Language As an Equalizer, How to Work with the Limited English Proficient Population

Carol G. Velandia P. MBA, PMP, CHI, LMSW
March 11, 2020
Maryland Volunteer Lawyers Service
Language as an Equalizer, How to Work With the LEP Population

Objectives
At the end of this training, you will
1) Understand the background and needs of the Limited English Proficiency population
2) Understand the relationship between language, and justice
3) Establish interpreter’s role in public services
4) Understand Interpreter’s code of ethics
5) Understand linguistic and other requirements in order to be an interpreter
IF YOU TALK TO A MAN IN A LANGUAGE HE UNDERSTANDS, THAT GOES TO HIS HEAD. IF YOU TALK TO HIM IN HIS LANGUAGE, THAT GOES TO HIS HEART.

NELSON MANDELA
Who is an LEP person?

Someone unable to communicate effectively in English because their primary language is not English

- 81% of the LEP are foreign born
- 50% of immigrants are LEP
- 9% of the US population (25.3 Million) equals to the pop of NK or Cameroon
- Absent or low formal education levels
- Below the poverty line
- Limited or no access to health insurance benefits
- 94% live in metropolitan areas
- Works in high risk jobs
- Undocumented

Source:
https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states
LEP in Numbers

42.4 Million immigrants in 2014

25.3 Million Limited English Proficient (LEP)

10.5 million immigrants are unauthorized

4.8 Native born LEP
LEP in Numbers

Limited English Proficient (LEP) Americans

60 Million
Americans speak more than one language

350 Languages

25 Million
require language assistance

States with the largest LEP populations:
California (6.8 million)
Texas (3.4 million)
New York (2.5 million)
Florida (2.1 million)
Illinois (1.1 million)

MPI, 2012, Limited English Proficient Population of the United States
Who is an LEP person?

Notes: Chinese includes Chinese, Mandarin, and Cantonese; Creole includes French and Haitian Creole; and Hmong includes Miao-Yao, Mien, and Miao.

Source: MPI tabulation of data from the U.S. Census Bureau 2013 ACS.

Figure 3. Top Ten Languages Spoken by Native- and Foreign-Born LEP Individuals, 2013
Who is an LEP person?
Who is an LEP person?

- Refugees
- Asylum Seekers
- U, T
Type of work

Source:
MPI 2013, tabulation of data from the U.S. Census Bureau 2013
### (Some) Languages Spoken by Immigrants in Maryland

<table>
<thead>
<tr>
<th>Language</th>
<th>Language</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anuak</td>
<td>Kunama</td>
</tr>
<tr>
<td>Arabic</td>
<td>Somali</td>
</tr>
<tr>
<td>Nepali</td>
<td>Masalit</td>
</tr>
<tr>
<td>Kikuyu</td>
<td>Kinyarwanda</td>
</tr>
<tr>
<td>Sudanese Arabic</td>
<td>Spanish</td>
</tr>
<tr>
<td>Pidgen</td>
<td>Swahili</td>
</tr>
<tr>
<td>English</td>
<td>French</td>
</tr>
<tr>
<td>Amharic</td>
<td>Q’eqchi’</td>
</tr>
<tr>
<td>Oromo</td>
<td>Dari, Pashto, Farsi</td>
</tr>
<tr>
<td>Burmese (various Chin &amp; Karen dialects)</td>
<td>Lingala</td>
</tr>
</tbody>
</table>
Nobody cares how much you know, until they know how much you care.

Theodore Roosevelt
Public Services

• Services offered or controlled by a Government
• Are important for quality of life
• Above the profit motive
Public Services

Legal

Education

Healthcare
Public Services

- Emergency Services
  - Police
  - Firefighters
  - Paramedics
- Public Health
- Public Safety
- Environmental Protection
- Competition and consumer protection
- Immigration

- Immigration and Customs
- Economic Development
  - Tourism
- Transportation
- Infrastructure
- Social Services
  - SSA
  - SNAP
- Postal Systems
The Regulatory Environment in the Provision of Language Services in the United States
5th Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.
14th Amendment

**Section 1**

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.* No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
The Regulatory Environment in the Provision of Language Services in the United States
Title VI of the Civil Rights Act of 1964

Title VI

“ No person in the United States 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. ”
Executive Order 13166

“Improving Access to Services for Persons with Limited English Proficiency”
MEANINGFUL ACCESS
Executive Order 13166 Objectives

• Designed to enforce title VI
• Clarifies existing title VI responsibilities
• Establishes general principles for agencies that receive federal funding to apply in developing guidelines for services to individuals with Limited English Proficiency
• Provides compliance standards
Executive Order 13166 Objectives

Meaningful Access

1. Number or proportion of LEP individuals
   • From 1 to $n$
   • Reasonableness
     • Simple and Available

2. Frequency of contact with the program

3. Nature and importance of the program
   • Is it life or death? (Hospital Vs a zoo)

4. Resources available
Non Discrimination provision

Prohibits health care providers, health insurance marketplaces (Federal and State markets) health programs administered by the HHS and programs or activities that receive funding from the federal government from discrimination based on an individual’s race, color, national origin, sex, age or disability.
Affordable Care Act and Rule 1557

Non Discrimination provision

• Section 1557 better clarifies the established civil rights laws and aligns the laws to specific areas of the Affordable Care Act and holds the programs accountable.
Maryland Language Access Law §10–1103

• The law covers many agencies and most languages
• The law requires the agency to provide a free interpreter
• The law also requires the agency to translate vital documents
CLAS Standards
Cultural and Linguistically Appropriate Services

Principal Standard:
“Provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs”.
Limited English Proficiency: A Patient Safety Challenge

- 57 encounters
- 20 with professional interpreters
- 27 with ad hoc interpreters
- 10 with no interpreters

- 1,884 interpreter errors were noted

- 18% had potential clinical consequences.
Harmful errors due to language in the medical encounter

Ad-Hoc Interpreters: 22%
No interpreter: 20%
Qualified Interpreters: 12%
How do these disparities affect LEP patients?

<table>
<thead>
<tr>
<th>Types of Physical Harm Experienced From Adverse Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>No harm</td>
</tr>
<tr>
<td>No detectable harm</td>
</tr>
<tr>
<td>Minimal temporary harm</td>
</tr>
<tr>
<td>Moderate temporary harm</td>
</tr>
<tr>
<td>Severe temporary harm</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>English Proficient</th>
<th>45%</th>
<th>25%</th>
<th>20%</th>
<th>5%</th>
<th>1%</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEP</td>
<td>40%</td>
<td>10%</td>
<td>25%</td>
<td>20%</td>
<td>4%</td>
</tr>
</tbody>
</table>

How do these disparities affect LEP patients?

- Longer Hospital Stay
- Greater difficulty understanding discharge instructions.
- Readmitted for certain chronic conditions
How do these disparities affect LEP patients?

- Lack of comprehension of their medical condition, treatment plan, discharge instructions, complications, and follow-up.
- Inaccurate and incomplete medical history.
- Ineffective or improper use of medications or serious medication errors.
- Improper preparation for tests and procedures.
- Poor or inadequate informed consent.
CLAS Standards
Cultural and Linguistically Appropriate Services

5. Language assistance at no cost, timely access to health care and services.
6. Inform all individuals of the availability of language assistance services clearly and in their preferred language, verbally and in writing.
Assessing the need for an interpreter

Assessing how well a person can understand and communicate in English

- Requests it
- Speaks English as a second language and is in a stressful, complex or unfamiliar situation
- Is difficult to understand
- Responds only in a limited way
- Relies on family or friends to interpret
- Wishes to communicate in his or her preferred language
- Cannot grasp or respond to questions in English.

CLAS Standards, Standard 6 cont’

• Assessing the need for an interpreter WHAT AM I MISSING?
• Assessing how well I can understand and communicate in the language of the patient

7. Ensure the competence of individuals providing language assistance, recognizing that the use of untrained individuals and/or minors as interpreters should be avoided.
CLAS Standards, Standard 6 cont’

8. Provide easy to understand print and multimedia materials and signage in the languages commonly used by the populations in the service area.

Don’t do this

Do this
Accuracy
The interpreter strives to render the message accurately, conveying the content and the spirit of the original message.
Confidentiality
The interpreter treats as confidential all information learned in the performance of their professional duties, while observing relevant requirements regarding disclosure.
Impartiality

The interpreter strives to maintain impartiality and refrains from counseling, advising, or projecting personal biases or believes.
National Code of Ethics cont’

Professional Boundaries
The interpreter maintains the boundaries of the professional role, refraining from personal involvement
Respect, Protocol and Demeanor

The interpreter observes the professional protocol within the context within which they are interpreting (Court, Hospital, Church).

The interpreter refrains uses the same grammatical person as the speaker.
National Code of Ethics cont’

Professional development

The interpreter and translator strives to continually further his or her knowledge and skills.
Professionalism

The interpreter must, at all times act in a professional and ethical manner.
National Code of Ethics cont’

Adequate representation of credentials
Advocacy

When the patient’s health, well-being, or dignity is at risk, the interpreter might be justified in acting as an advocate.

Supporting healthcare outcomes
Cultural Competency

The interpreter continuously strives to develop awareness of his or her own, and other cultures encountered in the performance of his professional duties.

National Code of Ethics cont’
Interpreter’s Credentials

Medical
• National certification such as: CCHI (Certifying Commission in Health Care Interpreting)
• National Board of Certification of Healthcare Interpreters

Legal
• State Court Certification
  • Varies by state
• Federal Court Certification
  • Nationwide
  • Immigration court specific certification
Language Services
Models of Access

Qualified Staff
Certified Interpreters

Translation of Vital Documents, Patient Education, hospital or legally binding documents

MARTTI Video Remote Interpreting
What is the obligation of health care providers under the ADA for individuals who are deaf or hard of hearing?

• Health care providers have a duty to provide effective communication, using auxiliary aids and services that ensure that communication with people who have a hearing loss is as effective as communication with others 28 C.F.R S36.303( c )
In what situations should a public services provider obtain the services of an interpreter?

• An interpreter should be present in all situations in which the information exchanges is sufficiently **lengthy and complex** to require an interpreter for **effective communication**.
The Profile of the Interpreter

- Fluency in at least two languages (bilingual)
- Have received at least 40 hours of training in Interpreting and, or other professional training
- Follows a code of ethics
- Their role is to support the communicative autonomy
Why do we need an interpreter?

Things to know about language

- Language is part of culture, complex and extremely relevant.
- Bilingualism is not enough to be an interpreter
  - *(Intoxicado VS intoxicated)*
- Specially in Spanish false cognates are very dangerous
- In the healthcare setting, language services are a safety issue and in justice is a due process issue
Interpretation VS Translation
Factors included in the selection of an interpreter, or translator include the individual’s
• Level of proficiency in spoken English and in the language or dialect used by the client/patient/family;
• Prior experience;
• Educational background and/or professional training; and
• Status of certification and/or licensure.
How to Work With Professional Interpreters

✔ Acknowledge the interpreter as a professional in communication. Respect his or her role.

✔ During the medical interview, speak directly to your client, not to the interpreter.

✔ Speak clearly and with complete ideas.

✔ Speak at an even pace in relatively short segments. Pause so the interpreter can interpret.

✔ Get familiar with the interpreter’s code of Ethics. Interpreters are there to ensure there is Communication Autonomy.
How to Work With Professional Interpreters

• **Avoid patronizing or infantilizing the client.** A lack of English language skills is not a reflection of low cognitive function or a lack of education.

• Ask the client to **repeat back** important information that you want to make sure is understood.

• **Allow time for a pre-session with the interpreter.** When working with a professional face-to-face interpreter to facilitate communication with a limited English proficient (LEP) refugee, a pre-session can be helpful to both the healthcare provider and the interpreter.

• **Remember, the interpreter is there to interpret for you and the client.**
The Interpreter’s Creed

• No omissions, No editions, No additions
Limited English is not a disease, if language is not a barrier, Limited English Proficient persons can be agents of change in their own lives.
Bibliography


- PEW Research Center, 2017, Estimated unauthorized immigrant total declines or holds steady from most regions.
Bibliography


- Chen, Alice Hm., Youdelman, Mara K., Brooks, Jamie, *The Legal Framework for Language Access in Healthcare Settings, Beyond Title VI*

