

<p style="text-align: center;">TOTAL ORTHOPEDICS & SPORTS MEDICINE ADMINISTRATIVE POLICY</p>	<p style="text-align: center;">REVISED: June 2023 APPROVED BY: Anthony Rossano, Chief Financial Officer</p>
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POLICY TITLE: Communication Facilitation For Deaf and Hard-of-Hearing Patients.

POLICY: To ensure that all individuals who present to Total Orthopedics & Sports Medicine (“Total Orthopedics”) are able to effectively communicate with staff, and when necessary, have access to sign language interpreting services at all junctures.

PURPOSE: The purpose of this Administrative Policy (the “Policy”) is to establish procedures to ensure timely, accurate, and appropriate health care to Total Orthopedics’ patients by providing effective communication access services that have been designed to minimize communication barriers for patients with special communication needs (such as Deaf and Hard of Hearing) and/or their family members or companions. Total Orthopedics will identify a patient’s special communication needs upon initial presentation (whether by phone, in-person, or Total Orthopedics’ website). In the event a Patient indicates that they or a companion are in need of communication access services, staff should inform either the Front Desk or Call Center managers (or their respective co-managers), who will then arrange for the appropriate accommodations for the patient’s visit (usually an in-person sign language interpreter), at the office of the patient’s choosing.¹ The patient’s need for an accommodation (and related documentation showing such accommodations have been scheduled/arranged) shall be memorialized in the patient’s medical records.

All interpreters provided by Total Orthopedics will meet the necessary criteria outlined in the Americans with Disabilities Act (ADA).

NOTE: The determination about whether a patient needs an interpreter should NEVER be left to the patient’s individual healthcare provider.

¹ Total Orthopedics typically uses THAT! Interpreting Services of Deaf & DeafBlind, Inc. This qualified interpreting service can be contacted at (516) 506-0058.

I. DEFINITIONS

American Sign Language (“ASL”):

ASL is a natural language that serves as the predominant language of deaf communities in the United States of America and most of Anglophone Canada. ASL is a complete and organized visual language that is expressed by employing both manual and nonmanual features.

Americans with Disabilities Act (“ADA”):

The American with Disabilities Act of 1990 prohibits discrimination on the basis of disability by private entities.

Communication Access:

Accommodations that ensure persons with special communication needs can communicate effectively.

Companion:

A “Companion” shall, consistent with 28 C.F.R. §36.303(c)(1)(i), mean a person who is Deaf or Hard-of-Hearing and has a “disability” within the meaning of the ADA, 42 U.S.C. §12102 and 28 C.F.R. §36.104, and is a family member, friend, associate, or designated support person of an individual seeking access to, or participating in, the goods, services, facilities, privileges, advantages, or accommodations of Total Orthopedics, and who, along with such individual, is an appropriate person with whom Total Orthopedics should communicate.

Family Member:

For the purpose of this Policy, a family member shall be defined as a patient’s spouse, parents, grandparents, children, siblings, and domestic partner.

Deaf:

Describes people with no useful residual hearing and who generally employ sign language as their primary mode of communication. They may also use speech-reading, hearing aids, and other assistive technology to aid in communication. People who are Deaf can be either:

- Congenitally Deaf – those who were born Deaf; or
- Adventitiously Deaf – those who were born with hearing, but whose sense of hearing became non-functional later in life through illness or accident.

Hard-of-Hearing:

Describes people with any degree of hearing loss, ranging from mild to profound. They may understand some speech sounds, with or without a hearing aid. They participate in society through the use of residual hearing aids, speech-reading, sign language, and/or other assistive technology to aid communication.

Impaired:

- **Hearing Impaired:**

Generic term used to describe all persons with hearing loss.

- **Visually Impaired:**

Term used to describe an individual with a reduction in the ability to see.

Effective Communication:

Term used in the ADA as a standard for access for people with hearing loss. An organization providing public accommodation must provide an auxiliary aid or service where necessary to ensure effective communication with individuals with disabilities. The Department of Justice strongly encourages consultation with the individuals before providing them with particular auxiliary aids or services.

Assistive Listening Device:

A device that transmits amplified sound.

Auxiliary Aids and Services:

Auxiliary Aids and Services shall, consistent with 28 C.F.R. §36.303(c)(1)(ii), include qualified interpreters on-site or through video remote interpreting (“VRI”) services, including but not limited to DeafTalk, or appropriate VRI service; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are Deaf or Hard-of-Hearing.

Lip-Reading/Speech-Reading:

A skill used by a person with hearing loss to try to understand speech by watching the lips while a person is talking. The term “speech-reading” is recognized as being more descriptive since it includes watching the facial expressions and body language, as well as the lips of the speaker.

Patient:

The term “Patient” means any individual who is Deaf or Hard-of-Hearing and has a “disability” within the meaning of the ADA, 42 U.S.C. §12102 and 28 C.F.R. §36.104, and is seeking or receiving health care services from Total Orthopedics.

Qualified Interpreter:

An interpreter who by way of remote interpreting service (VRI) or onsite appearance, is able to interpret effectively, accurately, and impartially, both receptively, and expressively, using any necessary specialized vocabulary. Qualified Interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators. 28 C.F.R. § 36.104.

Qualified Translator:

Under the Americans with Disabilities Act (ADA), a person who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Sign Language:

The visible movements of hands, body and face replacing the vocal elements of a spoken language. Depending on the communication situation and personal preferences, Deaf and Hard-of-Hearing persons in the United States who use sign language may communicate using the unique grammar of American Sign Language (ASL), Tactile Sign Language, or some variety of signing that uses features taken from both ASL and English.

Telecommunications Relay Service:

Sometimes called dual-party telephone relay service. Enables text telephone users to communicate with a non-text telephone user by way of a relay service communications assistant.

Text Telephone (“TT/TTY”):

A typewriter-like device (also known as Telecommunications Device for the Deaf, TDD) used by those who cannot use a standard telephone due to impaired hearing. Conversation is displayed on a screen so that it can be read.

II. APPLICATION:

This Policy shall apply to **all** outpatient services at Total Orthopedics. In order to comply with Title III of the Americans with Disabilities Act (ADA), and Section 504 of the Federal Rehabilitation Act of 1973, it is the policy of Total Orthopedics that Patients with special communication needs will be afforded services that ensure Effective Communication when accessing health care services.

Total Orthopedics shall make all reasonable efforts to comply with the protocol set forth herein for providing Auxiliary Aids or Services for Effective Communication with Patients and/or Companions who are Deaf or Hard-of-Hearing.

Total Orthopedics shall provide Patients and/or Companions with the full and equal enjoyment of the services, privileges, facilities, advantages, and accommodations. The procedures outlined

below are intended to ensure Effective Communication with Patients and/or Companions involving their medical conditions, treatment, services, and benefits.

Total Orthopedics will provide to Patients and/or Companions appropriate Auxiliary Aids and Services that are reasonably necessary for Effective Communication. Appropriate Auxiliary Aids and Services will be provided as soon as practicable without compromising patient care.

All necessary Auxiliary Aids and Services shall be provided **without cost** to the person being served.

Total Orthopedics will ensure that it posts signs of a conspicuous size and print giving notice of the availability of Auxiliary Aids and Services to Patients/Companions. The signs are located in public waiting areas in **all** of Total Orthopedics locations.

Total Orthopedics also provides notice of the availability of and procedure for requesting Auxiliary Aids and Services through notices in its educational brochures and website as well as through notices posted throughout its various locations.

Qualifications:

Any employee who encounters a Patient during the course of their duty, whether checking a patient in, making an appointment, or providing general information, will identify a need for special communication accommodation.

Equipment:

- TTY
- Deaf-Talk Video Interpreting Device, or an appropriate VRI service.

III. PROCEDURE:

1. Determination of appropriate communication means shall begin at the time of Total Orthopedics' initial encounter with Patient.
2. In order to facilitate the procedure outlined above, when a new patient contacts Total Orthopedics (whether by phone, in-person, or on Total Orthopedics' website), the Total Orthopedics personnel will ask the patient: **Do you have a communication disability that requires an Auxiliary Aid or Service, like a Qualified Sign Language Interpreter?** If the response is in the affirmative, the Patient's communication needs will be documented in the "Request for Services by Deaf and Hard-of-Hearing Persons Form" appended to this Policy as **Attachment A and included in the Patient's medical records.**
3. **In-Person Qualified Interpreters:** Generally speaking, a Patient who is Deaf or Hard-of-hearing should be provided with a Qualified ASL Interpreter. As such, upon learning of a Patient's language needs, Total Orthopedics staff should inform the Patient that Total Orthopedics will provide an in-person qualified interpreter for their visit, at no cost to the Patient. The use of an In-Person Qualified Interpreter is necessary for Effective Communication with a Patient when:

- a. Discussing a Patient's symptoms for diagnostic purposes, and discussing medical conditions, medications, and medical history;
- b. Explaining medical conditions, treatment options, tests, medications, surgery, and other procedures;
- c. Providing a diagnosis or recommendation for treatment;
- d. Communications immediately preceding, during, and immediately after a surgery or procedure and during physician's rounds;
- e. Obtaining informed consent for treatment, surgery, or procedures;
- f. Providing instructions for medications, post-treatment activities, and follow-up treatments; or
- g. Discussing complex billing and insurance matters.

In the event that the Patient's visit will include any of the above-listed activities, the Total Orthopedics staff member who was informed of the Patient's (or their Companion's) communication needs shall:

- i. Complete the Request for Services by Deaf and Hard-of-Hearing Persons Form (appended to this Policy as Attachment A) and place a copy of the completed form in the Patient's medical record;
- ii. Inform their manager (either the Front Desk or Call Center manager) that a Patient requires an In-Person Qualified Interpreter, as well as the date, time, and location of the Patient's appointment, and provide the manager with a copy of the Request for Services by Deaf and Hard-of-Hearing Persons Form;
- iii. The manager who was informed should then schedule the in-person qualified interpreter based upon the information they received with THAT! Interpreting Services of Deaf & DeafBlind, Inc., at **(516) 506-0058**.²
- iv. Patients should be reminded that Total Orthopedics has scheduled an In-Person Qualified Interpreter for the Patient's visit when contacting the Patient to confirm their upcoming appointment.

4. **Video Remote Interpreting ("VRI")**: In certain circumstances, it may be appropriate for Total Orthopedics to use VRI to communicate with a Patient who is Deaf or Hard-of-Hearing. However, VRI shall not be used as a substitute when an In-Person Qualified Interpreter is necessary or requested by a Patient. When using a VRI service, Total Orthopedics shall ensure that it provides real-time, full-motion video and audio with an uninterrupted connection; a sharply delineated image; a clear, audible transmission of voices; and adequate training to users of the technology so that they may quickly and efficiently set up and operate the VRI.

5. VRI **shall not** be used when it is not effective due, for example, to the following:

² In the event that an in-person qualified interpreter is not available from THAT! Interpreting Services, the manager arranging for the accommodation shall arrange for another qualified interpreting service for the Patient's visit.

- A Patient or Companion’s limited ability to see the screen, move his or her head, hands, or arms; or a Patient or Companion’s vision, pain, or cognitive issues that make the use of VRI ineffective;
 - Where the information exchanged is highly complex;
 - The Patient or Companion may be in an area where there is not a designated high speed internet;
 - There are space restrictions in the room where the Patient will be treated; or
 - Where the staff has attempted to make the VRI operational for a period of forty-five (45) minutes but is unable to do so.
6. If the VRI is not effective for any reason, including but not limited to those situations identified in Paragraph 5 above, Total Orthopedics shall contact and arrange for an In-Person Qualified Interpreter to ensure effective communication for the Patient and/or Companion.
 7. If VRI is being used, Total Orthopedics shall ask the Patient and/or Companion whether the VRI is meeting their communication needs and make a record of their response. In the event that the Patient and/or Companion cannot communicate effectively using VRI, Total Orthopedics shall contact and arrange for an In-Person Qualified Interpreter. Total Orthopedics will also periodically inform the Patient and/or Companion of the status of those efforts and document the steps taken to obtain another Auxiliary Aid or Service.
 8. Total Orthopedics will take appropriate steps to ensure that all appropriate personnel, including non-medical staff, are made aware of a Patient and/or Companion’s hearing disability and the Auxiliary Aid and Services needed so that Effective Communication with each such person will be achieved, including documenting that information in the Patient’s medical record.
 9. **Total Orthopedics personnel will NOT rely on a minor Companion or Family Member to interpret in ANY circumstance.**
 10. Total Orthopedics will NOT rely on a Companion or adult Family Member to interpret except in an emergency involving an imminent threat to the safety of an individual or the public where there is no interpreter available; or (i) where the Patient specifically requests that the adult Companion or adult Family Member interpret, (ii) the accompanying adult Companion or Family Member agrees to provide such assistance, and (iii) reliance on that adult for such assistance is appropriate under the circumstances. In such circumstances, the Patient’s request that an adult friend or adult family member interpret must be documented in the Refusal of Interpreter Services Form, appended to the Total Orthopedics administrative policy as Attachment B.

IV. **DOCUMENTATION:**

1. **Request for Services by Deaf and Hard-of-Hearing Persons Form:**

At the time of registration and/or admission, any special communication needs shall be documented on the “Request for Services by Deaf and Hard-of-Hearing Persons Form” and maintained in the Patient’s permanent medical record. A copy of this form is attached as **Attachment A.**

2. **Refusal of Interpreter Services Form:**

In the event the Patient refuses interpretive services available to them by Total Orthopedics, and wishes to utilize a private sign language interpreter, or an adult Family Member (as explained in Section III, ¶ 10), Total Orthopedics' personnel shall document the Patient's refusal of interpretive services on the Refusal of Interpreter Services Form. A copy of this form is appended as **Attachment B**.

- If the Patient refuses any interpretive services, the Refusal of Interpreter Services Form must be completed and maintained in the Patient's permanent medical record.
- If a qualified interpreter accompanies a Patient, and the Patient specifically requests to use the services of that interpreter, this request must be respected, and documented on the Refusal of Interpreter Services Form.

V. **TRAINING AND MAINTENANCE OF RECORDS**

1. **Provision of the Policy:** Total Orthopedics will disseminate a copy of this Policy to all personnel. All Total Orthopedics Personnel who receive a copy of this Policy will acknowledge receipt in writing. Total Orthopedics must maintain copies of the written acknowledgement in writing.
2. **Provision of Total Orthopedics Administrative Policy to New Total Orthopedics Personnel:** Within fourteen (14) days after any new Total Orthopedics Personnel commences employment, Total Orthopedics will issue them a copy of this Policy. All Total Orthopedics Personnel who receive a copy of this Policy will acknowledge receipt in writing. Total Orthopedics must maintain copies of the written acknowledgement in writing signed by all new personnel.
3. **Annual Training To All Total Orthopedics Personal:** Total Orthopedics shall provide annual training to its personnel who may have direct contact with individuals with disabilities in order to train them on how to ensure all Patients are able to effectively communicate with Total Orthopedics personnel, including its medical providers. Such training shall include, but not be limited to:
 - a. The specific provisions and procedures outlined in this Policy;
 - b. The various degrees of hearing impairment, language, and cultural diversity in the Deaf community;
 - c. Prompt identification of communication needs of persons who are Deaf or Hard-of-Hearing;
 - d. Procedures for documenting requests for and provision of auxiliary aids and services in patient charts;
 - e. Types of Auxiliary Aids and Services available and how to secure them in a timely manner;
 - f. The proper use and role of In-Person Qualified Interpreters;
 - g. Criteria to be used in order to select an In-Person Qualified Interpreter who is qualified;
 - h. The proper use and role of VRI services;
 - i. Making and receiving calls through TTYs and the relay service; and

- j. Securing qualified interpreter or VRI services as quickly as possible when necessary.
4. **Initial Training to New Total Orthopedics Personnel:** Within thirty (30) days of commencing employment, Total Orthopedics' personnel shall receive the same training as outlined in Paragraph 3, above.
5. **Training Records:** Total Orthopedics will maintain attendance sheets for the trainings described in this Policy at Paragraphs 3 and 4, above. Those attendance sheets will include the names, signatures, and job titles of the attendees, as well as the date and time of the training session and shall be stored electronically as part of Total Orthopedics recordkeeping.
6. **Maintenance of Database:** Total Orthopedics will maintain a database of:
 - a. Any offers made to Deaf and Hard-of-Hearing Patients regarding the provision of an In-Person Qualified Interpreter;
 - b. The Patients' response, including whether the Patients accepted or declined Total Orthopedics' offers for Auxiliary Aids and Services;
 - c. The Patients' names;
 - d. Date/time of appointments;
 - e. Location of appointments; and
 - f. The type of Auxiliary Aid and Service provided to the Patients.

VI. NOTICE TO PATIENTS

1. **Website:** Total Orthopedics will include a copy of this Policy, or a substantially similar policy statement, informing Patients who are Deaf or Hard-of-Hearing of their right to request and obtain Auxiliary Aids and Services and how to file a complaint with Total Orthopedics and through ada.gov if Total Orthopedics does not provide requested Auxiliary Aids and Services.
2. **Signs and Postings in Total Orthopedics' Offices:** Total Orthopedics will prominently post and maintain signs of conspicuous size and print in all Total Orthopedics admitting areas and where a Patient's Bill of Rights is required by law to be posted informing Patients of their right to Auxiliary Aids and Services, informing Total Orthopedics Personnel of the requirement to provide Auxiliary Aids and Services, and providing information about how to secure an In-Person Qualified Interpreter for a Patient or Companion.

VII. CONTACT INFORMATION

John Nikolic, Chief Operating Officer, is the Total Orthopedics staff member who has overall supervisory responsibility to ensure compliance with this Policy. Mr. Nikolic can be contacted at: (855) 321-6784 ext. 3033 and at jnikolic@tosmny.com.

Additionally, the following staff members can be contacted in the event an employee has a question about this Policy, or obtaining interpreting services for a deaf or hard of hearing patient:

Lauren Frantellizzi
Office Manager
(855) 321-6784 ext. 1360.
lfrantellizzi@tosmny.com

Natalie Ramnauth
Call Center Manager
855-321-6784 ext. 1360
nramnauth@tosmny.com

Michael Argenzio
HR Director
855-321-6784 ext. 1118
margenzio@tosmny.com

ATTACHMENT A

Patient Identification Label

REQUEST FOR SERVICES BY DEAF AND HARD-OF-HEARING PERSONS

Total Orthopedics is committed to providing quality care to all members of our community. In order to ensure that there is effective communication in connection with the services that are provided to you, Total Orthopedics has resources that are available to you, including the services of a qualified sign language interpreter when necessary, which is provided at no cost to you.

Do you require any of the following assistive communication services?

- YES** (Please indicate choice below)
- NO**, I do not want assistive communication services at this time. **Skip to Attachment B.**

- TTY** (also known as TDD/
Telecommunications Device for the Deaf)



- AMPLIFIED TELEPHONE RECEIVER**
(Handset for telephone)



- ASSISTIVE LISTENING DEVICE**
(Amplifies volume of any sound)



- TELEVISION CAPTIONING**



- QUALIFIED INTERPRETER**
Available via Video Remote Interpreting (“VRI”) services. However, in the event you cannot communicate effectively using VRI, Total Orthopedics shall contact and arrange for an onsite Qualified Interpreter.



- OTHER** (please explain): [will be provided if the service or device requested constitutes a reasonable accommodation under applicable law]

Patient Signature

Witness Signature

Date & Time

A copy of Total Orthopedics’ written Administrative Policy is available upon request at no charge.

Please check here if you want a copy of this Policy _____

ATTACHMENT B

Patient Identification Label

REFUSAL OF INTERPRETER SERVICES

I, _____ understand that I have a right to interpreter services.
PRINT NAME

I do not want any assistive communication services at this time. (Check if applicable)
 I do not want a **FREE QUALIFIED INTERPRETER** to be provided to me by Total Orthopedics at this time because:

I prefer to communicate using:

- _____
- I prefer to lip read and speak for myself for ***brief*** communications.
 - I prefer to lip read and speak for myself for ***all*** communications.
 - I prefer written notes for ***brief*** communications.
 - I prefer written notes for ***all*** communications.

OR

I prefer to coordinate/arrange for my own sign language interpreter at my own expense. This privately arranged service will be provided by:

Name: _____
 Address _____
 Phone _____
 Relationship to patient _____

I understand that I can change my mind about this request by executing a **Request for Services by Deaf and Hard-of-Hearing Persons Form**.

Patient Signature

Witness Signature Date & Time

A copy of Total Orthopedics' written Administrative Policy and is available upon request at no charge.

Please check here if you want a copy of this policy _____.

For Total Orthopedic Staff Only:

Refusal of Services Offered:

- Patient declined Qualified Interpreter
- Patient declined other Auxiliary Aids and Services offered (please describe):

Signature: _____

**TOTAL ORTHOPEDICS & SPORTS MEDICINE
ADMINISTRATIVE POLICY & PROCEDURE**

POLICY # _____

**TITLE: COMMUNICATION: INTERPRETER SERVICES FOR THE DEAF &
PATIENTS HARD-OF-HEARING & NOTIFICATION OF A QUALIFIED SIGN
LANGUAGE INTERPRETER.**

EFFECTIVE DATE: _____

APPROVED BY:

_____ Date: _____
[_____], _____
(Title)

Signed Copy on File