*“Washing one’s hands of the conflict between the powerful and the powerless means to side with the powerful, not to be neutral.”*, Paulo Freire

**Legal Requirements and Guidelines Surrounding Interpretation**

**Interpreter Issues and Resources** (excerpts from Vermont Medical Society’s website)

www.vtmd.org/interpreter-issues-and-resources#lep

Vermont physician practices are required under federal and state laws to provide interpreters for patients with limited English proficiency and for those who are deaf or hard of hearing. There are very limited exceptions, discussed below.

Use of interpreters or translation services may be necessary to ensure that patients can give informed consent. There are several sources for interpreters that physicians can use, including phone-based interpreters, in-person interpreters and online translation services.

Vermont’s Medicaid program does reimburse physicians for the cost of providing an interpreter to patients.

**Patients with Limited English Proficiency (LEP)**Q: What are the legal requirements for a physician practice to provide language interpretation services for patients with limited English proficiency (LEP)?
A:The following is a summary of applicable federal and state laws.

Civil Rights Act/Affordable Care Act
Title VI of the Civil Rights Act of 1964 states that no person shall be subjected to discrimination on the basis of race, color or national origin under any program or activity that receives federal financial assistance.  [42 U.S.C.A. § 2000d.]

In 2003 the Department of Health and Human Services issued “Guidance to Federal Financial Assistance Recipients” Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” to clarify the responsibilities of health care providers under Title VI.

Under Title VI and Section 1557, practices must ensure that they **take reasonable steps to provide meaningful access to each individual with limited English proficiency eligible to be served.**

There is no one-size-fits all solution for the type of interpretation (verbal) or translation (written) services that must be provided by the practice and HHS acknowledges that the services provided by a large facility may not be appropriate for a small practice. For verbal interpretation, practices can consider options including hiring bilingual staff, using in-person interpreters or contracting with phone or video interpretation services. Written translation can range from translation of an entire document to translation of a short description of the document to an oral translation by an interpreter. Practices should conduct a review to determine if specific “vital” documents or portions of documents should be translated into the language of any frequently-encountered LEP groups.

Language access services must be provided **free** of charge, be **accurate** and **timely**, and **protect the privacy and independence** of the patient; a patient cannot be required to provide his or her own interpreter.

**Interpreters and translators must also be qualified**. Bilingual staff, interpreters and translators must all adhere to ethical principles, including confidentiality, demonstrate proficiency in the appropriate languages and be effective, accurate and impartial.

**Adult family** can **only** be used in **emergencies** involving an imminent threat to health or safety and when no other interpreter is available OR if the patients specifically requests the family member and it is appropriate under the circumstances. In many circumstances, family members are NOT competent to provide quality, accurate interpretation. **Minor children** can only be relied on if there is an imminent threat to safety or health.  **Interpretation over video** must be capable of providing high quality images.

Under Section 1557, practices also have procedural requirements regarding non-discrimination. Beginning October 16, 2016 practices need to post a notice of non-discrimination in English and shorter “taglines” in non-English languages regarding the availability of language assistance services (1) in their practice, (2) on the practice website and (3) in any significant publications or communications. Practices employing 15 or more individuals also need to create a grievance procedure and name a compliance coordinator for Section 1557’s requirements, effective July 2016.

**Vermont Patients’ Bill of Rights (18 VSA § 1852)**In a hospital inpatient setting, “a patient who does not speak or understand English has a right to an interpreter if the language barrier presents a continuing problem to patient understanding of care and treatment.” Failure to comply with any provision of the Patients’ Bill of Rights may constitute a basis for disciplinary action against a physician by the Board of Medicine.

**The Need for Interpretation Services**Q: Is there a need for language interpretation services in the Vermont population?
A: According to US Census data released in October 2015, Vermont had roughly 31,000 people over the age of 5 listed as speaking a language other than English and close to 9,000 who spoke English “less than very well.”  The top 15 language spoken “less than very well” are: French (1,806 speakers), Spanish (1,473), Vietnamese (752), Chinese/Mandarin (650), Nepali (570), Serbocroatian (Serbian language) (455), German (305), Cushite (Oromo language - African) (275), Arabic (168), Russian (168), Tagalog (131), Italian (124), Thai (123), Japanese (121) and Portuguese (120).  They are followed by Korean (114), Serbian (110) and Russian (103).

Q: Is there a need for interpretation services for patients who are deaf or hard of hearing in Vermont?
A: According to the 2014 American Community Survey, conducted by the US Census Bureau, of the approximately 620,000 people living in Vermont, 181 under the age of 5, 10,000 between 18-64 and 15,000 over the age of 65 have a hearing difficulty.

For more information: [www.lep.gov](http://www.lep.gov)