

# Deaf Patients Sue To Get Interpreters

by Jeffrey Gold

The Associated Press

Newark (NJ) - When Victoria and Michael E. Murphy went to Bayonne Hospital for the birth of their first child, they expected an extra pair of hands to help in the delivery: a sign language interpreter.

The Murphys are deaf. During the pregnancy, their obstetrician informed the hospital that an interpreter would be on call, their lawyer said.

The hospital, however, told the interpreter she was not yet needed, leaving the Murphys able to communicate only with gestures as their son was born, said the lawyer, Clara R. Smit.

"She was terrified. It was her first child. She didn't know much of what was going on. Neither did the husband," Smit said Thursday.

The situation is the same at many other hospitals, said Smit, who recently won a settlement for the Murphys that mandates improvements in how Bayonne Hospital handles deaf patients.

The judgment, agreed to by the hospital and approved Jan. 22 by a state judge, could become a model for similar cases across the nation, said Smit, whose other deaf clients have lawsuits pending against five New Jersey hos-

pitals.

Smit, who specializes in representing the deaf, said the settlement is the first in such a case in New Jersey.

Under the agreement, Bayonne Hospital admitted no wrongdoing. Monetary terms were not disclosed.

The hospital agreed to provide interpreters or other aids to the deaf, and post signs at the admissions office and emergency room, among other locations, alerting hearing-impaired patients of that availability.

Patients who need an amplified telephone or a telecommunications device for the deaf will pay the same rate as patients using standard phones, according to the consent judgment approved by state Superior Court Judge Arthur N. D'Italia, who sits in Jersey City.

The Murphys and her other clients sued under the federal Americans With Disabilities Act of 1990, as well as the federal Rehabilitation Act of 1973 and the New Jersey Law Against Discrimination.

For the 45,000 deaf people in New Jersey, she said those laws mean that hospitals must provide a means for "effective communication" with those who cannot hear.

Few hospitals meet that obligation, according to Smit: "Being the child of deaf parents, I've gone through it myself."



Clara R. Smit, Esq.  
Attorney at Law



The Murphy Family

Even as a child, she interpreted at hospitals and elsewhere for her parents, using American Sign Language. The ADA specifically bars using family members for such duties, she said, because they may not be able to be impartial, and thus not effective.

The New Jersey Hospital Association could not immediately describe what policy it has, if any, regarding deaf patients.

Few lawsuits have been brought to date by deaf people because "they have been historically been denied access to the courts and attorneys because they could not communicate," Smit said.

The Murphys, who live in Bayonne, are profoundly deaf and communicate mainly through American Sign Language. Their obstetrician provided an interpreter for free, as required, and the couple took a Lamaze course with the interpreter, Smit said.

They arrived at Bayonne Hospital on

Nov. 26, 1993, and their interpreter called the hospital, only to be told her services were not needed yet.

"Of course, they should have had an interpreter there for admission and the entire time she was there, because every patient is entitled to effective communication during the entire time they are in the hospital," Smit said.

Murphy was ready to deliver sooner than expected, however, and the interpreter was not there when Michael E. Murphy Jr. was born.

"The delivery went OK, she just didn't know what was going on most of the time, and neither did her husband," Smit said.

Bayonne Hospital had no immediate response to a request for comment.

Smit's next case, filed in 1995 against Jersey City Medical Center, could go to trial at the Hudson County Courthouse on April 27.

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