The Impact of Civil Rights Law on Diversity & Disparity in the Emergency Department
Conflict of Interest

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No Conflicts
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Objectives

1. Define Title VI of the Civil Rights Act
2. Discuss possible discriminatory actions under Title VI
3. Describe how OCR can address disparities resulting from bias
4. Partner with interdisciplinary teams Re: Title VI compliance issues
5. Strengthen physician advocacy re: healthcare disparities
Title VI of the Civil Rights Act of 1964

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”
Who Does Title VI protect?

Everybody

Title VI protects people of every race, color, or national origin from unlawful discrimination.
Discrimination

Discrimination If beliefs or attitudes affect the quantity or quality of the health care provided, then treatment may be discriminatory.
Unlawful Discrimination under Title VI

Recipients of Federal financial assistance (FFA) (ie Medicaid or Medicare) may not on the basis of race, color, or national origin:

• Deny or restrict an individual’s enjoyment of a service, aid or benefit under the program;

• Provide a benefit which is different or provided in a different manner; or

• Subject an individual to segregation or separate treatment
Unlawful Discrimination under Title VI (continued)

Recipients of Federal financial assistance may not on the basis of race, color, or national origin:

• Treat an individual differently in determining eligibility;

• Deny an individual an opportunity to participate in the program (including as an employee); or

• Deny an individual an opportunity to participate on a planning or advisory board.
Title VI and Limited English Proficient (LEP) Persons

Title VI and the implementing regulations: prohibits conduct that has a disproportionate adverse impact on the basis of national origin. Failure to provide LEP individuals meaningful access may constitute discrimination.

Health care providers may be required to provide language access services at no cost if necessary to ensure that persons are not discriminated against on the basis of national origin.
Title VI and Limited English Proficient (LEP) Persons

LEP individual:

a person whose primary language is NOT English and who has a limited ability to read, write, speak, or understand English.

For more information visit OCR’s webpage:
http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/index/htm
How can/do we violate Title VI in the ED?

• Thoughts from the Audience?

• Examples?
OCR’s Enforcement Responsibilities

• The HHS Office for Civil Rights ("OCR") enforces:
  – laws that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and religion by recipients of Federal financial assistance from HHS; and
  – the Privacy, Security and Breach Notification Rules under the Health Insurance Portability and Accountability Act ("HIPAA") that protects health information from improper use and disclosure.
OCR’s Enforcement Responsibilities (continued)

Section 1557 of the Patient Protection and Affordable Care Act:

- Prohibits discrimination on the basis of sex in federally funded health programs and activities.
- Identifies new forms of Federal financial assistance.
- Adds, to the existing prohibition of disability discrimination in HHS conducted health programs and activities, the prohibition of race, color, national origin, sex, and age discrimination.
OCR’s Enforcement Responsibilities

• OCR’s responsibilities include:
  - investigating complaints from the public;
  - conducting compliance reviews of health care facilities;
  - securing voluntary corrective action; and
  - initiating enforcement proceedings.

• OCR provides technical assistance to health care providers and entities to promote compliance with the law.

• OCR conducts public outreach to educate consumers about their rights.

For more information and to contact OCR visit:
http://www.hhs.gov/ocr_office/about/rgn-hqaddresses.html
Relationship to GME/UME

• Disparities focus **is not** the same as Title VI
  – Title VI is about discrimination (**legal issue**)  
  – Recruitment does not fall under Title VI  
  – However, elements of Title VI exist in both GME and LCME accreditation  
  – From a QI and Patient satisfaction perspective, Title VI elements are critical to institutional success


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17. Systems-based Management (SBP2) Participates in strategies to improve healthcare delivery and flow. Demonstrates an awareness of and responsiveness to the larger context and system of health care.

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20. Professional values (PROF1) Demonstrates compassion, integrity, and respect for others as well as adherence to the ethical principles relevant to the practice of medicine.

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22. Patient Centered Communication (ICS1) Demonstrates interpersonal and communication skills that result in the effective exchange of information and collaboration with patients and their families.

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- Establishes rapport with and demonstrate empathy toward patients and their families
- Listens effectively to patients and their families
- Elicits patients’ reasons for seeking health care and expectations from the ED visit
- Negotiates and manages simple patient/family-related conflicts
- Manages the expectations of those who receive care in the ED and uses communication methods that minimize the potential for stress, conflict, and misunderstanding
- Effectively communicates with vulnerable populations, including both patients at risk and their families
- Uses flexible communication strategies and adjusts them based on the clinical situation to resolve specific ED challenges, such as drug seeking behavior, delivering bad news, unexpected outcomes, medical errors, and high risk refusal-of-care patients
- Teaches communication and conflict management skills
- Participates in review and counsel of colleagues with communication deficiencies
Relationship to GME

CLER Program

– ACGME focus on the institution where education takes place

– “provide opportunity for sponsoring institutions to demonstrate leadership in patient safety, quality improvement, and reduction in health care disparities”

**LCME**

**IS-16.** An institution that offers a medical education program must have policies and practices to achieve appropriate diversity . . . .

- Basic principles of culturally competent health care.
- Recognition of health care disparities and the development of solutions to such burdens.
- The importance of meeting the health care needs of medically underserved populations.
- The development of core professional attributes (e.g., altruism, social accountability) needed to provide effective care in a multidimensionally diverse society.
• **ED-21.** The faculty and medical students of a medical education program must demonstrate an understanding of the manner in which people of diverse cultures and belief systems perceive health and illness and respond to various symptoms, diseases, and treatments.
  
  – *Instruction in the medical education program should stress the need for medical students to be concerned with the total medical needs of their patients and the effects that social and cultural circumstances have on patients’ health. To demonstrate compliance with this standard, the medical education program should be able to document objectives relating to the development of skills in cultural competence, indicate the location in the curriculum where medical students are exposed to such material, and demonstrate the extent to which the objectives are being achieved.*

• **ED-22.** Medical students in a medical education program must learn to recognize and appropriately address gender and cultural biases in themselves, in others, and in the process of health care delivery.
  
  – *The objectives for instruction in the medical education program should include medical student understanding of demographic influences on health care quality and effectiveness (e.g., racial and ethnic disparities in the diagnosis and treatment of diseases). The objectives should also address the need for self-awareness among medical students regarding any personal biases in their approach to health care delivery.*
SOPHE Presentation

65TH ANNUAL MEETING
SOCIETY for PUBLIC HEALTH EDUCATION
DISCOVERY
2014
NEW HEALTH EDUCATION STRATEGIES, CONNECTIONS & IDEAS
MARCH 19–21, 2014
HYATT REGENCY INNER HARBOR BALTIMORE, MARYLAND
Natural Fit for EM

• Broad exposure to healthcare systems

• Leadership in School of Medicine

• Bridge UME & GME
Curriculum

Developed by National Consortium for Multicultural Education for Health Professionals, Stanford, US DHHS/OCR

• Case-based
  – Emory
  – Denver

• Interdisciplinary
  – MD, RN, Patient, Administrator

• https://www.mededportal.org/publication/7740
Curriculum

• Case based – ESRD & transplant

• Adaptable

• Small group learning & minimal need for facilitators

• Applicable to all learners (students, residents, faculty, staff)
Questions to Consider

Does your organization provide services of a higher quality or quantity to majority patients in comparison to minority patients?

For example:

- Do your facilities in minority areas have comparable specialty clinics, services, and hours of operation, when compared to your facilities in majority areas?
- Does your organization provide comparable services to Medicaid recipients and non-Medicaid recipients?
- Does your organization provide effective language access services to LEP individuals?
- Has your organization developed and implemented initiatives to address health disparities?
- Has your organization developed nondiscrimination policies and complaint procedures and distributed them to the public?
- Does your organization advise patients that they may file a complaint with the HHS Office for Civil Rights?
Who is your OCR contact?

Regional managers are first contact

http://www.hhs.gov/ocr/office/about/rgn-hqaddresses.html
Advocacy

• Healthcare disparities & advocacy
  – Awareness of legal responsibilities → learning imperative

• Role of SAEM & emergency physicians

• Role of community advocates
SAEM: ADIEM

Academy for Diversity and Inclusion in Emergency Medicine (ADIEM)

promoting diversity and inclusion in the EM
furthering the culturally competent delivery of emergency medical services eliminating health care disparities through research, education, and mentorship
OUR MISSION

• To promote equal access to quality healthcare and the elimination of disparities in treatment and outcomes through education and research.

• To enhance the retention and promotion of those historically under-represented in medicine and to create an inclusive environment for the training of emergency medicine providers; specifically using the AAMC’s guide “to unite expertise, experience and innovation to inform and guide the advancement of diversity and inclusion in emergency medicine.

• To enhance the professional development of all EM faculty and residents with respect to culturally competent medical care.

For more details contact membership@saem.org

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www.saem.org
Summary

1. Title VI, ACA & implications

2. Role of OCR addressing disparities

3. UME, GME

4. Interdisciplinary partnerships & education
Discussion
Resources

• HHS Office for Civil Rights: http://www.hhs.gov/ocr/
• Federal Interagency Working Group on LEP: http://www.lep.gov/
• https://www.mededportal.org/publication/7740