Response to House Concurrent Resolution 80 of the 2019 Regular Session of the Louisiana Legislature

Communication Services for the D/deaf, DeafBlind, and Hard of Hearing in Certain Healthcare Settings

Interim Summary of Findings

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LOUISIANA DEPARTMENT OF HEALTH

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Introduction

Hospitals and nursing homes are important points of critical services, providing essential care and support during significant life events such as births, emergencies, routine healthcare and long-term residential care. Basic interactions such as communicating with staff and asking questions about diagnoses and treatment are vital to ensuring effective and appropriate care. For individuals who are D/deaf[1], DeafBlind, and hard of hearing, these every-day and urgent interactions in hospitals and nursing homes can be complicated for both patients and providers due to communication barriers.

Access to communication services for individuals who are D/deaf, DeafBlind, and hard of hearing is integral for ensuring safe and equitable experiences in certain healthcare settings. With clear communication tailored to a patient's required form of accommodation, both patients and providers are able to clearly interact with one another. However, lapses in appropriate access to communication services can lead to significant misunderstandings while receiving medical treatment for patients. This can lead to unnecessary or counterproductive treatments, and puts patients at risk for adverse events or worse health outcomes due to language barriers or miscommunication[2].

The Americans with Disabilities Act (ADA) of 1990 requires healthcare facilities to provide reasonable communication accommodations to access patient services[3]. Individuals who are D/deaf, DeafBlind, and hard of hearing require different options for reasonable accommodation of their communications needs. The community is highly diverse in many respects, and no "one-size-fits-all" accommodation exists for the entire deaf and hard of hearing population in Louisiana. The goal of the ADA requirement is to ensure that communication with people with these disabilities is equally effective as communication with people without disabilities[4]. As a result, policies should address the distinct needs for effective communication in order to ensure safe and equitable care. Current concerns regarding communication access in Louisiana range from understanding the appropriate use of Video Relay Interpreters (VRI), creating patient communication plans, developing a qualified interpreter workforce, clearly understanding ADA requirements, as well as coverage for and efficient arrangement of communication services. While some of these identified concerns can be addressed relatively simply, others will require more substantial changes to policies and practices within facilities and at the state level.

Every individual has the right to safe and equitable healthcare in facilities such as hospitals and nursing homes. Factors such as inequitable communication deprive individuals who are D/deaf, DeafBlind, and hard of hearing of critical health information and quality healthcare. One member of the study committee shared that "we envision a world where Deaf people have unlimited access to the world. Whenever we are in our hospitals, wherever we pay our taxes, it is our community."

Patients, providers, and facilities all share a vested interest in understanding how to achieve effective communication in healthcare settings such as hospitals and nursing homes. This preliminary report summarizes challenges, successes, and potential model practices identified through two of three public meetings convened by the Louisiana Department of Health in accordance with House Concurrent Resolution 80 of the 2019 Regular Session of the Louisiana Legislature.

[1] The "uppercase D" Deaf is used to describe a particular group of people who share a language- American Sign Language- and a culture. The "lowercase d" deaf simply refers to the audiological condition of having hearing loss.
[2] https://www.bu.edu/sph/2018/10/11/healthcare-language-barriers-affect-deaf-people-too/
[3] https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm
[4] https://www.ada.gov/effective-comm.pdf

Section 1: Charges, Tasks, and Summary

Charges
In the 2019 Regular Session of the Louisiana Legislature, House Concurrent Resolution 80 established a study committee to review community experiences in certain healthcare settings as they pertain to the accessibility of healthcare services for individuals who are D/deaf, DeafBlind, and hard of hearing, and report their findings. In addition to these findings, this study committee aims to recommend options for cost-effective and patient-centered accommodations for d/Deaf/DeafBlind/hard of hearing individuals.

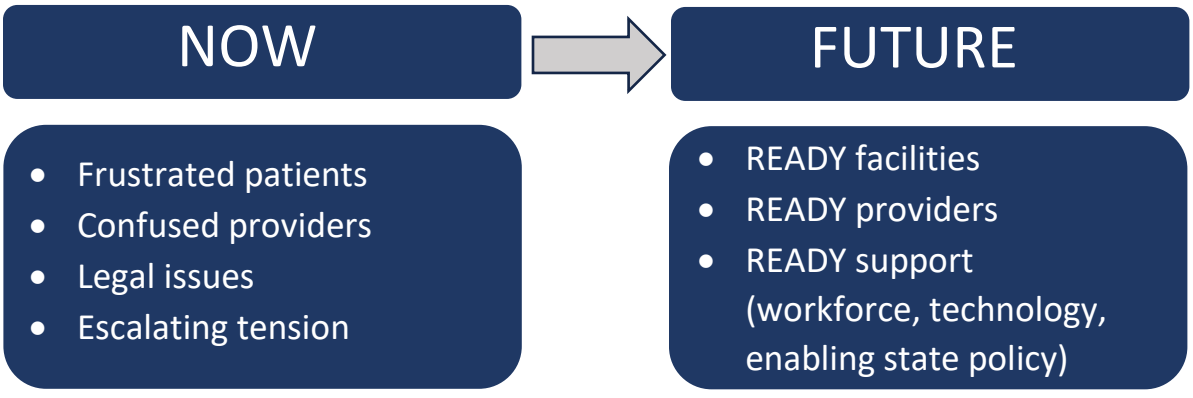
Tasks
The HCR 80 Study Committee of the 2019 Regular Legislative Session tasked thirty members, jointly appointed by the Louisiana Department of Health (LDH) in partnership with the LDH Louisiana Commission for the Deaf. The legislation requires the LDH to compile recommendations into a report to submit to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare no later than sixty days prior to the convening of the 2020 Regular Session of the Legislature of Louisiana. The study required two public meetings. This report reflects the preliminary proceedings from those two meetings, which illuminated the complexity of this issue and the need for more time to scope out recommended solutions that will have a lasting impact. Therefore, a third and final meeting will convene in February 2020 to finalize the recommendations from the study committee membership and a final recommendations report will be submitted to the legislature in February 2020.

Summary
On Monday, August 26, 2019, a preliminary planning committee gathered in Baton Rouge to review and clarify the legislative charges for the two required public meetings. During this meeting, individuals discussed the study requirements and methods to identify and gather all of the members to conduct the study.

The first required public meeting was held on October 9, 2019 from 9:00 am to 12:00 pm at the LDH Bienville Building-Room 118, 628 N 4th St, Baton Rouge, LA 70802. During this first meeting, committee members completed the following:

- Reviewed legislation and study requirements;
- Defined the major problems that prompted the study resolution;
- Heard testimonials about experiences in Louisiana facilities – both encouraging and challenging;
- Identified specific accessibility concerns and challenges facilities experience with providing appropriate communication access; and
- Started to frame a potential future-state.

Goal: Ensure effective communication in healthcare and nursing home settings



The second public meeting was held on December 3, 2019 from 12:00 pm to 3:00 pm in 118 Bienville. As a continuation of the previous meeting, committee members completed the following:

- Reviewed a summary of the overarching issues and potential solutions generated through the discussion and activities from the previous meeting;
- Provided feedback and clarity; and
- Submitted additional information to be included in the initial report.

Section 2: Initial Findings

"(The doctor) and his staff took the time to learn the ASL alphabet as well as a few phrases… I never experienced a doctor with enough enthusiasm to learn my language. The doctor was devastated to report to me the hospital would only provide video relay interpreting services for the birth of my child."

"I requested that the surgical team wear special clear masks that would allow me to lipread anyone in the room. Not only did they provide the masks, but they also let me wear my hearing aids during the surgery. I lipread (my doctor) announcing my daughter had my dark hair, followed by the sound of her first cry."

"When I went into the surgical room, the doctor wanted to say things to me. [They] were trying to speak to me. I wanted to have an interpreter, but they told me no. To me, that was very scary. Laying in a room with all the doctors scrubbed up. Imagine if you were laying in a room waiting for surgery and everybody is using sign language. If all the doctors were Deaf, you would be terrified."

The issues and recommendations generated during the first meeting that were discussed and refined in the second meeting encompass the following overarching issues:

1. Use of technology when may not be appropriate for the patient or resident's need.
2. There are gaps in the interpreter workforce, support and oversight.
3. Our systems do not make patient-centered communication "easy" to accomplish.
4. The costs of accommodations are reported as substantial and potential sources of reimbursement are unclear.

The tables below describe the issues and contributing factors, any relevant laws and policies, and the preliminary ideas generated by the committee. The preliminary ideas below in many cases do not yet specify what entity or entities should be responsible for implementation. In February 2020, the study committee will meet for a third and final time to develop fully proposed actions, identify who should be charged with the actions, and identify potential costs associated with the actions.

Section 2: Initial Findings, continued

Problem #1: Use of technology when may not be appropriate for patient/resident need		
Description of Issue and Contributing Factors	**Laws, regulations, and/or best practices addressing this concern**	**Preliminary Ideas Generated (not final or formalized)**
• There appear to be different understandings of "effective communication access" vs. "preference." There are perceptions that individuals may be requesting what they "*prefer*" rather than what is *necessary* for communication to be effective. • There are many different kinds of communication needs. It is not clear or easy to determine how to secure or implement necessary accommodations. • There are gaps in understanding about when Video Relay Interpreters (VRI) can or cannot be used. In some instances, providers lack adequate training on how to use technology effectively. • Technology does not always function properly, even when it is the appropriate accommodation and the workforce is prepared.	• Americans with Disabilities Act • Department of Justice: *[VRI must provide] real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication. [VRI must provide a] sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of [their] body position. [VRI must also provide] a clear, audible transmission of voices.* • Joint Commission PC.02.0121 "The hospital effectively communicates with patients when providing care, treatment, and services." • NAD Statement on use of Video Remote Interpreting (VRI).	• Support policies that allow patients to work collaboratively with patients when choosing the communication approach that is the most effective for them. • Provide and require sensitivity trainings for facilities and providers (cultural competency, practical communication cues, assessing needs, and ADA compliance). • Provide training in care systems around identifying different communication needs in emergencies vs. routine visits. • Provide "clarity trainings" for D/deaf and DeafBlind community regarding their rights under the ADA, including where/how to file complaints when necessary. • Provide trainings for D/deaf and DeafBlind community on how access communication services and practice self-advocacy.
Problem #2: Gaps in support and oversight for interpreter workforce		
• Lack of statewide, enforced professional standards for sign language interpreters (including ethical/skill level qualifications, certification, and/or licensure). • Insufficient workforce to provide quality interpreter services. • Lack of formalized training offered in the state (i.e. secondary education opportunities). • Lack of specialized interpreters for populations that need additional support (e.g. varying levels of language proficiency, tactile interpreting, etc.).	• Registry of Interpreter for the Deaf (RID).	• Create and implement licensing requirements for interpreters. • Enforce existing national guidelines for interpreters on a statewide level to address interpreter certification/licensing issues. Require annual trainings to provide necessary education to interpreter workforce. • Support ASL offered as a foreign language in schools to better prepare students who want to pursue interpreting training programs for secondary education. • Establish Interpreter Training Bachelor and Master degree programs in the state.

Problem #3: Patient-centered communication not easy to accomplish		
Description of Issue and Contributing Factors	**Laws, regulations, and/or best practices addressing this concern**	**Preliminary Ideas Generated (not final or formalized)**

• Lack of clear and reliable communication in healthcare settings due to diversity of language among the D/deaf and DeafBlind population.
• It is unclear who should be responsible for the logistics of providing necessary communication accommodations in both emergency and routine health settings (patient, provider, or facility).
	• NAD Statement regarding health care access for deaf patients.
	• Americans with Disabilities Act
	• The Joint Commission's Roadmap for Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care.
		• Explore novel approaches to efficient arrangement and payment of communication services that are convenient for both providers and patients.
		• Develop a communication/ language assessment for providers to use that identify patients' language needs (Sign Language Interpreter, written form of English, etc.).
		• Create information cards with communication needs and other information for patients to carry.
		• Increase supplemental facility accommodations such as:
		  ○ Clear masks to facilitate expressive communication.
		  ○ Braille labels on prescription bottles for DeafBlind (and Blind) patients.
		  ○ Pictures cards that allow patients to point to their needs.
		• Explore establishing a separate unit/facility specifically for D/deaf and hard of hearing patients.
		• Employ staff fluent in both American Sign Language (ASL) and medical terminology and procedures.
		• Support inclusive and equitable hospital policies for patients & providers, along with practical approaches and protocols for interacting with patients.
		• Promote communication-based compliance requirements for hospitals, nursing homes, etc.
		• Provide clarity trainings for D/deaf and DeafBlind community regarding their rights under ADA, including where/how to file complaints when necessary.
		• Provide trainings for D/deaf and DeafBlind community on how access communication services and practice self-advocacy.

Problem #4: Cost/Reimbursement for Services are substantial and unclear		
Description of Issue and Contributing Factors	**Laws, regulations, and/or best practices addressing this concern**	**Preliminary Ideas Generated (not final or formalized)**
• It is unclear how to pay for communication accommodation services, and unclear which services are covered (private insurance, Medicaid, Medicare, etc.). • There is a lack of clarity regarding who is financially responsible for providing interpreters in healthcare settings. • Statutes related to insurance coverage for interpreter services are not specific enough (RS 40:2208 and RS 22:245).	• RS 40:2208. • RS 22:245. • HCR 50 of 2019 Regular Legislative Session.	• Revise existing statutes to clearly require the Louisiana Medicaid program and commercial health insurers to reimburse healthcare providers the cost for interpreter services. • Ensure statutes are communicated to all healthcare providers statewide through annual trainings.

Section 3: Next Steps

During the second public meeting, it was determined that a third public meeting would be held for committee members to identify priorities from the preliminary ideas and recommendations for implementation. Included in this meeting will be identifying the appropriate bodies to own each recommendation and identifying costs associated with implementation of these recommendations. This public meeting will be held on February 3, 2020 in Baton Rouge to finalize recommendations and action steps that will be submitted to the legislature.

Prior to convening the third public meeting, committee members and supporting staff from the LDH OPH Bureau of Family Health will re-circulate existing recommendations to help members determine what action steps are needed to operationalize recommendations. Study committee members also requested information and data regarding the following in order to complete their recommendations:

- House Concurrent Resolution 50: study resolution concerning health insurance coverage of interpreter services for the D/deaf, DeafBlind and hard of hearing in healthcare settings.
- Data regarding reimbursement rates and interpreter costs.
- Information regarding existing statutes addressing interpreter services.

Section 4: Membership

Name	Representing	Public Meeting I Present	Public Meeting II Present
Dan Arabie	Deaf/DeafBlind/HoH Advocate	x	x
Melissa Bayham	Louisiana Commission for the Deaf		*(represented by Kevin Monk)*
Rebecca Beard	Louisiana Commission for the Deaf		
Maria Bowen	Louisiana State Medical Society	*(represented by Mary Beth Wilkerson)*	*(represented by Mary Beth Wilkerson)*
Henry Brinkman	Louisiana Commission for the Deaf		
Cecile Castello	LDH Health Standards	x	x
Dr. Vincent Culotta	Louisiana State Board of Medical Examiners		
Dustin Cutrer	Deaf/DeafBlind/HoH Advocate		
Richie L. Fraychineaud	Louisiana Commission for the Deaf		
Ernest Garrett III	Louisiana Commission for the Deaf	x	x
Jimmy Gore	Louisiana Commission for the Deaf	x	x
Mark Hebert	Louisiana Board of Examiners of Nursing Facility Administrators		
Jay Isch	Louisiana Commission for the Deaf	x	x
Candice LeBlanc	Louisiana Commission for the Deaf	x	
Mark Leiker	Louisiana Department of Health (Health Services Financing)	x	x
Dr. Karen Lyon	Louisiana State Board of Nursing		x
Dawn Melendez	Louisiana Commission for the Deaf	*(represented by Scott Huffman)*	x
Lee Mendoza	Louisiana Commission for the Deaf	x	x
Kevin Monk	Louisiana Commission for the Deaf	x	x
Lisa Potter	Louisiana Commission for the Deaf		x
Dr. Floyd Roberts	Louisiana Hospital Association		
Paula Rodriguez	Deaf Focus	x	x
Amy Shamburger	Deaf/DeafBlind/HoH Advocate	x	x
Iva L. Tullier	Louisiana Commission for the Deaf		
John Veazey	Deaf/DeafBlind/HoH Advocate		
Greg Waddell	Louisiana Hospital Association	x	x
Lemmie Walker	Nursing Home Association		
John Wyble	Louisiana State Nurses Association		

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