpreting Service
    - Hospitals should consider utilizing a video interpreting service to meet the immediate communication needs of the patient and the medical professional in Emergency Departments.
    - Hospitals 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.
  - Telephone Services for persons who are DHOH



- Hospitals 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 the designated staff.
- Video phones may be utilized as a method of communicating over the telephone.
- Services to alert persons who are DHOH when in waiting areas
  - Hospitals should consider utilizing text messaging or vibrating pagers to alert patients who are DHOH who called in waiting areas
- Hospitals should consider providing the following assistive devices and equipment for persons who are DHOH:
  - Portable amplifiers
  - Hearing aid compatible/amplified/large number telephone
  - Closed captioning for TV
  - Flashing Light Door knocker signaler
  - Visual aids such as the Virginia Department of Deaf and Hard of Hearing visitor alert card

### Family/Friends as Interpreters

- Family members or friends should not be used as interpreters unless specifically requested by the patient and after the patient has understood that an offer of an interpreter at no charge to the patient has been made by the facility. 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 may still choose to request that a qualified interpreter sit in on the encounter to ensure accurate interpretation.
- Children and/or other patients should not be used to interpret even at the request of a patient, in order to ensure confidentiality of information and accurate communication.

### Documentation

- During any interaction with a patient with special communication and accommodation needs hospital 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.
- 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.
- Facilities should use the ADA/Special Needs Assessment Form (provided in Appendix 1) for:
  - 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 hospital-provided interpreter is refused, the name of the family, friend the patient identifies as his/her interpreter.
- Arrival time of the interpreter
- The time the requested auxiliary aid was provided.

### Service or Working Animals (also known as Assistance Animals)

Federal regulation defines a service animal as a dog that is trained to do work and/or perform tasks for a person with a disability, including a physical, sensory, psychiatric, and intellectual or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. The provision of emotional support and well-being does not constitute work or tasks by this definition. A service animal is not a pet.<sup>1</sup>

Service animals should be granted reasonable access to all hospital facilities when accompanying a patient, family member or visitor with a disability.

Areas service animals should be permitted:

- Service animals should be permitted to accompany a patient, family member or visitor in admission and discharge areas, the emergency department, in-patient and out-patient rooms, examining and diagnostic rooms, rehabilitation and therapy facilities, cafeteria and vending areas, the pharmacy and all other areas where visitors are not required to take special infection control precautions.
- The following criteria should be used for determining if an animal is a service animal:
  - Staff may ask if the animal is a service animal required because of a disability and what work or task the animal has been trained to perform.
  - Staff may not request any documentation for the animal, require the animal demonstrate its task or inquire about the nature of the person's disability.
  - Initial point of contact can be used to determine if an animal is a service animal.
  - If the animal is a pet the hospital is permitted to inform the individual that the animal is not permitted to remain in the facility as per policy.
  - If the animal is an emotional support, therapy, comfort or companion animal the hospital is permitted to inform the individual that the animal is not permitted to remain in the facility as per policy.

### Patients with Service Animals

- Should a patient with a service animal be unable to make arrangements for care of the service animal due to illness the hospital should facilitate:
  - Contact with the patient designee either family member or friend as identified on the patient's emergency contact form.
  - If family member or designee cannot be identified, hospital staff should call the certifying agency as identified on the service animal's vest or collar.
  - The hospital should identify a local agency within hospital policy which can be contacted for additional support until certification agency personnel arrive.

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<sup>1</sup> [http://www.ada.gov/regs2010/service\\_animal\\_qa.html](http://www.ada.gov/regs2010/service_animal_qa.html)

### Providing Notice to Disabled Persons

- Hospitals 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 hospital's website.

### Educating Staff on Policy and Procedure

- All staff should be provided notice of the hospitals policies and procedures regarding Communication with Patients with Sensory Disabilities.
- 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.

### Complaint Process

- 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 complete 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 verbal or written complaint.
- 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)



## 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:

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

	Patient	Companion/Legal Guardian
Are you deaf or do you have serious difficulty hearing?	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Are you blind or do you have serious difficulty seeing, even when wearing glasses?	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Do you have serious difficulty walking or climbing stairs?	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
Do you have any other special needs or disability that requires services or accommodations during your visit today?	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
If you have indicated a need above, do you or your companion need services or accommodations related to your identified need(s)?	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Please describe type of accommodation requested:

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

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Staff Notes regarding accommodations given: (Staff: Please document in detail accommodation(s) requested and services given.)

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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; and (iii) I understand that [INSERT PROVIDER NAME] will use its best efforts to accommodate my requests and that any accommodations provided will be given free of charge.

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Signature of Patient/Patient Representative/Companion      Date Time

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

Relationship to Patient:  Self    Parent    Family Member    Friend

other \_\_\_\_\_

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Signature of Employee Witness      Date Time

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



