



## Guidance Related to the Provision of Support Persons for Patients with Disabilities in Hospitals During COVID-19 Pandemic

July 22, 2020

The purpose of this bulletin is to remind hospitals and healthcare providers that the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act require them to provide individuals with disabilities equal access to their health care services and facilities. Title II of the ADA applies to public hospitals, clinics and health care services operated by state and local governments and Title III of the ADA applies to privately-owned and operated hospitals, clinics and health care providers. Section 504 of the Rehabilitation Act applies to recipients of federal financial assistance such as Medicaid (Apple Health) and federally conducted programs. Equal access is also required under the Washington Law Against Discrimination (RCW 49.60).

The presence of a support person is essential to patients with physical, intellectual, and/or developmental disabilities and patients with cognitive impairments. A support person may or may not be a person who is the patient's legal representative/decision-maker. The role of the support person will vary depending on the patient's disabilities or cognitive impairment and may, for example, include communication or mobility assistance or help with activities of daily living. A support person is authorized under HIPAA and RCW 70.02 to receive personal health information about the patient. The presence of a support person does not limit a hospital or healthcare provider's obligations to provide accessibility in the form of interpretation, translation or other services. Any entity that receives federal funding—which includes accepting Medicaid or Medicare payments—is legally responsible for proactively providing language access services under Title VI of the Civil Rights Act of 1964.

The Washington State Department of Health (DOH) strongly recommends that one support person be allowed to be present with the patient when medically necessary. The hospital or healthcare provider is not responsible for identifying or providing support person(s). For patients with disabilities who are hospitalized, especially with prolonged hospitalization, the patient or the patient's surrogate decision-maker (for a patient who lacks decision-making capacity) may designate two support people, but the hospital may place limits so only one support person may be present at a time. In addition, hospitals may require any support person to remain in the patient's room except when accompanying the patient outside the room; all support persons must not have suspected or confirmed COVID-19 and must not have been recently exposed to someone with COVID-19. Support persons may be screened prior to entering the clinical areas for any symptoms consistent with COVID-19. Support persons must comply with any hospital instructions regarding face coverings or personal protective equipment.

Finally, hospitals are strongly encouraged to facilitate frequent video and phone call visits for all patients, with appropriate infection control measures with respect to shared electronic devices.

## **If you have any questions or need additional information about this bulletin, please contact:**

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