

LEGAL EAGLE EYE NEWSLETTER

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Hearing-Impaired Patient - No Interpreter: Disability Discrimination Lawsuit Upheld.

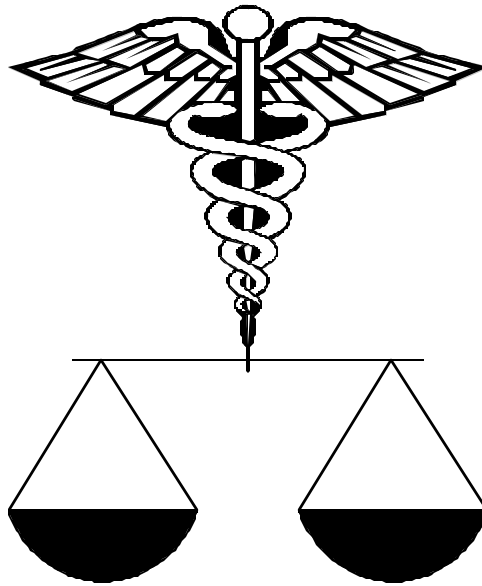
A hospital is a “place of public accommodation” as that phrase is defined by law. As a place of public accommodation, according to a recent ruling from the Court of Appeals of Washington, a hospital must provide reasonable accommodation to a patient’s sensory disability, or face a disability discrimination lawsuit.

The court upheld a hearing-impaired hospital patient’s right to sue a hospital where she had received care, for being denied access to an American Sign Language interpreter.

First admission: The patient came to the emergency room at a rural hospital with pneumonia and possible sepsis. Her physician decided to transfer her and admitted her to a suburban Seattle hospital for treatment.

On arrival at the suburban hospital she was mentally confused. The hospital staff nurses restrained her arms and hands to keep her from removing her catheter and IV lines. The court faulted the hospital for depriving the patient of her primary means of communication.

The patient’s husband was with her. However, he also had a hearing impairment and himself relied on sign language as his primary means of communication.



A hospital must provide reasonable accommodation. A hearing-impaired patient must be offered treatment comparable to that given to the non-hearing-impaired.

Treatment includes not only medical care, but the opportunity to explain symptoms, to ask questions and to understand the patient’s options.

COURT OF APPEALS OF WASHINGTON,
1997.

The court applauded the hospital for having in effect a contract with a community service agency for the hearing-impaired. The agency agreed to provide sign language interpreters for hearing-impaired hospital patients. Interpreters were available for pre-scheduled appointments and on an emergency basis. The court did not fault the hospital for relying on an outside agency to furnish sign language interpreters as opposed to having hospital staff on duty or on call for that purpose.

However, the court did find fault with the hospital for merely calling the agency’s non-emergency number and leaving a voice mail stating there was no emergency and that an interpreter was needed the next day. The court ruled explicitly that the agency’s emergency number should have been called so that the agency could have dispatched an interpreter without delay.

Over the course of the patient’s inpatient stay, sign language interpreters were obtained from the agency and provided on an intermittent basis. The court was still displeased. The presence of the interpreters was not scheduled to coincide with when physicians were checking in on the patient, to permit her to communicate with them.

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Sign Language Interpreters/Hearing Impaired Patients/Discrimination EMTALA/E.R./Transfer To Extended Care - Post-Surgical Care/ Med Surg Care/Psych - Visitor Falls - Dementia/Cigarette Lighter Home Health/Background Checks - Emergency Room/Suicide Risk Neglect Of Patient/CNA Fired - Labor And Delivery - Stealing Meds Defamation/Home Health - Disability Discrimination - AWDA/FMLA Developmentally Disabled Adult/Helmets/Falls/Nurse’s Responsibility Nursing Home Resident Falls/Wheelchair Wheels Not Locked.

Second admission: Two weeks after her discharge, the patient was admitted again to the same hospital. This time there was an emergency call placed to the agency to obtain an interpreter. The agency was unable to provide an interpreter on short (two hours) notice as its contract with the hospital required. The court did not find fault with the hospital for this. The court was impressed at the hospital's resourcefulness in locating a hospital visitor who could sign for the patient this time.

The court ruled that failing to provide a sign language interpreter as mandated by the patient's need to communicate with her caregivers at critical moments left this patient isolated, frightened and unaware of her medical condition. The patient went into psychological counseling for post-traumatic stress disorder. Her therapist testified the patient expressed feelings of being dehumanized and out of control, almost as if she were being raped.

The court ruled that a patient who suffers emotional trauma from an incident of disability discrimination can sue in civil court for monetary damages for mental anguish and emotional distress. There was no conclusive proof in this case that this patient's physical condition was affected by the fact she could not communicate with her caregivers and receive communication from them. The court left the option open for future cases, however, for patients who do sustain actual physical harm, to file allegations of medical negligence on top of their disability discrimination claims.

In summary, the court ruled the hospital was at fault for two reasons. The hospital did not place an *emergency* call to the agency to get an interpreter on an immediate basis when the patient was first admitted. During her stay, the hospital did not coordinate the presence of an interpreter with the patient's physicians' visits so that the patient could communicate with them. **Negron vs. Snoqualmie Valley Hospital, 936 P. 2d 55 (Wash. App., 1997).**