



Patient Safety Advisory
"Without Harm – Sin Daño"

"NMHA works with others to improve the health status of the citizens of New Mexico"

Contact us:

505.343.0010

Ellen Interlandi

einterlandi@nmhsc.com

www.nmhanet.org

Key Terms

Interpretation:
the conversion of a spoken or signed message from one language to another.

Translation:
the conversion of a written message from one language to another

References:

What is Section 601? Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Section 601 has been interpreted by the government to include those persons for whom English is not their primary language. Enforcement of this law is the responsibility of Health and Human Services (HHS) and the Office of Civil Rights (OCR).

In 2006, the University of New Mexico Hospital (UNMH) and the Office of Civil Rights (OCR) resolved a complaint that alleged an individual was not provided with language assistance services during her medical appointment. In response to OCR's investigation and provision of technical assistance, UNMH took corrective action to improve its language services program. (Contact UNM for further background information). <http://www.hhs.gov/ocr/civilrights/activities/examples/LEP/index.html>

Why Is This Important to Hospitals and Health Systems? Under the law, **hospitals are required to provide interpreter services for those patients who cannot meaningfully converse with health care providers (HCPs)**. Failure to do so may result in tort liability and/or enforcement action by OCR. CMS requires this under the Conditions of Participation (Patient's Rights §482.13), as does Joint Commission (RI.01.01.03). NM State Hospital Regulations (NMAC 7.7.2.19) require a list of patient rights and responsibilities shall be available in languages appropriate to the ethnic needs of the community. Health care organizations must assure the competence of language assistance provided to limited English proficient patients/consumers by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services.

By ensuring accurate client histories, better understanding of exit and discharge instructions, and better assurances of informed consent, providers will better protect themselves against tort liability, malpractice lawsuits, and charges of negligence.

Multiple liability exposures arise when there is a demonstrated failure to address the root causes for disparities. These include patient misunderstanding of their medical condition, treatment plan, discharge instructions, (including how to identify complications and when to follow-up; ineffective or improper use of medications or serious medication errors; improper preparation for tests and procedures, and poor or inadequate informed consent).

Each hospital should undertake an assessment of the primary language spoken by their primary patient population, based on census and actual data from their population. Ask each patient - and keep a record - of the preferred language of communication with health care providers.

Create A Language Access Plan (LAP) for Your Institution

1. ASSESSMENT: Identify individuals who have limited English proficiency and need assistance.
2. DEVELOPMENT OF A COMPREHENSIVE WRITTEN POLICY ON LANGUAGE ACCESS: Decide on how best to meet language access needs (both oral interpreters and written translated documents).
3. TRAINING OF STAFF: Mandate staff training programs on language services. Notify LEP patients of legal right to an interpreter and written translated materials at no cost to them (e.g. post signs informing the public of the availability of language assistance services).
4. VIGILANT MONITORING: Monitor and update your policy frequently, conduct periodic reviews and monitoring to ensure the effectiveness of language services.

It's The Right Thing to Do... Achieving equity and addressing disparities has implications for quality, cost, risk management, accreditation, and community benefit. In the presence of communication difficulties with patients (due to language or cultural barriers) health care providers may order expensive tests for conditions that could have been diagnosed through basic history-taking. If your organization has a good communication system, a superior customer service experience is provided.

<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/finalproposed.html>

http://www.aoa.gov/AoA_programs/Tools_Resources/civil_rights.aspx

<http://www.healthlaw.org/images/stories/issues/nhelp.lep.state.law.chart.final.0319.pdf>

<http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15>