Welcome to the health care and the ADA inclusion of persons with disabilities webinar series.

I am Lewis Kraus from the pacific ADA center, your moderator for this series.

This series of webinars is brought to you by the pacific ADA center on behalf of the ADA national network.

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I also want to remind you that this webinar is being recorded and will be able to be accessed on ADA presentations.org in the archive section of the health care area next week.

This webinar series is intended to share issues and promising practices in health care accessibility for people with disabilities.

The series topics cover physical accessibility, effective communication, and reasonable modification of policy issues under the Americans with disabilities act of 1990.

The ADA.

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Otothe conclusion of today's presentation, there will be an opportunity for everyone to ask questions, but you can submit your questions in the chat area within the platform, and we will address them at the end of the session.

So feel free to submit them as they come to your mind during the session.

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Today's session is titled health care and civil rights during the Covid 19 pandemic.

HHS Office for Civil Rights on Telehealth and communication.

People with disabilities have encountered numerous hardships during the Covid 19 public health emergency including discrimination in the health care system.

While the increased use of Telehealth has opened lines to health care that may not have been available or practical for numerous populations in the past, it has also highlighted accessibility issues.

This webinar will discuss recent guidance and enforcement actions from HHS including guidance on nondiscrimination in Telehealth, federal protections to ensure accessibility to people with disabilities, and limited English proficient persons.

Today's speaker is John Thompson.

John is a Civil Rights analyst in the Civil Rights division at the Office for Civil Rights for HHS.

He is an attorney and present management fellow.

Throughout his career in the federal government, John has investigated and helped resolve allegations of disability discrimination, drafted regulatory and guidance documents and providing technical assistance and outreach on a number of Civil Rights issues.

We are quite pleased to have John with us today.

John, I'm going to turn it over to you now.

>> Thank you very much for that introduction, Lewis.

And thank you to the Pacific ADA Center for allowing me to speak here today.

As Lewis just mentioned, today I'm going to be delivering a presentation that focuses primarily on health care and civil rights during the Covid 19.

With a special emphasis on Telehealth and the recent guidance that HHS, my office, put out together with the department of justice.

Please move to the next slide.

Just a quick agenda of what we're going to be going through today.

First off, I will give a brief introduction and background of my office, the Office for Civil Rights, and then go into a background of some federal civil rights laws that apply to disability.

And just a quick overview of Telehealth and a few key terms.

After that, we'll discuss specific issues in Telehealth that have come up, especially during the Covid 19 pandemic.

After that, we're going to talk about the Telehealth guidance that I mentioned that HHS put out with the Department of Justice.

After that we're going to talk about some specific effective communication enforcement examples from the Office for Civil Rights.

And then we're going to have a little bit of time for questions and comments.

You can go to the next slide please.

Okay.

The HHS Office for Civil Rights, to let you all know, we are an a law enforcement agency that's responsible for enforcing federal civil rights laws that I a ply to health and human service programs and activities.

So first and foremost, we do deal with enforcement.

Typically that means we get a complaint from the public saying that this covered entity, whether it's a hospital, a doctor, a state social service provider, they have discriminated based on this.

What we will do is we will investigate.

We will speak to the complainant.

We will speak to the covered entity.

We will usually send out a data request.

We will do interviews in certain situations.

We may even go on site to get documents and do interviews in person.

And we will try to get to some resolution.

Typically we try to get to a volunteer resolution where we provide some technical assistance to that covered entity and get them to agree in writing to make certain changes.

If we cannot accomplish that for whatever reason, then we have a few enforcement mechanisms.

We can refer them to the department of justice.

To the own department appeals board, or we can do what we call the nuclear option, which is cutting off their funding entirely.

And that happens very rarely.

That is typically what enforcement means for our office.

We also do rulemaking, so we write our own regulations to enforce the federal civil rights laws that we're entrusted to enforce.

Currently we are undergoing a few different rulemakings.

One is for section 50 and 57 of the Affordable Care Act which is the civil rights provision of the Affordable Care Act.

The other is section 504 of the Rehabilitation Act, and I will discuss both of those a little bit more later in the presentation.

In addition to that, we create guidance documents.

Those serve a somewhat similar role to our rulemaking, though they don't have the full force of law.

They are there to kind of expand and provide guidance on specific civil rights laws.

We also provide outreach, which is essentially what I am doing today, speaking to you all and providing you more information on specific laws we enforce.

We do technical assistance.

That usually takes the form of speakly to a covered entity and letting them know what to do to come into compliance with civil rights law.

We can move on to the next side.

And very quickly we are going to be discussing three federal disability rights laws.

The first is section 504 of the rehabilitation act.

And that applies to recipients of federal financial assistance as well as programs and activities that are conducted by HHS.

So typically that means anyone who receives grants or money from HHS for health or human services activities.

We will also discuss title II of the Americans with Disabilities Act which applies to public entities and state and local governments.

Finally, we will be discussing section 1557 of the affordable care act which applies to covered health care programs provided by covered entities.

And the common thread between all these laws is they all prohibit discrimination against qualified individuals with disabilities.

Next slide please.

Now we're going to briefly discuss just an overview of our disability work during the Covid 19 public health emergency.

One of the things that we have done is provided guidance.

Specifically, we provided a guidance document on frequently asked questions for health care providers during the Covid 19 public health emergency.

And this discussed CSC plans which means crisis standard of care plans and visitation policies as well as a few other issues.

As background when I say CSC plans, this refers to plans usually implemented by state health organizations or large medical organizations or sometimes even individual hospitals.

And these plans are meant to go in effect in public health emergencies when there are scarce health resources such as ventilators.

Early on in the pandemic especially, we were seeing a lot of issues where the statewide plans clearly had not been updated in 10, maybe 15 years with the outdated terminology and in some instances even had categorical exclusions of care for certain disabilities.

Especially basically saying that you were allowed to deny a person with an intellectual disability ventilator outright without considering anything else.

So quite a few issue there is that we want to address.

Another thing we addressed in that was visitation policies and provided that in order to limit the possibility for infection and companions and visitors and basically anyone from the health care and into the hospital and into the health care setting.

Which raised a host of issues folks for individuals with disabilities, especially those who we lied on companions for effective communication.

For all kinds of health care services or reasonable modifications.

We addressed that as well.

Another guidance document that we put out included resources on access to COVID vaccinations and testing for people with disabilities.

One thing we were hearing with the physical accessibility or effective communication that kept people with disabilities from getting vaccinations or testing.

And we provided information on requiring physical accessibility, the vaccination and testing centers, as well as effective communication both in person at the centers and in the lead up where you actually scheduled your appointments.

Another guidance is long COVID under the ADA, section 504 and section 1557.

Specifically, we said if and this can vary from person to person and if for an individual, long COVID constitutes a physical or mental impairment that substantially limits a major life activity for them, it can amount to a disability.

The last guidance document I'm going to touch upon very briefly is from the portion of our office that works on health and information and privacy issues, and that is guidance on how the HIPAA rules permit covered health care providers to use remote communication technologies for audio only Telehealth.

So essentially that is how hip hip applies for audio only Telehealth.

And then in addition to all those guidance documents, we have quite a few COVID related complaint resolutions and technical assistance.

So that's what I am referring to earlier in the pandemic when we reached out to individual states and told them these are the issues with your CSC plans.

These are the things we need to change.

So typically our enforcement activities can take quite a bit of time.

We decided earlier on in the pandemic, you know, we did not have time to spare.

Rather than initiating formal complaint investigations, we reached out directly to the head of state health agencies and were able to get results quickly and provide technical assistance.

In addition to the technical assistance for statewide plans, we had investigations and resolutions and allegations of effective violations.

These effective communication violations.

They dealt with COVID.

They dealt with the normal work outside of COVID.

That is a good reminder in addition to the work we did with COVID and our normal work continues and are still seeing effective communication violations in a number of areas.

Next slide please.

One important term that I want to describe and get out of the way because I am going to be using it a lot is information and communication technology.

And I'm going to use the term ICT to describe it.

So ICT as it is defined by the revised section of 508 standards issued by the U.S. access board is

Information technology and other equipment, systems, technologies or processes for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content.

Now I understand that is quite a bit to take in.

So I'm going to give you a few examples and then I will explain the way that I think about it.

Examples include computers and peripheral equipment, information kiosks and transaction machines.

Telecommunications equipment, customer premise equipment.

Multifunction office machines, software, applications, websites, video, and electronic documents.

So those are a few examples.

And the way I think of it, I think of technology in general and I divide it into two categories.

I think, first about things that you can touch, so that's where I think about computers.

I think about smartphones, tablets, kiosks that you use to check into appointments, anything that you can hold.

And then I think about things that you cannot hold, so that's websites, mobile applications, videos, electronic documents, and any kind of software.

And very quickly T reason that I discussed the section 508 standards, so section 508 refers to section 508 of the Rehabilitation Act are actually standards that only apply to ICT that is used by the federal government.

So they apply to us in the federal government, but not necessarily to all the doctors, all the hospitals out there in the private sector.

Next slide please.

Okay.

Now that we have discussed Telehealth, I briefly want to talk sorry.

Now that we have discussed ICT, I briefly want to talk about Telehealth.

One important thing I want to note is that while Telehealth uses ICT, Telehealth is not the same as ICT.

Telehealth is a broad method of health care.

So it is something entirely different.

Telehealth pre dates the Covid 19 pandemic, and it is a method of delivering health care that does not require an in person visit.

Telehealth can take a number of forms including communication between a patient and a health care provider.

Whether that is via video, phone, or other electronic means.

So typically the first thing that I think of when I think of Telehealth is what I have used in the past and that is kind of a video platform that you access on a smartphone or the laptop and you can talk to your provider and see them and talk to them in real time.

But it can also be just a phone conversation between a doctor and a patient.

Or it can be other electronic means such as text messages or a lot of Telehealth platforms give you the option to send messages to the provider and answer in realtime or they can answer later.

In general, Telehealth has become a much more accepted way to provide and receive health care services.

Especially over the past decade.

Next slide please.

So as I am sure many of you are aware, Telehealth has many advantages.

In addition to being used for remote health care appointments, that means situations where it's difficult to get to your provider because of the distance, because of difficulty securing transportation, even difficulty getting child care.

It is also been used during the Covid 19 public health emergency to reduce the community spread of the virus.

Obviously if you are not in a doctor's office, it is very difficult to get COVID.

And allows to monitor a patient's health remotely.

I also want to emphasize that a lot of these benefits that Telehealth provides, they are very with physical access to certain doctor's offices, even people with respiratory disabilities who are unable to wear masks for long periods.

And people with sensitivity issues who cannot wear masks for long period.

Or even people who are immunocomprised or would suffer worse health outcomes if they contracted COVID, they have all benefitted from hell hell in some form another.

I want to make sure we understand the benefits.

Accessing care via Telehealth may present challenges for certain calculations, especially populations with certain certain abilities and may result with individuals facing barriers and issues accessing health care.

The health care provider's failure to take appropriate action to ensure that the care provided through Telehealth is successful can result in unlawful discrimination.

If the Telehealth is inaccessible, it is likely a violation of the three laws that I have already discussed.

Okay.

Here just a couple examples of accessible Telehealth and we will get into more detail on this later.

The first example is the web based platform the doctor uses for Telehealth appointments does not support screen reader software.

A lot of people who are blind or have limited vision rely on screens and obviously if you can not read that, you are not getting effective health care.

Another example is a person who is Deaf and communicates with a sign language interpreter.

They may find that the video conferencing program their provider uses does not allow an interpreter to join the appointment from a separate location.

Obviously if the program only allows two people and does not allow that third person to interpret and that is a huge issue.

Another thing that more people are recognizing is if a third person is allowed to interpret, and not able to look at the two screens at the same time.

And to see the provider and the interpreter as well.

Once again, that is not effective communication.

We can go to the next slide.

Now I am going to talk explicitly about the guidance that we issued.

So on July 29, 2022, HHS OCR, my office, and the Department of Justice released guidance on how federal Disabilities rights laws advisory Telehealth programs and activities to be accessible to individuals with disabilities.

Essentially this guidance is saying the laws that we already enforce, they also apply to Telehealth.

These laws include section 504, Title II of the ADA, and section 1557.

Force and requirements to provide language access under federal civil rights laws for English proficient.

Whey mean there is generally that is national origin discrimination where English is not their first language.

And laws like Title VI protect against that.

So it is a very important issue and an issue that overlaps with effective communication, but we are not going to be discussing it too much here, but feel free to read through our guidance which is available on our website.

And yes.

Next slide please.

So fist, the Telehealth guidance provides the general nondiscrimination provision.

Quickly I'm going to read through that.

Federal law provides a general rule that no qualified individual with a disability shall, on the basis of disability and when I say qualified, that is not a high bar to clear.

That simply means a person is qualified to receive services.

So no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a covered is bety or otherwise be subjected to discrimination by a covered entity.

And we enforce this requirement for recipients of federal financial assistance and programs and activities conducted by HHS under Section 504.

And so that's the entirety of any program that receives money or grants from HHS as well as the programs and activities that we conduct.

We also enforce this requirement for public entities for state and local governments under title II and for certain health programs and activities under section 1557.

And that is just a little bit narrower than under section 504 because this only applies to the health programs and activities under section 1557, not the entirety of the program that receives a federal grant under 504.

Next slide please.

Okay.

So the Telehealth guidance is in this very important concept of reasonable modifications which are required in all portions of health and Telehealth.

Basically this means health care providers must make reason changes to the policies, practices or procedures which may include providing additional support to patients when needed before, during and after a virtual visit.

This is to avoid discriminating on the basis of disability.

Reasonable modifications can sometimes be a difficult topic to discuss because, unlike some other topics in disability rights laws, there aren't necessarily specific examples that are listed within the laws.

It can be very open ended.

Essentially, if a reasonable modification can be made to a policy, practice, or procedure, then that could be required to make sure that there's no discrimination.

Reasonable modifications may take additional forms including additional time to connect and connect with the Telehealth platform or allowing the addition of a support person to help meaningfully access an appointment.

Now, I know this concept of additional time can be very difficult for providers.

They have certain requirements they need to meet.

They often need to see a certain amount of patients within a day.

But it's very important for them to understand that federal disability rights laws may require they allow one easier way to allow this especially through Telehealth is by providing additional time before the actual appointment for the patient to get accustomed to the platform.

To try to link out and try the different features they will use during the Telehealth appointment.

And and another option is allowing the addition of a support person.

That support person could help with effective communication.

They could help just with letting the individual feel comfortable.

Whatever they really need to help that person get the most out of their health care.

That brings me to the next concept we're going to cover pretty extensively.

Effective communication in Telehealth.

Across health and human services providers must communicate effectively with people who have communication disabilities, including but not limited to certain disabilities affecting speech or motor function.

When providing care in person or through Telehealth.

The requirement applies to all communications including communications about provider availability, so that is before the appointment starts.

And communications about records access.

It is very important that an individual has access to their own records, their own health information, and so they really require effective communication to secure that.

Scheduling.

And finally, effective communication during appointments, perhaps one of the most important topics.

And we're going to see later on that the form that effective communication takes will vary depending on the situation, whether it's scheduling appointment, whether it's during the appointment.

And the form will also vary depending on what the specific individual needs.

There isn't necessarily a one size fits all solution that will apply to every person, even people who have similar disabilities.

Next slide please.

Okay.

Something very important, health care providers must provide communication aids and services when needed and at no cost to the patient.

We're going to talk about aids and services in a second, but first I want to emphasize "when needed."

That means that the aids and services have to be provided in a timely manner.

That doesn't necessarily mean as soon as a person tells their provider they need a specific aid and service that they immediately need that granted, but it does mean it has to be provided in a timely manner.

It doesn't do anyone any good if they bring up the need for aids and services and they get it, you know, the next day.

It doesn't do any good if they get it after their appointment is over.

So there needs to be a reasonable amount of time to actually get those aids and services.

And then finally, and there really is no, you know, wiggle room here.

It has to be at no cost to the patient.

It must be free and paid for by the provider.

That doesn't mean that the patient can't bring their own interpreter or bring their own aid if they're more comfortable with that.

But it really does mean that there's no obligation for them to bring their own interpreter or to pay for their own interpreter or services.

Additionally, because communication needs can differ depending on the individual and the situation, effective solutions will differ, too.

Including which aids or services are effective.

So communication needs can vary on the individual and two different people can have hearing disabilities, but they may require different aids.

One person may rely on a sign language interpreter.

One person may rely on captioning services.

It depends on the individual.

And additionally, communication aids may differ depending on the situation.

What's appropriate in one situation, for example, where a doctor is discussing complex medical terms, or a person's care, and they really need to know every specific aspect of that, that's when something like an interpreter or some kind of aid or services that shows each and every single word is necessary.

On the other end of the spectrum, if it's something a little bit less complex,, a little bit less important, for example, like a person in the hospital is ordering the meal for the evening, maybe in that situation it's okay to use a pen and paper.

To write down to try and communicate.

But the takeaway here is communication needs may differ based on the situation, though first and foremost, you should ask the person, what is going to be effective communication for you? What is the aid or service that you need?

Now we're going to get into a few examples of examples of effective communication in Telehealth for Deaf or Hard of Hearing and these example wills not apply to everyone who is Deaf or Hard of Hearing.

It is based on their individual needs, but for the first example, this would be a provider may need to provide a qualified sign language interpreter for applicable instructions and techniques including using any necessary specialized vocabulary.

There we use the term qualified sign language interpreter.

And we talk about specialized vocabulary just so we know that even if an interpreter is almost fluent, if they are not able to interpret certain medical terms and provide the terms and provide the patient with a full definition of everything they need, it is not effective communication and is not good health care.

For the second example, when an interpreter is necessary, the provider will need to make sure that the Telehealth platform allows the interpreter to join the session.

As we discussed earlier, this not only means that you need to allow a third or maybe fourth party to enter the session.

Because we know ASL interprets may need to switch off between each other depending on how much time is in the session.

It also means that the platform has to show dual screens.

It needs the individual with the disability to see the ASL interpreter at all times so they're actually getting the benefit of those, of that interpretation.

As a third example A provider that uses Telehealth may need to insure that the Telehealth platform it uses can support effective realtime captioning.

An important note here that I think we have already discussed is just because someone is Deaf or Hard of Hearing does not mean they are fluent or even use sign language.

Some people just use or rely on captioning to really help out.

And while it is while it does not this is not exclusive to people who are Deaf or Hard of Hearing.

I think recent example in the news that has that I think most of us have seen is the senate candidate in Pennsylvania.

John Fetterman after suffering a stroke, he relies on captioning to help him kind of essentially effectively communicate.

Otherwise, he has issue where is we can't necessarily process each word.

So I think that's just a good example to remind us that regardless of what the specific disability of the person, the certain effective communication practices that we should be aware of.

Next slide please.

Okay.

So now we can do a few examples of effective communications for individuals who are blind or have visual disabilities.

Number one, a recipient that uses a web based platform to send written recommendations to their patients may need to make sure that the recommendations are screen reader compatible.

And I think many people who are blind or have vision disabilities rely on screen readers in order to access websites, to access mobile applications.

And if they cannot use the screen reader on a Telehealth platform, they won't receive its benefits.

The second example is a provider that uses videos to show patients how to do physical therapy exercises.

They may need to make sure that the videos have audio descriptions.

Without those audio descriptions, the actual physical therapy exercises, the moves are totally useless in certain situations.

Finally A provider that uses remote consultations through a video platform may need to provide a consultation by phone for a patient who requests that option.

While video platform cans be great and they can allow the provider to view the patient in certain situations, they are in certain situations they are simply not necessary.

Next slide please.

Okay.

Out of those three laws that I mentioned before, I wanted to briefly touch on section 1557.

And out of the three laws, section 1557 is the only one that explicitly mentions information and communication technology.

Section 1557 requires that covered health programs and activities provided by covered entities through ICT and in this case that includes Telehealth.

They must be made accessible to individuals with disabilities unless doing so would result in undue financial and administrative burdens or fundamental alteration to the health program.

So while section 1557 explicitly says that it applies to ICT and Telehealth, I just want to make sure it's clear that section 504 and the ADA also apply to ICT and that is how they have been interpreted in cases.

That is how we at OCR interpret them.

It is a matter of 1557 explicitly saying as much.

Next slide please.

Very quickly I'm going to talk about this guidance that I had mentioned earlier on.

This is the guidance of HIPAA and audio only Telehealth.

I am not an expert in HIPAA by any mean, but I will give you a brief taste of it, and I suggest if it's interesting to you, to read our guidance.

So on June 13, 20, 22 and with compliance with HIPAA.

And this guidance addressed the number of issues and including whether the use of audio only Telehealth violates HIPAA.

The answer is no.

Whether the provider and health plans must be HIPAA requirements for audio only Telehealth.

Yes, they must meet HIPAA requirements.

Whether a business associate agreement must be in place.

And what to do when a health plan does not provide coverage for audio only Telehealth.

So for additional information on this, please refer to our website.

Next slide please.

Okay.

If you will recall at the beginning of the presentation, I mentioned that we're undertaking rule making now at HHS.

So on August 4, 2022, we published a notice of proposed rulemaking to revise the implementing regulation for section 1557.

In addition to continuing to require that health programs and activities provided through ICT be accessible, this new section 1557 NPRM would require that Telehealth services be made explicitly accessible.

We have additional language in the preamble that discusses Telehealth.

Unfortunately, the comments for 1557 closed on October 3, 2022.

But we're still undertaking rule making for that.

Now quite as far along and still in rule making, we're working on revisions to the implementing regulation for section 504 of four recipients of HHS funding.

And this will apply to all recipients and doctors, hospitals and social service providers.

And as part of that rule making, we are considering addressing ICT specifically including Telehealth please be on the lookout for that and we will likely at some point have a public comment period and you are all more than welcome to comment on that rule making.

Next slide please.

Okay.

So now in addition to the guidance and in addition to the rule making, we also have been basically fulfilling our enforcement obligations.

We have been receiving complaints from the public saying these issues have occurred.

Please investigate them.

And I am just going to give you a couple of examples of effective communication issues that we have investigated and resolved recently.

So for example, one, we received an allegation that an individual who was deaf was denied appropriate auxiliary aids and services during their hospital visit.

So specifically, the complainant alleged they were denied an American Sign Language interpreter or video remote interpreting services at critical points during their in patient stay.

Instead, during these critical points the complainant had to rely on handwritten notes.

These were situations where complex medical health information was being discussed.

And it really took much longer amount of time than was necessary to go by handwritten notes.

This was a situation where an interpreter was necessary and appropriate, but unfortunately, for a variety of reasons, that did not occur.

So after we investigated, we conducted interviews, we got documents from the hospital.

We spoke with everyone involved.

We basically enter into what's called a voluntary resolution agreement with the hospital.

That's where the hospital does not admit any wrong doing, but it commits to a plan of action where they change their policies and their procedures.

They make sure that their employees undergo training.

And they take specific required steps from us to come in compliance with section 504 and section 1557.

And they also consent to a monitoring period where they're required to send us reports and we will only end that period after we give them our sign off.

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Enforcement example two, unfortunately, fairly similar to the past example.

We received an allegation that an individual who is deaf was denied appropriate auxiliary aids and services while in labor at the hospital.

Specifically, the complainant alleged that she informed the hospital before her scheduled labor that she would require an ASL interpreter to communicate during the delivery.

Despite this, she was not provided an interpreter during labor and delivery.

This was a difficult case because this was a situation with a complainant reached out beforehand, had a scheduled visit so it wasn't a spur of the moment thing.

And let the hospital know she required this specific auxiliary aid.

But even with all that in place, it did not occur.

So similar to the last situation, we investigated.

Ultimately got a voluntary resolution agreement with much of the same steps including a monitoring period.

So that is just a little bit of taste of some of our enforcement actions.

In addition to effective communication, there are wide variety of disability issues that we investigate.

Excuse me.

In addition to our disability work, there are a wide variety of race, color, and national origin issues, including limited English proficient issues.

Sex issues, including gender identity and sexual orientation.

And even age discrimination issues that we deal with.

And one other thing I will note very quickly in addition to all those civil rights that we enforce, we also enforce privacy laws, especially HIPAA as well as conscience and religious freedom laws.

Great.

And with that, I think that's the majority of the presentation.

We have a lot more information on our civil rights laws at our website.

That is at HHS.Gov/OCR.

We have information on how to file a complaint.

HHS.gov/OCR/complaints.

If you have any specific questions we don't answer today, please feel free to email me John.Thompson@HHS.gov.

With that, I will turn it back to Lewis and Gabriel.

>> Thank you so much.

Thank you, John.

That was very informative.

This is your chance to write in questions for John to answer.

So put those into the chat area when you have a chance.

And I will start one off with you, John.

You said at the beginning that you also do technical assistance.

So I am curious to know, what have there condition questions? And what questions have you about the Telehealth and what were the kinds of issues that people were unclear about.

>> One of the main misconceptions that we get is something that I touched on and section 1557, one of the laws we enforce is the only one that specifically talks about information communication technology.

And a lot of people consider that and equate it with Telehealth.

So a lot of people think it is not required under section 504.

It is not required under the ADA.

To which our response is, yes, it is 100% required under those laws.

It is a health program and activity.

If you are providing it, it needs to be accessible.

And so one of our big focuses is just on making sure that that's clear to everyone involved.

Obviously they're not a participant today, but we do have a close participant a close participation with Department of Justice.

And they have done a lot of work in this area as well.

Quite a few settlement and with the websites, vaccine website, testing websites that are to a few settlement agreements where they require a means to provide that through the website, they have to make sure it is accessible.

Lots of information for the department of justice as well.

>> Come on, audience.

You are having very quiet today.

Let me move along until more questions come in.

I would imagine that some of the audience are people with disabilities or disability organizations.

Some are the entities that we're talking about that have this responsibility of health care entities.

So curious to note, who are the ones who most likely are calling you? Or contacting you for questions around these topics? Is it are the health care agencies interested in understanding their responsibilities?

>> Sure.

I think I'll admit while the majority of the contact we're getting whether it's a formal letter, whether it's more of an informal reach out or whether it's something we hear through the grapevine, it generally is disability advocacy organizations, disability rights organizations and for good reason because this greatly affects them and greatly affects their members.

I think the providers on their ends, there is a desire to get more information.

Maybe they're not necessarily and are access to believe the widest amount of people.

I think for a number of reasons.

Not only because it is the right thing to do, but because it's beneficial to them.

They increase their customer base.

They make sure they're giving out good quality health care.

And providing inaccessible health care and I think we will see more providers reaching out.

And in this process for rule making.

And that is with the explicitly questions and saying, please provide additional information on this.

>> And to providing information.

>> And I see your hand raised.

I prefer to have you put it in the chat.

Here is a question.

Peggy, please put your question in the chat.

Here is a question that just came in.

Does HHS follow similar guidelines and specific steps for enforcement of section 504 and 1557 that D.O.J. does with Title VI of the civil rights act of 1964?

>> Great.

Thank you.

Very good question.

I'm let me first start by saying everyone in the federal government and I assume outside the federal government is very appreciative of the Title VI manual that DOJ put out to show how to investigate civil rights complaints.

I have actually been lucky enough to attend some of the title VI trainings in person and a few years ago where they took down the Title VI manual online, it was not great, so we're very glad it is back up and we get to use it.

We follow similar steps for sure to collaborate a lot in terms of how we approach our investigations.

We do have a few unique requirements which we have in our own internal kind of enforcement manual, but generally the process and complaintive investigation is we receive the complaint.

It's triaged.

We make sure that we actually have authority to enforce what is being requested.

We make sure an actionable claim is being made.

One thing that is different is we are required by statute to try to get to a voluntary agreement as opposed to going straight to issue a letter of finding.

That is where we differ a little bit, but there is certainly a lot of similarities between the way we enforce 504 and 1557 and how DOJ enforces Title VI.

>> Great, thank you.

All right.

Peggy said, thank you for the excellent program.

There is some research which identifies the extent of which providers are not aware of the legal obligations under the ADA.

I will take this opportunity to say the research paper that has been getting a lot of publicity this week and last week about providers saying that they really almost even overtly discriminate against people with disabilities.

It is a paper that will be covered in this webinar series on February 23.

So make your put it on your calendar now.

Next question, do providers need referrals to find sign language interpreters and/or captioning providers?

>> I'm not aware of any referral requirement.

I think what section 504 and what the laws require and it doesn't necessarily go step by step in terms of how the provider needs to acquire sign language interpreter or caption providers.

It really is up to the provider.

And the burden season on them to make sure that they have those services.

I think what a lot of providers do is they have a contract in place with an independent provider.

With an intent provider that provides sign language or captioning services, and then they are able to call on demand and get someone.

Whether that's virtually or in person.

But really the actual process of getting the person either on the screen or there in person is up to the provider.

>> Okay.

Next question, have you addressed screen reader platform incompatibility with private practice mental health providers?

if so, how has that gone?

>> So not that I'm aware of, at least that specifically.

I know we have received complaints in the past about screen reader compatibility, though this was specific to I think it was section 1557.

And this was essentially health care insurance websites.

And those were issues we were able to deal with on a case by case basis.

I guess the first issue would be whether this private practice provider is a recipient of our HHS federal financial assistance, which is likely that they are to some extent.

And at that point if they're basically providing these health care services through that platform and that platform is not accessible through a screen reader, that perceivably would be accessible to most, that is when there is an issue.

And if there is a situation where that does come up and it's not compatible, we urge you to file a complaint with us.

And the easiest way is through the complaint portal online.

>> I will also put in a little caveat that you can always call your ADA centers as well to find out the answers to some of these questions.

And having to file a complaint, you may need to file a complaint at some point.

But prior to that, you may want to talk to any of us.

So next question.

Is there any effort to make your work available to medical providers through the AMA or other organizations?

>> So the majority of the way that we try and well, the majority of the way that we interact with the public is through the guidance documents.

We try to disseminate them as much as possible through our email blasts, on our website, and we try and get our partners within HHS to push those on twitter.

And whatever social media sites that I am not a part of.

But kind of in addition to that, one thing we try to do is we actually have a presentation that we give out to basically medical students or premed students in certain cases, pre dental students or nurse practitioner students.

Kind of explaining their health care obligations.

The hope is basically before somebody becomes a doctor and gets into the bad habits and they actually get it earlier on.

And that I think has been pretty successful and we have a Title VI national presentation.

And we have an effective communication presentation there.

So that's something we use to try and get across our message.

Yeah.

>> And I would also add to that, Peggy, this was your question, that the ADA national network is also making efforts to get out to providers and health care providers through this venue as well as others that we go actually to some of the conferences and can make these presentations.

We try to get this information across to them then as well.

Next question, people with hearing loss who ask for captions or CART have been told by some that it's a HIPAA violation.

What do we say to doctors who refuse to provide captions based on their understanding of HIPAA?

>> Thank you.

And I will preface this by saying in no way am I a HIPAA expert.

I have a very, very limited understanding of it, but it doesn't seem to be that if you are specifically asking for captions or CART, that that would be a HIPAA violation.

And I think we actually do have guidance on the HHS OCR website.

If you go to our website, just type in HHSOCR.

And then you will have a few tabs on top.

One it says civil rights, one says health information and privacy.

And I believe we do have guidance documents on issues such as these on the health and information privacy side because especially at the start of the pandemic when Telehealth exploded, and there was so much health information going on online.

Over the phone, and there was a lot of misconceptions by providers especially on what is a HIPAA violation.

So our very, very intelligent, very capable HIPAA team was working overtime trying to address all these issues.

And I will not do them a disservice by trying to pretend that I know the exact answer here.

>> Great.

Okay.

All right.

Thank you so much, John.

I really appreciate it.

I am not seeing anymore questions, so I think we'll just head toward the end here.

We realize that some of you may still have questions for John, and he did give you his information there.

And if you think of something after the meeting is done and you want to ask him the question, he said you are welcome to write to them, so there you have that.

You can also contact your regional ADA center if the topic is an ADA question.

And you can get that to us at the 800 949 4232.

And you will get any one of our centers around the country.

We have 10 regional centers.

Also, I want to remind you, again, you will receive an email with a link to an online session evaluation.

Please complete the evaluation for today's program as we really value your input.

And we want to demonstrate the importance of this webinar series to our listeners.

And we want to thank John again today for sharing his time and knowledge with us.

It was a really great presentation.

A reminder that today's session is recorded.

And it will be available for viewing next week at ADA presentations.org in the archive section.

And this will be the last health care in the ADA session for 2022.

We hope you will join us back in 2023, like I mentioned before, and we have that session planned on February 23 on the recent publication of the attitudes of positions about persons with disabilities as patients.

So watch your email.

The announcement for the opening of registration for that.

And also, on a personal note, I want to say that this will be my last health care webinar as host.

Thank you for your support throughout the years.

We really appreciate that.

We hope we have brought you some information that supports your efforts to improve the implementation of the ADA.

All right.

And with that, thank you, all, for attending.

And have a good rest of your day!

Thank you, again, John.

Bye bye.

>> Thank you very much, Lewis.