

Health Information Compliance Alert

PRIVACY: Do NPPs Require A Skilled Tongue?

Sprechen sie notice of privacy? Covered entities aren't compelled to become linguists by HIPAA, but in certain areas throughout the nation, multilingualism is muy critico.

With non-English speaking populations soaring in some states, health care organizations in certain areas are becoming more and more vigilant about creating documents in languages other than English. One of the most important documents for patients to read and understand is the notice of privacy practices.

But the **Department of Health and Human Services** doesn't require non-English documents to be made available - it merely suggests that, in certain cases, it might be a good idea. Asked at a HIPAA Q & A forum a few months ago if the NPP should be translated into other languages or if an interpreter should be made available to translate the document, **Tom Grove**, vice president of **Phoenix Health Systems**, said while there was no requirement to translate the NPP, "If your facility routinely produces other documents in multiple languages, you probably should do so, otherwise, I would produce an English version and allow whatever translation services you use to translate the NPP if the patient asks."

While HHS doesn't demand multilingual documents, HIPAA isn't necessarily the only reg you should be concerned about when it comes to patient services. As **Gretchen McBeath**, an attorney with Columbus, OH-based **Bricker & Eckler**, points out, although HIPAA doesn't directly take on the issue of multilingual NPPs, Title VI of the Civil Rights Act of 1964 does.

McBeath says for CEs that receive federal financial assistance, they generally are required to provide publicly distributed material in the primary languages of those with limited English proficiency. Title VI provides that where a significant population of non-English speakers is eligible to be served or likely to be directly affected by a federally assisted program that needs information in a language other than English, the recipient should provide information in the language appropriate to that population.

McBeath says "if a provider has a large Spanish speaking population, then it would be good policy to have a Spanish notice available." But that rule of thumb doesn't mean much if, say, a Russian came into your hospital seeking treatment. In that case, a translation wouldn't be necessary.

And though HIPAA doesn't require it, many CEs are beginning to offer multilingual notices. **Tara Shewchuk**, system compliance officer at **Resurrection Health Care** in Chicago, says her organization has already prepared many patient documents in Spanish and Polish, and says. Resurrection is currently conducting a more detailed assessment of its patient population and will likely offer additional translation services in Vietnamese, Korean, Russian and Ukrainian in the coming months.

For CEs still struggling with this conundrum, it's important just to use common sense. If your organization is situated in an area that features many different languages, it would be wise to create an NPP in the languages most commonly spoken within your community. "If a practice has a number of people who speak another language, then they would be obligated to have [their NPP] in that language," advises **Allison Shuren** in the DC office of **Arent Fox**.

Shuren says the key word, though, is "reasonableness." That is, if you have only one patient who speaks Hungarian, you won't have to provide a notice specifically for him or her. In that case, she says, "you would rely on them to get a translator."

Several health systems are already going beyond the call of duty when it comes to multilingual NPPs and translation services. For instance, in a Q & A section its compliance department Web site, the **University of California at Davis**

Health System says "in order to promote good patient communication and to promote better understanding of patient privacy issues, the UCDHS will print the Notice of Privacy Practices in three languages - English, Spanish, and Russian. These languages represent the predominance of UCDHS patients and area demographics," adding that patients who require additional translation services may get help from its Interpreting Services department.

And the California Department of Health Services' **Medi-Cal** program recently released its own multilingual NPP. While the document is bilingual (English and Spanish), the NPP is also available in Arabic, Armenian, Cambodian, Cantonese, Farsi, Korean, Mandarin and other languages. The patient merely needs to request the privacy officer at the state's DHS to make the notice available in those languages. In addition to the multiple languages, the NPP is also available - again upon request - in Braille, large print, audiocassette and computer disk.

