



CASE OF THE QUARTER: TREATING PATIENTS WITH DISABILITIES

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The “Case of the Quarter” column is a sample case study that highlights best practices in actual scenarios encountered through [PRMS’ extensive experience in litigation and claims management](#). Specific names and references have been altered to protect clients’ interests. This discussion is for informational and education purposes only and should not be relied upon as legal advice.

FACTS:

Dr. Apple begins treating a young adult, Sammy Smith, who is hearing impaired. During the first visit, Sammy brings his mother to interpret what Dr. Apple is saying on the chance that he has trouble lip-reading. Dr. Apple diagnoses Sammy with depression and prescribes an anti-depressant. He asks the patient to return in two weeks and to call before then if he experiences any adverse reactions to the new medication. Mrs. Smith has to interpret most of what Dr. Apple tells Sammy.

A few days after the visit, Mrs. Smith calls the office and ask for an interpreter at her son’s visits. The staff member who took the call talks to Dr. Apple, who says to tell Mrs. Smith that he can’t provide an interpreter, but that Sammy is welcome to hire one and bring that person to his visits after signing an authorization allowing Dr. Apple to disclose health information to the interpreter. Mrs. Smith becomes upset. Dr. Apple speaks to her and explains that he is unable to provide an interpreter. Mrs. Smith tells him that the law requires him to provide one and that she will file a complaint if he doesn’t do so. Dr. Apple tells her that he’s sorry, but his decision stands. Dr. Apple sends the patient a letter terminating the treatment relationship.

ALLEGATIONS:

Mrs. Smith filed a complaint with the U.S. Department of Justice, Civil Rights Division, alleging that Dr. Apple discriminated against her son in a commercial location or public place, namely, a healthcare facility.

DEFENSES:

Dr. Apple learns that his professional liability insurance policy does not cover claims alleging discrimination so he will have to hire and pay for his own attorney. The Americans with Disabilities Act (ADA) requires healthcare providers to ensure that communication with those with disabilities is as effective as it is with people without disabilities. Moreover, the ADA prohibits healthcare providers from declining to provide treatment to a person solely because of a disability and the need for auxiliary aids and services. The case will be difficult to defend.

OUTCOME:

During a mediation, Dr. Apple agrees to continue treating Sammy and to provide him with an interpreter.

TAKEAWAY:

Know what the ADA requires and implement such actions into your practice when needed. Review your professional liability policy to see if discrimination claims are excluded from coverage.

ADDITIONAL RESOURCES:

U.S. Attorney's Office, Eastern District of Virginia Press Release, April 14, 2023:

<https://www.justice.gov/usao-edva/pr/us-attorneys-office-reminds-healthcare-providers-ad-as-effective-communication>

The U.S. Attorney's Office is inviting the public, including healthcare provider personnel, to an informational meeting that will be held on June 6, 2023, at 1 pm:

<https://usao.webex.com/webappng/sites/usao/meeting/register/>

Compliments of:



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