Sign-Language Interpreters: Child Had To Sign, He And His Parents Can Sue For Discrimination.

Before he checked into the hospital and numerous times during his stay for carotid endarterectomy surgery the deaf patient, his deaf wife and their two hearing teenage children requested the hospital to provide a certified American Sign Language interpreter.

Hospital policy required a nurse, physician or other staff member to whom such a request was made to refer the request to the hospital's Speech and Hearing Center, which was supposed to obtain a certified interpreter.

In this case the nurses reportedly continued telling the family, "We're working on it," even to the point when the patient was already in the PACU after his surgery and the patient's thirteen year-old son was being forced to try to function as sign-language interpreter for his father.

The hospital relied on the deaf patient's hearing children to translate complicated medical terms even though the children were not competent to provide ASL interpretation.

The patient, his wife and his son were victims of disability discrimination.

The hospital did not provide appropriate auxiliary aids to ensure effective communication.

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
October 6, 2009

The patient stroked in the PACU. The nurse ignored his anguished gesturing, believing it was simply the communication style of an attention-seeking deaf person. The son did not know and could not explain what was going on.

The US Court of Appeals for the Second Circuit ruled this case rose to the level of deliberate indifference, the legal threshold for damages to be awarded from a healthcare facility to a deaf person denied reasonable accommodation to his or her disability.

The Court ruled the hearing son was also a victim of disability discrimination and could sue for damages for the trauma he experienced. Families are meant to benefit from reasonable accommodation to deaf patients' communication needs. **Loeffler v. State Island Univ. Hosp., __ F. 3d __, 2009 WL 3172687 (2nd Cir., October 6, 2009).**