

## Barriers to Effective Communication

*By: Mallory Earley, J.D., Senior Risk Resource Advisor at ProAssurance*

To ensure an effective physician-patient relationship and provide quality care, you must be able to communicate with your patients.

Physicians may encounter difficulties in three situations: when a patient is hard of hearing, has limited English proficiency, or is illiterate. Federal law requires physicians to make reasonable accommodations for hard of hearing and Limited English Proficiency (LEP) patients. If proper accommodations are not afforded to these individuals, serious consequences, including medical professional liability lawsuits, can occur. Here are some risk management strategies which can be applied to reduce miscommunication with hard of hearing, LEP, and illiterate patients.

### **Hard of Hearing Patients**

The Americans with Disabilities Act (ADA) strictly prohibits any discrimination against individuals who are hard of hearing in places of public accommodation. Under Title III of the Act, a physician's office is defined as a place of public accommodation.<sup>1</sup> As such, it is required to make reasonable accommodations for hard of hearing patients. Since the standard is reasonable accommodation, there is not a bright-line rule which states what each practice must do for each patient. Appropriate accommodations will vary based on the circumstances of each patient's case and his or her needs. For example, one patient may want to write notes to facilitate communication with the provider while another may require a qualified sign-language interpreter for every visit.

Discuss communication preferences with hard of hearing patients in advance. Their options can include: a qualified interpreter on site, note taking, computer-aided transcription services, or devices such as telephone handset amplifiers and Telecommunications Devices for the Deaf (TDDs). If you have a large number of hard of hearing patients it may be effective to hire an interpreter. Then set aside a block of time when the interpreter will be present to accommodate these patients.

Regardless of the method of assistance your patient chooses, ensure the type of aid to facilitate communication is accurate, effectively conveys medical terminology, and maintains the patient's confidentiality of protected health information.

### **Limited English Proficiency (LEP) Patients**

Another breakdown in communication can occur with LEP patients. Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, or national origin. This Act requires physicians to ensure that non-English speaking patients have equal access to healthcare.<sup>2</sup> You and your office staff need to take reasonable steps to make sure LEP patients have meaningful access to care.

Once you determine your office's need for language or interpreting services, choose the services that best meet your patient's needs and office's resources. Your practice may also want to include a preferred language section on office intake forms so patients can tell your practice if they require accommodation.

Your options for communicating with LEP patients can include: hiring bilingual staff if English is not the dominant language in your area; using a telephone or video conferencing interpretation service; contracting with companies to provide qualified interpreters who will come to your office; or written translation services.

Some patients ask their family or friends to translate which can be helpful. However, it remains the physician's responsibility to ensure that the communication is accurate and effective. For example, if minor children translate for a parent, they may lack the knowledge or maturity to effectively convey the medical information. An adult family member or friend may not be comfortable telling the patient certain information or could fail to tell the patient important items. In certain circumstances, referring the patient to a physician better suited to communicate with the LEP patient could be an option. However, this does not need to be the sole method for accommodating LEP patients in your practice.

*Continued on page 3*



## PLEASE SUPPORT PROJECT ACCESS BY DINING OUT ON MAY 15TH!

In 2016, the Jefferson County Medical Society launched Project Access to connect volunteer physicians with indigent patients who lacked health insurance or access to other health resources. You can help support the program by eating at (or from) the Momma Goldberg's Deli located at 113 20th Street South on Tuesday, May 15, from 3-9 p.m. Tell them you are there to help support Project Access and a portion of your order will be donated to the program.

We need at least 20 people to commit to participate by May 12 in order for the event to occur. You can commit by clicking here: <https://www.groupraise.com/events/57999>

You can also support the program through the Project Access website at: <http://jcprojectaccess.org/donate> If you are interested in obtaining more information about the program or in serving as a medical advisor to the program, you can contact **Martha Wise** at [mwise@jcmsalabama.org](mailto:mwise@jcmsalabama.org) or **933-8601**.

*Thank you for your support!!!*

## ANOTHER BENEFIT OF MEMBERSHIP...

Under a rule adopted by the Alabama Board of Medical Examiners, as of January 1, 2018, physicians who hold an ACSC must obtain 2 *AMA PRA Category 1 Credits™* in controlled substance prescribing every two years. Physicians who are members of the State Association (and their county society) will be able to obtain the required credits through an on-line course that will be free of charge. The course meets the requirements of the new ABME rule and explains how the practitioner can more effectively understand the pharmacologic profiles for controlled drugs, identifies diagnostic criteria for appropriate prescribing and considers the therapeutic implications of substance abuse by individual patients.

The new course should be available on-line at [alamedical.org](http://alamedical.org) by the middle of May. We will notify our JCMS members when the course is available. If you plan to attend the Annual Session, it will also be offered live on Friday, April 13. You can register to attend the Annual Session at <http://www.alamedical.org/AnnualSession>

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Continued from page 1

As with any patient, the doctor must ensure accurate communication of any medical terminology. When using an interpreter, the physician should stress the importance of confidentiality and document in the medical record the type of interpretive services used.

### **Minimally Literate Patients**

Minimally literate patients may be difficult to identify in your practice. One article defines health literacy as “the degree to which individuals can obtain, process, and understand the basic health information and services they need to make appropriate health decisions.”<sup>3</sup> If patients cannot understand their medical information, they may be unable to follow their treatment plans, take medications as prescribed, or make educated decisions about their care. Some may turn to litigation to resolve their issues.

According to one estimate, nearly half of Americans have some type of limited ability to understand medical terminology and have difficulty understanding and acting on health information. Nearly forty million Americans cannot read complex medical texts, and ninety million have difficulty understanding them.<sup>4</sup> With training, your front office staff may be able to help identify and assist minimally literate patients at check-in. Patients who avoid filling out new patient information, miss appointments, or mishandle medications may have literacy challenges. They also may bring a family member along to read their paperwork, or say they have poor eye sight and forgot their glasses.

There are a few risk management tips when caring for minimally literate patients. Physicians and medical staff should avoid using complex medical terms. Instead of assuming a patient understands what has been said, physicians can ask questions and have the patient explain the instructions or care plan. Physicians can help minimally literate patients by using pictures or illustrations to assist patients in understanding treatment plans. If a patient brings a family member or friend to the appointment, enlist the help of the other person to aid in the patient’s comprehension. As with any patient, ask if he or she has questions at the end of the appointment. A little bit of extra time during the appointment could help prevent follow-up appointments or subsequent treatments and improve the health

of the patient. Ensure that your educational materials and forms are easy to read and understand. Use plain language in short sentences and avoid medical jargon.

### **Noncompliant Patients**

Noncompliant patients also can pose a risk management risk to a physician practice. These patients may miss scheduled appointments, not follow treatment guidelines, or ignore medical recommendations for further testing or scans. Although there can be many reasons for noncompliance, open and honest communications with the patient may help you reach a compromise.

Some patients may not follow through due to financial limitations.<sup>5</sup> Others may not understand the importance of compliance in their treatment goals. Regardless of the reasons, physicians and office staff must document any noncompliance in the medical record. Proper tracking and follow up procedures for missed appointments will indicate a potential problem with a patient that must be addressed. If the patient continues to be noncompliant with appointments or treatment options, the practice may consider dismissing the patient.

#### Sources:

1. Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).
2. Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (1964).
3. Nielsen-Bohlman et al., Health Literacy: A Prescription to End Confusion, Institute of Medicine (Eds. National Academies Press 2004).
4. Ibid.
5. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2912714/>

**Mallory B. Earley, JD**, is a Senior Risk Resource Advisor for ProAssurance. She researches legal and professional liability issues for insured physicians and other healthcare providers. Mrs. Earley is a licensed attorney who litigated domestic and civil cases in private practice. She obtained her BA in History and Psychology from Samford University and her *Juris Doctorate* from Cumberland School of Law at Samford University. She is an active member in the Birmingham Bar Association and the Alabama Bar Association.

## **Do you have a project or work that you could delegate to a motivated college student?**

Hillel Connections is looking for Summer Employment opportunities for University of Alabama undergraduate students. We want to attract UA students to live and work in Birmingham for eight weeks over the summer and to sell them on joining our community as a young professional. Potential candidates for your position will submit a resume and you can choose who to interview. This can be a “WIN” for students and for you! Let them help complete some of your backlogged tasks with minimal guidance. For more information or to contact us about opportunities you have available, please send us an e-mail at [Hillel.connections@gmail.com](mailto:Hillel.connections@gmail.com)

## Upcoming Events

- Apr. 13-14** The Medical Association of the State of Alabama's 2018 Annual Meeting and Business Session at the Renaissance Montgomery Hotel and Spa at the Convention Center
- Apr. 16** Executive Committee Meeting – 5:30 p.m.
- Apr. 17** The Wayne Finley 811 Breakfast Club Meeting – Ron Henderson, M.D., will speak on “Tenant Farmer’s Son” at 8:30 a.m. in the JCMS Board Room
- May 15** The Wayne Finley 811 Breakfast Club Meeting – The speaker will speak at 8:30 a.m. in the JCMS Board Room
- May 20** JCMS Annual Barons Event at Regions Field. The game begins at 3:00 p.m.
- May 21** Executive Committee Meeting – 5:30 p.m.  
Board of Censors Meeting – 6:30 p.m.
- June 18** Foundation Trust Meeting – 5:30 p.m.  
Executive Committee Meeting – 6:00 p.m.
- July 16** Executive Committee Meeting – 5:30 p.m.

Contact Juanita Pruitt at [jpruitt@jcmsalabama.org](mailto:jpruitt@jcmsalabama.org) for more information.

### Join Us for the JCMS Annual Barons Event



[Visit the Barons Website](#)

**Sunday, May 20, 2018**

**Regions Field**

**Game time: 3:00 pm**

**Birmingham Barons vs. Montgomery Biscuits**

**Meal will be served at 3:00 p.m.**

**Covered Patio Seating**

**No Charge to Attend for JCMS Members & Immediate Family\***

**RSVP by emailing Juanita at [jpruitt@jcmsalabama.org](mailto:jpruitt@jcmsalabama.org) or call 933-8601**

**Deadline to RSVP is Thursday, May 3 at 3:00 p.m.\*\***

\*Immediate family includes those family members who are residing in your household. Ticket packages can be purchased for additional guests. \*\*If your plans change and you will not be able to attend, please cancel by May 3 at 3:00 p.m. We have to guarantee our final number at that time, and are charged based on that number. If your reservation is not canceled in a timely manner and we cannot use your tickets for another member, you will be charged in accordance with JCMS Board policy.

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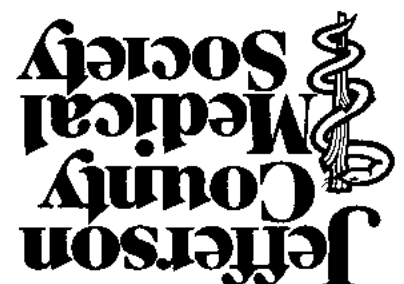
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