Advisory Committee on Qualifications for Health Care Translators and Interpreters Report 2012

Recommendations in response to the 2010 Qualifications for Health Care Translators and Interpreters Legislative Charge and 83rd Legislature, Regular Session, 2013

November 30, 2012

DISCLAIMER

This *Advisory Committee on Qualifications for Health Care Translators and Interpreters (Committee) Report 2012* reflects the views and opinions of a majority of the Committee's membership. The Committee, for purposes of this report, refers only to those members appointed to the Committee by the Health and Human Services Commission's (HHSC) Executive Commissioner and does not include the non-voting representatives from each Texas Health and Human Services (HHS) agency. Unless otherwise noted, the views and opinions expressed in these recommendations are those of the appointed members of the Committee. HHSC only provides staff support as directed by Health and Human Services Circular C-022, *Enterprise Policy for Advisory Committees*.

This report and its recommendations for the Committee's legislative charge per H.B. 233, 81st Legislature, Regular Session, 2009, reflect the positions of a majority of the members of the Committee. There are many different perspectives and policy concerns represented by the Committee's membership and not all statements made in this report reflect each member's official position. Contents of this report were discussed by the Committee and every member voted on the recommendations independently. Recommendations were passed by unanimous vote at a regular meeting and there were no nay votes and no abstentions.

ADVISORY COMMITTEE ON QUALIFICATIONS FOR HEALTH CARE TRANSLATORS AND INTERPRETERS LEGISLATION RECOMMENDATIONS

The appointed members of the Advisory Committee on Qualifications for Health Care Translators and Interpreters (Committee) focused on increasing the quality of and access to health care by improving the quality of communication between health care providers and consumers with limited English proficiency (LEP) and consumers who are deaf or hard of hearing. There are separate recommendations for foreign languages and American Sign Language. The Committee respectfully submits these recommendations, which were adopted by unanimous vote.

Recommendations for Interpreters of Foreign Languages and Foreign Signed Languages

Recommendation #1

Prohibit the practice of requiring patients to bring their own interpreters in health care settings.

Rationale for Recommendation #1

This recommendation addresses one of the most clinically inappropriate practices of health care providers and institutions related to language access. It prohibits the practice of asking patients to bring their own interpreters in health care settings. According to federal guidance regarding discrimination against LEP individuals, health care providers or institutions who receive federal funds may not require LEP individuals to use family members or friends as interpreters.[1]

Recommendation #2

Limit the use of uncertified or unqualified individuals to assist with communication —including but not limited to friends, family members, associates, and others—to those medical emergency situations—both physical and mental health emergencies—in which an interpreter not associated

[1] HHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons. Federal Register: August 8, 2003 (Volume 68, Number 153)

with the patient is not available by any other means, including but not limited to in-house, contracted, and remote interpreters.

In routine situations, a provider will use a certified or qualified interpreter not associated with the patient at no cost to the patient. The health care facility staff will inform the patient—in the patient's preferred language—that a qualified interpreter will be provided at no cost to the patient.

Definitions:
Remote interpreters shall be defined as certified or qualified interpreters who make their services available via communications technologies, such as telephonic interpreting and web-based videoconferencing systems.

Rationale for Recommendation #2

The recommendation is a first, essential step toward increasing the quality of, and access to, competent medical interpreters. While certification is not currently required for foreign language interpreters in a medical setting, this recommendation in no way limits the possibilities of requiring medical specialty certification at a future date.

According to the federal Department of Health and Human Services, "... Family members (especially children) or friends may not be competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or describing sensitive, confidential, or potentially embarrassing medical, law enforcement (e.g., sexual or violent assaults), family, or financial information to a family member, friend, or member of the local community. In addition, such non-professional interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest, such as the desire to protect themselves or another perpetrator in a domestic violence matter."

"…Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English…."[2]

Recommendation #3

Require qualifications and successful completion of HHS agency approved training as set out below for any individual in the state of Texas who provides interpreting services as part of his or her professional duties in a health care setting.

Recommend the following interpreter qualifications:

- Certification by the Certification Commission for Healthcare Interpreters (CCHI) or the National Board of Certification for Medical Interpreters (NBCMI),
- **Or** all of the following:
  - Age 18
  - High School Education
  - Fluency in English and a Language Other Than English
  - Experience as a Translator or Interpreter in a Health Care Setting
  - Training in:
    - Interpreting Skills
      - Consecutive Interpreting
      - Sight Translation
      - Protocols (managing the session)
    - Code of Ethics for Health Care Interpreters
    - Standards of Practice for Health Care Interpreters
    - Roles of the Health Care Interpreter
    - Cultural Awareness
    - Legislation and Regulations (Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of Civil Rights Act, Health Information

[2] HHS Guidance

Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), National Standards on Culturally and Linguistically Appropriate Services (CLAS))

- General Medical Knowledge
  - Anatomical Terms for Major Body Systems
  - Medical Tests and Diagnostics
  - Common Specialties and Medications (including physical and mental health)
  - Acronyms and Abbreviations
  - Routine Medical Equipment
  - Infection Control
  - Onsite Mentoring
  - Mental/Behavioral Health
    - Common disorders of adults, children/adolescents
    - Common Medications
    - Psychiatric Tests and Diagnostics
    - Treatment Plans
    - Acronyms and Abbreviations
    - Legal Status (Voluntary, Peace Officer Emergency Commitment (POEC), Order of Protective Custody (OPC))

An HHS agency shall have authority to establish, by rule, the minimum standards for approved training and interpreter qualifications.

Rationale for Recommendation #3

This recommendation ensures that medical interpreters in the state of Texas have a comprehensive knowledge of the medical, professional, and legal issues required for this role. In passing this recommendation, the Committee assumes that training will be approved by either a state health agency or a professional health care or interpreters' association. The Committee recommends for this purpose the National Code of Ethics and Standards of Practice developed

by the National Council on Interpreting in Health Care (NCIHC). By granting rulemaking authority to an HHS agency, the need to seek further legislation on this issue is averted.

Recommendation #4

That a registry of healthcare interpreters be established through a non-profit organization in which interpreters who have successfully completed an HHS agency approved training may register.

Rationale for Recommendation #4

Health care providers who try to comply with language access requirements often have difficulty finding interpreters when needed, especially for languages of limited diffusion. In testimony before the Committee, stakeholders expressed strong support for a registry where they could easily find the interpreters they need. By relying on a nonprofit professional organization to host the registry, the State will avoid the cost of setting up and staffing a registry and the cost of registering will be very minimal. This approach is modeled after the longstanding Registry of Interpreters for the Deaf. Registration will be voluntary, as a first step toward identifying and communicating with individuals who provide interpreting services in health care as stakeholders in the process of establishing qualifications.

Recommendation #5

When a patient liaison/advocate is working as an interpreter, he or she should refrain from advocating *during* the interpreted session.

Rationale for Recommendation #5

This recommendation ensures that advocates separate and clearly indicate when acting as interpreter or patient liaison, as addressed in the NCIHC standards of professional conduct. As part of the treating team, advocates are exposed to in-depth private health information about the patient and must discuss this with people outside of the treatment team for conflict-resolution purposes. When acting as an interpreter, the advocate may gain additional knowledge about a specific patient, information that was not disclosed to the interpreter when acting as an advocate.

The interpreter should be very careful not to disclose this information with people outside the treating team. Treating team means all health care providers involved in the care of a particular patient within a single facility. When in a dual role, the interpreter should be very clear about both of his/her roles and make sure that other people know at all times when he/she is acting as one or the other in order to avoid confusion.

Recommendation #6

Recommend that the following quality assurance measures be implemented for translation of written documents:

- A request for translation should include the following information:
  - Function, overall purpose and end use of the source text
  - Description of target audience for translated text – literacy level, cultural concepts, regional language variations
  - Specific needs and special requirements, such as adaptation for low literacy level or specific terminology preferences
  - Specific deadline by which the document is required
- The translator should meet the following qualifications:
  - Ability to read and write at a professional level in the source and target language
  - Knowledge and experience with the culture of the intended audience
  - Knowledge of medical terminology and concepts
  - Experience as a medical translator
- The translation should be reviewed and edited by an experienced editor if a professional editor is not available, with the following criteria in mind:
  - Reliability – meaning of original text is clearly conveyed in new language
  - Completeness – nothing is omitted or added to the original message
  - Accuracy – text is free of spelling and grammatical errors
  - Cultural appropriateness – message is meaningful and appropriate for the target culture

The translation function may be outsourced. If so, recommend the following criteria to ensure the translation provider:

- Offers transparency in its processes
- Uses up-to-date technology and tools (Including translation memory)
- Uses HIPAA and HITECH compliant security measures
- Includes editing, proofreading, language localization and formatting as steps in its process
- Has mechanisms for Quality Assurance / Quality Control (such as ISO Certification which specifies requirements for a quality management system).

Rationale for Recommendation #6

This recommendation provides guidance to health care providers who seek translation services. The recommendation describes the translation standards and protocols that providers may be unfamiliar with and sets out qualifications for both in-house and outsourced translation providers.

Recommendations for American Sign Language Interpreters

Recommendation #1

To prohibit the practice of requiring patients to bring their own interpreter in health care settings.

Rationale for Recommendation #1

This recommendation addresses one of the most clinically inappropriate practices of health care providers and institutions related to language access. It prohibits the practice of asking patients to bring their own interpreter in health care settings. According to federal guidance regarding language and communication discrimination, health care providers or institutions who receive federal funds may not require the use of family members or friends as interpreters.[3]

Recommendation #2

To limit the use of uncertified and unqualified individuals to assist with communication — including but not limited to friends, family members, associates, and others—to those medical emergency situations—both physical and mental health emergencies—in which an interpreter not associated with the patient is not available by any other means, including but not limited to in-house, contracted, and remote interpreters.

In routine situations a provider will use a certified and qualified interpreter not associated with the patient at no cost to the patient. The health care facility staff will inform the patient—in the patient's preferred language—that a qualified interpreter will be provided at no cost to the patient.

Definitions:

Remote interpreters shall be defined as certified and qualified interpreters who make their services available via communications technologies, such as telephonic interpreting and web-based videoconferencing systems.

[3] HHS Guidance

Rationale for Recommendation #2

The recommendation is a first, essential step toward increasing the quality of, and access to, competent medical interpreters and in no way limits the possibilities of requiring medical specialty certification at a future date.

According to the Americans with Disabilities Act (ADA), Title II Technical Assistance Manual:

> "In many situations, requiring a friend or family member to interpret may not be appropriate, because his or her presence at the transaction may violate the individual's right to confidentiality, or because the friend or family member may have an interest in the transaction that is different from that of the individual involved. The obligation to provide 'impartial' interpreting services requires that, upon request, the public entity provide an interpreter who does not have a personal relationship to the individual with a disability....Signing and interpreting are not the same thing. Being able to sign does not mean that a person can process spoken communication into the proper signs, nor does it mean that he or she possesses the proper skills to observe someone signing and change their signed or finger spelled communication into spoken words."[4]

According to the Americans with Disabilities Act, Title III Regulations, 28 CFR 36.303(c), Effective Communication:

> (2) A public accommodation shall not require an individual with a disability to bring another individual to interpret for him or her.
>
> (3) A public accommodation shall not rely on an adult accompanying an individual with a disability to interpret or facilitate communication, except--
>
> (i) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
>
> (ii) Where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult

[4] ADA Title II Technical Assistance Manual Covering State and Local Government Programs and Services, Section II-7.

agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

(4) A public accommodation shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.

Recommendation #3

To require qualifications and successful completion of HHS agency approved training as set out below, for any individual in the state of Texas who provides interpreting services as part of his or her professional duties in a health care setting.

Recommend the following interpreter qualifications:

- Sign Language Certification recognized by the Department of Assistive and Rehabilitative Services (DARS)
- Experience as an Interpreter in a Health Care Setting
- Training in:
  - Interpreting Skills
    - Consecutive and Simultaneous Interpreting
    - Sight Translation
    - Protocols (managing the session)
  - Code of Ethics for Health Care Interpreters
  - Standards of Practice for Health Care Interpreters
  - Roles of the Health Care Interpreter
  - Cultural Awareness
  - Legislation and Regulations (ADA, Section 504 of Rehabilitation Act, Title VI of Civil Rights Act, HIPAA, HITECH, CLAS)
  - General Medical Knowledge
    - Anatomical Terms for Major Body Systems
    - Medical Tests and Diagnostics
    - Common Specialties and Medications (including physical and mental health)

- Acronyms and Abbreviations
- Routine Medical Equipment
- Infection Control
- Onsite Mentoring
- Mental/Behavioral Health
  - Common disorders of adults, children/adolescents
  - Common Medications
  - Psychiatric Tests and Diagnostics
  - Treatment Plans
  - Acronyms and Abbreviations
  - Legal Status (Voluntary, POEC, OPC)

An HHS agency shall have authority to establish, by rule, the minimum standards for approved training and interpreter qualifications.

Rationale for Recommendation #3

This recommendation ensures that medical interpreters in the state of Texas have a comprehensive knowledge of the medical, professional, and legal issues required for this role. Additionally, this recommendation ensures effective communication with deaf and hard-of-hearing individuals in any health care setting. In passing this recommendation, the Committee assumes that training will be approved by either a state health agency or a professional health care or interpreters' association. The Committee recommends for this purpose the National Code of Ethics and Standards of Practice developed by the NCIHC. By granting rule-making authority to an HHS agency, the need to seek further legislation on this issue is averted.

Recommendation #4

That a registry of health care interpreters be established through a non-profit or government organization in which interpreters who have successfully completed an HHS agency approved training may register.

Rationale for Recommendation #4

Health care providers who try to comply with language access requirements often have difficulty finding interpreters when needed, especially for languages of limited diffusion. In testimony before the Committee, stakeholders expressed strong support for a registry where they could easily find the interpreters they need. DARS currently hosts a similar registry of qualified interpreters. This recommendation would expand the existing registry to include interpreters specifically qualified for health care settings.

Appendix

ADVISORY COMMITTEE ON QUALIFICATIONS FOR HEALTH CARE TRANSLATORS AND INTERPRETERS

2012: MEMBERSHIP LIST

Zee S. Broussard
Zee's Communication Key I, LP
7751 Alperton Drive
Houston, Texas 77088
(281) 827-6063
zeeterp@sbcglobal.net

Jacque Burandt
University Health System
4502 Medical Drive, MS 58-1
San Antonio, Texas 78229
(210) 358-2367
Jacqueline.burandt@uhs-sa.com

Mary Esther Diaz
Translator and Interpreter Trainer
440 Racetrack Drive
Austin, Texas 78748
(512) 731-5266
Mediaz16@gmail.com

Gel Detrick
Scott & White Health Plan
2401 South 31st Street
Temple, Texas 76508
(254) 298-3259
gdetrick@sw.org

Miguel A. Fuentes
Scott & White Memorial Hospital
2401 South 31st Street
Temple, Texas 76508
(254) 724-5763
mfuentes@sw.org

Gabriel A. Martin
Lamar University
Post Office Box 10076
Beaumont, Texas 77710
Tony.martin@lamar.edu
(409) 880-8175

Irma E. Rubio, BSN, RN
Lubbock, Texas 79412
irubio9@gmail.com

Detra Stewart
Deaf Advocate
15039 Ringfield Drive
Houston, Texas 77084
(281) 793-8512
detra.stewart@gmail.com

Fabio Torres
Catholic Charities Fort Worth
4200 South Freeway, Suite 200
Fort Worth, Texas 76115
(817) 289-2798
Ftorres@ccdofw.org

Nancy Miller
Shoal Creek Hospital
3501 Mills Ave
Austin TX 78731
nwood@seton.org

Ryan Foley
MasterWord Services
303 Stafford Street
Houston, Texas 77079
rfoley@masterword.com

HHS AGENCY REPRESENTATIVES
(Non-Voting)

Laura Jourdan, Senior Policy Analyst
Medicaid/CHIP
Health and Human Services Commission
Laura.jourdan@hhsc.state.tx.us

Jonathan Cole, Translator
Communications Office
Department of Aging and Disability Services
Jonathan.cole@dads.state.tx.us

Randi Turner
Office for Deaf and Hard of Hearing Services
Department of Assistive and Rehabilitative Services
Randi.turner@dars.state.tx.us

Joan Miller
Department of Family and Protective Services
Joan.miller@dfps.state.tx.us

Patricia Hosey
Department of State Health Services
Patricia.hosey@dshs.state.tx.us