Meeting the Needs of Patients with Limited English Proficiency

New Drugs, Laws & Care Management 2010

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Disclaimer

Dr. DuVall has no conflicts of interest pertaining to this presentation

"Under disclosure rules, I'm required to tell you I own stock in the company whose drug I'm prescribing."
Objectives

By the end of this session the participant will be able to:

- Discuss laws and rights pertaining to patients with limited English proficiency.
- Identify language needs of patients.
- Use resources available for translation and interpretation services.
Language Barriers

- May affect the delivery of adequate care through
  - Poor exchange of information
  - Loss of important cultural information
  - Misunderstanding of physician instruction
  - Poor shared decision-making
  - Ethical compromises
    (e.g. difficulty obtaining informed consent)

- May result in
  - Decreased adherence with medication regimes
  - Poor appointment attendance
  - Decreased satisfaction with services

1. Institute of Medicine, Unequal Treatment: Confronting Racial and Ethnic Disparities in Health, (2002).
Most Spoken Languages in Washington

Most spoken languages in Washington in 2005

English is spoken by 83.83% of people over 5 years old in Washington. Languages other than English are spoken by 16.16%. Speakers of languages other than English are divided up as follows.

- Spanish: 41.9%
- Tagalog: 5.2%
- Vietnamese: 5.2%
- Russian: 4.7%
- Chinese: 3.9%
- Korean: 4.2%
- French: 2.4%
- German: 3.8%
- Japanese: 2.1%
- Amharic: 2%
- Other: 24%

Source: 2005 American Community Survey viewed at www.mla.org
Limited English Proficiency (LEP)

- >4 billion prescriptions written yearly
- 2006: 8.7% of Americans have LEP\(^1\)
  - 24% of Washingtonians speak a language other than English at home
- 1990-2000: Change in LEP population in WA grew by 112\(^2\)
- U.S. Department of Health and Human Services (HHS) definition of LEP:
  - Don’t speak English as primary language
  - Limited or no ability to read, write, speak or understand English

1. U.S. Census Bureau, “Language Spoken at Home” (Table S1601), 2006 American Community Survey, at [www.factfinder.census.gov](http://www.factfinder.census.gov)
2. 1990 and 2000 Decennial Census at [www.factfinder.census.gov](http://www.factfinder.census.gov)
How Are You Handling LEP Now?
How Are You Handling LEP Now?

- Staff Interpreters in Hospitals/Clinics
- Bilingual Staff
- Translated Labels, Forms
- Attempted Language (Gestures, Phrases)
- Ad Hoc Interpreters/Volunteers
- Contracted In-Person/Telephonic Interpreters
The Department of Justice

- Title VI, 42 U.S.C. § 2000d et seq.
  - enacted as part of Civil Rights Act of 1964

- “No person in the United States shall, on 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.”

- Examples of federal assistance
  - Medicare, Medicaid
  - State Children’s Health Insurance Program (SCHIP)
  - Health Maintenance Organization managed care plans
  - Hospitals, Long Term Care facilities
The Department of Justice

- all state and local governments are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others
National Standards on Culturally and Linguistically Appropriate Services (CLAS)

- Standard 4
  Health care organizations must offer and provide language assistance services, including bilingual staff and interpreter services, at no cost to each patient/consumer with limited English proficiency at all points of contact, in a timely manner during all hours of operation.

National Standards on Culturally and Linguistically Appropriate Services (CLAS)

- **Standard 5**
  Health care organizations must provide to patients/consumers in their preferred language both **verbal offers and written notices** informing them of their right to receive language assistance services.

National Standards on Culturally and Linguistically Appropriate Services (CLAS)

- **Standard 6**
  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 (except on request by the patient/consumer).

National Standards on Culturally and Linguistically Appropriate Services (CLAS)

- Standard 7
  Health care organizations must make available easily understood patient-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area.

The White House

- **Executive Order 13166**
  - Sec. 2. Federally Conducted Programs and Activities.

  “Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons.”

  - “Agencies shall develop and begin to implement these plans within 120 days of the date of this order" (8/11/00)

- Regulated by HHS and enforced by Office of Civil Rights (OCR)
HHS Regulations on LEP

- Federal fund recipients are prohibited from:
  - Using criteria or methods with effect of discriminating
  - Restricting access
  - Providing different services or benefits
  - Treating differently when determining services

1. 45 C.F.R. § 80.3(b)
HHS OCR Factors Determining Compliance with Title VI

- Federally funded pharmacy to determine:¹
  - Number or proportion of LEP individuals served or encountered²
  - Frequency of contact with the program
  - Nature and importance of the program to beneficiaries
  - Resources available and cost considerations³

- Consider appropriate mix of written/oral language assistance and if immediately available⁴

3. Id. at 50124-25. See also, e.g., 67 Fed. Reg. 41455, 41457 (June 18, 2002).
WAC 246-869-220

Patient counseling required.

The purpose of this counseling requirement is to educate the public in the use of drugs and devices dispensed upon a prescription.

(1) The pharmacist shall directly counsel the patient or patient's agent on the use of drugs or devices.

(3) For each patient, the pharmacist shall determine the amount of counseling that is reasonable and necessary under the circumstance to promote safe and effective administration of the medication and to facilitate an appropriate therapeutic outcome for that patient from the prescription.
Joint Commission Standards

- Rights
  - RI.01.01.03 The organization respects the patient’s right to receive information in a manner he or she understands

- Provision of Care, Treatment and Services
  - PC.02.03.01 The organization provides patient education and training based on each patient’s needs and abilities.

http://www.jointcommission.org/Standards/
Pharmacy Liability

- If medical harm, patient could initiate malpractice or negligence claim
- HIPAA fines $100 per violation up to $25,000/year
- OCR investigates complaints against pharmacies
  - Seek compliance by Title VI
  - Provide technical assistance
- If pharmacy is found voluntarily non-compliant, may result in
  - Department of Justice formal proceedings
  - WA Board of Pharmacy investigation re: state laws
### What’s Your Language Experience?

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<th>Language</th>
<th>Family and Pre-School</th>
<th>Elementary Grades (K-5)</th>
<th>Middle Grades (6-8)</th>
<th>Secondary Grades (9-12)</th>
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# Beyond Cultural Competence

<table>
<thead>
<tr>
<th>Stage</th>
<th>Description</th>
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<tr>
<td>1: Cultural incompetence</td>
<td>Do nothing to increase knowledge of different cultures.</td>
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<tr>
<td>2: Cultural knowledge</td>
<td>Learn facts about cultures, especially related to health and health behaviors.</td>
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<td>3: Cultural awareness</td>
<td>Understand implications of culture on health behaviors.</td>
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<td>4: Cultural sensitivity</td>
<td>Combine knowledge and awareness into individual and institutional behaviors.</td>
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<tr>
<td>5: Cultural Competence</td>
<td>Routinely employ culturally appropriate health care interventions and practices.</td>
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<tr>
<td>6: Cultural Proficiency</td>
<td>Practice with cultural competence and integrate it into one’s research and scholarship.</td>
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Identifying Language Needs of Patients

- Pictograms
  - Graphic images that help convey messages
- Translation
  - Written communication from one language to another
- Interpretation
  - Verbal or manual communication from one language to another
- Other?
What Would You Do?

- "I'm not stupid, ...I just can't read!"
- Walt Downey, 75 yo retired factory worker
- 4th grade education
- RX: ampicillin 250 MG QID for tonsillitis
- Worried about remembering how to take this med vs. other meds that start with "A" at home
Pictures

Symbols

Pictograms

Health Care Symbols

- Wayfinding symbols & signs
- Toolkits
- Best practices workbook
- FAQ’s
When To Use Language Services

- Patient request
- Language or cultural differences may be causing a barrier to clear communication between you and your patient
What Would You Do?

- New patient presents prescription for tapering doses of prednisone but when asked any question, his response is the same...
  “No English.”
What Could You Do?

- Use “I Speak” cards or language posters to identify patients’ preferred language
  www.lep.gov/ISpeakCards2004.pdf

- Consider the strengths and limitation of various language services
  - Translated materials
  - Bilingual individuals
  - Professional interpreters in person, by telephone, or video conferencing
  - Web-based or software applications
Mark this box if you read or speak ...

<table>
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<th>LANGUAGE IDENTIFICATION FLASHCARD</th>
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<td>4. Cambodian</td>
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<td>5. Chamorro</td>
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Language Identification Flashcard PDF available at [http://www.lep.gov/resources/resources.html](http://www.lep.gov/resources/resources.html)
The Label

When Reading Your Prescription Label, Do you Feel Like You're Reading Another Language?

Image from: San Antonio Military Medical Center [www.sammc.amedd.army.mil]
HHS “Safe Harbors”\(^1\) for Translation

- Written translations of “vital” documents for any LEP group constituting 5% or 1,000 of patients
  - Intake forms of consequence
  - Consent & complaint forms
  - Eligibility & service notices

- Oral translation of other documents as needed

- If 50 people = 5% of patients, give written notice in primary language of right to oral interpretation

1. 68 Fed. Reg. at 47319
Sample Free Translated Materials

- Medicare documents

- Vaccine Information Statements
  - [http://www.cdc.gov/vaccines/pubs/vis/default.htm](http://www.cdc.gov/vaccines/pubs/vis/default.htm)

- Patient Education
  - [http://ethnomed.org/patient-education](http://ethnomed.org/patient-education)
Ad Hoc Interpreters

- If interpreter is neither a member of the covered entity’s workforce nor a business associate, the interpreter is not bound by HIPAA privacy rule

- **Caution**: ensure patient is informed of options/consequences and provides consent! 

- Patient may ask the covered entity to provide an interpreter who would be subject to the protections of the HIPAA privacy rule.

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1. HIPAA FAQ “Does the HIPAA Privacy Rule permit a doctor to discuss a patient’s health status, treatment, or payment arrangements with the patient’s family and friends?” [http://www.hhs.gov/hipaafaq/notice/488.html](http://www.hhs.gov/hipaafaq/notice/488.html)
Ad Hoc Interpreters

Pros
- No cost to pharmacy
- Convenient
- Know both languages

Cons
- Additions/Omissions
- Substitutions
- Volunteered Opinions/Answers
- Semantic/Medical Errors
- Limited Medical Vocab
- Privacy Issues
- Possible Conflict of Interest
Interpreter Training & Certification Programs

- Cross Cultural Health Care Program
  - [www.xculture.org](http://www.xculture.org) or 206-860-0329

- DSHS Language Testing and Certification Program
  - [http://www.dshs.wa.gov/ltc/](http://www.dshs.wa.gov/ltc/)
U.S. Department of Health and Human Services (a.k.a. DSHS)

- Effective July 1, 2004, DSHS covers spoken language interpreter services for DSHS clients through contracts awarded to Interpreter Services brokers
- On-site interpreters arranged in advance by DSHS service providers or staff
- Telephonic interpreters not covered by Medicaid
- Interpreter services provided by public health agencies, public hospitals, and local health jurisdictions not reimbursed
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Effective July 1, 2010: Governor Gregoire’s 2010 Supplemental Operating Budget for remainder of 2009-2011 biennium to **suspend interpreter services**, ($16.6 million).
Public Hospitals and Health Departments

- Separate reimbursement program for language services with state contract (i.e. interlocal or intergovernmental agreement) if:
  - Provide local match funds
    - not used for matching other federal programs
    - meet federal funding requirements
    - within facilities’ control
  - Use only certified interpreters
  - Coordinate and deliver interpreter services as specified by state
  - Collect, submit & retain client data as required
  - Accept all disallowances
Mmeducation

- May be used with low health literacy counseling in English, too
- No free form sig entry
Choosing an Interpreter

- Certified?
- Fluent in both languages
- Trained as an interpreter
- Not a family/community member
- Never a child

Adapted by Cynthia E. Roat, MPH from “Communicating Effectively through an Interpreter” from the Cross Cultural Health Care Program
Sample Resources Available for Interpretation Services

  - Telephone Interpreting
    - Subscriber Interpretation, Personal Interpreter
  - Video Interpreting
  - Document Translation

  - Translation, Interpreting, Transcription, Conference Services, Voice Overs & Subtitling, Advertising/Copywriting, Graphic/Web Design
Dynamic Language

www.dynamiclanguage.com

- Interpreting
  - Real-Time Captioning
  - Remote Captioning
- Localization
- Translating
  - Voicing
  - Transliterating
- Language identification flashcards
- “I Speak” cards
Working with an Interpreter

- Introduce yourself to interpreter
- Speak directly to the patient
- Interpreter is a conduit
  - Interpreter is not responsible for what patient says or doesn’t say
- Expect everything to be interpreted
- Respect the interpreter’s role
- Don’t assume patient’s education level

Adapted with Cynthia E. Roat, MPH from “Communicating Effectively through an Interpreter” from the Cross Cultural Health Care Program
Working with an Interpreter

- Speak evenly; pause often
- Avoid
  - Slang
  - Technical terms
  - Complicated sentence structure
  - Sentence fragments
  - Changing ideas in middle of sentence
  - Asking multiple questions at one time
- Ask the patient to repeat back counseling concepts

Adapted with Cynthia E. Roat, MPH from “Communicating Effectively through an Interpreter” from the Cross Cultural Health Care Program
Working with an Interpreter

- Ask to point out cultural misunderstandings
  - Cultural brokering
- Some concepts require explanation
- Tell patient nature of any discussion with interpreter
- Be patient
- Debrief after the conference

Adapted with Cynthia E. Roat, MPH from “Communicating Effectively through an Interpreter” from the Cross Cultural Health Care Program
What Would You Do?

Canadian patient comes in with a paracetamol bottle wanting to know if there is an American equivalent.
International Drug Reference
What **Should** You Do Now?

- Recognize the potential limitation when using unqualified interpreters
- Know the patients you serve and develop a written plan
  - Oral/written aids
  - Trained bilingual staff
  - HIPAA considerations
- Implement quality control measures
- Identify sources for language assistance
  - Professional, community and ethnic organizations
  - University language departments
  - University law departments
Cover Your Assets

- Identify LEP individuals who need language assistance
- Describe language assistance measures
- Train staff
- Provide notice of language services
- Monitor and update LEP plan\(^1\)

Region X OCR Office – Seattle (Alaska, Idaho, Oregon, Washington)
Linda Yuu Connor, Regional Manager
Voice Phone 206-615-2290
FAX 206-615-2297
TDD 206-615-2296

Developing a Language Access Plan

Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance, published by the Interagency Working Group on LEP, Civil Rights Division, Department of Justice

http://www.lep.gov/selfassesstool.htm

Part A: Self-Assessment
- Demography
- Frequency of Contact
- Importance
- Resources (dollars and personnel)

Part B: Developing a Language Assistance Plan (LAP)
- Goals
- Planning
- LAP Evaluation
Resources

- MAA’s Interpreter Services Program (and broker list)
  [http://maa.dshs.wa.gov/interpreterservices/](http://maa.dshs.wa.gov/interpreterservices/)

- Dynamic Language [www.dynamiclanguage.com](http://www.dynamiclanguage.com)

- Meducation [www.meducation.com](http://www.meducation.com)


- HHS OCR Resources for Providers
More Resources

- HHS Office of Minority Health
  http://minorityhealth.hhs.gov
- Accessible Emergency Information [for Deaf/HH, Blind/VI]
  www.AccessibleEmergencyInfo.com
- National Health Law Program http://www.healthlaw.org/
- The Access Project http://www.accessproject.org
- WSPA Limited English Resource Center www.wsparx.org
  - Selected Readings on Language Access to Prescription Drug Information
  - Language Services Resource Guide for Health Care Providers
Summary

- Discussed laws and rights pertaining to patients with limited English Proficiency.
- Identified language needs of patients.
- Used resources available for translation and interpretation services.

Questions?
Thank You

Mahalo

Kiitos

Toda

Thanks

Grazie

Merci

Obrigado