

## **Effective Communication Requirements in Privately Operated Medical Facilities**

Last Updated April 2025

### **What Does Federal Law Say?**

[Title III of the Americans with Disabilities Act \(ADA\)](#) applies to public accommodations. Generally, a public accommodation is a business or nonprofit organization that provides goods or services (such as medical care) to the public. This includes private hospitals, private physical rehabilitation facilities, and private medical practices.

[Section 504 of the Rehabilitation Act \(Section 504\)](#) also applies to facilities that receive federal funding, such as Medicare or Medicaid and therefore these facilities cannot limit a person with a disability of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

### **What Must Places of Public Accommodation Provide?**

Places of public accommodation must reasonably modify its policies, practices, and procedures to avoid discriminating against people with disabilities. Places of public accommodation must also ensure communication with a person with a disability is equally effective as that provided to individuals without a disability.

Some examples of auxiliary aids or services include: qualified interpreters, note takers, computer-aided transcription services (CART), assistive listening systems, written materials, audio recordings, computer disks, large print, and Brailled materials.

### **What Does State Law Say?**

the Idaho Human Rights Act [Idaho Code §67-5909(6)] provides that places of public accommodation or persons, which includes "governmental entities and agencies," may not deny an individual full and equal enjoyment of the goods, services, facilities, privilege, advantages, and accommodations they

provide. According to this law, any person, including governmental entities or agencies, who own, lease, or operate a place of public accommodation must make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford access, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the service.

### **How Do I Request Accommodations?**

While state and federal law does not require requests be made in writing, it is best practice to make a reasonable accommodation request in writing to the place of public accommodation to ensure you can effectively communicate with the public entity. Please see DRI's website for a sample reasonable modification request letter.

### **What Happens If The Entity Denies My Accommodation Request?**

If the entity denies your request, you may first want to attempt to resolve this issue through the provider's internal grievance or complaint process. You can ask the provider or organization for information about their internal grievances, policies, and forms.

If you are unable to resolve the issue directly with the healthcare provider through their internal grievance process, you may request that the [U.S. Department of Justice's Civil Rights Division](#), the [Office for Civil Rights for the Department of Health and Human Services](#), or the [Idaho Commission on Human Rights](#) conduct an investigation into the matter by filing a complaint with one of their offices.

Please note that complaints filed with the Idaho Commission on Human Rights must be filed within 1 year of the date the discrimination occurred. While there is no time limit for filing an ADA Title III complaint with the DOJ, it is best practice to file your complaint as soon as possible.

Additionally, violations of Title III of the ADA, Section 504, and/or the Idaho Human Rights Act may be enforced through a private lawsuit. Please note that any court case alleging a violation of Title III of the ADA or Section 504

must be brought within 2 years of the date the discrimination occurred. Additionally, civil actions alleging violation of the Idaho Human Rights Act must be filed within 90 days of issuance of administrative dismissal or issuance of Notice of Right to Sue by the Idaho Human Rights Commission. For assistance in obtaining legal representation, contact the Idaho State Bar's Lawyer Referral Service at 208-334-4500.

Finally, if the healthcare provider you are a patient of is accredited by the Joint Commission, you may also report the incident as a Patient Safety Event to the Joint Commission. To report the incident, you may do so [here](#).

### **Best Practice Tips**

For patients who are deaf or hard of hearing, we recommend reaching out to the Council for the Deaf & Hard of Hearing as they may be able to help you file the complaints discussed herein. You may contact them at (208) 334-0879 or visit the Council's website [here](#).

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To Apply for Services at Disability Rights Idaho, fill out [an online intake here](#), or call us at: 866-262-3462.