



# Healthcare Language Services

How Medical Centers  
should be Following  
Federal Law



# Healthcare Language Services to Follow Federal Law

Federal law requires that any organization which receives federal financial assistance, including Medicare, Medicaid, and federal reimbursements, must provide equal care to every patient.

This means that limited English proficient patients and hearing impaired patients must be granted a professional medical interpreter, to assure communication is accurate, and proper care is provided.

## The Laws

-  Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. And in *Lau v. Nicols* (1974), the Supreme Court set the precedent that language can be used as a proxy for national origin.
-  Section 1557 of the Patient Protection and Affordable Care Act prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in health programs or activities that receive Federal financial assistance or are administered by an Executive agency or any entity established under Title I of the ACA.
-  The Americans with Disabilities Act requires that title III entities (businesses and nonprofit organizations that serve the public) communicate effectively with people who have communication disabilities. The ADA places responsibility for providing effective communication, including the use of interpreters, directly on covered entities.

The goal of these laws is to ensure that communication with people who have limited English proficiency (LEP) and people with disabilities, is equally effective as communication with any patient in a healthcare facility.



# The Cost of Neglect

One of the most severe cases of medical malpractice due to a language barrier is the case of **Willie Ramirez**.

Ramirez came into a South Florida emergency room due to a splitting headache. In Cuban Spanish, his mother told doctors Ramirez was “*intoxicado*” - an all encompassing word in Cuba that means, “an ailment due to something you ate or drank, which results in hives, allergies, or nausea.”

Doctors thought his mother was explaining that Ramirez got in a fight with his girlfriend and overdosed.

**CARE:** Treated for Drug Overdose

**ACTUAL CONDITION:** Brain Hemorrhage

**RESULT:**

Doctors discovered the hemorrhage after days of improper treatment. But by then, it was too late.

Willie Ramirez became quadriplegic.

**The hospital is liable for a settlement of approximately \$71 million to pay for Willie’s care for the rest of his life.**



# The Cost of Proper Care

The U.S. Office of Management and Budget published a report in 2002 stating that *it would cost an additional \$4.04 per visit to provide appropriate language services* to all limited English proficiency patients in the U.S., with 50% of these costs capable of reimbursement through the Federal Medical Assistance Percentages program.

Considering the cost of inflation, that number will rise an estimated \$0.95 every 10 years.

**This means that spending less than \$6 per visit saves lives.**



## PROBLEMS WITH COMPUTER TRANSLATION

Google Translate translates “me siento intoxicado” to “I feel intoxicated,” proving that in the case above, improper medical care would still be administered with the use of Google Translate as the language service provider.

Translation apps that implement computer translation have a disclaimer warning not to use the app for safety-critical tasks.

*“Employing computer programs to translate important medical information is an*

*inappropriate substitute for a human being. It's healthcare. If you have the responsibility of human life, you better well know what you are doing and saying.” —Carmen Velasquez, Executive Director, The Alivio Medical Center, Chicago, IL*

# PROBLEMS WITH AD-HOC INTERPRETERS

A study conducted in 2012 evaluated audiotaped medical encounters to measure the potential consequences when limited English proficient patients were provided with professional vs. ad hoc vs. no interpreters.

of 57 encounters

27

with ad-hoc interpreters

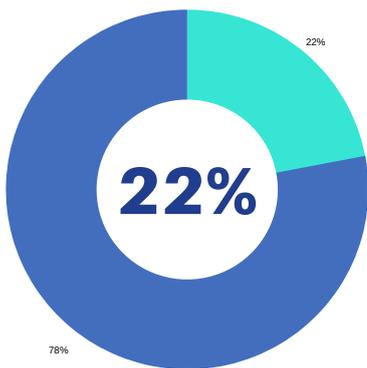
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with professional interpreters

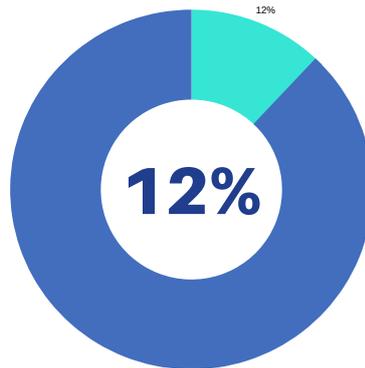
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with no interpreters

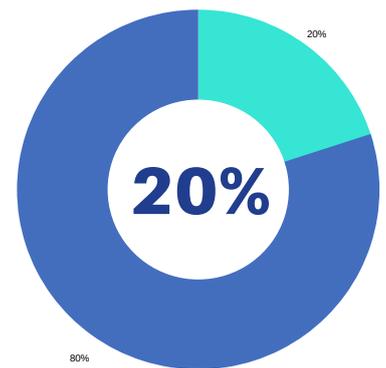
1,884 interpreter errors were noted.  
18% had potential clinical consequence.



risk of error with ad-hoc interpreters



risk of error professional interpreters



risk of error with no interpreters

Among professional interpreters, rather than years of experience, it was previous *hours of interpreter training* that significantly affected errors and potential consequences.

## Median errors by professional interpreters:

100+ hours of training = 12 errors

Under 100 Hours of training = 33 errors

Those with 100+ hours of training **committed significantly lower proportions of errors of potential consequence overall (2% versus 12%) and in every error category.**

# This Concludes

Quality of care is compromised when LEP patients need but do not receive professional interpreters. **Evidence suggests that optimal communication, patient satisfaction, and the fewest interpreter errors occur when LEP patients have access to highly trained professional, interpreters or bilingual providers.**

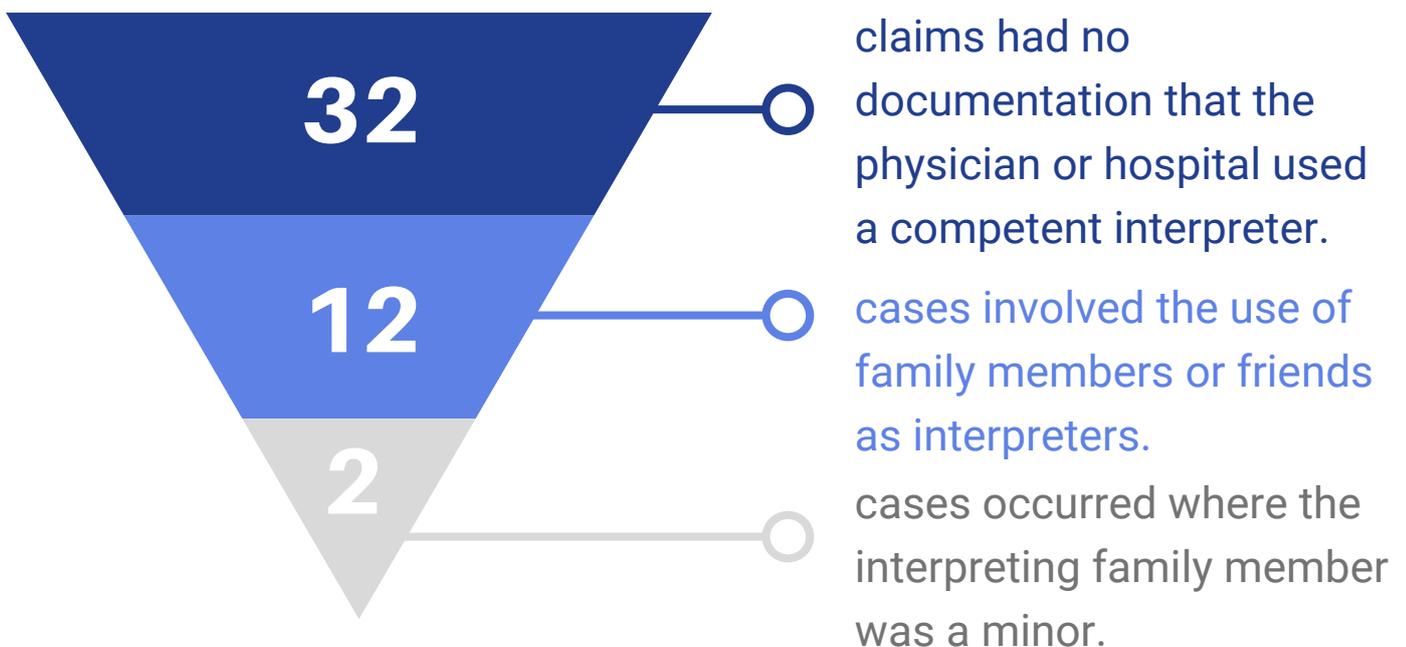
*"Not many people who had high school or college language training or studied abroad would be able to translate specialized medical terminology like describing cancer treatment options. So there is definitely an overconfidence many providers have about their language skills."*

**- Mara Youdelman, managing attorney at the National Health Law Program in Washington, D.C.**

# Medical Malpractice Cases Due to Lack of Language Services

One study found that 2.5% of malpractice claims involved issues with language access.

This study measured 1400 malpractice claims and found 35 claims involved language barriers. Of these:



## Lack of Written Translations

12 of the above claims included defective informed consent forms and failure to translate vital medical and legal documents.

Repeatedly, patients who knowingly spoke and read limited English were given informed consent forms to sign, written only in English.

# How to Know if the Provided Interpreter is Qualified



**To assess the language skills of the interpreter, ask the following questions:**

- ✚ Can the interpreter respond to basic commands?
- ✚ Can the interpreter joke in the language or pick up sarcasm?
- ✚ Ask the interpreter: Do you feel your language skill can hold up in a court of law?

Interpreters are added to the medical chart, which is a legal document. Professional interpreters understand this and maintain confidence in their interpretations. If the first available interpreter is not a professionally trained medical interpreter, these questions can inform if the ad hoc interpreter is actually qualified, or if a professional medical interpreter needs to assist.

# The Resolution

The only way to maintain 100% confidence that your practice provides equal healthcare to all patients, without discrimination of race, color, national origin, or communication ability, is **to provide a professional medical interpreter for every situation where language is a barrier.**

Our professional medical interpreters undergo extensive training for medical interpreting, assuring that they are not only fluent in their language pair, but in the terminology of the medical industry in both languages as well.



You can access our interpreters at any time via our innovative, on-demand interpreting app, DayInterpreting. With this app, you can connect instantly with a trained medical phone interpreter for your language pair via any smartphone, tablet, or computer. There is no contract and no sign-up fee. Plus, you can connect to a professional interpreter the moment you create your account.

**And if you prefer an in-person interpreter, we provide an interpreter native to any language you need at any location worldwide within 24 hours of your request.**

# Our Recommendation

This 6-step process outlines all of the required steps in providing seamless communication between providers and patients:



Clearly document the patient's primary language in the medical record. (Note the primary language of the parent/guardian if patient is a minor.)



Provide a professional medical interpreter during every interaction with the patient, including non-healthcare related communication such as member services or billing.

*(If patient refuses a professional interpreter, document this response in the medical records.)*



Document the name of every interpreter and translator recruited to facilitate communication, as well as the language services used.



Translate all paperwork that the patient receives into the patient's primary language. This includes consent forms, written discharge instructions, and any other related medical or legal documents. Record the use of these translated documents in the medical records.



In addition to translated text, have the professional interpreter communicate any questions or concerns of the patient regarding the translated documents. Be sure to confirm that the patient understands each form and document provided.



Create methods of assurance to confirm that the patient, or family of the patient, understands all communication, written and verbal, from the healthcare provider.

# Conclusion

**In order to follow Federal law, you must provide professional medical language services to every patient with limited English proficiency or a communication disability.**

Our medical services guarantee you accurate, professional interpretations and translations from language experts with thorough training in medical terminology and healthcare communication.

Your mission is to serve your patients well. Our mission is to provide you with the most accurate language services to get you there.



*Some of our clients include **BayCare, Florida Cancer Specialists, American Red Cross, New York City Health and Hospitals Corporation, and American Psychological Association (APA)***



# Contact Us

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