LEGAL ASPECTS OF MEDICAL INTERPRETING AND ITS SPECIFIC FEATURES WITHIN PSI DOMAIN

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The article examines characteristic features of medical interpreting as a specific field of professional activity within the framework of Public Service Interpreting as well as legal implications PSI provision. The article also considers specificity of interpreter-assisted doctor-patient communication, criteria of its effectiveness as well as the impact of institutional context on communicative goals and social identities of the participants.

Key words: Medical Interpreting, Public Service Interpreting, right for interpreter, interpreter-assisted communication, cultural mediation, communicative goals, institutional context of communication.

Public Service Interpreting (or Community Interpreting) is a specific type of translation with primary goal of facilitating access to public services for people, who do not share the official language of the country of their temporary or permanent residence. From this perspective it is possible to say that provision of Public Service interpreting (hereafter PSI) is becoming an increasingly important instrument of human rights protection worldwide. In many countries public service providers such as health care institutions, educational institutions, courts, police stations, social care institutions etc. are legally bound to provide interpreter's services to clients with limited language proficiency.

In this article we intent to analyse specific features of interpreting in medical settings within PSI domain.

Medical (or health-care) translation and interpretation is a specific field of professional practice within Public Service Interpreting domain, distinguished by its own characteristic features. The analysis of the research literature enables us to identify the following features.

1) First of all medical interpreter is expected to have some knowledge and master terminology of various specialty areas like: Internal Medicine, Obstetrics and Gynecology, Orthopedics, Pediatrics, Psychiatry, Surgery and Pharmacology.

2) Medical interpreter tends to be regarded as a cultural mediator to far greater extent, than interpreters specializing in other areas. Communication in medical settings necessarily involves culturally sensitive issues related to health problems. Medical interpreter is typically expected to act as a guide for medical service provider to patient's cultural background and give his/her assistance in building and maintaining relations of mutual trust and respect.

Medical interpreter, unlike court interpreter for example, is not only expected to provide accurate translation of words spoken, but also render the actual meaning of what is said. Achievement of this purpose necessarily involves translating emotional expressions, cultural connotations that words may have in different cultures. For example, according to some researches, tuberculosis may be regarded as a shameful disease associated with poverty in some cultures, which may induce patients to refrain from giving correct information to a medical practitioner.

3) Medical interpreter is to convey what is being said as accurately as possible at all times. However, if the interpreter becomes aware of some misunderstanding on the patient's part, he/she is welcome to give any explanations necessary to ensure complete understanding. In this respect medical interpreter enjoys a greater scope of freedom in communication than for example court interpreter as any explanations done by him/her may amount to distortion of statement and the interpreter him/herself might be disqualified.

4) Medical interpreter is also expected to translate incoherent, ambiguous or disjoint narrative as such, because for health care provider this may be revealing. Any aggressive remarks, provocative statements or emotional expressions are not to be smoothed out by the interpreter as this can impede doctor — patient communication. It is essential to keep in mind that the interpreter is not responsible for the behavior of the patient, even if they belong to the same ethnic community.

5) Another specific feature to point out is the duration of interpreter assisted consultation which takes longer than communication with only two participants. This should be taken into account not only when scheduling appointments, but also in emergency situations, where interpreter assisted communication must be both quick and effective.

6) Communication in medical setting may prove to be very challenging for the interpreter as sometimes he/she can become a witness of other people's suffering and pain. High degree of stress is one of the characteristic features of medical interpreting. As pain is contagious, such mechanisms of psychological protection as denial, rejection, trivialization, incomprehension etc. come into play. It is very difficult for interpreters to remain neutral and emotionally uninvolved in such situations, no matter how well qualified or experienced they may be.

Discussing the specificity of Medical Interpreting we think it is important to consider the issue under study from communicative goals and social identities perspectives.

Researchers working in the field of Translation Studies have long pointed out that communicative goals and social identities strongly affect communicator's evaluation and interpretation of messages. Referring to health care settings, we can say that a medical interpreter may adopt a certain communicative goal, like obtaining correct medical history, for example, just as he/she may opt for a specific role (either medical professional's aid, or patient's advocate).

As an interpreter-mediated communicative situation involves individuals with different sets of communicative goals, conflict of goals which leads to frustration and miscommunication is no rare phenomenon. E. Hsieh in her article «The communica-

tive Perspective of Medical Interpreting» illustrates the above mentioned by giving the example of a pediatric physician, who was dissatisfied with interpreter-mediated conversation because the interpreter was mostly concerned with obtaining correct medical information rather than focusing on establishing rapport between the doctor and the patient, which was physician's main communicative goal, taking into consideration that his patient was a child [10].

Another important aspect is the ability of the interpreter to adopt a specific communicative goal to ensure effectiveness of medical-related communication and consequently to enhance the quality of health care services provision.

For example, adoption of the conduit communication model by the interpreter in gunshot emergency situation, would obviously militate against effectiveness of the communication as this model requires to interpret whatever is being said by the victim to medical professional, including incoherent delirious talk about the wound, screaming for pain, swearing at those who inflicted the wound and sufferings etc. Indiscriminate interpretation of the victim's speech would only reduce effectiveness of communication and cause unnecessary delay in urgently needed treatment. The utmost effectiveness of communication in situations described above can be best achieved by interpreter's adoption of medical professional's communicative goals and by identification him/herself as physician's aid.

Another important aspect that contributes greatly to the communicative specificity of medical Interpreting is institutionalism. Since interpreter-mediated medical communication takes place in institutional setting, organizational environment necessarily affects communicative goals and patterns of participants. The results of the research on practice of medical interpreters [1; 2; 3] suggest that medical interpreters are apt to take side with health care provider more often than to take part of patient's advocate, which, according to the surveys, is attributed to the influence of institutional impact. Besides, it is proper to mention here that many doctors being representatives of an institution invested with certain power tend to regard interpreter as their assistant, and not as an independent professional.

There are several aspects to consider in interpreter-assisted communication in health care setting. Whenever doctor-patient communication involves an interpreter, it inevitably transforms from a dialogue into a three-way interaction, which has implications for all its participants. Interpreter is most commonly expected to adhere to «conduit» model in performing his/her work, that means that interpreter just conveys messages from one language to another not only without getting involved into interaction, but also remaining virtually invisible. In practice, however, this is very hard to achieve.

Academic literature on community interpreting describes two kinds of roles played by medical interpreters:

a) supporter of interaction of the primary interlocutors (reproducing speech actions in the target language and organization of turn-taking);

b) primary interlocutor (answering a question addressed to someone else, explaining cultural differences and commenting on what another interlocutor has said [11].

It should be mentioned that the presence of an interpreter in doctor-patient communication is not void of controversies. Patients may welcome the presence of a family member, and prefer to have the interpretation done by him/her rather than by a professional interpreter. Medical professionals most commonly prefer to work with professional interpreters as they have special knowledge of medical terms and interpret more accurately. Also their professional competence allows them to remain neutral even in an emotionally charged atmosphere of communication, which is not always the case with relatives.

However, a number of researches produced conflicting findings concerning the use of professional and non-professional interpreters in health care setting.

First of all, it should be noted that doctors find working with interpreters of both kind more difficult, because interpreter-mediated communication takes more time, doctors have less control over what is being said and it is harder for them to keep the conversation on track.

In most cases, professional interpreters try to remain within the limits of their professional role and maintain neutrality. But some patients (immigrant patients especially) tend to see the interpreter as their friend, the only one who sympathizes with them, and not as a professional who is only trying to facilitate doctor-patient communication. The interpreter may find him/herself drawn into side conversation with a patient, while the medical professional may feel him/herself excluded from interaction, even though he/she understands that the interpreter and the patient are in the process of building a relationship, which needs to be allowed some time.

On the other hand, doctors are often frustrated by working with family interpreters as sometimes family members, without realizing that themselves, are trying to give their own answers, instead of just doing the translation, believing that they clearly understand how the patient feels. Sometimes medical professionals tend to ignore family interpreters as non-professionals who more obstruct the communication rather than facilitate it. They may believe that their job is to deal with a patient as an individual, and only with him/her, disregarding any family members.

However, medical professionals point out some difficulties in gathering information via interpreter. These difficulties mostly relate to the delay incurred in the translation process which takes time and consequently affects doctor's train of thought. This delay also impedes understanding of non-verbal information, as it makes harder to link what the patient actually said to immediate non-verbal cues accompanying the expression and thus get a complete understanding of the patient's physical state. This aspect is regarded as an important source of data gathering for medical professionals.

Many physicians believe that the process of information gathering assisted by professional interpreter may be much easier. Practical experience proves that immigrant patients more readily disclose some facts of their life to a professional bound to maintain confidentiality, rather than to their family members or friends, especially if the ethnic community to which the patient belongs is small and people tend to know each other.

In this respect many doctors, who have to obtain the information through family interpreters, are concerned about the accuracy of this information. Sensitive informa-

tion, which relates to patient's sexual life or any other subject regarded as taboo in a particular culture, may be subjected to «filtering» by family interpreter. Physicians may also feel uncomfortable asking the patient sensitive questions through family interpreters as their family feelings come into play and can be easily hurt. These two aspects render the presence of a professional interpreter indispensable for an effective communication touching upon sensitive matters.

As we have already pointed out, communication in health care setting is an institutional type of communication, and, consequently, it is largely about power relations. In this respect medical professionals may prefer to have doctor-patient conversations interpreted by family members rather than suffer the presence of another professional. Interpreters may take onto themselves some of the physician's role as healer, on the one hand, and as representative of the institute invested with some authority, on the other; thus the medical professional has to share his/her symbolic power with the interpreter, which the majority of physicians are reluctant to do.

E. Rosenberg in her article «Doctor-patient communication in primary care with an interpreter: Physician perceptions of professional and family interpreters» gives an example of an interpreter-mediated situation where a physician asked the patient a question to which he expected «yes/no» answer, interpreter talked to the patient for about 5–6 minutes, and then gave just «yes» answer. The physician did not understand what they were talking about, he was virtually excluded from communication. It was not only detrimental to his authoritative position, but also for further doctor-patient relationship. Naturally, the physician was frustrated with this experience of interpreter-assisted communication [13].

From this perspective, professional interpreters are called upon to act as bridge, rendering possible and effective medical-related communication in bilingual context, and are to be bound by the limits of their role.

Now, we shall discuss some legal implications of medical interpreting provision in PSI domain.

Academic literature on public service interpreting is widely discussing the right of foreigners or people with limited language proficiency to an interpreter in medical as well as legal settings. However, very few countries have laws that allow people to claim this right.

In the United States, beginning with 1970s efforts have been made at the federal and state legislative level to obligate health care institutions to provide interpreters for the patients who do not share the same language with medical professionals. According to E. Hsieh, the most recent action at the U.S. federal level is an *Executive Order on Improving Access to Services for Persons with Limited English Proficiency* issued by the White House on August 11, 2000. This order resulted in written guidelines being issued by the Department of Health and Human Services to health care providers, to ensure language assistance for persons with limited English skills (Department of Health and Human Services, 2001).

In the UK, Race Relations Act (1976) includes interpreting services as part of efforts to combat racial discrimination. Under this Act «it is illegal knowingly to provide an inferior quality of care to a particular racial minority group». This act also

contains the following statement: «the failure to provide interpreters for a minority group many of whose members are known to speak little English could be construed as unlawful» [3].

In Sweden, the law which is in force since 1975 provides the right for interpreter in public institutions for people with limited language proficiency. This law clearly indicates that the responsibility to provide an interpreter lies with the institution.

While positive effect of such legislation is beyond any doubt, there are some negative aspects that should also be considered. Not in all countries expenses of health care institutions for medical interpreting services are covered from government funds. This may entail the situation when about 90% of interpreters used in medical institutions have no formal training, but the cost of their services is much less than that of a professional interpreter. Interpretation may also be done by patient's family member or a friend, which would be free no matter how low their level of linguistic and cultural competence may be.

In conclusion we can say that provision of medical interpreting for patients who do not share the official language of the country serves as an important instrument of ensuring fare access to medical services. However, specific features of medical interpreting as well as identification of factors that have immediate impact on effectiveness of interpreter-assisted communication constitute central issues for further theoretical research in the field of medical interpretation.

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ПРАВОВЫЕ АСПЕКТЫ И СПЕЦИФИЧЕСКИЕ ЧЕРТЫ МЕДИЦИНСКОГО ПЕРЕВОДА КАК ОТДЕЛЬНОГО ВИДА ПРОФЕССИОНАЛЬНОЙ ДЕЯТЕЛЬНОСТИ В РАМКАХ СИСТЕМЫ ГОСУДАРСТВЕННЫХ СЛУЖБ И УЧРЕЖДЕНИЙ

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В статье рассматриваются специфические черты медицинского перевода как отдельного вида профессиональной деятельности в рамках перевода в системе государственных служб и учреждений, а также некоторые правовые аспекты предоставления переводчика. Наряду с этим в статье исследуются специфика коммуникации между врачом и пациентом, осуществляемая при содействии переводчика, факторы эффективности такой коммуникации, а также влияние институционального контекста на коммуникационные цели и социальные роли участников.

Ключевые слова: медицинский перевод, перевод в системе государственных служб и учреждений, право на переводчика, коммуникация при содействии переводчика, культурное посредничество, коммуникативные цели, институциональный контекст коммуникации.