



December 14, 2020

## **The Center for Dignity in Healthcare for People with Disabilities Comments to Communications Equality Advocates Petition for Reconsideration**

The Center for Dignity in Healthcare for People with Disabilities (CDHPD) submits the following comments to Communications Equality Advocates Petition for Reconsideration. CDHPD aims to reduce healthcare inequities faced by people with disabilities and is composed of partners from multiple University Centers for Excellence in Developmental Disabilities (UCEDD), medical and advocacy organizations. One of our four focus areas includes reducing healthcare inequities in mental health and suicide prevention. Thus, we are committed to ensuring that any system aimed at addressing suicide is accessible for all.

While we commend the effort to secure a three-digit dialing code for accessing mental health services in time of crisis, by not adding text-to-988 capabilities and not ensuring Direct Video Calling capabilities, the system will have failed many of those it aims to help. This is because the three-digit dialing code will not be universally accessible. In particular, people who are deaf or hard of hearing and in crisis will not have access to this life saving resource. This lack of equity would be a problem by itself, but it is even more amplified by the fact that the data show a higher than average rate of suicidality in some segments of the deaf and hard of hearing population. For example, in a recent study examining hearing and nonhearing college students, it was found that, in fact, Deaf and hard-of hearing women reported a significantly higher suicide attempt rate than hearing women<sup>1</sup>.

Further, it also appears that by failing to include the text-to 988 capabilities and Direct Video Calling Capabilities, this new service will be in direct violation of disability civil rights law that has been the law of the land for decades. First, Section 504 of the Rehabilitation Act of 1973 states that “No otherwise qualified individual with a disability in the United States, as defined in section [705 \(20\)](#) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”<sup>2</sup> Given that the proposed three-digit dialing code for accessing mental health services in time of crisis is a federally sponsored program and that deaf and hard of hearing individuals experiencing a mental health crisis are certainly otherwise qualified to receive this service, not providing access to them by way of the text-to 988 capabilities and Direct Video Calling Capabilities seems to be in direct violation of this legal protection.

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<sup>1</sup> Samar, V., Pollard R., O’Hearn A, Lalley P., Sutter, E. Barnett S., Klein J., Finigan E., Steider A., Starr M., Havens C., Dean R., David T., Testa-Wojteczko B., Fogg T. (April 2009). *Deaf Students & Suicide: The Peculiar Relationship of Gender, Reading & Suicide* [Conference Poster] ADARA San Antonio.  
<https://www.urmc.rochester.edu/MediaLibraries/URMCMedia/ncdhr/publications-presentations/documents/SuicidePosterADARAapril2009.pdf>

<sup>2</sup><https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973>

Further, the National Suicide Prevention Lifeline, which will receive all contacts from the three-digit dialing code for accessing mental health services in time of crisis is a clear example of a Public Accommodation that is bound by Section III of the Americans with Disabilities Act of 1990. Specifically, § 36.202 (a) reads, “A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.” Even more specifically, with regards to deaf and hard of hearing people being denied access to publicly available services, § 36.303 states that “A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services.” It goes on to specifically define auxiliary aids and services as including “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.”<sup>3</sup>

There seems to be a clearly established mandate for making these services accessible to the deaf and hard of hearing community that even goes beyond existing civil rights law. For example, the Twenty-First Century Communications and Video Accessibility Act (CVAA) includes “provisions to ensure that people with disabilities have access to emergency information such as the next generation of 911 services and emergency information on the television.”<sup>4</sup> This seems to establish a clear precedent for doing the same with 988 services. Both 911 and 988 services are envisioned as nationwide, three-digit points of access for all Americans in times of emergency. Both ought to be accessible to anyone who may have a need to call upon them.

Sincerely,



Kara B. Ayers, PhD  
Director of the Center for Dignity in Healthcare for People with Disabilities

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<sup>3</sup> [https://www.ada.gov/regs2010/titleIII\\_2010/titleIII\\_2010\\_regulations.pdf](https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.pdf)

<sup>4</sup> <https://www.fcc.gov/general/twenty-first-century-communications-and-video-accessibility-act-0>