Access to healthcare services is of paramount interest to all New Jerseyans. For people with varying degrees of hearing loss (an estimated 850,000 in the state), securing health insurance is often secondary to overcoming the real, and perceived, communication hurdles of receiving quality healthcare.

For a patient who is deaf or hard of hearing, visits to the doctor or hospital are tantamount to an international traveler who doesn’t speak the local language but is in need of direction or care. Imagine this person’s difficulty when attempting to communicate with others. And even if the patient’s point is made, he likely will understand only part, if any, of what is relayed back to him. This presents an exasperating—if not dangerous—scenario for everyone involved.

Unlike a traveler, a deaf person’s anxiety is not limited to a short excursion; it is a lifetime dilemma. For many, accessing medical care is so discouraging that they delay appointments or avoid going to the doctor at all because of communication obstacles. The Americans with Disabilities Act (ADA) of 1990 bolstered the rights of people with disabilities to provide access to goods and services on an equal basis with individuals without disabilities. But the enforcement and method of accommodation can be varied among the state’s healthcare providers. Communication, for the deaf, isn’t just about “hearing” but also about understanding the meaning of a message and having the option and ability to interact with a caregiver successfully.

Generally speaking, providers make legitimate strides to comply with the ADA. However, the vast range of disabilities among the population of patients served presents particular stumbling blocks to the practical application of accommodating special needs. The ADA, a statute representing a civil rights beacon for people with disabilities, has presented its share of challenges for hospitals and physicians—and its share of frustration for individuals anticipating specific accommodations, only to encounter less effective, assistive strategies.

The ADA stipulates that a service entity must provide accommodations based upon the needs of the person with the disability. Although facilities may use staff who are fluent in a foreign language for non-English speaking people, all facilities are required to supply qualified sign language interpreters or other appropriate accommodations for those who are deaf or hard of hearing.

Similar to the existence of assorted treatment opportunities for certain medical diagnoses, a variety of auxiliary aids can facilitate effective communication with a deaf or hard-of-hearing patient. No single method can be presumed useful for everyone. It’s the inability to know with assuredness what medicine a patient might need before she walks into the office that prompts a provider to keep every potential remedy at hand or obtainable. The same should hold true for special accommodations for the hearing impaired.

NEW DIRECTIVES

Reinforcing this information is crucial because changes required under the ADA’s 2010 standards, which became effective in March of this year, are enhancing the previous rules with new directives. For example, instructional signs must be in text...
characters, raised or tactile characters and in pictogram; fire alarms must be audible and visual; symbols of accessibility must be provided with internationally accepted symbols; TTYs at public pay phones must be permanently affixed to the telephone enclosure with suitable cord length to allow connection; assistive listening devices must be accessible and categorized by mode of transmission; and visual indicators must be included on or in any communication apparatus with audible alerts.

Many providers already have incorporated these upgrades or are in the process of doing so. Adoption of these new standards provides assistance specific to the hearing-loss population that might otherwise have been staff assigned, and it averts potential litigation based on provider resistance to properly implementing ADA rules. The largest verdict in the United States against a doctor for failure to provide a sign language interpreter was handed down in New Jersey in October 2008. In this case, the jury awarded $400,000 and attorney fees to a deaf patient of a rheumatologist. The patient sued the physician for refusing to provide an American Sign Language (ASL) interpreter, despite repeated requests over the course of 20 visits. As a result, she was diagnosed and
prescribed medications without the opportunity to participate and fully understand her treatment plan because she wasn't able to understand the risks, benefits and/or alternatives to the therapies. The physician asserted he could not afford an interpreter and claimed undue hardship. This court decision sent a strong message to doctors across the country that the ADA is recognized and enforced.

HELPFUL INFORMATION AND RESOURCES

Tools are available to help providers navigate the protocols. The New Jersey Department of Human Services' Division of the Deaf and Hard of Hearing (DDHH) is the single state agency responsible for maintaining up-to-date and constructive resources on hearing loss. This includes the Communication Access Referral Service, which maintains a list of qualified sign language interpreters, real-time caption providers and assistive listening devices in order to provide people who are deaf and hard of hearing with communication access. The DDHH also conducts educational workshops and training sessions to enhance the public's awareness of hearing loss and assistive technology devices. The Division can serve as a starting place for providers to connect with basic ADA information.

An article compiled by the DDHH with assistance from members of the hard-of-hearing community, “Hospital Access of Hard of Hearing and Late-Deafened Patients,” offers helpful recommendations for healthcare providers treating and accommodating patients with hearing loss. The publication will be available shortly at www.state.nj.us/humanservices/ddhh.


Additionally, the New Jersey Hospital Association is updating a service guide for hospitals detailing communication access models, which reflects considerations identified by the DHHS for healthcare facilities. That guide will soon be available at www.njha.com/publications/healthcarecommunication.aspx.

Further information on the ADA's new rules and strategies to meet the needs of patients with hearing loss can be found on the DDHH web page: www.state.nj.us/humanservices/ddhh.

Also, a list of certified ASL interpreters and captioning providers may be found at www.state.nj.us/humanservices/ddhh/services/. And a registry of freelance sign language interpreters is available at www.rid.org.

IMPORTANT POINTS TO REMEMBER

As efforts are made to fulfill and sustain provisions of the ADA's 2010 rules, providers should remember the following for patients who may be deaf or hearing impaired:

- The ADA defines a qualified interpreter as someone who can interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- A professional interpreter is a person who has received years of specialized, formal training to facilitate communication between deaf and hearing individuals.
- A qualified sign-language interpreter will bridge the gap between English-speaking healthcare providers and patients or guardians who use American Sign Language (ASL) as their primary mode of communication; however, many individuals who have hearing loss may not know sign language, so it's important for businesses/facilities to have multiple approaches available.
- Individuals who are postlingually deafened may prefer real-time captioning, computer-based dialogue or more modern methods such as instant or text messaging. Video remote interpreting (VRI) can also be used; this is a system by which interpretation services at a remote location (usually an interpreter referral service) are transmitted via video camera, ISDN telecommunications lines and a receiving monitor in a doctor's office.

The approximately 850,000 people with hearing loss in New Jersey rely on their healthcare providers to supply qualified sign language interpreters or other effective assistive strategies. The New Jersey Department of Human Services' Division of the Deaf and Hard of Hearing has many resources to help you accomplish that objective.

Jennifer Velez, Esq., is the Commissioner of New Jersey’s Department of Human Services.