

# Deaf patients fight for rights

*An attorney whose parents are deaf wins hospital settlements.*

+ The Palm Beach Post

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# LOCAL

By JANE MUSGRAVE  
*Palm Beach Post Staff Writer*

For most of Florence Beaubien's 80 years, a trip to the doctor was akin to taking a ride on an alien spaceship.

She would watch as her physician would poke and prod, having no idea what he was doing or why. Occasionally, he might scribble words on a piece of paper and hand it to her. The notes, for the most part, were meaningless.

"It's very frustrating," she said, her hands dancing in the air, revealing the reason something as commonplace as a doctor's visit was an other-worldly experience.

Baubien is deaf.

And like thousands of others who communicate with sign language, for years Beaubien put up with the often-scary reality of being a non-hearing person in a hearing world.

Then, one night in 2002 as she sat in the emergency room at Bethesda Memorial Hospital watching her husband clutch his chest in pain, she decided she deserved to know what was happening.

She and her husband, Cardell, sued the hospital under the Americans With Disabilities Act for failure to provide them with an interpreter they asked for on several visits. Earlier this year, the hospital agreed to settle the suit by paying the Boynton Beach couple an undisclosed amount of money.

More important, Beaubien said, the hospital agreed to post signs in the emergency room and admission office alerting deaf people of their right to an interpreter and the responsibility of the hospital to provide it.

The settlement is one of several signed by South Florida hospitals in recent months.

The impetus is New Jersey attorney Clara Smit. The daughter of deaf parents who is

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# Doctors cite cost of interpreters

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fluent in sign language, she has established a practice representing a group of people who, she said, have long been neglected by both the legal and medical establishment simply because they can't hear.

Although federal law for more than 30 years has required any agency that receives federal funding to accommodate the disabled, few attorneys know sign language, so it was difficult for the deaf to fight for their rights, she said.

When her mother moved to Fort Lauderdale and Smit bought a condominium in Hillsboro Beach, her reputation as an advocate for the deaf followed her. In the last two years, she has represented the deaf in South Florida in lawsuits against doctors and hospitals.

So far, she said, she has won settlements in eight cases, including lawsuits against Bethesda and Wellington Regional Medical Center.

The problems deaf people experience when they go to the doctors or hospitals aren't new, she said.

"Deaf people accepted it because they had no choice," she said.

However, those who represented hospitals in the suits said interpreters are routinely provided for deaf patients.

"The absurdity of this is we have every incentive to communicate with our patients," said Matthew Klein, a Fort Lauderdale attorney who represented Wellington Regional Medical Center in a suit Smit filed on behalf of a

deaf man who claimed he was denied an interpreter several times when he went to the hospital for surgery.

The threat of being slapped with a medical malpractice lawsuit because a patient didn't understand a doctor's orders far outstrips any money that would be saved by not providing an interpreter, Klein said.

"Communication is the lifeblood of patient care," he said.

While applauding Smit's passion, he insisted it is misguided.

Wellington Regional Medical Center has long provided interpreters for not only deaf people but those who speak foreign languages. The hospital settled the suit only because it would cost more to litigate it, Klein said.

"It would cost many thousands of dollars to take to trial," he said, particularly since if it loses the hospital would be forced to pay the deaf patient's attorney fees in addition to its own.

Terry Swartz, an attorney who represented Bethesda hospital, declined comment.

Still, those at the Deaf Service Center of Palm Beach County said they constantly receive complaints about health care providers refusing to provide interpreters.

Sylvia Garcia, a coordinator at the center, estimates that she sends 15 letters a month to doctors and other health professionals, explaining the requirements of the federal disabilities act.

"Sometimes they comply, and others totally refuse," she said.

The biggest objection is

the cost. Interpreters charge \$40 to \$60 an hour, and many require a two-hour minimum.

Doctors complain that the amount they would spend for an interpreter is more than they would make from the office visit, she said.

But providing an interpreter is just the cost of doing business, much like buying a copier or a computer or paying their phone bill, Garcia said.

Some doctors schedule all their deaf patients around the same time so the cost of the interpreter can be spread among many clients, she said.

Beaubien said some of her doctors still don't provide interpreters, but she doesn't plan any more lawsuits. Still, she is glad she sued the hospital and won.

"Hospitals are more important — it's a much more serious situation," she signed, as Smit interpreted. "Going into an emergency room is very scary. Deaf people need to know what's going on."

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