

LEGAL EAGLE EYE NEWSLETTER

February 2017

For the Nursing Profession

Volume 25 Number 2

Hearing Impaired Family Members: Court Rules No Disability Discrimination Occurred.

The parents are both deaf but all of the children, now mostly adults, including the patient who died in the hospital, can or could hear.

The father and all the children have or had Marfan Syndrome. One of the children, then thirty-one years old, had to be admitted to the hospital's ICU after two major heart surgeries and a diagnosis of congestive heart failure.

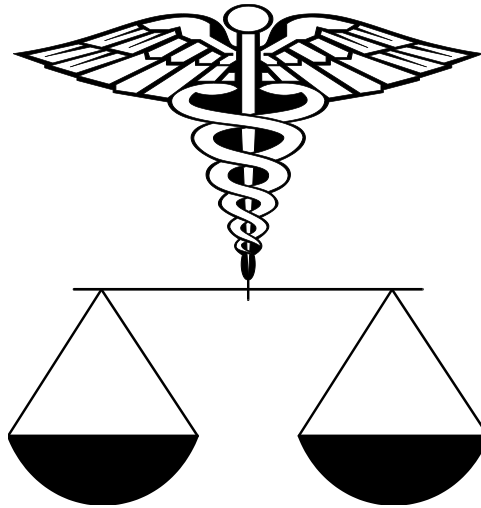
During a conference in the ICU with an advance practice nurse practitioner, it was obvious to the nurse the mother could not understand the conversation by reading lips, so the nurse saw to it that an American Sign Language (ASL) interpreter was called in.

When the conference with the nurse resumed the nurse fully explained the gravity of the patient's dire situation and his limited medical options.

Later that evening another conference took place in the patient's ICU room with the physician, nurse, parents and the ASL interpreter present.

However, at other times interventions were performed, many of which were necessary for the patient on the spot, without the ASL interpreter present to assist the parents.

One of the patient's siblings, a minor, sometimes filled in trying to interpret for her parents, but she is not fluent in ASL and it was not very effective.



The hospital was not expected to have an ASL interpreter on site 24/7 for the parents in case an emergent intervention was required from the patient's caregivers.

Nor was it reasonable for the hospital to delay a caregiver's response until an interpreter could come in for communication with the patient's family.

UNITED STATES DISTRICT COURT
MINNESOTA
January 18, 2017

After the patient passed away the parents and the minor sibling sued the hospital for disability discrimination.

The US District Court for the District of Minnesota dismissed the suit.

Patients and family members come under the Americans With Disabilities Act's (ADA) prohibition against disability discrimination toward hearing impaired individuals by hospitals that are places of public accommodation.

The ADA requires auxiliary aids to achieve effective communication. In this case the parents were provided effective communication by the assistance of an ASL interpreter during two important sessions with the nurse practitioner and the physician in which the totality of the patient's situation was effectively explained to them.

Effective communication does not mean an auxiliary aid like an ASL interpreter must be there continuously or that responses in emergencies, like the patient's seizure at 1:30 a.m., be postponed pending an interpreter's arrival.

The Court did point out it is not permissible to require a minor child to interpret for his or her parents. The hospital's policy disallowed that and in this case the child only volunteered but was not compelled. ***Durand v. Fairview*, 2017 WL 217649 (D. Minn., January 18, 2017).**

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