First, Do No Harm: Providing Meaningful Access to Healthcare for Limited English Proficient Patients in Rural Georgia[1]

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I. Intro

Georgia is the largest state east of the Mississippi River with 159 counties, but 35 percent of its population is centered in the five major counties in metropolitan Atlanta. Georgia Legal Services Program (GLSP) "is a non-profit law firm offering legal services to Georgians with low incomes who live in the 154 counties outside Metro Atlanta. We handle cases involving domestic violence, housing problems, access to healthcare, elder law, and school problems, among others. We advocate for the rights of our clients to be safe from violence, to have decent affordable housing, to get needed health care, to have decent schools for their children, and to rely on society's safety net when they are in need. GLSP helps clients to overcome barriers to opportunities out of poverty, and delivers on our nation's promise of justice for all."[2]

In 2003, GLSP launched its Latino Outreach and Education Initiative (LOEI) to address the socio-cultural and language barriers that prevent full access to justice and opportunities out of poverty for Latinos with low incomes.[3] Ten years later, our advocacy has assisted over 16,000 Latino individuals and families in having opportunities for a better way of life. The most common legal issues faced by our Latino clients include denial/termination of public benefits (e.g., Medicaid), domestic violence, divorce, and name changes/birth certificate corrections. Limited English proficiency often plays an integral role in the exacerbation of these issues. An individual who is "Limited English proficient" (LEP) is someone who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.[4] The term "LEP" includes individuals who are deaf and communicate using American Sign Language (ASL) or other recognized form of sign language.

II. Cultural Competency: Birth Certificates of Children with LEP Parents and Language Access in Georgia Hospitals

A. Traditional Latino Naming Practices

In the Latino culture, it is common to give children two surnames. Generally, the first surname is the paternal surname of child's father and the second surname is the paternal surname of the mother. For example, Juan R. Lopez Garcia and Maria J. Torres Gonzalez have a child they name Gabriel. Gabriel's full name would read Gabriel Lopez Torres with "Lopez Torres" being his last name. Due to a lack of understanding regarding Latino naming practices, the second surname is often left off of the child's birth certificate. Alternatively, the first surname is frequently listed as the middle name and only the second surname listed as the last name. We also frequently see that where the parents are married, the mother is given the surname of the husband despite the fact the woman has not changed her name following traditional Latino custom.

We have represented hundreds of children whose birth certificates contain errors that could have been avoided if there were more awareness of Latino culture/traditional Latino

naming practices. Some clients have shared they were told by hospital staff they were not "allowed" to give their child more than one surname. Our clients' parents frequently first find out that errors exist when they try to obtain dual-citizenship for their child and their native country's government rejects the American birth certificate. For example, the Mexican government and several Latin American countries do not recognize the American suffixes of "Jr., Sr., or III." Similarly, these countries do not recognize hyphens between the two surnames (e.g., Lopez-Torres). Hyphenation is regarded by many Latin American governments as a typographical error. In Latin American culture, a hyphen is traditionally used to denote a space between two words. It is not considered a character to be permanently included in the last name, such as in American culture. Another common error is the inclusion of only one of the parent's surnames on the child's birth certificate if the parent has two surnames. For example, it would be incorrect to list Mr. Lopez Garcia, mentioned earlier, as "Juan R. Lopez" instead of "Juan R. Lopez Garcia." It is important the parents' information on the child's birth certificate appear just as it does on the parent's original birth certificate or valid passport (foreign or American).

In Georgia there are two main avenues for modifying erroneous information on a birth certificate. The nature of the error will determine whether the modification may be achieved administratively or in a court of law. *Any* change to the name of a child who is over one year old requires a court order.[5] This includes removing a hyphen that has been erroneously placed between the two surnames. As one can imagine, the legal fees associated with having to go to court often creates an additional financial burden on poor families. Most changes to the parents' information may be modified administratively with the requisite documentation (e.g., valid passport or original birth certificate showing the parents' information as it should appear). Administrative modifications also have associated fees.

Many of the errors on birth certificates often are a result of the lack of language access available at hospitals, particularly in rural areas where non-English speaking communities are not as common or as large as in metropolitan Atlanta. Specifically, our clients share that they are often not provided with a competent interpreter and have difficulty communicating with hospital staff. Many of our clients share that they were not aware of their right to language access services and had they been informed, they would have elected to utilize those services. Many of our clients do not possess the requisite literacy skills and formal education to understand effectively the forms they are required to read and sign, even if the forms have been translated into their primary language. As a result, many LEP patients rely on having adequate interpretation and translations services in order to have meaningful access to healthcare for themselves and their loved ones. With the recent closings of several hospitals in rural areas and the prediction that more will soon follow,[6] it is critically important that all remaining rural-area hospitals are providing adequate language access services to the LEP patients dependent on receiving medical treatment from their facility.

B. Language Access in Georgia Hospitals

Hospitals and other health care providers are encouraged to consider that studies show that efficient language access is good for a health care provider's bottom line. In a national study of more than 2,700 limited English-speaking patients, researchers found that language barriers between patients and health care providers result in longer hospital stays, more medical errors and lower patient satisfaction.[7] Additionally, studies show supports for effective communication do not only benefit the needs of the patient, but equally benefit the needs of the care providers and the hospital.[8] Studies show that several hospitals have invested in language access services to improve communication because they recognized that

the lack of available interpreters potentially contributed to patient flow problems, overuse of certain tests, and unnecessary readmissions.[9] In a nutshell, "patient access to adequate translation and interpretation services can boost a hospital's bottom line."[10] "Effective communication means fewer duplicated tests and examinations the patient, hospital and, when present, insurer bear. Discharge instructions, including prescription drug directions, are more likely to be followed, thereby decreasing the chance of a preventable readmission and the cost associated with that readmission."[11]

In addition to increasing their bottom line, health care providers should also keep in mind that language access is required of all hospitals receiving federal and certain state funds. Pursuant to Title VI of the Civil Rights Act of 1964, all health care providers receiving federal funds, including private doctors, are required to provide language access services at no cost to their LEP patients. Furthermore, with most Georgia hospitals receiving funds from the Indigent Care Trust Funds (ICTF), those hospitals have additional authority requiring them to provide interpreter services at no cost to their LEP patients.[12] ICTF expands Medicaid eligibility and services, supports rural health care facilities that serve the medically indigent, and funds primary health care programs for medically indigent Georgians.[13]

Approximately 145 private and public hospitals participate in Georgia's ICTF program.[14] In exchange for receiving that money, participating hospitals are required, among other things, to post signage in languages appropriate for their patient base; particularly the top four languages of patients served at their hospitals as well as provide materials related to financial assistance in relevant languages.[15] In a review of facilities, though, only a few provided information in varying languages.[16] In the most recent survey of approximately 95 websites for Georgia hospitals participating in the ICTF, only about one-sixth had any information on available financial assistance programs in a language other than English.[17] Additionally, the latest studies revealed that no Georgia hospital website provided information on available assistance programs – or any hospital program – in a language other than English or Spanish.[18]

Meaningful access to healthcare is just as important as keeping a roof over our heads or food on our tables. However, limited financial resources coupled with living in a rural area and limited ability, if any, to communicate in English creates a prescription for inadequate access to healthcare for LEP patients. We encourage rural health care providers to assess the need for language access services needed by the communities they serve and implement a formal plan for serving LEP patients, if such a plan has not already been implemented. The U.S. Census Bureau recently released an interactive mapping tool that pinpoints the wide array of languages spoken in homes across the nation and also provides a detailed report on rates of English proficiency and the growing number of speakers of other languages.[19] The tool includes several languages and zoom capacity, so the user can zoom in onto a very local area.

Once the need for language access services is properly assessed, rural health care providers may want to look into contracting with a professional interpretation/translation service. Remote interpretation, including video and telephonic methods, can assist rural health care providers in having access to qualified interpreters. These methods are particularly helpful in connecting with interpreters who can speak indigenous or other rare languages spoken in the local community. However, when using remote methods, health care providers must ensure that the security of the network or system being used meets regulatory standards [20] For example, Skype currently does not meet the regulatory standards.[21] Under these

guidelines, remote language access service providers would have to meet the forty-four (44) requirements from the HIPPA Security Final Rule.[22] Organizations such as Georgia Partnership for TeleHealth[23] or the Georgia Rural Health Association[24] may be able to assist rural healthcare providers with identifying reputable remote language assistance service providers who meet regulatory standards. However, it is important to note that use of an in-person interpreter is always preferred over the use of a remote interpreter, whenever possible, because communication is more effective when it can be provided face-to-face. We also encourage rural health care providers to become acquainted with the Georgia Legal Services Program regional office that services their area.[25]

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[1] Portions of this article are adapted from Edmondson, Jana J. and Krisher, Lisa J. "Seen but Often Unheard: Limited-English-Proficiency Advocacy in Georgia," 46 Clearinghouse Rev. 343 (Nov.-Dec.2012).

[2] Civil Justice: Newsletter of Georgia Legal Services Program (Spring 2013), p.2 *available* at http://www.glsp.org/wp-content/uploads/2013/08/GLSP-Spring-Newsletter.pdf (Last visited August 20, 2013).

[3] Civil Justice: Newsletter of Georgia Legal Services Program (Spring 2013), p.3 *available at* http://www.glsp.org/wp-content/uploads/2013/08/GLSP-Spring-Newsletter.pdf (Last visited August 20, 2013).

[4] *See*, www.lep.gov (Last visited July 30, 2013).

[5] Ga. Comp. R. & Regs. R. 290-1-3.25(6)(2009); O.C.G.A. §31-10-23(d)-(f).

[6] *See*, *"Latest Hospital Closing a Blow to Rural Residents,"* Georgia Health News available at http://www.georgiahealthnews.com/2013/08/latest-hospital-closing-blow-rural-residents/#more-29041 (Last visited August 26, 2013).

[7] Ngo-Metzger, Quyen. "Language Barriers Adversely Impact Healthcare Quality." *Journal of General Internal Medicine*, November 2007.

[8] The Joint Commission: *Advancing Effective Communication, Cultural Competence, and Patent-and-Family Centered Care: A Roadmap for Hospitals.* Oakbrook Terrace, IL: The Joint Commission, 2010. App'x B: Current Joint Commission Requirement

[9] Wilson-Stronks A., Galvez, E.: *Hospital, Language, and Culture: A Snapshot of the Nation Exploring Cultural and Linguistic Services in the Nation's Hospitals: A Report of Findings.* Oakbrook Terrace, IL: Joint Commission on Accreditation of Healthcare Organizations, 2007.

[10] The Georgia Hospital Accountability Project: Language Access at Hospitals (June 2011) *available at* http://www.georgiawatch.org/wp-content/uploads/2011/06/GW-HAP-Language-and-Access.pdf

[11] *Id*.

[12] The Joint Commission on Accreditation of Healthcare Organizations is responsible for enforcing this requirement.

[13] The Georgia Hospital Accountability Project – Language Access at Hospitals (June 2011) *available at* http://gahap.org/wp-content/uploads/2011/06/GW-HAP-Language-and-Access.pdf. (Last visited July 8, 2013).

[14] *Id*.

[15] *Id*.

[16] *Id*.

[17] *Id*.

[18] *Id*.

[19] *See*, "*New Census Bureau Interactive Map Shows Languages Spoken in America*" *available at* http://www.census.gov/newsroom/releases/archives/education/cb13-143.html (Last visited August 20, 2013).

[20] *See*, The HITECH Amendment to HIPPA (March 2013) available at http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf (Last visited September 6, 2013).

[21] *See*, How Secure is Skype Really - PC World *available at* http://www.pcworld.com/article/149119/skype.html (Last visited September 6, 2013). *See also*, Just When You Thought It Was Safe: Skype Vulnerabilities Emerge (2011) *available at* http://techcrunch.com/2011/07/15/just-when-you-thought-it-was-safe-skype-vulnerabilities-emerge/ (Last visited September 6, 2013).

[22] *See*, HIPPA Security Final Rule (January 2013) *available at* http://www.hhs.gov/ocr/privacy/hipaa/understanding/srsummary.html (Last visited September 6, 2013).

[23] *See*, http://www.gatelehealth.org/ (Last visited September 6, 2013).

[24] *See*, http://grhainfo.org/ (Last visited September 6, 2013).

[25] *See*, http://www.glsp.org/regional-offices/ (Last visited August 27, 2013).