

# Representing and Accommodating People with Disabilities

**Presentation to  
Thompson Coburn**

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Equip for Equality

# Goals for Today's Training



- Better Understanding of Disability Etiquette/Language
- Ethical Considerations
- Information About Specific ADA Issues
  - ❖ Effective Communication
  - ❖ Mental Health Considerations

# Disability Etiquette and Language



## Interacting with People with Disabilities - Language

- Proper language shows respect, not political correctness
  - ❖ Say “intellectual disability”, not “retarded”
- Using correct language helps to develop trusting relationship with the client.
- Often the historic derivation of certain terminology makes them offensive – “handicapped”
- People First – puts the person first, rather defining the person by his or her disability
  - ❖ Say “person with epilepsy”, not “epileptic”



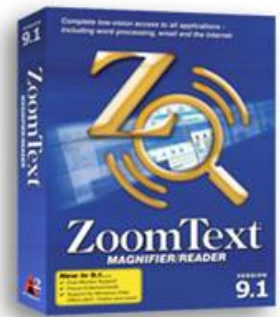
## Interacting with People with Disabilities - Language

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- Don't add judgmental language that victimizes person
  - ❖ Say “person living with AIDS”, rather than “AIDS victim” or “suffering from AIDS”
- Avoid patronizing attitudes/actions
  - ❖ “Wow – aren't you courageous for getting on a bus”
- Avoid using made-up phrases for disability like “handi-capable” or “differently abled”

## Interacting with People with Disabilities – Other Tips

- Offer assistance before taking action
- Do not touch, lean against, or hang on someone's wheelchair, mobility aid, or service animal without first obtaining permission
- Assistive technology enables, not restricts
  - ❖ Say “wheelchair user”, not “confined to a wheelchair” or “wheelchair bound”
- These tips are general guidelines – every person is unique and has his/her own preferences.
- If unsure about language or actions, ask the person with the disability – shows you're interested and respectful



# Examples of virtual barriers – website access

- ❖ Audio information without captioning
- ❖ Content that cannot be adjusted by font, size, or color contrast
- ❖ Conveying content visually through a graphic, image or chart without labeling with “alternative text”
- ❖ Color coding content
- ❖ Requiring use of a mouse without keyboard alternatives
- ❖ Legal brief on this issue: [www.ada-audio.org/Archives/ADALegal/Materials/FY2014/2014-09-22%5ELegalBrief\\_ADA\\_Websites%5EHandouts.pdf](http://www.ada-audio.org/Archives/ADALegal/Materials/FY2014/2014-09-22%5ELegalBrief_ADA_Websites%5EHandouts.pdf)

# Ethical considerations when representing people with disabilities

- **General Rule:** In most cases, just need to follow ethical rules that apply to all clients.
- **Rule 1.14: Client With Diminished Capacity**
  - ❖ Generally, strive to maintain normal attorney-client relationship, even when client's capacity is diminished.
  - ❖ If attorney reasonably believes the client with diminished capacity is at risk of physical, financial or other harm, attorney *may* take protective action, such as seeking appointment of guardian *ad litem*.

# Effective Communication



# Effective Communication

Public accommodations (private businesses open to the public) shall furnish appropriate **auxiliary aids and services** where necessary to ensure **effective communication** with individuals with disabilities unless doing so would fundamentally alter the nature of the service or would result in an undue burden. **28 C.F.R. § 36.303 (Title III)**

- Attorneys' offices are considered a place of public accommodation under the ADA. **42 U.S.C. § 12181(7)(F)**
- DOJ Settlement – case against attorney who failed to provide sign language interpreters to a deaf client

<http://www.ada.gov/hearn.htm>



# What are Auxiliary Aids and Services?

## Auxiliary aids and services for people who are deaf or hard of hearing

- Qualified sign language interpreters on-site
- Qualified sign language interpreters through video remote interpreting services
- Real-time computer aided transcription services (CART)
- Exchange of written notes - may not work for people with limited English proficiency. (English ≠ American Sign Language)
- Personal use items not required
  - ❖ Not required to provide hearing aid because person uses it in daily activities, not just in interaction with attorney.

# What are Auxiliary Aids and Services?

## Auxiliary aids and services for people who are blind or have low vision

- Braille
- Large print materials typically 20 point, bold, sans serif (e.g., Ariel, Tahoma, Helvetica)
- Information sent via email or on a disk can be read by screen readers
- Microsoft products are generally accessible for people who are blind, but PDFs or other image documents may not be accessible to people using screen readers
- Don't assume which auxiliary aid is appropriate – ask the person first (ex. many blind people do not read Braille)

# Surcharges and Undue Burden



- May not impose a surcharge to cover the costs of measures, such as the provision of auxiliary aids
- This is true even if the client cancels the appointment at the last minute or is a no-show.
- Can impose a missed appointment fee, as long as all other clients are charged in the same circumstances.
- Undue burden analysis: compare cost of accommodation to assets of business, not to charge for single appointment

# Tips When Communicating with People with Disabilities

- Offer assistance before taking action
- Identify yourself and others who may be with you when meeting someone with a visual disability
- When referencing something a blind person cannot see, the image should be described.
- Speak directly to the individual, not a companion or interpreter
- Place yourself at eye level when speaking with someone using a wheelchair



# Tips When Using an Interpreter

- Make eye contact with the deaf person, not the interpreter (even though it feels counter-intuitive)
- Use the first person, “What time did you arrive?” not third person, “Ask him what time he arrived?”
- Give interpreter any advance materials so they have familiarity with vocabulary
- Use qualified interpreter, not family member - avoid bias
- Break down complex questions into shorter chunks
- Sometimes more than one interpreter is required

# Resources: ASL Interpreter Agencies

- **CAIRS:** [www.cairs.net](http://www.cairs.net) - 312.895.4300
- **CHS:** [www.chicagohearingociety.org/](http://www.chicagohearingociety.org/) - 773.248.9121
- **DCI:** [www.deafcomm.net](http://www.deafcomm.net) - 773.857.7709
- **Purple:** [www.purple.us/interpreting](http://www.purple.us/interpreting) - 877.885.3172

# TTY, Relay & Video Phones



- Established by Title IV of the ADA
- How will a deaf person contact you?
- Tips for using Relay
  - ❖ Talk directly to the person who is deaf
  - ❖ Train all employees who answer the telephones to identify a relay call
  - ❖ Don't be thrown if the gender of the relay operator is different than the caller
  - ❖ If multiple people on the call, need to identify yourself so person can differentiate speakers

# Resources: CART Services



## **CART - Communication Access Realtime Translation** (similar to court reporters)

- Often preferred communication for people who don't know ASL.
- Side bonus – transcript of conversation
- **CART Providers:**
  - ❖ [www.encyclopedia.com](http://www.encyclopedia.com)
  - ❖ [www.captionfirst.com](http://www.captionfirst.com)
  - ❖ [www.acscaptions.com](http://www.acscaptions.com)

# Clients with Mental Health Considerations

# Three Great Myths about Mental Health Disabilities

- **Immutability** - what you are seeing is the way the client always presents and always has presented and always will present.
- **Over-attribution** - everything you are seeing is due to the client's psychiatric disability – when in fact the behavior could be their personality, could be the side effects of their medication, could be result of substance abuse
- **Permanence** - importance of understanding that interpersonal dynamics and environmental changes can make enormous differences in producing certain behaviors – weather, stress, waiting, certain time of day, difficulty finding parking place

# Accommodations for People with Mental Illness

- Modifying times for meetings
  - ❖ Ex: Client with mental illness may be drowsy (and less effective) in mornings because of medication, so schedule deposition for afternoon
- Putting important information in writing, electronically or conveying it orally
- Allowing for frequent breaks
- Allowing for in-person meetings instead of phone meetings, or vice-versa depending on the client's preference

# Understand the Individual

- ❖ Understanding the person's disability, how it manifests, and impact of medication side effects will provide clearer expectations on how best to interact with the person.
- ❖ Understanding starts with the person – but when appropriate, consultation with client's mental health professionals, family and friends
- ❖ Terminology is important – mental illness v. psychiatric survivor – use person's preferred terminology

## Tip: Role-Playing

Prepping client for court appearance or deposition:

- Instead of telling an individual how things will be, it may be useful to facilitate rehearsing and role-playing
- Try to make the rehearsal as close as possible to the real setting
  - ❖ Same environment
  - ❖ Same time of day
  - ❖ See the place before the hearing and sit in on another hearing in that court

## Tip: Ask More Than Once

- Some people with mental disabilities may provide an answer that they think is the one that you want them to give, as opposed to what actually happened.
- Also, based upon the current state of their disability, they may provide information that is not as reliable as it may be at other times, such as when they are taking their medication.
- Ask important questions more than once and in different ways and at different times to determine what the facts are.

# Tip: Use Written Communications Whenever Possible

- When you need to communicate with the person with a mental disability, don't assume the person understands even if they seem to understand and don't ask questions. Some people's disability manifests by agreeing with everything.
  - ❖ Try to put as much in writing as possible in simple language.
  - ❖ Use Microsoft or other language evaluation tools.
  - ❖ For some people, you may need to read letters to them orally.

## Tip: Advise Conduct Rules

- Inform the person of any rules regarding conduct at the beginning of the interaction and confirm in writing.
  - ❖ Examples – rules on how often a person can call, when they can expect a return call, conduct when communicating
- If the person escalates and becomes abusive, it is important to stay calm and advise that he/she is not permitted to use profanities or abusive language.
- If the person continues to be abusive, inform the person that the call or meeting will be terminated until the person is better able to engage in conversation without being abusive.

# Confidentiality

- Some people have “invisible” disabilities (e.g. HIV, epilepsy, mental illness and diabetes)
- Attorney should determine whether client wants to keep disability confidential
- Confidentiality laws may apply (e.g, ADA, IL MH/DD Confidentiality Act and IL AIDS Confidentiality Act)
- When disability is at issue in litigation, may not be able to maintain confidentiality
- But may be able to file under pseudonym or keep certain disability info under seal

# Resources

- **Equip for Equality** – statewide legal representation of people with disabilities – [www.equipforequality.org](http://www.equipforequality.org)
- **IL ADA Project** – technical assistance and training for all ADA stakeholders – [www.ada-il.org](http://www.ada-il.org)
- **Great Lakes ADA Center** – technical assistance and training for businesses, including website accessibility – [www.adagreatlakes.org](http://www.adagreatlakes.org)

# Questions?