

Columbia Bioethics/ Columbia Law
CLE Program
Outline/ Timed Agenda
November 2nd, 2023
6:15-8:15pm

Title: Lost in Translation? Legal and Ethics Challenges Caring for Limited English Proficiency Patients

Program description:

Two decades ago, a grassroots community advocacy organization, **Make the Road by Walking** (Now, Make the Road New York), brought attention to the mis-treatment of patients with limited English proficiency (LEP patients) by holding protests outside two Brooklyn hospitals, and then filing formal complaints with the New York State Attorney General's office. They raised very legitimate concerns about the inadequacy of care being provided to LEP patients who, because of language barriers, could not communicate relevant medical history to their care providers, and could not receive information about their diagnosis, prognosis and treatment plans from those providers, resulting in clinically deficient care. In this continuing legal education program, we will describe the legal advocacy initiated by Make the Road by Walking (now Make the Road New York), review the legislative interventions that occurred immediately following that activism and discuss the status of interpretation services to LEP patients as a legally indispensable component of competent and clinically effective medical treatment. The program will close with a discussion of the professional ethical obligation of lawyers to educate and advocate regarding the compliance obligations to LEP patients that exists as a part of the standard of care for their healthcare clients.

- 1) How did provision of interpretation services become a standard of care issue?
What is the professional ethical obligation of lawyers to educate and advocate regarding the compliance obligation to LEP patients that exists as a part of the standard of care for their healthcare clients?

David N. Hoffman

6:15-6:30pm

- 2) The role of advocacy and organizing in changing the conversation about the legal duty to address health disparities.

Andrew Friedman

6:30– 6:50pm

- 3) What legislation has, and has not accomplished. What more can we, and should we do?

Jorge Rivera

6:50– 7:05pm

- 4) What is working, and how is it working, the interpreter's perspective.

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| Tracy Koss | 7:05-7:20pm |
| 5) How does it work, and how is it not working: The Physician/Hospitalist's perspective. | |
| Joyeeta Dastidar | 7:20-7:35pm |
| 6) How does the hospitals' compliance with legal and ethical obligations to provide interpretation and translation services look from the L.E.P. Patient's perspective | |
| Didi Sanchez | 7:35-7:50pm |
| 7) To what extent, if any, does the ethical obligation of clinicians to communicate effectively with LEP patients need further legal enforcement authority? | |
| Panel Discussion | 7:50-8:15pm |

Reading Materials (provided by hyperlink):

NY CLS Pub Health § 2803(1)(a)

<https://codes.findlaw.com/ny/public-health-law/pbh-sect-2803/>

New York State Hospital Patients' Bill of Rights

<https://www.health.ny.gov/publications/1500/>

U.S. Dept. of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 65 Fed. Reg. 50,123, 50,124 (August 16, 2000), available at: <http://www.usdoj.gov/crt/cor/Pubs/guidfr.pdf>.
<https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html#:~:text=Under%20that%20order%2C%20every%20federal,in%20any%20way%20in%20the>

HOSPITAL CARE IN NEW YORK: Enforceability of the Right to Meaningful Language Access, Linda Hassberg and Bradley J. Schloss November 10, 2011

https://empirejustice.org/resources_post/hospital-care-in-new-york-enforceability-of-the-right-to-meaningful-language-access/

The Legal Framework for Language Access in Healthcare Settings: Title VI and Beyond

Alice Hm Chen, MD, MPH¹, Mara K. Youdelman, JD, LL², and Jamie Brooks, JD³

¹Division of General Internal Medicine, San Francisco General Hospital, University of California, San Francisco, CA, USA; ²National Health Law Program, Washington, DC, USA; ³Center for Genetics and Society, Oakland, CA, USA.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2150609/>

Resolution Agreement Between the Office of the Attorney General of the State of New York and Wyckoff Heights Medical Center

[Click Here](#)

Speaker Bios

Andrew Friedman is Founding Director of the Initiative for Community Power at NYU School of Law. The Initiative is an ambitious, multi-faceted effort to combine the weight and assets of a global academic institution with the nimble, community-grounded tools of advocacy and organizing. Its goal is to catalyze understanding, innovation, and high-impact work in order to accelerate social change towards a more equitable, democratic, and racially just society. The Initiative combines scholarship, field-building, experiential education, academic convenings, internships and fellowships to examine inequality and anti-democracy, and the links between the two. The Initiative works to challenge and disrupt both.

Andrew is also a co-founder and Senior Director of Strategy for The Action Lab, a sanctuary for strategy and a gathering place to create a just future. To envision and realize the goal of freedom and dignity for all, the Action Lab generates opportunity—to rejuvenate, to dream, to build community, to learn, to create, to innovate, and to take courageous action. The Lab fosters cross-discipline, cross-movement spaces to lift out of the immediate, imagine our way decades into the future, expand our conception of what’s possible and build the collective muscle and connections to drive towards that vision.

Previously, Andrew was the founding Executive Director of the Center for Popular Democracy. The Center for Popular Democracy (CPD) promotes equity, opportunity, and a dynamic democracy in partnership with innovative community-based organizations, local and state networks, and progressive unions across the country. While at CPD, Andrew helped co-found Local Progress, a national network of thousands of progressive local elected officials.

Before CPD, Andrew spent fifteen years building Make the Road New York into the leading democratically-run, immigrant-led community organization in New York State. After co-founding Make the Road in 1997, Andrew helped grow the organization from a small, volunteer-run effort to an \$8 million organization with over 10,000 members, 100 staff, and four community-based centers in New York City and Long Island. Andrew helped oversee all aspects of Make the Road’s work, including organizing, legal services, adult literacy, workforce development, operations and finance departments of MRNY.

Andrew has been awarded the Union Square Award of the Fund for the City of New York, the Cornerstone Award of the Jewish Funds for Justice, and the Community Health Leaders Award of the Robert Wood Johnson Foundation. Andrew was a Skadden Public Interest Fellow, a Senior Fellow at the Drum Major Institute for Public Policy and a Wasserstein Fellow at Harvard Law School. He has worked as an adjunct professor in New York University School of Law’s Clinical Program, a lecturer-in-law at Columbia Law School and has taught at NYU’s Wagner School for Public Service, Cardozo School of Law and the New School for Social Research, and serves on the Board of Directors of Make the Road Action, The Action Lab, Local Progress, Hester Street, and the Editorial Advisory Board of The Forge. Andrew is a magna cum laude graduate of Columbia College and a cum laude graduate of the New York University School of Law.

Most importantly, Andrew is the overjoyed father of three spectacular boys: Guillermo, Matias and Maximo Friedman-Villegas.

Andrew is admitted to Practice law in the State of New York

Jorge Rivera-Agosto, Esq., MS, HEC-C

Jorge Rivera is the New York State Senate's Health and Health Insurance Associate Counsel. He is also an Associate of the Law and Bioethics course for Columbia University's Master of Science in Bioethics Program. He recently finished his Health Law and Medical Ethics Fellowship at Northwell Health. Before joining Northwell, he was a litigator in private practice. Jorge held positions in insurance companies, as well as the government. He has a Master of Science in Bioethics from Columbia University. Jorge has worked extensively with underserved communities in matters related to health care and immigration. Admitted to practice in New York State

David N. Hoffman is a health care lawyer and clinical ethicist. He is the former General Counsel and Vice President for Ethics & Compliance at a health system in Brooklyn, New York.

Prior to joining becoming general counsel he was a partner in the New York City law firm of Hoffman & Arshack P.C. where he provided counsel to hospitals, medical centers and individual practitioners in the New York City area, in medical litigation, bio-ethical decision-making and regulatory matters. He has served on and advised hospital ethics committees and institutional review boards. Mr. Hoffman has written on a variety of healthcare subjects including use of emerging medical imaging technology and equal protection rights of physicians in civil litigation.

He also currently teaches in the areas of law, medicine and ethics as Lecturer in the Bioethics Master's Program and Department of Psychiatry at Columbia University/ Columbia Presbyterian Medical Center and assistant professor at the Albert Einstein College of Medicine. He was a member of the faculty of the Montifiore Medical Center/N.Y.U. Pilot Certificate Program on Human Research Subject Protection.

He is a panel Attorney for the Surrogate Decision-making Committee of the New York State Department of Health, Commission on Quality of Care. Mr. Hoffman served as the Chair of the Committee on Bio-ethical Issues of the Association of the Bar of the City of New York (ABCNY), and as a member of the Committee on Professional Ethics of the New York State Bar Association. He previously served as the legislative liaison for the Special Committee on Medical Malpractice at ABCNY, where he authored the Association's policy statement on the National Practitioner Databank. He also chaired the ABCNY Sub-Committee on human transplant organ procurement.

Mr. Hoffman completed the pilot post-graduate program in Bio-Ethics and the Medical Humanities at the Columbia University College of Physicians and Surgeons and Albert Einstein School of Medicine. He is a member of the American Health Lawyers Association and the American Society of Bioethics and Humanities. Mr. Hoffman is a frequent lecturer on the interactions between law, medicine and ethics. Admitted to practice in New York State.

Tracy Koss is a National Board-Certified Spanish and French medical interpreter (CMI), Tracy works as a volunteer at Mount Sinai Hospital rounding with PICU and NICU medical teams and interpreting during ambulatory visits. With a passion for advocating and providing access to existing resources for the underserved and vulnerable, Tracy has worked extensively with Foster Care youth and as a CASA Court-Appointed Special Advocate for the Bronx Family Court. She serves as Community Dispute Resolution Mediator and as Special Education Mediator for the New York Peace Institute. Her fluency in Spanish qualified her to volunteer for the New Sanctuary Coalition, accompanying Spanish-speaking immigrants facing deportation to their ICE check-ins and immigration court hearings and assisting the undocumented with their asylum applications.

Tracy has dedicated herself to raising her two children. She grew up in Montreal, Canada, and lived in Spain and France. At Time-Inc, she was on the Publishing team that launched *People en Español*. She holds a Bachelor of Commerce degree from Concordia University in Montreal, Canada, and a *Diploma de Especialidad en Estudios Europeos, Especialidad Socio-Política* from Universidad de Deusto in Bilbao, Spain.

Dr Joyeeta Dastidar received her BS from Yale, her MD from Vanderbilt, and a dual Masters degree in Narrative Medicine and Bioethics at Columbia. She is a Hospitalist and Clinical Ethicist at New York Presbyterian-Columbia where she serves as a member of the Ethics Committee. She also has an interest in writing and has published on a variety of topics in clinical ethics and narrative ethics.

Mrs. Danurys (Didi) Sanchez is a Senior Research Staff Associate at the Taub Institute for Research on Alzheimer's disease and the Aging Brain and has been an aging researcher at Columbia University for the past twenty years. For the past fifteen years, she has been the Project Coordinator of a longitudinal study on memory and aging, the Washington Heights-Hamilton Heights-Inwood Community Aging Project (WHICAP), a community-based longitudinal study of aging and dementia which began enrolling patients in 1989 and has followed more than 8,000 residents over 65 years of age.

As the project coordinator since 2007, Ms. Sanchez has led initiatives to engage the Spanish-speaking and African American community in AD research, dissemination, and education on brain health. As she became more involved in community education, one of her most striking revelations was the limited knowledge on advance care planning throughout the target communities. Ms. Didi Sanchez is currently enrolled in the Masters' program in Bioethics at Columbia University's School of Professional Studies and endeavors to improve communication on end-of-life decision-making between physicians and patients through an ethical framework based on trust, professionalism, and compassionate care.