



CommunicationFIRST

Because communication is a human right.

COVID-19 Communication Rights Toolkit
with Printable Patient Accommodations Request Form
(United States)

Patients with the coronavirus who need communication tools and supports due to speech-related disabilities face greater risks of discrimination and isolation during this pandemic. **Your legal and civil rights to access your communication supports do not go away during an emergency, in quarantine, or in the hospital!** But, for safety reasons, your family members and others who help you communicate may not be allowed to join you in the hospital. And you may face other barriers to communicating your needs and desires while you are being treated.

This toolkit: (1) explains your communication rights; (2) provides tips on advocating for them, and (3) has an accommodation request form you can bring to the hospital.

What are your communication rights in health care settings?

If you are a patient in a hospital or other health care setting, you still have communication and other civil rights under Titles II and III of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act (ACA)—**even during a pandemic**. Hospitals and other health care facilities must meet your communication needs at all times. They also have an ethical duty to try to obtain your informed consent before treating or withholding treatment.

You must have the supports you need to *understand* the risks and options, to *ask questions* about them, and to *provide or deny your consent* for a recommended course of treatment. You also need to be able to communicate your symptoms, relevant medical history, discomfort, pain, thirst, and other needs while you are in the hospital. Without adequate communication supports, you may be denied equal access to health care that the medical provider provides to nondisabled patients.

- **Communication supports:** Health care facilities are required to provide supports and services to ensure effective and clear communication 24 hours a day for patients who have hearing, vision, and/or speech impairments. Depending on the disability-related needs of the patient, this may include the



Communication **FIRST**

Because communication is a human right.

physical presence of someone who can support the patient's unique, individual communication support needs. The communication preferences of the patient should be respected.

- **Other reasonable steps:** Hospitals must provide reasonable modifications and aids to give a patient with a disability equal opportunity to benefit from treatment. That means that blanket COVID-related "no visitor policies" must be modified to allow an in-person supporter if that is needed to ensure a disabled patient can access health care and communicate their symptoms, medical history, and informed consent.
- **No discrimination in treatment:** Hospitals cannot discriminate, exclude, or treat patients differently because of their disability. Treatment decisions must be based on individual needs and not on generalized assumptions about a person's disability or their quality of life. Care and treatment cannot be denied or lowered in priority based on a person's pre-existing disability or an assumption that the person has a lower prospect of survival due to the disability. A person with a disability who has COVID-19 cannot be excluded from treatment just based on their disability or inability to communicate.

How can you protect your communication rights at a hospital?

- Complete the attached **one-page form** with your individual needs and preferences as soon as possible. If you need to be treated, bring **two copies** (laminated, if possible). If you don't have access to a printer, send a copy to your health care provider and ask them to print it out.
 - While you are healthy, it is a good idea to prepare a **communication kit** with a range of tools you might need when you are sick during a long hospital stay, and may not have access to your regular communication support people. Include instructions for hospital staff.
- Tell the hospital **registration clerk and nursing staff** that you are requesting communication accommodations and hand or send them your form.
 - Also be sure to bring your communication kit, including all devices, chargers, and communication boards you might need. Keep them close.



Communication**FIRST**

Because communication is a human right.

- **If staff refuse to provide access to your communication supports:**
 - Show them the legal references in this toolkit.
 - Point them to recent [Guidance from the US Department of Justice](#) stating that a hospital or medical facility cannot exclude all 'visitors' where, due to a patient's disability, the patient needs help from a family member, companion, or aide in order to equally access care," and [Guidance from the U.S. Department of Health and Human Services Office of Civil Rights](#) stating that "persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative 'worth' based on the presence or absence of disabilities" and reminding health care providers of their obligations under federal civil rights laws to "provide effective communication with individuals who are deaf, hard of hearing, blind, have low vision, or have speech disabilities through the use of qualified interpreters, picture boards, and other means."
 - CommunicationFIRST has compiled other helpful federal and state COVID-19 visitor guidance [here](#)
 - Look for the hospital's webpage about disability discrimination and communication access rights.
 - Contact the hospital's Patient Relations office or Civil Rights Coordinator.
 - Consider filing a grievance with the hospital's Civil Rights Coordinator. Request assistance from Patient Relations if needed.
 - If necessary, file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights, electronically at www.ocrportal.hhs.gov/ocr/portal/lobby.jsf.
- For legal assistance and referral, you can contact the Protection and Advocacy office in your state: <https://www.ndrn.org/about/ndrn-member-agencies/>

Legal References and Links

- **Guidance**, including from the US Department of Health and Human Services, on Treating People with Disabilities During COVID-19
- **Americans with Disabilities Act** applies to public and private hospitals
 - Statute: [42 U.S.C. §§ 12101 et seq.](#)



Communication*FIRST*

Because communication is a human right.

- Title II Regulations (publicly run health care facilities): [28 C.F.R. § 35.130](#) (prohibits disability discrimination); [28 C.F.R. § 35.160](#) (requirement to provide communication supports)
- Title III Regulations (private health care facilities): [28 C.F.R. § 36.302](#) (disability-related modifications must be made); [28 C.F.R. § 36.303](#) (communication supports required)
- **Section 504 of the Rehabilitation Act** covers health care facilities that accept federal financial assistance, including Medicare and Medicaid
 - Statute: [29 U.S.C. § 794](#)
 - Regulations: [45 C.F.R. § 84.4](#) (prohibits disability discrimination), [45 C.F.R. § 84.52](#) (requires health care facilities to provide communication supports); [28 C.F.R. § 41.51](#) (must provide aids, benefits, and services to people with disabilities at a level affords equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others)
- **Section 1557 of the Affordable Care Act** prohibits disability discrimination in certain health programs or activities; requires covered entities to ensure programs, services, activities and facilities are accessible
 - Statute: [42 U.S.C. § 18116](#)
 - Regulations: [45 C.F.R. § 92.101\(a\)\(1\)](#); (prohibits disability discrimination); [45 C.F.R. § 92.205](#) (requirement for covered entities to make reasonable modifications to policies, practices or procedures)

Additional Resources

- Legal Guidance and Other Resources
 - Hospital Visitor Policy [Guidance](#)
 - [Is My Hospital Visitor Policy Discriminatory?](#)
 - Federal and State [Guidance](#)
 - [DREDF Memo on Medical "Rationing"](#)
- Communication Tools for COVID-19 Patients and Providers
 - [Phrase-Based Communication Aid for Patients who are Intubated or Otherwise Unable to Speak](#) (from Cognixion SpeakProse)



Communication**FIRST**

Because communication is a human right.

- Health care communication boards to support patients of different ages, abilities, and languages (from Patient-Provider Communication Taskforce)
- Health Passport form to summarize general patient needs, preferences, medical conditions, medications, allergies
 - My Health Passport (from Florida Center for Inclusive Communities)
- Medical Order for Life-Sustaining Treatment to give patients more control over end-of-life care, including extraordinary measures
 - National POLST Form
 - California POLST Form (in 13 languages)

My Communication Rights and Accommodation Needs

Patient Name: _____ Date: _____

Emergency Contact: _____ Tel: _____

I am capable of communicating my needs and preferences by (e.g., using my eyes/index finger to point to the picture cards/letterboard/number choices in the communication kit I brought with me; the X app on my iPad, which needs to be charged and within my reach at all times; handwriting; modified ASL; having my communication support person present at all times; having my emergency contact read my lips or revoice my speech by video call):

I have a communication disability and request the following reasonable accommodations under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and Section 1557 of the Affordable Care Act while I am under your care:

1. Please keep a copy of this document visible at the top of my chart.
2. Please keep a copy of this document posted in a prominent, visible place near me at all times while I am in the hospital.
3. Please communicate with me using clear, plain language what the options are, the risks and benefits of each, and what the proposed course of action is.
4. **I need the communication-related accommodations listed above to communicate effectively and to provide informed consent.**
5. If I am able to communicate using my requested accommodations, please ask my opinion about everything.
6. If you have any trouble providing my requested communication supports, please make a video call to my emergency contact who can help.
7. If I am unable to communicate at any time and do not have a trusted communication support person present, my emergency contact should be contacted by video before any decision about or change to my care is made.
8. Unless I communicate otherwise, I do not consent to any decision to withhold treatment just because I have an underlying disability, or based on the assumption that my life is not as valuable as a nondisabled person, or that I will suffer less if I do not receive treatment.