

## Updating the Code of Professional Conduct The NAD

As long as there have been deaf and hard of hearing people, there have been interpreters. The dynamics between interpreters and deaf persons have always been complex and layered. Interpreters often have different roles: family members and strangers, teachers and students, employers and employees as well as co-workers, and friends and foes. While there have been divisions, there needs to be unity going forward if both deaf people and interpreters are to succeed in their respective goals. However, such unity must be carefully structured to ensure that deaf and hard of hearing persons are able to achieve their full potential without restrictions, limitations, or suppression. In short, there must be assurance that interpreters - like doctors bound by the Hippocratic Oath - must only do good and not harm deaf and hard of hearing individuals (often referred to as "first, do no harm").

All respectable professions have a code of ethics or code of professional conduct, which is designed to foster accountability, responsibility, and trust so that consumers can put faith in the covered professionals. Certified sign language interpreters are expected to adhere to the NAD-RID Code of Professional Conduct ("CPC"), which contains seven tenets as follows: 1) confidentiality; 2) professional skills and knowledge; 3) appropriate conduct; 4) respect for consumer; 5) respect for colleagues, interns and students; 6) ethical business practices; and 7) professional development.

However, despite such provisions in the CPC, it has become apparent that there is a growing divide between the deaf and hard of hearing community and the interpreting profession. Such a divide has contributed to a large increase in distrust and suspicions between consumers and interpreters. Deaf and hard of hearing individuals contact the NAD often to express misgivings or complaints about interpreters and interpreter referral agencies. The concerns that have been shared were once about isolated issues but now have occurred with enough frequency to become recognizable patterns centering around six specific areas that need to be addressed. These six areas are as follows: public advocacy; self-promotion; employment competition; adverse expert witness testimony; and adverse consultations and business practices. The bottom line is that the CPC needs to be updated to address these concerns in a way to better safeguard against harm to consumers. This article is not intended to recommend specific provisions for each area to be included in the CPC, but seeks to prompt a discussion among the interpreting community, as well as the deaf and hard of hearing community, to examine what needs to be updated in the CPC.

### **Public Advocacy**

Marginalized groups often have to advocate for their rights, and allies are often needed and helpful. However, it is important for allies to respect the space needed for the marginalized to promote such advocacy. With the advent of the Internet, there has been an increase in public advocacy for the rights of deaf and hard of hearing people by interpreters. While such advocacy is well-intentioned, this publicity deprives deaf and hard of hearing individuals of the opportunity and space to assert their rights in a public forum. There are interpreters writing blogs

on major media outlets and presenting themselves as the voice of the deaf and hard of hearing community. It is one thing for interpreters to advocate for improvements in interpreting, but that does not mean they should be advocating for the rights of deaf and hard of hearing people. The CPC, as it exists now, does not address how interpreters present themselves to the world on issues relating to advocacy on deaf rights.

### **Self-Promotion**

All hard-working professionals seek to advance their livelihood through self-promotion in various ways. However, certain professions have ethical constraints on the nature and form of such self-promotion. For example, the American Bar Association's Model Rules of Professional Conduct, which most states adopt with some revisions as code of ethics for their licensed lawyers, has specific restrictions on how lawyers may communicate or advertise about their services, and how lawyers may solicit clients. Similarly, the American Medical Association's Code of Medical Ethics contains some restrictions on advertising and publicity. These are examples that could guide a review of the CPC to determine if there should be provisions governing self-promotion. Anger and resentment has begun building within the deaf community when some interpreters engage in extravagant self-promotion including, but not limited to, videos going viral of the interpreters signing songs. Deaf and hard of hearing individuals have begun wondering why they are unemployed or underemployed while interpreters are gaining recognition and appearing to derive income from such promotions. Such conduct, if left uncontrolled, will contribute to the growing distrust and divide between the deaf community and interpreters.

### **Employment Competition**

The NAD has received too many reports of employment situations where deaf and hard of hearing persons are working and an interpreter is promoted from being their interpreter to become their supervisor or boss. Such a change affects the dynamics between deaf and hard of hearing people and the interpreters, and has led to resentment among the deaf and hard of hearing employees.

In addition, there has been competition between interpreters and deaf individuals in certain fields that have also caused such resentment. For example, when there are casting calls for deaf roles in theater or television or movies, interpreters have sometimes auditioned for such roles. Further, many interpreters have taken on jobs teaching ASL in schools and universities across the country, depriving deaf people of such opportunities.

While interpreters are certainly entitled to seek employment opportunities, deaf and hard of hearing individuals are experiencing abysmal rates of unemployment and underemployment. The CPC focuses primarily on how interpreters conduct themselves in the course of interpreting rather than governing how interpreters handle a wide variety of life situations that impact the trust of deaf and hard of hearing consumers.

### **Adverse Expert Witness Testimony**

The NAD has also received alarming proof of interpreters who have testified in legal cases *against the interests* of the deaf and hard of hearing community. As a civil rights organization dedicated to advancing the rights of deaf and hard of hearing people, the NAD is appalled that any interpreter would provide testimony that sets back the civil rights of deaf and hard of hearing people. Even when interpreters thought they were merely providing information about their field of expertise in cases where they were retained by attorneys opposing the rights of deaf individuals, such interpreters' testimony cause harm to those deaf individuals. Otherwise, the opposing attorneys would not have bothered to retain the interpreters for their testimony. The CPC should add strict guidelines that guards against any adverse expert witness testimony that may harm the civil rights of the deaf and hard of hearing community.

### **Adverse Consultations & Business Practices**

Although the CPC was designed to govern the conduct of interpreters in the course of providing interpreting services, it has become apparent that the code should be expanded to cover all aspects of an interpreter's profession. Not only should the CPC apply to adverse witness testimony, but it should also apply to any consultations that are adverse to the interests of deaf and hard of hearing individuals. Interpreters that advise hospitals, courts, businesses, schools and universities, and professionals should always influence them to ensure fully effective communication access. There are too many situations where interpreters engage in consultations either as individuals or on behalf of Video Remote Interpreting (VRI) or interpreter referral agencies, and advise entities to provide the bare minimum of services in the interest of saving costs and drawing in business for the interpreter or their agency.

Some interpreter agencies have secured exclusive contracts with specific businesses such as hospitals. The NAD has received numerous complaints from deaf individuals who have to go to these hospitals and are not able to effectively communicate through the interpreters that are provided by the interpreter agency holding the exclusive contract. When the deaf persons inform those hospitals that they require different interpreters to understand what is being discussed, the hospitals tend to respond that they cannot because of the exclusive contract. These problems have prompted the NAD to begin work on certification of interpreter referral agencies to establish best practices, but it is important to include in the CPC some language establishing parameters about interpreters working for agencies having exclusive contracts that end up hurting the deaf and hard of hearing community.

Numerous deaf and hard of hearing individuals have spoken out vehemently against the misuse of VRI in hospitals. Yet, hospitals across the country are increasingly turning to VRI as their sole solution for communication access. Why are hospitals everywhere buying VRI services without being advised of needing a proper balance between in-person interpreting services and VRI services? VRI company representatives as a whole should be prohibited from advising hospitals that VRI is the solution for all communications with deaf individuals. While there are preliminary efforts to impede such false advertising for all such representatives, the CPC can immediately control the behavior of interpreters who work for those companies and engage in such false advertising.

Such consultations and business practices are often provided at the expense of effective communication for deaf and hard of hearing individuals, and ethical considerations for such consultations should be included in the CPC.

### **Time to Update the Code of Professional Conduct**

Given the seriousness of these issues, we must work together to update the Code of Professional Conduct to address changes in the profession and society. The NAD is in communication with the Registry of Interpreters for the Deaf (RID) to discuss these issues and determine how best to update the code to reflect optimal practices in today's world. We cannot afford to wait any longer if we are ever to unify our communities and work together for everyone's best interests.