Keeping a Practice Compliant for Deaf Patients

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What do you have to know about ensuring your practice is following the rules of the Practice Compliance with the Americans with Disabilities Act?

Source: Physicians Practice

Communication is an integral part of the doctor-patient relationship. A patient needs to be able to describe their symptoms accurately to a physician and a physician needs to be able to relay medical information such as diagnosis, prescription medications, and treatment options back to the patient. When a patient has a disability that may impact effective communication with a patient, physicians have a duty under the Americans with Disabilities Act (ADA) and other federal disability discrimination laws to provide assistance (at the physician's expense) to allow for more effective communication.

All private healthcare providers are covered under the ADA, it does not matter how large or small a practice may be. Clients are sometimes surprised, particularly smaller physician groups, when they find out that they are required to provide an ADA compliant option to a patient and cannot simply refer the patient elsewhere. However, while a health care practice/facility must take all steps necessary to make sure that no person with a disability is excluded, denied services, or treated differently than individuals who do not have a disability, the practice is not required to take on an undue burden to provide an aid or provide an accommodation that would fundamentally alter the nature of the goods or services being provided. What this exactly means to a practice is not always clear, and practices frequently struggle to meet ADA requirements.

One common patient ADA issue that arises in a practice is the need to provide service auxiliary aids and services to a hearing impaired patient in order to assure an effective and meaningful patient-physician interaction. This might take the form of a qualified interpreter (in-person or available through video remote interpreting services). In addition to interpreters, depending on the need of the patient, a practice may use real time computer transcription services, telephone handset amplifiers, assisted listening devices, closed caption decoders, or text telephones (TTYs). For more examples of appropriate auxiliary aids and services, please see 28 C.F.R. §36.303. It is seen as inadequate to request that a patient's family member or companion translate for the physician, or that the patient communicate solely through written notes with the physician.

Many times a client will call me because a patient has demanded a specific auxiliary aid. For example, a deaf patient might demand an in-person interpreter and reject a live interpreter provided via Skype or other interpreting service. If the communication approach being taken is reasonable and achieves the goal of an effective interaction, a patient does not have the right to demand a particular approach be taken by the practice. It is essential, however, to be sure that auxiliary aids that are offered are in working order and give patients the ability to effectively communicate. Courts have held that a healthcare provider is in violation of the ADA when it provides auxiliary aids, but where such aids cannot be used to effectively communicate with physicians and staff. In these cases, the aids that were provided were either insufficient or broken and malfunctioning in ways that inhibited patient communication. For example, a practice that has set up a system where a live, remote interpreter will be available on-demand may have selected an appropriate auxiliary aid, but an unreliable Wi-Fi signal where the system regularly cannot be accessed or the connection is choppy, unavailable or frequently terminates, is a good example of how a proper auxiliary aid can be insufficient.

Practices should also remember that the requirement that physicians offer auxiliary aids is not only applicable to patients, but also any family member, friend, or associate who accompanies the patient to the appointment. If a "companion" is in need of an auxiliary aid or service it should be provided as if patient were the one with a disability.

Lastly, remember that the type of auxiliary aid will vary from patient to patient. Not all disabilities are alike; therefore, not every patient will need the same kind of accommodation. Physician practices should consult with their patients to determine what kinds of aids work best for them.
must be provided in a timely manner and in a way that protects the privacy and independence of the patient with a disability.

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