

Vol. 14 No. 4, September 2020

HAVE YOU EVER PUT A BILINGUAL COWORKER "ON THE SPOT?"



Scenario: Today, as Maria walks into a patient's room, the nurse says to the doctor, "Maria speaks Spanish!" The doctor says, "That's great!" He then begins telling the patient the next plan of care, risk, etc. and looks at Maria to translate to the patient. Maria is not certified as a Qualified Medical Interpreter, but she feels she can't say no, when the nurse and doctor put her "on the spot" like this, in front of the patient. It's not the first time this has happened, and she has asked, "why is an interpreter not added to the team of caregivers, when they know their patient does not speak or understand English?" **This is an excellent question!**

Language Assistance Services for Patients with Limited English Proficiency

Can you imagine how scary it would be to be in a hospital or have your loved one in a hospital and not understand anything the doctors and nurses were trying to explain to you? But putting our coworkers on the spot to interpret is not fair because they are not certified, they are not compensated, it creates a risk, and our policy is not being followed.

We will be focusing on a few important points from OUR policy related to the limited English proficient individuals we serve. Interpreters are vital for critical and essential conversations necessary in all aspects of healthcare.



INTERPRETATION AND TRANSLATION SERVICES POLICY – POLICYSTAT

NHRMC (and its affiliates, which include the NHRMC Physicians Group, Pender Memorial Hospital and NHRMC Home Care), recognize the importance of providing appropriate language and sign language interpretation services, professional translation, or written documents to those with limited English proficient (LEP), as well as the appropriate telecommunication devices for those who are deaf or hard-of-hearing (HOH). This policy is to set forth guidelines to provide meaningful access by limited English proficient, deaf and hard-of-hearing patients/residents, family, and authorized representatives who seek care for services within the NHRMC system.

In addition to our internal policy, it is a Federal law, Title VI of the Civil Rights Act of 1964. This law protects persons from discrimination based on their race, color, or national origin. Failure to provide adequate language assistance services to ensure persons with limited English proficiency can access critical services is a form of national origin discrimination and a violation of Title VI.

Definitions:

- **Limited English Proficiency (LEP)** means a limited ability to read, write, speak, or understand English.
- **Qualified Medical Interpreter** means a qualified bilingual individual proficient in two or more languages, trained in medical interpreting techniques to provide and facilitate oral communication between two or more conversing parties that do not speak each other's language. The interpreter, interprets effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, terminology and phraseology.
- **Video Remote Interpreting (VRI)** means a wireless and mobile, hands-free video conferencing service provided by a video that connects to an interpreter for an alternate language and/or sign language.

Compliance CAPSULES



Key Principles:

- **Free Interpreters and Other Language Assistance:** NHRMC will provide, free of charge, interpretation and translation services, including interpreters for LEP and visitors to achieve effective communications.
- **Translation:** NHRMC will translate key documents relating to care and services for LEP patients, residents, and visitors.
- **Notice:** Notice of the availability of language assistance will be posted and provided in intake areas and other points of entry, including the ED and outpatient areas of the NHRMC system.

FOUR THINGS WE MAY NOT DO – EXCEPT IN EMERGENCY SITUATIONS!

- 1) **NEVER** require an individual with LEP to provide his or her own interpreter.
- 2) **NEVER** rely on staff other than qualified bilingual/multilingual staff to communicate directly with individuals with LEP.
- 3) **NEVER** rely on an adult accompanying an individual with LEP to interpret, except: **a)** in an emergency; or **b)** where the individual with LEP specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide the assistance, and reliance on that adult is appropriate under the circumstances.
- 4) **NEVER** rely on a minor child to interpret or facilitate communication, except in an emergency involving imminent threat to the safety or welfare of an individual or the public.

In accordance with our commitment to providing excellent care, interpreters make it possible for staff to provide the same service and in a same manner to our Limited English Proficiency patients as we do to native English speakers.

Corporate Compliance Hotline:
1.800.348.9847 or
www.MyComplianceReport.com
Access ID: "NHR"

INCIDENTAL DISCLOSURES AND THE HIPAA PRIVACY RULE

The HIPAA Privacy Rule and the Office for Civil Rights (OCR) (enforcer of HIPAA) understands that many customary health care communications and practices play an important or even essential role in ensuring that individuals receive prompt, effective, high quality health care.

An incidental use or disclosure is a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Rule.

Due to the nature of these communications and practices and the various environments in which individuals receive healthcare or other services from covered entities, the potential exists for an individual's health information to be unavoidably overheard and the Rule allows for these incidental disclosures.

The HIPAA Privacy Rule is not intended to prohibit providers from

INCIDENTAL DISCLOSURES AND THE HIPAA PRIVACY RULE (CONT'D)

talking to each other and to their patients. The Rule exempts treatment disclosures from certain requirements, intended to ensure that providers' primary consideration is the appropriate treatment of their patients. The Privacy Rule recognizes that oral communications often must occur freely and quickly in treatment settings, and unavoidably be overheard.

The HIPAA Privacy Rule is not intended to impede these customary and essential communications and, thus, does not require that all risk of incidental use or disclosure be eliminated to satisfy its standards.

REASONABLE SAFEGUARDS

Covered entities must have in place, appropriate and reasonable safeguards that protect against uses and disclosures not permitted by the Privacy Rule, as well as those that limit incidental uses or disclosures. Reasonable safeguards will vary from covered entity to covered entity depending on various factors specific to each covered entity.

INCIDENTAL DISCLOSURES AND THE HIPAA PRIVACY RULE (CONT'D)

SUMMARY

Protection of the confidentiality of patient health information by health care providers and professionals has long been, and continues to be, an important and required practice. However, there will be instances in the provision of care or performing other essential job duties, of being unavoidably overheard. It is our responsibility to be aware of our surroundings and practice the use of reasonable safeguards, when doing so will not adversely affect the care of the patient but can help avoid an incidental disclosure of our patients' protected health information.

Source: Office for Civil Rights, HIPAA Privacy, www.hhs.gov/hipaa

HIPAA STATS, July – August 2020

	Violations	Inadvertent Breaches
NHRMC & PMH/HC	15	11
NHRMC PG	2	4
Business Partners	0	0

HIPAA violations are addressed according to the HR Policy, "Progressive Discipline."



Compliance

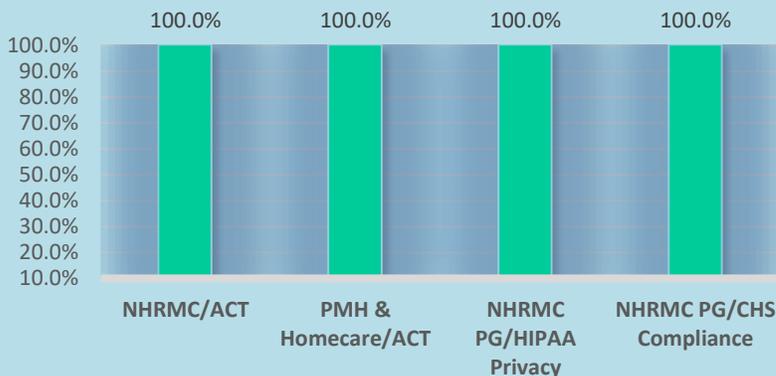
CAPSULES

ANNUAL COMPLIANCE & PRIVACY EDUCATION FY 2020

FY 2020 mandatory computer-based learning modules were due for completion **by August 1, 2020**. FY20 completion rates for compliance and privacy modules will be reported to the Compliance Committee and the Board.

FY20 Annual Compliance and HIPAA Privacy Training

Goal: 100%



COMPLIANCE QUIZ FOR MOVIE TICKETS

Email Your Responses to Robin Pearsall by October 31, 2020

- Which policy instructs employees on interpreters?
- What does LEP stand for and what is the definition?
- True or False: If you work with someone that speaks Spanish & English, it is fine to ask them to interpret for your Spanish-only speaking patients, even if it is not an emergency.
- True or False: Potential exists for an individual's health information to be unavoidably overheard at times. The Privacy Rule allows for these incidental disclosures.
- True or False: The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients.

Congratulations to Melissa Griffin, winner of movie tickets for the June 2020 newsletter!

"Live so that when your children think of fairness, caring and integrity, they think of you."

H. Jackson Brown, Jr.