

# Risk Management Hotline



## Interpreters for Deaf Patients

By Anne M. Menke, RN, PhD  
OMIC Risk Manager

Physicians are well aware of the central role clear communication plays in the physician-patient relationship. Patients who are deaf present special challenges to effective interactions. Ophthalmologists often have questions about how to obtain and reimburse interpreters and whether family members can fulfill this role.

**Q** My deaf patient insists that I provide a translator. Am I required to do so?

**A** Although the law has been interpreted "by some as creating a requirement that the physician provide and pay for the cost of hearing interpreters for their patients who are hearing disabled," the American Medical Association has noted that there is "no hard and fast requirement for the provision of such services" and that the Americans with Disabilities Act (ADA) "does not mandate the use of interpreters in every instance." The Supreme Court ruled in an education suit, for example, that American Sign Language (ASL) interpreters are not required when lip reading or other accommodations are sufficient. In the medical arena, physicians often rely upon note pads to communicate with deaf patients. At times, such as before major surgery, or when initiating a treatment plan for a complex condition, an interpreter may be necessary.

**Q** Does the ADA even apply to my practice?

**A** Yes. Intended to stop discrimination on the basis of disability, the ADA requires those who own, lease, or operate a place of public accommodation, such as a physician's office, to make reasonable accommodations to meet the needs of patients with disabilities, unless "an undue burden or a fundamental alteration would result." Actions, standards, and policies that either intentionally discriminate or have the effect of discrimination against persons with disabilities are prohibited. Moreover, failure to take steps that may be necessary to ensure access, such as providing auxiliary aids and services, could be seen as discriminatory.

**Q** What steps must my group take to meet the needs of patients with disabilities?

**A** First, conduct and document an analysis of your overall obligations. Decide what particular aid or service will be provided, based in part upon an analysis of the length and/or complexity of the medical service, treatment, or procedure. A patient's request for a sign language interpreter should be a significant factor in the decision. Determine whether providing such a service would result in an undue burden on the overall practice. Second, assess the patient's needs before providing a particular auxiliary aid or service. Ask the referring physician how he or she usually communicates with the patient. Consult with the patient about his or her needs when the appointment is scheduled and document the discussion. If a patient requests an interpreter, ask staff to acknowledge the request and gather more

information about the patient's concerns/ expectations for the visit so the physician can determine the best way to meet them. Document the decision and the assistance provided. For many routine office visits, a notepad may be sufficient to ensure good communication. Office visits before major surgery or for a new, complex treatment plan may require an interpreter. If the physician and patient disagree, reconsider the decision. Finally, maintain a list of qualified sign language and oral interpreters.

**Q** Can I charge the patient for the cost of the interpreter?

**A** No, the cost of aids cannot be passed onto the patient. However, the patient's employer, health plan, Medicare, or a local hospital may be able to help provide or pay for an ASL interpreter.

For further information on federal rules concerning accommodations for deaf patients and risk management recommendations on how to meet the needs of deaf patients, go to [www.omic.com/resources/risk\\_man/forms/man\\_care/InterpretersforDeafPatients.rtf](http://www.omic.com/resources/risk_man/forms/man_care/InterpretersforDeafPatients.rtf).

New risk management recommendations for meeting the needs of patients with limited English proficiency are also available at [www.omic.com/resources/risk\\_man/forms/man\\_care/InterpretersforLimitedEnglishProficiencyPatients.rtf](http://www.omic.com/resources/risk_man/forms/man_care/InterpretersforLimitedEnglishProficiencyPatients.rtf).

1. AMA Legal Issues: Americans with Disabilities Act and Hearing Interpreters, <http://www.ama-assn.org/ana/pub/category/print/4616.html>, accessed 11/21/05.
2. Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq. ADA Title III Technical Assistance Manual, <http://www.usdoj.gov/crt/ada/taman3.html>, accessed 1/10/06.