

Policy for Access to Services for Limited English Proficient (LEP), Deaf, & Hearing-Impaired Persons

PURPOSE STATEMENT:

To provide quality health care and to comply with federal and state law, Contra Costa Health Services provides interpretation and translation services to patients/clients, including those who are limited English proficient (LEP), deaf or hearing impaired, thus ensuring access to services and to effective, accurate and timely two-way communication.

POLICY STATEMENT

Effective communication is the key to meaningful access for all patients/clients, including those who are limited English proficient (LEP), deaf or hearing impaired. To ensure meaningful access to Contra Costa Health Services, all limited English proficient (LEP) patients/clients as well as those who are deaf or hearing impaired will be provided language assistance services at no cost to them. Language assistance services include:

- health care delivery or health information by certified bilingual clinical providers and staff or non-medical directions/assistance by certified bilingual employees
- interpretation by qualified medical interpreters and
- translation of written materials.

REFERENCES

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, et. seq.)
- Americans with Disabilities Act Title II (42 U.S.C. Section 12131 et seq.)
- Section 504 of the Rehabilitation Act (29 U.S.C. Section 794)
- Executive Order 13166, August 2000
- 45 Code of Federal Regulations, Parts 80, 84, 86, 90, 91
- Title VI of the Civil Rights Act of 1964; Policy Guidance on the Prohibition Against National Origin Discrimination as It Affects Persons with Limited English Proficiency. 65 *Fed. Reg.* 52762- 52774 (30 August 2000) and reaffirmed in 2002.
- The Dymally- Alatorre Bilingual Services Act
- Kopp Act
- California Government Code Sections 11135-11139-8
- California Health and Safety Code Section 1259
- DHCS Medi-Cal Managed Care Contract
- Departments of Managed Health Care Language Assistance Regulations, where applicable (28 California Code of Regulations, Section 1300.67.04 et seq)
- Office of Civil Rights Section 1557 of the Affordable Care Act (42 U.S.C. Section 18116; 45 Code of Federal Regulations Part 92)

DEFINITIONS

- Interpretation** – The process of understanding and analyzing a spoken or signed message and re-expressing that message faithfully, accurately and objectively in another language while taking the cultural and social context into account. The purpose of interpreting is to enable communication between two or more individuals who do not share the same language.
- Sign Language Interpretation** - Interpretation services for someone who is deaf, has hearing loss and who understands sign language.
- Translation** – The conversion of written text in one language into written text in a different language, which is corresponding to and equivalent in meaning to the text in the first language.
- Qualified Health Care Interpreter** – An individual who has met the qualifications to serve as a

health care interpreter. Qualifications can include a bilingual proficiently assessment, medical interpreter education and training, medical terminology education and assessment, and a health care interpreter skills test as well as experience working in a health care setting. A qualified interpreter can be a Contra Costa Health employee hired as a Medical Interpreter, an independent contractor, or a professional interpreter hired through a contracted vendor.

- E. **Qualified Translator** - An individual who has met the qualifications to serve as a translator. Qualification can include an assessment, education, training, certification and/or experience.
- F. **Certified Bilingual** – an employee or health-care provider, who has successfully passed the language proficiency test that allows them to adequately communicate with patients/clients in the 2 languages assessed.
- G. **Limited English Proficiency (LEP)** – A limited ability or an inability to speak, read, write or understand the English language at a level that permits the person to interact effectively with health care providers or social service agencies.

GUIDELINES

- A. Notify Patients/Clients of Right to Free Language Assistance Services
 - 1. Display posters at all points of patient/client access that inform them of their right to free language assistance services and invite them to identify themselves as persons needing or requesting such services. These posters include all commonly encountered languages.
 - 2. Posters are available from the Health Services Language Access unit (Contact 925-608-9742 or Sally.McFalone@cchealth.org)
- B. Identify the Language of the Person You Are Assisting
 - 1. Ask the person what language they prefer or feel most comfortable using and request that they point to that language on the poster if you are not sure which language they are referring to. The instructions on the poster read: *"You have the right to a medical interpreter at no cost to you. Please point to your language. A medical interpreter will be called. Please wait."*
 - 2. If available, use "I Speak" Cards to identify the language spoken by the patient/client during face-to-face encounters. Model "I Speak" cards are available from Health Services Language Access Unit (Contact 925-608-9742 or Sally.McFalone@cchealth.org)
 - 3. If the encounter is by telephone or if staff is unable to identify the language of the patient/client using the poster or the "I Speak" card, use the video or telephone interpretation service for your division to identify the language and connect you with the appropriate interpreter.
 - 4. Document the patient/client's communication needs, including preferred language for discussing health care in the medical file along with their race and ethnicity. If the patient/client is a minor, is incapacitated or has a designated advocate, the communication needs of the parent or legal guardian, surrogate decision-maker or legally authorized representative is documented in the medical record.
- C. Use Appropriate Interpretation Services for Limited English Proficient (LEP) Patients/Clients, those Patients and Clients who Prefer a Language Other than English and Those Who are Deaf or Hearing Impaired.
 - 1. Access the qualified interpretation service via video or telephone.
 - a. When interpreter services are required for limited English proficient (LEP) or deaf or hearing-impaired patients/clients, or when the patient or client has chosen a language preference other than English and you are not certified bilingual in that language, utilize the qualified interpretation service, either by video or by phone or contract interpreters either in-person or over the phone, based on your Division procedures.
 - 2. Role of the Qualified Bilingual Staff/Provider.
 - a. Qualified bilingual staff/providers within Contra Costa Health Services shall include:
 - 1. Clinical staff/providers who have been tested for language proficiency via the Health Services Personnel Division and Human Resources approved testing process and have received documented proof of a passing score, which is currently an 'advanced' or 'superior' rating, and a corresponding

badge designation (Certified Bilingual) are permitted to speak with patients/clients directly about their health care in the language(s) assessed and carry out their duties in that/those language(s). These individuals are not, however, qualified to interpret for the patient/client and another provider or staff member unless they have been specifically trained and tested for their ability to provide medical interpretation.

2. Non-clinical staff/providers that have been tested for language proficiency via the Health Services Personnel, Human Resources approved testing process and have received documented proof of a passing score. These providers/staff are permitted to provide non- medical directions/assistance in the language assessed.
3. Clinical staff/providers who have been tested for their written language proficiency and have received an 'advanced' or 'superior' score may communicate in writing in the language tested with their patients directly. All other clinical staff/providers must have their messages, letters or materials appropriately translated. A passing score for the written language proficiency test allows creation of written material but does not allow translation of other's documents or messages. This applies to use of the Spanish version of MyccLink for messaging between clinical staff/providers and patients.
3. Access the Contra Costa Health Services Contracted Interpreter Services
 - a. The contracted interpreter services have met the qualifications of health-care interpreting determined by Contra Costa Health Services.
4. Access Interpreter Services for Deaf or Hearing - Impaired Patients/Clients
 - a. Qualified Sign Language interpreters are available as above via Video Remote Interpreting or in-person through a contracted interpreter service.
 - b. TDD (Telecommunications Device for the Deaf) telephone services may be used, as available, for patients/clients during in-person or over the phone conversations.
 - c. The California Relay Service (CRS) provides toll free telephone accessibility for people who are deaf, hard of hearing or speech impaired and is always available. For this service, please call either of the following numbers for assistance in replying to a message: (800) 735-2922 or (888) 877-5379. 711 is also available to employees of Contra Costa Health Services. Many individuals who are deaf or hard of hearing will have their own sign language relay system for phone calls.
 - d. Contra Costa Health Services does not use family members or friends or other non-qualified individuals as interpreters for patient/clients who are limited English proficient (LEP), deaf or hearing impaired during the provision of care, treatment and/or health care services. However, Contra Costa Regional Medical Center also recognizes their patient's right, after being informed of the availability of the interpreter service and encouraged to use a qualified interpreter, to choose not to use an interpreter, even though they will be discouraged from doing so. If LEP patient refuses the use of a medical interpreter or insists on relying on interpretation by a family member or friend, the patient must be offered and encouraged to use a qualified medical interpreter in addition to the family member or friend to assist with the accuracy of the interaction and ensure effective communication. This discussion must take place with the patient directly, in the patient's preferred language and documented in the medical record along with the name, relationship and age of the family member or friend used.
 - e. Contra Costa Health Services allows for the presence of a support individual of the patient's choice, unless that individual's presence infringes on other's rights, safety or is medically or therapeutically contraindicated. The individual may or may not be the patient's surrogate decision maker or legally authorized representative.
 - f. Qualified Health Care Interpreters are always used during the provision of care and to discuss the limited English proficient (LEP), deaf or hearing-impaired patient/client's health care. However, in the event of urgent, emergent, or unscheduled care at Contra Costa Regional Medical Center, when an interpreter for

a language of lesser diffusion is requested, but not found to be available without delaying care, a family member or an uncertified bilingual provider or staff member may be used until a qualified interpreter becomes available. The attempt to procure a qualified interpreter and the outcome should be documented.

- g. LEP persons have the right to refuse formal interpretation services even though they will be discouraged from doing so. If LEP person refuses the use of a medical interpreter or insists on relying on interpretation by a family member or friend, a qualified interpreter must be used in addition to the family member or friend to assist with the accuracy of the interaction and ensure effective communication.

D. Document the use of an interpreter by noting the interpreter ID in the record. This can be done using the SmartPhrase ".int". Also note if care has been provided by a certified bilingual health care provider or staff member.

E. Provide Appropriate Translation of Written Materials

1. Whenever possible, provide patients/clients with written materials in their preferred written language and in a manner that best meets the patient's/client's needs. If the material is not immediately available, provide spoken interpretation of the material or arrange for the information to be translated and provided to them in a timely manner.
 - a. Materials may be sent for translation via email to Translation@cchealth.org along with the language(s) needed and a cost center to charge against. *Word* or *Publisher* format is preferred for these documents.
2. Contra Costa County's threshold language is Spanish. Appropriate written materials for patients/clients are to be made available in Spanish. Other languages also might be prominent in our patient/client population and each division must identify 'vital documents' that should be made available in these languages in addition to Spanish.
3. All translations done by contracted vendors will be reviewed internally by division, or department identified contacts for accuracy, appropriate literacy level and cultural sensitivity, specific to that division, department or unit.
4. No CCH staff that has not been vetted for their ability as translators will be utilized to translate vital documents. Contracted translation vendors will be utilized for all vital document translation.

F. **Grievance and Complaints Procedure.**

1. All patients/clients have the right to file a complaint about the provision of language assistance. Complaints will be processed and resolved through the Divisions' established grievance and complaint procedures.
2. These complaints should also be communicated to the Linguistic Access Services Unit to assist in the resolution of same. Complaint and patient and staff feedback will be considered for policy and procedure development.

G. **G. Division Specific Procedures**

1. Each division will identify the available language assistance resources and provide staff with appropriate materials and information on how to gain access to these resources. This includes clearly identifying the language access contact person(s) for each Division or site and providing their contact information.
2. Each division will develop procedures in a timely manner on how to access language assistance services as described above.

RESPONSIBLE

Division Directors