

2.1.2 Effective Communication Documentation

(a) Policy

California Correctional Health Care Services (CCHCS) shall ensure effective communication (EC) is reached and documented when there is an exchange of health care information involving patients with a hearing, vision, and/or speech impairment; learning disability, developmental disability, and/or functional disability; Test of Adult Basic Education (TABE) reading score of 4.0 or less, which includes zero or no TABE score; and/or Limited English Proficiency (LEP), and in health care grievance communications with such patients. In the exchange of health care information and in health care grievance communications with such patients, the patients' primary method of communication shall be used. If necessary, the patients' secondary method of communication shall be used with the exception of patients needing a Sign Language Interpreter (SLI). Any assistance or accommodation provided, as well as how it was determined EC was reached, shall be documented. If EC is not reached, that shall also be documented.

(b) Purpose

To ensure EC is reached and documented when there is an exchange of health care information and in health care grievance communications.

(c) Applicability

This policy applies to all CCHCS and contracted staff who, in the performance of their duties, are required to communicate health care information with patients in the custody of California Department of Corrections and Rehabilitation identified in Section (a). This policy shall also apply to patient specific communication provided through health care grievance interviews, or health care grievance responses, rejections, or withdrawal letters.

(d) Responsibility

- (1) The Chief Executive Officer (CEO), or designee, is responsible for the implementation, monitoring, and evaluation of this policy. The CEO or designee shall ensure a Local Operating Procedure (LOP) is established to implement this policy and its corresponding procedure.
- (2) The Chief Executive Officer, or designee, is responsible to ensure staff receive training on EC and to review monthly SLI and EC audits of documented exchanges of health care information submitted by medical, dental, and mental health services, and health care grievance communications with patients identified in Section (a).

(e) Procedure

(1) Determining the EC need for the patient

- (A) Health care staff shall determine the primary accommodation or assistance required to reach EC by reviewing information in the following areas:
 1. Disability Effective Communication Systems
 2. Strategic Offender Management System
 3. Patient Health Information Portal
 4. TABE
 5. LEP
 6. CDC 128-B, General Chrono
 7. Electronic Health Record System
 8. Patient Summary
- (B) Health care staff shall consider whether additional steps are necessary to reach EC with a specific patient even if EC information is not identified in the areas listed above.
- (C) If the patient's primary method of communication is unavailable, staff shall provide the secondary method of communication and document the reason for the unavailability.

(2) Accommodation or Assistance

Health care staff shall provide the necessary accommodation or assistance to reach EC at each exchange of health care information with patients identified in Section (a). Accommodations may be facilitated by sign language interpretation, certified bilingual health care staff, certified bilingual California Department of Corrections and Rehabilitation staff, other certified contracted language interpreters, assistive devices, or other methods of assistance and accommodation.

(A) Assistive Devices

1. Health care staff shall, in the presence of the patient, determine the need for any assistive device(s). These assistive devices include, but are not limited to, the following:
 - a. Sound amplification devices (e.g., hearing aids)

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- b. Corrective lenses
 - c. Reading magnifier
 - 2. During an exchange of health care information with a patient, health care staff shall determine and document the presence and the efficacy of the assistive device(s).
 - 3. When a patient presents without his or her prescribed assistive device, health care staff shall document the reason and provide alternate methods of accommodation. The alternate method utilized during the encounter shall be documented.
 - 4. A patient reporting malfunctioning or lost assistive devices shall be referred to designated staff as identified in the LOP to assess or discuss repair or replacement of the assistive devices.
- (B) Accommodation or Assistance
- 1. A patient with hearing, vision, speech impairments and/or those with a TABE reading score of 4.0 or less, which includes zero or no TABE score, may require accommodations or assistance to reach EC. Assistance or accommodations shall be documented and may include one or more of the following:
 - a. Additional Time – The patient was given additional time to respond or complete a task
 - b. Equipment – Special Equipment was used to facilitate EC (Note the type of equipment used in the “Comments” section of the standard EC sticker, label, document, and/or health record.)
 - c. SLI – Sign Language Interpreter
 - d. Louder – The provider spoke louder
 - e. Slower – The provider spoke slower
 - f. Basic – The provider used basic language
 - g. Transcribe – Communication was written down (All written notes shall be retained.)
 - h. Other – Any other tool that was used to facilitate EC (Note the type of accommodation used in the “Comments” section of the standard EC sticker, label, document, and/or health record.)
 - 2. A patient with a documented learning disability; a TABE reading score of 4.0 or less, which includes zero or no TABE score; or determined limited English proficient shall be queried to determine his or her cognitive ability to engage in conversation and understand information presented during an exchange of health care information, health care grievance interview, and/or health care grievance communication. Through the query, health care staff shall determine the patient’s ability to understand and participate in the exchange of health care information. If no assistance or accommodation is needed, the reason shall be documented.
 - 3. Reading assistance may be provided (e.g., documents read aloud in the presence of the patient) and a determination made as to whether the patient understood during exchanges of health care information, health care grievance interviews, and when providing a health care grievance communication where the patient is developmentally disabled, visually impaired, has a documented learning disability, or a TABE reading score of 4.0 or less, which includes zero or no TABE score.
- (C) SLIs are required for exchanges of health care information with patients whose primary method of communication is American Sign Language.
- 1. SLI Services can be obtained through the following means:
 - a. Onsite State employee - SLI Services Support Assistant
 - b. Statewide State employee - SLI Services Support Assistant through conferencing application (e.g., Jabber)
 - c. Local contractors who provide SLI services
 - d. “On demand” Video Remote Interpretation (VRI) services
 - 2. If the patient refuses the assistance of an SLI, a CDC 7225, Refusal of Examination and/or Treatment, shall be completed and the EC documented on the form OR if the patient waives the assistance of an SLI, the waiver of SLI services shall be documented and staff shall employ the most effective form of communication available, including written notes. All attempts to accommodate the patient during the encounter shall be documented.
 - 3. In locked units (e.g., Administrative Segregation), during daily Psychiatric Technician rounds, if sign language interpretation is accomplished via video remote, custody staff shall escort patients to a private setting, away from the cell front where the patient can clearly visualize the SLI. If the patient refuses, the

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Psychiatric Technician shall refer the patient to a mental health clinician (refer to the Mental Health Services Delivery System Program Guide).

4. For exchanges of health care information requiring SLI, refer to the following tiered approach:
 - a. Use of onsite SLI Services Support Assistant, if no availability; then
 - b. Use of California Department of Corrections and Rehabilitation Statewide SLI staff through video remote, if no availability; then
 - c. Use local contractors who provide SLI services, if no availability; then
 - d. Use “on-demand” VRI services.
NOTE: Local contractors are not consistently obtainable at all institutions; these resources shall be utilized based on availability and operational need.
5. When existing institution SLI Services are unavailable following the tiered approach, staff can then utilize the “on-demand” VRI interpreters using the following steps:
 - a. Log into the approved equipment (e.g., tablet, laptop, or desktop computer) installed with a camera.
 - b. Open the SLI contract service link icon for remote video services.
 - c. Open the SLI Log on the desktop and enter required information.
6. When all above SLI resources have been addressed and determined not available, the reason the SLI was not utilized shall be documented, and the alternate method of accommodation provided shall be documented. When written notes are used, the written notes shall be retained.
NOTE: During Emergent situations, after business hours, on weekends and holidays, utilize “on-demand” VRI services (refer to Section (e)(2)(C)4.d.).
7. Security and Storage of “on-demand” VRI devices
 - a. Nursing staff shall be responsible for the security and storage of “on-demand” VRI devices.
 - b. “On-demand” VRI devices shall be stored and secured in accessible areas at all times.
 - c. Nursing staff shall maintain an Equipment Accountability Log (Appendix 1, “Sample” Equipment Accountability Log) to account for each time the “on-demand” VRI device is removed from the designated storage area.
 - d. “On-demand” VRI devices shall not be removed from the institution at any time.
 - e. In the event the SLI devices are not located, follow institutional protocol for missing equipment.
8. During each shift, nursing staff shall document that equipment and tools are accounted for during their daily tool control accountability checks and ensure the following:
 - a. “On-demand” VRI devices are powered up and internet connectivity verified.
 - b. “On-demand” VRI devices are fully charged and have available power strips.
 - c. Equipment is checked with identified tool inventory.
9. Monthly audits of all SLI encounters shall be conducted by Field Operations, Corrections Services.
 - a. Any allegations of non-compliance shall be reported to the institution where the non-compliance occurred.
 - b. All allegations shall be placed on the DPP Allegation of Non-Compliance Log and an inquiry conducted.
 - c. A monthly SLI audit report shall be produced by Field Operations, Corrections Services.
 - d. Each institution shall have three calendar days upon receipt to verify audit findings.
 - e. The monthly audit data will be displayed on the CCHCS Dashboard for the “Effective Communication: Sign Language Interpreter (SLI) Provided” domain or other appropriate performance reports.

(D) LEP Services

1. Interpretation and translations service shall be provided to patients who have a limited ability to speak, read, write, and/or understand English. The LEP accommodation provided during each encounter shall be documented.
2. Each facility shall designate an LEP coordinator (usually the Americans with Disabilities Act or Litigation Coordinator) to ensure interpretation and translation services are available, current, and operational.
3. LEP services shall be made available through the following:

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- a. Telephonic interpretation service available 24 hours a day, seven days a week for staff requiring interpretation services for most commonly spoken languages used by non-English speaking patients.
 - b. List of certified bilingual staff and other local interpreters or interpreters from neighboring institutions or agencies competent to interpret and translate. Certified staff must provide the following: contact information, language(s) spoken, staff duty hours, and availability maintained by the LEP coordinator.
 - c. Collection of translated forms and documents which have been translated into commonly spoken languages available to staff.
4. The designated LEP coordinator is responsible for providing and posting the following in areas where health care services are provided:
- a. I-Speak cards, used to help identify LEP patients, and
 - b. Notice of Interpretation and Translation Service Information (Appendix 2), used to help identify the institution's bilingual staff and list of translated forms available.

(3) Documentation

- (A) Health care staff shall document or complete the EC section (e.g., sticker, label, document, and/or health record) when documenting exchanges of health care information and in health care grievance communications.
- (B) For face-to-face patient encounters, clinical staff need only document EC on one document completed during the encounter (e.g., Progress Notes). All other documents completed during the same encounter (e.g., Physician Orders) do not require documentation of EC.
- (C) Health care encounters that require EC documentation in the health record include, but are not limited to, the following:
1. Determination of the patient's medical history or description of the ailment or injury.
 2. Provision of the patient's rights, informed consent, or permission for treatment (including refusal of treatment forms).
 3. Diagnosis or prognosis of the ailment or injury (including upon the return from outside clinics).
 4. Explanation or response to questions from the patient concerning procedures, tests, treatment, treatment options, or surgery.
 5. Explanation or response to questions from the patient concerning medications prescribed (such as dosage, instructions for how and when to be taken, side effects, food or drug interactions).
 6. Blood donations and apheresis.
 7. Admit and discharge instructions.
 8. Post-procedure instructions.
 9. DKD (requires dialysis) class members receiving dialysis treatment.
 10. Triage and Treatment Area return following discharge from an outside hospital. Patient has/should have received orders from the discharging hospital. If he/she did not, EC is to be provided upon arrival to inform the patient of explanation of discharge and when orders are reconfirmed with a CCHCS provider.
 11. Provision of mental health evaluations, group and individual therapy, including psychiatric technician rounds, Interdisciplinary Treatment Team meetings, and all therapeutic activities, educational counseling including self-care instructions.
 12. Nursing behavioral checks for patient on suicide watch; any interaction to provide, share, or elicit information (e.g., Registered Nurse who does the assessments, discusses criteria for release from restraints, conducts range of motion, etc., does require EC documentation).
 13. Initial admit to an Outpatient Housing Unit, inpatient area, and nursing routine duties (e.g., call light, IV).
- (D) Clinical staff assigned to the inpatient unit shall document EC once per patient per shift (e.g., a Registered Nurse conducting rounds several times per shift would only need to document EC the first time conducting rounds.)
- (E) EC documentation shall include the following:
1. Disability Code – A patient may have a documented disability, multiple disabilities, a TABE reading score of 4.0 or less, which includes zero or no TABE score, a learning disability, developmental disability, and/or functional disability; or any combination thereof. It is only after a determination of the patient's disability, disabilities, and/or cognitive ability, that a conclusion can be drawn as to the

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patient's disability, disabilities, and/or cognitive ability, that a conclusion can be drawn as to the accommodation(s) or assistance required in order to establish EC. The disability codes include the following:

- a. TABE less than or equal to 4.0, which includes zero or no TABE score
 - b. DPH – Permanent hearing impaired
 - c. DNH – Permanent hearing impaired; improved with hearing aids
 - d. DPS – Permanent speech impaired
 - e. DPV – Permanent vision impaired
 - f. DDP – Developmental Disability Program
 - g. LD – Learning Disability
 - h. Not Applicable – No Disability
2. Accommodation – The accommodation or assistance is determined by the patient's disability and/or cognitive abilities. Each checkbox under this category is an EC attribute related to a disability identifier in Column 1 of the EC label and includes the following:
- a. Additional Time – The patient was given additional time to respond or complete a task
 - b. Equipment – Special Equipment was used to facilitate EC (Note the type of equipment used in the “Comments” section of the standard EC sticker, label, document, and/or health record.)
 - c. SLI – Sign Language Interpreter
 - d. Louder – The provider spoke louder
 - e. Slower – The provider spoke slower
 - f. Basic – The provider used basic language
 - g. Transcribe – Communication was written down (All written notes shall be retained.)
 - h. Other – Any other tool that was used to facilitate EC (Note the type of tool used in the “Comments” section of the standard EC sticker, label, document, and/or health record.)
3. Effective Communication - Health care staff shall document the assessment method that validated the patient understood or did not understand the health care information as well as the corresponding EC checkboxes:
- a. Reached – EC validated
 - 1) Patient asked pertinent questions pertaining to the exchange of health care information
 - 2) Patient summarized the exchange of health care information in his or her own words
 - 3) Other: Elaborate in the “Comments” section
 - b. Not reached – EC not validated
 - 1) Other: Elaborate in the “Comments” section
4. Written notes with health care information exchanged between a patient and health care staff in the absence of an SLI shall be retained with the EC documentation.

(4) Accountability

(A) Monthly health record audits shall be conducted to determine compliance with the EC policy.

1. The audit sample shall include medical, dental, and mental health encounters.
2. The audit sample shall include health care grievance documents and health records of patients with hearing, vision, speech impairments, a documented LD, a DDP code and/or those with a TABE reading score or 4.0 or less which includes zero or no TABE score.

(B) EC documentation shall be deemed deficient if absent or incomplete.

(C) EC documentation deficiencies shall be reported in accordance with the Health Care Department Operations Manual, Section 5.1.5, Disability Placement Program and Developmental Disability Program Staff Accountability.

(5) Local Operating Procedures

Institutions shall establish an LOP to implement the statewide procedure and submit to the Health Care Regulations and Policy Section at HealthCareDOM@cdcr.ca.gov for submission to Field Operations, Corrections Services, and the applicable Regional Health Care Executive for content review prior to local implementation or distribution.

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Appendices

- Appendix 1: “Sample” Equipment Accountability Log
- Appendix 2: Notice of Interpretation and Translation Service Information

References

- Armstrong Injunction Order, *Armstrong v. Newsom*, United States District Court of Northern California, January 18, 2007
- Armstrong Order Granting Motion for a Further Enforcement Order and Denying Motion to Hold Defendants in Contempt of Court, *Armstrong v. Newsom*, United States District Court of Northern California, June 4, 2013
- Armstrong Remedial Plan, *Armstrong v. Newsom*, United States District Court of Northern California, Amended January 3, 2001
- Clark Remedial Plan, *Clark v. California*, United States District Court of Northern California, March 1, 2002
- Health Care Department Operations Manual, Chapter 5, Article 1, Section 5.1.5, Disability Placement Program and Developmental Disability Program Staff Accountability
- California Department of Corrections and Rehabilitation, Division of Correctional Health Care Services, Mental Health Services Delivery System Program Guide
- I-Speak Cards, <http://www.lep.gov/resources/OhioLangIDcard.pdf>

Revision History

Effective: 12/2010

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Appendix 1
“Sample” Equipment Accountability Log
“On-demand” Video Remote Interpretation Device

Designated Area: _____

Month/Year: _____

| Date | Location for Use of Device | Check-Out Time | Print Name and Title | Check-In Time | Print Name and Title |
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Appendix 2

Interpretation and Translation Service Information

As a recipient of federal funds, the California Department of Corrections and Rehabilitation (CDCR) is committed to complying with the requirements of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin, including limited English proficiency, by recipients of federal financial assistance. CDCR takes reasonable steps to facilitate effective communication with non-English speakers or limited English proficient inmates, in order to comply with its responsibility to provide meaningful access to such inmates. This notice serves as a reminder to all staff and inmates of existing policy.

Where an inmate is not a native English speaker, staff should utilize appropriate methods to determine the inmate's primary language, if unknown. Methods include relying on the inmate's own ability to relay this information, coordinating with other English speaking persons who speak the same language, reviewing the CDCR Form 128-G, Classification Chrono in inmate's Central File, consulting with the institution's Limited English Proficient (LEP) Coordinator, utilizing the "I-Speak" cards located in the control booth or officer's station, enlisting the assistance of the facility's contract telephonic interpretation service to identify primary language, etc. Where the inmate is unable to read, write, speak, or understand English fluently, staff should obtain oral interpretation and/or written translation assistance, as appropriate.

The United States Department of Justice advises that language assistance is critical in, but not limited to, situations involving medical, due process, and safety and welfare issues.

For oral interpretation, staff should contact an immediate supervisor and request the use of a certified bilingual staff member. Consult the list, provided at the end of this notice, of individuals deemed by CDCR to be competent to provide language services. For telephonic interpretation 24 hours a day, 7 days a week, staff should contact the institution's designated emergency telephonic interpretation, or access to a telephonic interpreter after hours, staff should contact their watch commander. Whenever using an interpreter, institution staff must consider potential conflicts of interest between the interpreter and the inmate.

A list of general forms/documents translated into non-English languages is provided at the end of this notice. For translation of forms/documents written in non-English languages, or translation/interpretation of English language documents into non-English languages, staff should seek assistance from the institution's designated LEP coordinator or designated bilingual staff members, listed at the end of this notice, following appropriate institutional procedures. Oral interpretation of written documents is an alternative when translation is not possible.

Staff shall not use inmates to provide interpretation/translation services for interactions between inmates and correctional staff when such interactions involve medical, due process, safety and welfare issues, or the exchange of confidential information (for example, disciplinary hearings, classification committee actions, etc.).

The Warden's office has designated the following employee as the LEP coordinator. Please utilize this employee when questions arise regarding limited English proficiency services.

The designated LEP coordinator for this institution is:

Name & Title

Telephone Extension

Facility List of Competent Bilingual Staff that can provide interpretation and translation services:

| Name & Title | Languages | On Call |
|--------------|-----------|---------|
| | | |
| | | |
| | | |

Facility List of Translated Forms that are available at appropriate locations:

| Form | Language(s) |
|------|-------------|
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Warden