

Deaf Patient: Court Says That Patient's Rights As Disabled Person Were Not Violated.

The fourteen year-old patient has been deaf since birth. He is fluent in American Sign Language (ASL) which is his primary method of communication.

He was admitted to the hospital through the E.R. for abdominal pain and vomiting which were diagnosed as ulcerative colitis. He had intestinal surgery and stayed in the hospital three weeks.

His parents brought him to the hospital and stayed with him. Neither of them have hearing impairments. They had only limited ASL competence at the time and communicated with him primarily through finger-spelling of the ASL alphabet and home signs. His younger sister, also deaf, communicates through ASL.

No ASL Sign Language Interpreter Patient's Lawsuit Dismissed

The US District Court for the Middle District of Florida dismissed the lawsuit the parents filed on their son's behalf.

The Court acknowledged that communication between this patient and his caregivers was difficult at best, with his high level of physical and emotional stress and the complexity and length of his treatment.

However, the hospital did as much as it could to make available the effective aids to communication the hospital was required by law to make available to this patient and other disabled individuals with hearing impairments.

The hospital was willing and able to provide ASL sign-language interpretation on request and fully conveyed that willingness to the patient and his family.

The effectiveness of communication between a disabled patient and caregivers is only substandard if the patient's reaction indicates that he or she is not satisfied.

No request was made by the patient or his family for an ASL interpreter.

Nothing was obvious to his caregivers that their communication was not effective. The caregivers were given no affirmative indication by the patient or his family that they considered what was being offered and provided to them as insufficient to meet the patient's needs. **McCullum v. Orlando Reg. Healthcare**, 2013 WL 1212860 (M.D. Fla., March 25, 2013).

There were signs at the nurses station along with handouts and also a printed form given out at admission asking the patient for his or her communication preference.

The hospital had a policy that the hospital would communicate with every patient using the patient's preferred method, including sign language if applicable.

Hospital policy authorized every staff member or any physician practicing at the hospital to call for a sign language interpreter. The hospital had a standing arrangement with a reliable outside vendor to provide such services.

A nurse who worked several night shifts and interacted to some extent with the patient while he was recovering from abdominal surgery had taken sign-language classes in high school and college and had worked as a speech therapist before going to nursing school.

The nurse was not a qualified American Sign Language interpreter and relied on hand-spelling of English words more so than actual ASL signing.

UNITED STATES DISTRICT COURT
FLORIDA
March 25, 2013

Deaf Employee: Court Says That CNA's Rights Were Not Violated.

There were numerous complaints that the CNA was not paying attention when others talked to her. Nurses had to repeat requests several times to get tasks done. There was serious concern about what could happen in an emergency.

It was finally tied not to a problem with her attitude or her abilities, but to a serious hearing impairment. The hospital unfortunately had to terminate her.

The accommodation requested by the disabled CNA is not a reasonable accommodation.

The hospital cannot expect patients who have come to the hospital for medical treatment to have to wave their hands to get a caregiver's attention and then shout at her to have their requests heard or their questions answered.

UNITED STATES DISTRICT COURT
MICHIGAN
March 29, 2013

The US District Court for the Eastern District of Michigan dismissed the CNA's disability-discrimination lawsuit.

Her communication barrier meant she was not a qualified individual with a disability unless there was some sort of accommodation that would let her continue working. Patients and hospital staff having to wave their arms to get her attention and then shout at her was not a reasonable accommodation, the Court ruled.

The Court pointed out that the hospital followed and documented that its regular multi-stage disciplinary process was followed before terminating the CNA. She was treated exactly the same as anyone else with unresolved performance issues. **Olivan v. Henry Ford Hosp.**, 2013 WL 1314952 (E.D. Mich., March 29, 2013).