CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HEALTH

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May 4, 2009
Start: xx:xx pm
Recess: xx:xx pm

HELD AT: Council Chambers
City Hall

B E F O R E:
JOEL RIVERA
Chairperson

COUNCIL MEMBERS:
Council Member Maria del Carmen Arroyo
Council Member Tony Avella
Council Member Inez E. Dickens
Council Member Mathieu Eugene
Council Member Helen D. Foster
Council Member Eric N. Gioia
Council Member John C. Liu
Council Member Miguel Martinez
Council Member Darlene Mealy
Council Member Kenneth Mitchell
Council Member Kendall Stewart

A P P E A R A N C E S [CONTINUED]

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Committee on Health

Eric N. Gioia
Bill Sponsor, Intro 859-A
Committee on Health

Adira Siman
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Andrew Eiler
Director of Legislative Affairs
Department of Consumer Affairs

Joyce Weinstein
Department of Health and Mental Hygiene

Irina Sanchez
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Segrario Mendez
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Catalina Martinez
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Female Speaker
Make the Road New York

Marcello Monkayo
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Ida Torres
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A P P E A R A N C E S [CONTINUED]

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Senior Policy Associate
New York Academy of Medicine

Elizabeth Miranda
President
Language Plus

[Gavel banging]

CHAIRPERSON RIVERA: Good afternoon ladies and gentlemen. My name--

SERGEANT AT ARMS: [Interposing] Please sit down.

CHAIRPERSON RIVERA: My name is Joel Rivera. I'm the Chair of the City Council's Health Committee. Today's hearing will focus on proposed Intro 859-A sponsored by Public Advocate Betsy Gotbaum. Proposed Intro 859-A would require chain pharmacies to provide both oral and written translation services to patients who need it. Nearly half of New York's residents speak a language other than English at home and almost a quarter of the people in New York are not proficient at speaking English.

The existence of a significant population of limited English proficient New Yorkers has major implications for all parts of the healthcare system in the City of New York including pharmacies. Pharmacies are a critical part of the healthcare system and pharmacies play an essential role in helping patients understand complex medication information.

Thus it is troubling that the survey of pharmacists in New York City by the New York Academy of Medicine found that more than 50% of them never or rarely translated prescription medication labels. The pharmacies did not provide translation despite the fat that the vast majority of them encountered limited English proficient patients on a daily basis and had the ability to translate labels into at least one language.

The results of this study were illustrated by the testimony of pharmacy patients at a hearing of this Committee in June 2008. The Committee heard testimony from patients who could not obtain translation services at their pharmacies.

One patient described guessing when to take his medication because he cannot understand the written or verbal instructions from the pharmacy. This patient had experienced physical problems as a result.

In a City with so many immigrants and non-English speakers it is imperative that we find a way to help these patients safely access medication. Proposed Intro 859-A would go a long

way towards doing this by requiring language services in chain pharmacies. The bill would also require non-chain pharmacies that do not offer a language service to post a sign listing the nearest pharmacies where such services are available.

I look forward to hearing the thoughts of everyone here today on this important legislation. And normally we would call the Public Advocate to give her statement about the legislation but unfortunately she has been called to testify at the Aster [phonetic] criminal trial today and is unable to be here with us.

So at this point in time we'll introduce our colleagues. We have Council Member Eric Gioia here with us. We also obviously have the Counsel to the Committee, Adira and Joseph here with us today. And at this point in time we'll proceed.

[Pause]

CHAIRPERSON RIVERA: Okay and we also do have translation services being provided so I will try to speak as slow as possible so that way we can be translated and I ask my colleagues

to do the same.

So the first panel will be Andrew, do you want to speak? Okay at this point in time we'll introduce Council Member Eric Gioia, one of the lead sponsors of the bill.

COUNCIL MEMBER GIOIA: Thank you very much Mr. Chair. And I want to thank all of the advocates and all of the New Yorkers who've taken time out to come down here this afternoon. Mr. Chair, I've been working on this bill with the advocates and with the Public Advocate for a number of years now. And for some New Yorkers, it may be hard to understand why this is so important. And what I'd like people to understand is that this really is a common sense law that is trying to protect lives. If you think about getting a prescription, and one of the best examples I can think of, is the word once. The word once in English. O-N-C-E, once in Spanish as you know. So a prescription that is written on the bottle to say take once, could very well be read by someone who does not speak English but who reads Spanish with the only Spanish word on the label is once, do you take it 11 times? Do you

take it 11 days? You know, what is the exact advice?

And when I've heard from parents who said they've gotten medication for their children and they don't know if they're supposed to rub it on their belly or if they're supposed to take it orally, it's a scary situation. I've also heard from people who say because they're so concerned about the translation services in pharmacies that they won't actually get it. They won't go to get the medicine.

And as a matter of fact, one woman, I believe it's Ida Torres, spoke today and she may be speaking at the hearing, said that when she became ill she was so confused by the prescription she just took over the counter Tylenol instead and her condition worsened.

And so what this really is about is about a quality and fairness for all New Yorkers. No one should have to wonder how to treat their sick child. And by the way in so many new American homes, it is actually the children who an unfair burden is placed on them because in many times it is the kids who are the first in their

family to speak English at their native tongue. And so you have young children being forced to translate prescriptions for their parents, putting an enormous pressure on little boys and girls who are just first learning how to read and should not be in the position where they're having to translate a potentially life-saving medicine.

And I want to say I grew up in a small business in Queens. In no way is this intended to hurt small business. In fact I think it will actually help small business by evening the playing field and opening up the doors to new customers for small businesses.

And finally I want to say the Attorney General of the State of New York has done very good work on this issue and has recently, I think, from the time we began working on this 'cause I think we began working on it before he was Attorney General, to this time, he's done some very good work and has now brought a settlement with a number of chain pharmacies. This is a step in the right direction. But by no means does it complete the challenge.

What our task before us is to

create model legislation that moves the Attorney General's settlement forward and actually makes it the law of the land and not merely a Court ordered settlement with some of the stores. And so those are my thoughts on the issue. And I'm looking forward to working with the advocates and all of my friends from the community who are here to pass this legislation. Thank you Mr. Chair.

CHAIRPERSON RIVERA: Thank you very much. We've also been joined by Council Member Rosie Mendez. And at this point in time I want to call up the first panel which will include Andrew Eiler from the Department of Consumer Affairs and Joyce Weinstein from the Department of Health and Mental Hygiene.

[Pause]

MR. ANDREW EILER: Good afternoon Chairman Rivera and members of the Health Committee. My name is Andrew Eiler and I'm the Director of Legislative Affairs for the Department of Consumer Affairs. Commissioner Mintz asked me to thank you for the opportunity to comment on Introductory number 859-A, a bill that would require certain pharmacies to provide language

assistance services to their customers and calls on the Department of Consumer Affairs to enforce compliance with its provisions.

This bill clearly seeks to effectuate the laudatory goal of providing language assistance to non-English speaking patients regarding information in their own language about their medications and to ensure that they can follow usage instructions and be aware of warnings about harmful side effects.

To achieve this goal the bill would require chain pharmacies to provide free, competent oral interpretation services in an individual's primary language; to provide written translation service in multiple languages; to post signs in all the written translation languages used at each pharmacy to inform customers of the availability of the free translation and interpretation services; and to maintain records of the primary language of all individuals whose prescriptions are filled at each pharmacy.

Finally pharmacies that are not part of a chain and do not provide language assistance services would be required to post

signs in all of the pharmacy's primary languages to inform customers of three nearby pharmacies that provide such language assistance services.

Pharmacies required to provide language assistance would need to make written translation assistance available to languages spoken by 1% or more of the population residing in the community district in which the pharmacy is located. The bill calls on the Department of Consumer Affairs to provide to each pharmacy an annual list of the languages spoken by at least 1% of the population in the district of each pharmacy; to provide non-chain pharmacies a list of the three nearby pharmacies where language services are available; and to enforce compliance with oral interpretation, written translation and signage posting requirements for the appropriate pharmacies.

The Administration understands the important of ensuring meaningful access to services for limited English proficient individuals, especially in the area of healthcare. Language should not be a barrier to understanding prescription information, warnings and labels or

accessing needed care. Despite our support for the principles involved, we have significant concerns regarding both the ability of the pharmacy to comply with these provisions as well as the Department's ability to enforce them.

First, regarding a prescription drug discount program, the Department of Health and Mental Hygiene finds that the provisions in this bill are well intentioned but introduce substantive operational difficulties. The bill would require that the discount cards and related materials be produced in any primary language spoken by a limited English proficient individual. There's no minimum threshold specified for including a language.

The distribution framework for the program however does not include mechanisms to produce, target or track cards by language, much less the multitude of language spoken in the City.

Given that this is a no cost program to the City, an expensive translation mandate may result in the contractor reconsidering its involvement. In short it would not be feasible for the prescription discount program in

its current form to comply with the translation and reporting requirements of this bill.

Second, requiring pharmacies to provide written language assistance services in the language spoken by 1% of the community's population imposes and especially cumbersome and expensive set of obligations upon affected businesses, particularly those located in highly diverse neighborhoods.

Putting aside the cost and practicality of signage requirements, providing translation, interpretation assistance in real time triggered by as few as 1% of the population of an area would require pharmacies to have multiple staff persons on call who are proficient and familiar with the pharmaceutical and medical terminology in many languages. Even assuming such staffing was possible, the critical oversight needed to ensure the accuracy of these oral services would most likely be impossible.

We note that by comparison that Local Law 73 of 2003 provides for written translations in six specified languages, Arabic, Chinese, Haitian, Creole, Korean, Russian and

Spanish. And that Executive Order 120 of 2008 provides for language assistance services by City agencies in at least the top six LEP languages as those languages are relevant to services offered by each agency.

As for cost, our concern goes beyond the expense to the business but to the probability that such costs will surely be passed onto consumers in the form of higher prices. Increasing the cost of medication may have the detrimental effect of making patients unwilling to have their prescriptions filled in order to save money. We're acutely aware that for many people the need for healthcare and medication is often outweighed by the need to pay for other commodities such as food and rent.

We're also concerned about the negative effect this bill may have on independent business owners. While we understand that patients should be able to access healthcare in their primary language, we have reservations about requiring small pharmacy owners, many of whom are already competing with the larger chain pharmacies in their neighborhood, to post signs alerting

customers that free language assistance services are available at nearby chain pharmacies. These mom and pop stores rely on every customer to ensure their vitality in the world of big box stores and chain companies. Turning potential customers away will result in a loss of business and possibly force them to close. In these economic times we need to help small business survive as much as possible.

Lastly the bill would impose significant and expensive enforcement challenges on the Department of Consumer Affairs. In order to ensure effective enforcement, the DCA would need to survey each community district on a yearly basis to determine the languages spoke by at least 1% of the population; map each neighborhood on a yearly basis in order to identify for each non-chain pharmacy in the City; the three nearest competing pharmacies which provide language assistance; and then equip inspectors to ensure that each particular pharmacy prominently discloses each particular list of information to its customers; hire and train inspectors sufficiently versed in each of the applicable

languages to be able to identify the availability and accuracy of the posted signage, medication labeling and patient information sheets, oral interpretation for counseling services and whether all the signage and labeling met the required languages for that neighborhood. Access and navigate pharmacies prescription management records systems.

Each of these requirements requires resources both financial and human that the Department does not have at this time. While we certainly support the intent of the bill before you today and recognize the need for language assistance services in New York City, we urge the Committee to work with DCA and other appropriate City agencies to revise the language in order to make this bill more effective.

Thank you again for the opportunity to comment on the bill. I along with my colleagues from the Department of Health and Mental Hygiene will be happy to answer your questions at this time.

CHAIRPERSON RIVERA: Thank you very much. At this point in time I'll have my

colleague Eric Gioia ask the first line of questioning.

COUNCIL MEMBER GIOIA: Thanks Mr. Chair. Well I appreciate the commitment the City has to ensuring access to healthcare, people, no matter what language they speak. And I share your concerns about small business. And I'm encouraged by the fact that you want to talk about language in the bill to strengthen it.

But there's a logical flaw in part of your testimony about small business that I just kind of want to walk through. For the small business owner who doesn't have translation services, the idea that they would lose business, so in other words a customer walks in--if I walk in. And it says, and the sign says well if you want your prescription in Chinese then you can go down the block to another pharmacy. It's really not going to impact me. I speak fluent English and it's nice that the pharmacy down the block has a translation services in a language that I don't speak.

But if I walk in and I don't speak English and I'm enticed because I can then get a

prescription a language that I understand, would the City--is the City implying that they would rather actually that person who does not understand their prescription still shop at the store that is giving them a prescription in a language they don't understand? I mean that's clearly not your position is it?

MR. EILER: Well the thing is that once a customer comes into the store and he's directed, oh you can get these services somewhere else, customers don't just come into pharmacies to shop only for the one or two medications. There are ancillary services that are provided. So once you direct a customer to another store, you're directing a potential customer for other things to a different place.

And that's essentially what's likely to happen when you're effectively telling people oh that pharmacy down the road has more services and better services than I can provide for you, you should go over there. You've lost a customer not just for that medication but you've lost a customer for a lot of other things.

COUNCIL MEMBER GIOIA: What's the

alternative?

MR. EILER: Well I, I mean in terms of how many languages, what we're talking about is one can have the four or--some more limited number and rather than having signs in all the potential languages, I mean there's got--that's something that we need to ferret out in terms of how we can effectively, how it can be effectively done. But I think this kind of negative information to potential customers in the small mom and pop stores is very anti-competitive.

COUNCIL MEMBER GIOIA: Well I mean I hear that, you know, and there certainly can be a productive discussion about how many languages and where to put signs and all that, but when I asked what's the alternative, I mean and this is an important point, so if Pharmacy A and Pharmacy B, within, you know, within the same neighborhood or within a few blocks, and you have a foreign language speaker walking into a store, getting important medication for themselves, not understanding what the prescription is. I don't think it's, I hope it's not the City's position, we'd rather them get medicine they don't

understand how to take so that we can keep them going to that store--

MR. EILER: [Interposing] I'm not talking about that. I'm talking about the signage requirement that directs people to other places, as that's the option for, you know, channeling people or directing people away from a pharmacy, it's almost like negative advertising by the pharmacy where the customer comes. If the customer has come there to fill the prescription, there must be some basis and belief on the part of that customer that they're using this store for shopping and that they believe that they are going to--however they do it, fulfill their needs at that pharmacy.

If you then put signs up there that tells the consumer oh but there's better places elsewhere down the road and here they are, you're sort of like negative advertising on behalf of the pharmacy where the customer has gone to fill a prescription or has gone for services.

COUNCIL MEMBER GIOIA: And I hear the point you're making and I hope you hear the point I'm making is that we certainly don't want

people shopping in a store if they don't--if they're getting medicine they don't know how to take.

But in terms of the negative advertising, there is precedent for this. A very successful precedent in this City, with is the emergency contraception legislation, which again would be, I guess, negative advertising, saying this pharmacy does not carry emergency contraception. There's a pharmacy down the road that does.

And I think, and correct me if I'm wrong, but I believe the City has found that to be enormously successful, not that there are signs posted but that pharmacies are now carrying it. And so I think part of what this is would be is an encouragement to pharmacies to actually translate in the language that their customers speak.

MR. EILER: Well I think on that one, I'm--it's been a while since I've looked at that but when it went through I believe the sign says the pharmacy has to tell people that they don't carry it. They don't have to direct people to any particular pharmacy who does. They just

merely have to say we don't have it. So then people need to go out and find where else it's available. I mean that was the informational aspect of the signage, to let people--so that people don't have to come in and ask when it's not going to be available. So they'll look elsewhere to find where it is available.

So that's a very different kind of information about the availability of a service. It doesn't…

COUNCIL MEMBER GIOIA: Fair enough. And I'll just conclude by saying, potentially there are ways, the City has ideas, on how to direct people who have specific language needs in specific neighborhoods to go to places that can help them in a language that they are comfortable in. Maybe it's the City's website, I'm not sure. But I mean I'm open to ideas from the Administration on how to accomplish this task.

MR. EILER: That's what we said that we're more than happy to discuss ways to make this thing operationally effective and effectively enforceable.

COUNCIL MEMBER GIOIA: Thank you

for your time.

[Pause]

CHAIRPERSON RIVERA: Council Member Mendez? And we've been joined by Council Member Sears, Council Member Stewart, Council Member Arroyo and Council Member Mitchell.

COUNCIL MEMBER MENDEZ: Thank you for your testimony. I think that your concerns about negative advertising might be unfounded. My experiences with the small business whether they're pharmacies or anything else, is that they tend to have workers in that location that actually speak the language that is most frequently spoken in the community. So I don't really see that as a big issue.

But I've gone for medications that I need to have the same day, because I need to start taking medication that day or I'm leaving town, and if my pharmacy doesn't have it in stock, they usually tell me where I can go. So I mean that's not negative advertising, is it?

MR. EILER: Well that's a different situation because if they can't fulfill that prescription, then they're being helpful to you to

tell you where you can immediately obtain it or what they can do about that. But this is a different kind of thing where it directs people away from services that, you know, they're told, well, you can get this elsewhere better. And you have to put up the signs and everything else.

I mean it's a slightly different situation when the person, when they don't have the prescription, then obviously they're going to try to help you get it. And very often, and some--the pharmacies will tell you come back in a couple--and we'll get it for you.

COUNCIL MEMBER MENDEZ: Or it might encourage them to hire someone who speaks that language, or direct them to come back later in the day when someone who speaks that language is there. Is that not correct?

MR. EILER: That's possible.

COUNCIL MEMBER MENDEZ: Okay. One of the issues that I raised at a previous hearing on this same subject matter was really my concerns about the bigger pharmacies. And I though that an easy way to eradicate this problem is these machines that spit out all the instructions by

computer, that it could spit it out in this other language. I mean that would certainly be much easier for the bigger pharmacies. And again I think that's where my friends and I have encountered this problem of not having someone speaking your language.

MR. EILER: Well let me turn to my colleague here for that medically related issue of whether or not that's feasible for having the labels come out, machine made.

MS. JOYCE WEINSTEIN: I'm actually not really… our--I think our role in this is fairly limited. So I'm not really equipped to answer that question at hand in terms of the--

COUNCIL MEMBER MENDEZ: [Interposing] It's--it's--

MS. WEINSTEIN: --difficulty of getting a machine to really fully answer questions about medication and medication adherence and so forth.

COUNCIL MEMBER MENDEZ: No but usually, you know, the computer spits out what are the contraindications, if this happens contact a doctor. Wouldn't it be very simple if that

computer is spitting it out to press another button that spits it out in that person's language? And wouldn't that be maybe administratively very easy to do, to require that? Particularly if, you know, you service or you have a certainly amount of square footage so you're bound to service more people.

MR. EILER: I'm not in a position to answer the linguistic, you know, knowledge and technical expertise that's necessary to make that kind of a translation work simply by pushing a button on a computer. I mean that's not something that is part of our role here. And it's not something that I've looked at or--that's a very highly technical thing to do.

COUNCIL MEMBER MENDEZ: I disagree. I think in a city where we're trying to bridge the digital divide that in most of these pharmacies, except maybe the smaller ones, they do have these computers. And I think it would be a very minor cost to the big pharmacies to have additional software that press a button and it comes out in another language. And I think that that is something that this Administration needs to look

at since they've been looking at it in other areas particularly. I mean there's nothing to respond to that, just that you will look at it [chuckling]

MR. EILER: Well we'll be glad to look at it. I, you know, in terms of the feasibility and the technical knowledge and the linguistic capability that's necessary for that to work, we certainly would be able to, would be willing to look at it but I can't, at this point, tell you whether or not and to what extent it's feasible.

COUNCIL MEMBER MENDEZ: Thank you very much.

CHAIRPERSON RIVERA: Thank you very much. I just had a question myself. I just wanted to know what are the most common languages spoken by limited English proficient individuals in the City?

MR. EILER: I'm not--I mean I would--the most common languages are the ones that were listed, that we've listed in the testimony. And I can't quite recall them, but it's Arabic, Chinese, Haitian, Creole, Korean, Russian and Spanish, are the ones that we generally also use.

And we have--we the Department of Consumer Affairs when it makes translations, has gone up to about seven or eight languages. So that that's the ones that commonly cover the most common ones.

CHAIRPERSON RIVERA: You know, what's the population in the universe of people that it covers in the City of New York, those languages. Does it cover, you know, we have 8.1 million people in New York City, does it cover 5 million, 2 million, 6 million, do we know--

MR. EILER: [Interposing] I don't have that number handy. I can research it and we can look it up but we can give it to you but I don't have it--

CHAIRPERSON RIVERA: [Interposing] Okay. I mean--

MR. EILER: --on hand.

CHAIRPERSON RIVERA: --that would be helpful just to find out how do we come up to that number in terms of people who are limited English proficient, you know, and utilize this service.

MR. EILER: Yeah I think the Mayor's Executive Order has some indication in

that when that was signed, what proportion of languages would be covered by the languages covered by the Executive Order.

CHAIRPERSON RIVERA: We've been joined by Council Member Helen Foster. Does any of my other Committee's--

MR. EILER: [Interposing] I've just been given, it's 80%, the languages covered by the Executive Order cover 80%.

CHAIRPERSON RIVERA: 80%?

MR. EILER: Um-hum.

CHAIRPERSON RIVERA: How do you account for variations in different neighborhoods?

MR. EILER: Well [chuckling]. I haven't delved into this subject lately but based on sort of like general knowledge, when groups come to the United States or in any country, they tend to concentrate themselves among members of their own groups. That was historically the case in New York City where you had neighborhoods where the Italians were concentrated, Chinese were concentrated and the various groups were concentrated.

And the reason for that is kind of

self-evident it seems to me, is that people come and reside in the areas where precisely because everybody is from the same country, they support each other with language, you know, help and so forth and so on, helping each other get accustomed to their new environment and so forth and so on.

So my guess would be that immigrants coming to any country would likely settle in areas where other immigrants or people from their country have already gone because that's more familiar rather than going someplace where they know nobody. That's a very hard thing to do.

So you would likely come to places where you would know people and where you could relate to people. I mean that's my, you know, sort of general knowledge of how things like this work from whatever work I've done in the past.

CHAIRPERSON RIVERA: Thank you. Does any other members of my--Council Member Arroyo.

COUNCIL MEMBER ARROYO: Thank you Mr. Chair. Good afternoon. In your testimony, you give all the reasons why the bill would impose

significant and expensive enforcement challenges for the Department.

Survey each community district on a yearly basis to determine languages spoken by at least 1% of the population; map each neighborhood on a yearly basis; hire and train inspectors… you don't do this now for the industry that we're discussing at all--

MR. EILER: [Interposing] No absolutely--

COUNCIL MEMBER ARROYO: [Interposing] Not annually, I mean at all.

MR. EILER: No we don't do this--we don't perform these kinds of surveys at all for anything. We--this--I mean the survey that calls for establishing that 1% of the population speaks a particular language, that has to be--you can't just stand on a street corner and ask people what language you speak. In order to get a 1% accuracy count of the people in that district, you'd have to do some kind of effective random sampling. And you'd have to select people, randomly--

COUNCIL MEMBER ARROYO: [Interposing] Um-hum.

MR. EILER: --from the community to make sure that everybody gets equally a chance of being included so that--I mean 1% if you surveyed 100 people will only be 1 person.

COUNCIL MEMBER ARROYO: So what percent would be something that would be more appropriate on a statistical basis?

MR. EILER: Well if it has to be done by a survey that we would have to--that would have to be conducted of every locality where the numbers would mean something, it would be expensive. It would be very time consuming. It would be, you know, because each one would require a survey, an actual random survey which was large enough so that the error, likelihood of error was small enough so that the number was meaningful.

COUNCIL MEMBER ARROYO: I wasn't all that good in statistics but I understand that--

MR. EILER: [Interposing] And that's--

COUNCIL MEMBER ARROYO: --however the question is, at what--what is a more appropriate percentage?

MR. EILER: I don't--

COUNCIL MEMBER ARROYO: [Interposing] Okay. So food for thought. It seems to me that what--this is something the Department ought to have as--in a data bank somewhere, the number of businesses that provide this service and how many are chain. I'm not sure that I agree that it would be onerous. I think it's something that should be available to the Department and the City in general. So to say, to cite these examples as one of--lastly one of the reasons why you don't think it's a good way to go, is, I think, ought to be discussed.

MR. EILER: Well you can certainly look at how it might be done but just as a point, even the census data doesn't break it down fine enough so that you could get numbers like that out of the census data. So if you don't have it in a census data, to get this information that refined, I mean we're talking about neighborhood by--or community district by community--so each one would have to be separately, the population of that area would have to be separately surveyed to establish that the requisite number of people are speaking

that language. And that's--that would be a time consuming, resource intensive kind of thing--

COUNCIL MEMBER ARROYO: [Interposing] But a process that I think worthwhile nonetheless. And here's… I certainly hope that this conversation starts and continues, starts today and continues and that there is an opportunity for the Department to work with the Council to come to a place where there is some consensus about what percentage makes sense and how much of it ought to be done regardless of this legislation or not.

MS. WEINSTEIN: I also think that's the agency at hand, I mean City Planning is probably the more appropriate agency also to have this discussion with in terms of surveying rather than DCA.

COUNCIL MEMBER ARROYO: I--the point is, it's information we ought to have despite who would be responsible or what agency would take responsibility for it. Last time I checked there's only one Mayor in this City. And regardless of what agency does it, that it get done. I think this is a point that there be a

consensus reached around what's a number or percentage that makes sense of what would be surveyed.

But it would certainly help us do what needs to be done for our communities better. Cost is a consideration. But when you have an individual who's coming into a pharmacy, who's relying on life-sustaining medication, and does not understand how to administer or take that medication, the price is too great. So we cannot balance this legislation on the back of the patient. We have to figure out as a City a way to get it done.

MR. EILER: More than willing to address all of those questions to see if we can come up with a really effective format for doing it.

CHAIRPERSON RIVERA: If I can, it's mind-boggling that the City of New York doesn't have detailed information, neighborhood by neighborhood. And, you know, I would assume City Planning would have this type of information or any one of our City agencies, but I mean I'm not trying to be cute but Bloomberg's reelection

campaign is a very obviously sophisticated, you know, mechanism, is there conversations with the campaign to share their information 'cause direct mailers and phone calls have been done, you know, to communities in smaller demographics. So I mean even if the City of New York doesn't have the finances to do this, I'm pretty sure the campaign does.

MR. EILER: Well that's beyond what the DCA does.

CHAIRPERSON RIVERA: Okay. And again I wasn't trying to be cute but I, you know, it really is troubling to hear that we don't have this type of statistical information and like you said, the census doesn't provide it, but maybe we, you know, should find a creative mechanism to do it that doesn't cost the City a fortune.

I'm surprised City Planning doesn't have it or any other City agency. So we should try to identify, is there a source that currently exists, are you working in collaboration with somebody, immigrant coalition communities to see if they have any information in reference to this. Because I think it's information that's vital to,

you know, the way the City functions, you know, in terms of all of the City services, so. We should look at that. Are there any other questions? Council Member Stewart. And we've been joined by Council Member Avella.

COUNCIL MEMBER STEWART: Thank you Mr. Chair. I just wanted to know on the other… SU's with pharmacies, do you have difficulty in terms of enforcing, you know, the laws that we have passed as far as the pharmacies are concerned?

MR. EILER: No. I mean the other, there's numbers of them like item pricing, unit pricing, so forth and so on, the signage for contraceptive services. I mean those things are fairly straightforward signage. The sign is either there or it isn't. I mean that's the kind of inspection that our inspectors normally and regularly do. To the extent--or advertising or deceptive advertising and stuff like that. I mean that's the normal practice. But it doesn't involve issues like this.

COUNCIL MEMBER STEWART: Right. But, you know, if it's to be that we have

translation, is either they have the translation or they don't.

MR. EILER: Well it's a question of, when the issue is the availability of translation in specific languages. Then you have to be able to--and if it's provided, then you have to have someone knowledgeable enough to be able to read the language to determine whether or not it's being provided as required.

That's a little different than if you have disclosure signs that are--all the mandates that we have so far basically are, except in a few instances, Spanish is required, but most of the time it's only in one language. Now the Department has recognized the issue of language availability a long, long time go. And we have made the practice of making our information available in multiple languages that, you know, we can translate and get it done and get it out there in many different, you know, up to eight different languages. Like EITC brochure that we have put out, I think, is put out in eight different languages. So we have been attuned to the issue of making things available in the language of the

community that the community broadly uses.

So, but in terms of the specific inspection stuff, it generally does not involve-- and we have been going on in terms of urging that contracts now, 40 years ago, 30 years ago, the Department adopted a rule that required that contracts negotiated in Spanish be written in Spanish. I mean that was one of the first. And so, you know, now we're going to the area that contracts negotiated in a different language have to be written in that language.

So we, you know, like I say, we have tried and we have been attuned to this issue and tried to address it.

COUNCIL MEMBER STEWART: Thank you.

[Pause]

COUNCIL MEMBER STEWART: Do we have any, like the chain pharmacies, do they do any such translation right now?

MR. EILER: I'm not aware that they do. I think they--

COUNCIL MEMBER STEWART: [Interposing] You know, it's not a lawyer but--

MR. EILER: --have made agreement

with the Attorney General and I'm not privy to all the agree--'cause every one is different, and I'm not, you know, I don't have details. But the chain pharmacies have been agreements with the Attorney General about the circumstances under which they'll provide these services.

COUNCIL MEMBER STEWART: Thank you. Mr. Chair.

CHAIRPERSON RIVERA: Thank you. We've also been joined by Council Member Eugene. Does other members have any questions? Council Member Arroyo has a follow-up.

COUNCIL MEMBER ARROYO: The testimony cites the Executive Order 120.

MR. EILER: Um-hum.

COUNCIL MEMBER ARROYO: Signed in 2008 that indicates the six specific languages that City agencies are required to provide information in. As a benchmark, should that at least not be a start that allows the mandated language access for the pharmacies as well.

MR. EILER: That's what we suggested. That that's a starting point.

COUNCIL MEMBER ARROYO: Okay. And

how do we, how were we sure that the City agencies are doing quality translation? Who monitors them?

MR. EILER: Well there's Language Line and we've used it. We use it in the field. I'm not sure that there's anyone that monitors--

COUNCIL MEMBER ARROYO: [Interposing] So we're not concerned about the quality of the translation the City agencies are providing because what I'm hearing you say is that you're not… we have to train inspectors to understand whether the quality of the translation is appropriate. I don't see--if the City agencies are doing it, why are we concerned about the quality of the translation the pharmacy providers would have?

MR. EILER: Well.

MS. WEINSTEIN: Well I understand what you're trying--you're saying. But I mean in essence they're--see I don't know about DCA, but obviously there are contractors and vendors that are actually doing those kinds of translations for City agencies. I believe in making sure that they're across translated.

So there are provisions in place

for quality control to be sure that those--that you have quality translations. The Language Line is something you referred to, too, that does have quality control ensuring that there are checks and balances to make sure again that the interpretation skills provided by those translating are appropriate as well.

COUNCIL MEMBER ARROYO: So we're not reinventing the wheel. Okay. That--I was just curious about that. Okay thank you.

CHAIRPERSON RIVERA: Thank you. Are there any follow-up questions? Being none, thank you very much. Appreciate it.

MR. EILER: Thank you.

CHAIRPERSON RIVERA: Let's move on to the next panel. We have Irina Sanchez from Make the Road. We have Peracooksla [phonetic] Martinez from Bushwick. Catalina Martinez, I apologize. And Segrario [phonetic] Mendez from Make the Road.

[Pause]

CHAIRPERSON RIVERA: And we've been joined by Council Member Miguel Martinez.

[Pause]

CHAIRPERSON RIVERA: And Council Member Inez Dickens.

[Witnesses getting settled]

CHAIRPERSON RIVERA: Okay. So you can just state your name for the record and you can proceed with your testimony, whoever chooses to go first is more than welcome.

[Pause]

MS. IRENA SANCHEZ THROUGH THE INTERPRETATION OF CHAIRPERSON RIVERA: So I'm going to do the translation. Hello everyone. Thanks for the opportunity to talk about this very important topic. I am here today to talk about my experience but also the experience of my daughter who could to be here today. My daughter has asthma, severe allergies and depression and she takes many medications. I also take many medications. Neither of us speak English and both of us have had problems at pharmacies.

For everyone, it is important to be able to understand the instructions that come with medicines. Unfortunately many pharmacies do not make an effort to translate medicines for people who do not speak English. Many times these

pharmacies are right in immigrant communities.

One time my daughter went to a CVS Pharmacy to fill a prescription but they did not give her the information in Spanish even though she asked for it. They told her that they could not provide the label in Spanish and she had to take the medicine home without knowing how to take it. This caused her a lot of confusion and fear because she knew she had to take her medication but she did not want to take the medication the wrong way. One time she even had to go back to the hospital because, not understanding the medication directions, she took too much of a medicine.

I think that all pharmacies should have the responsibility to inform their patients in a language they can understand. It's not fair that we have to be at risk just because we do not speak English. The law that we are discussing today would help people like me and my daughter. The City of New York should make sure that all New Yorkers can access medication safely. I ask you to support Intro 859. Thank you very much.

MS. SEGRARIO MENDEZ THROUGH THE

INTERPRETATION OF CHAIRPERSON RIVERA: Okay so Segrario Mendez was sick some time ago and had to go to the doctor. The doctor gave her a prescription for a medicine at 300 milligrams. He told her to take 2, 1 in the morning and 1 at night. The prescriptions were in English and she does not speak English and took the medicine like the doctor had told her.

When she took the first one she went to sleep. After that she basically spent the next four days sleeping. She could not get out of bed. Her family called her, her son was worried about her. Finally she called the doctor who told her to lower the dosage and to go back to the pharmacy.

She thinks that if she had been able to read the medicine she could have seen the side effects and been more aware of what was happening and what to do instead of taking it and not knowing. She did not know that it made you very, very drowsy. Segrario always receives medication in English although she does not speak English.

[Pause]

MS. CATALINA MARTINEZ THROUGH THE INTERPRETATION OF CHAIRPERSON RIVERA: Okay. So good afternoon, before anything I want to thank the Council for this hearing today about a very important topic in our community. My name is Catalina Martinez and I'm a member of Make the Road New York.

I feel very emotional right now because I'm remembering my experiences with my medicine and also giving medicine to my child.

Okay so I want to tell you today about the importance of interpretation services at pharmacies. I have a son who's now 16 years old but all his life has needed a lot of different kind of medications and for those medications, for him and for me, we've gone to various pharmacies including Dwayne Reed, Cropner and a pharmacy by the Woodhall Hospital.

Okay. Even though I cannot read English I always receive medication information in English. I am very worried, or I become worried because I'm not sure how to take the medication. What worries me most is when I have to give medicine to my son. It causes a lot of anxiety

for me. I think that I'm going to give him the medication in an incorrect way. I'm not sure how many times to give the medication or what time of day.

About--some time ago I was prescribed an antibiotic, I, soon after taking it, I started to vomit. And it was because I took the medication in an incorrect way. I stopped taking the medicine immediately and returned to my doctor. The doctor gave me another medicine and gave me instructions on how to take the medication. 'Til this day I know that I became sick because I took the medication in an incorrect way.

Okay. So I think that medication information for me should be given to me in Spanish. That way I'd be able to take it without worrying. I know that many people that I know suffer the same thing. They don't know how much of a medicine to take or how many times a day to take it. And at the pharmacy itself people ask me to help them translate medication instructions however I can't since I don't speak English.

I don't think that it's sufficient

to just get oral instructions or be told at the pharmacy how to take a medication. Many times people have various medications and when they go home they forget what they told them about which medicine. So I think that translation, written translation should actually come in the medication packets themselves.

Thank you for listening to my testimony and I hope that you make the right decision. Thank you very much.

[Pause]

FEMALE SPEAKER THROUGH THE INTERPRETATION OF CHAIRPERSON RIVERA: Hello and thank you for giving us the time to tell you of our problems at pharmacies. I am 65 years old and suffer from osteoporosis, high blood pressure and dizziness. For these conditions my doctor has me take prescription medications. When I go to pharmacies in Ozone Park, Queens, I have a very difficult time. My English is not very good and I always receive medications with labels in English. My pharmacy never asks me if I need translated labels and I cannot ask them myself since I don't speak any English.

I'm very afraid to take medications without knowing the appropriate dosages so I depend on my granddaughter to help me translate the labels on my medication bottles. Many times my granddaughter has come to the pharmacy with me and other pharmacy clients have come up to her for her help to translate the instructions on their medications.

This is a lot of responsibility for a little girl. But usually I and others at the pharmacy have no choice but to ask for her help. The situation we are in at pharmacies is dangerous. Please help us by passing the law. We should all be able to understand our medicines to we don't get even sicker when we take them. Thank you.

FEMALE SPEAKER: Thank you.

CHAIRPERSON RIVERA: All right. Thank you very much. Are there any questions on behalf of the members? Council Member Eugene?

COUNCIL MEMBER EUGENE: Thank you very much Mr. Chair. Mr. Chairman, I don't have any questions but I just want to make a comment. I just want to thank each one of you and

congratulate you for your courage and for your testimony also.

You are talking not only, you know, for yourself, you are talking for many, many other people who cannot stand up and speak. It is very important that, you know, you have the opportunity to see and to understand medicine because we are talking about a difference between life and death. This is very, very important and I think this is a wonderful legislation. And I congratulate you for that.

CHAIRPERSON RIVERA: Thank you very much. Thank you. And I also want to thank everybody for coming out here today. It does, you know, take time out of your schedules and it is an important piece of legislation that I will be signing onto later on, so I want to thank you all for being here.

[Pause]

CHAIRPERSON RIVERA: The next panel will consist of Marcello Monkayo [phonetic] from Make the Road. Ida Torres, Theo Oshiro, Nisha Agarwal.

[Pause]

[Witnesses getting settled]

MR. MARCELLO MONKAYO THROUGH INTERPRETER: Good afternoon my name is Marcello Monkayo [phonetic]. In November of 2008 I had a problem with my heart. I went to the hospital. I spent 15 days in the hospital. When I left the hospital, I live alone, and the doctor sent with me, some prescriptions.

When I went to the pharmacy I asked the pharmacist to explain to me because there was some that were for heart pressure or for blood pressure and there were others that were for my heart. So I said please can you explain to me because I don't speak Spanish (sic). The pharmacist told me to take the one--the medicine for my heart once a day wherein in reality the doctor had prescribed it twice a day, once in the afternoon and once in the morning.

After four days of taking only one a day I had to go back to the hospital. My life was in danger because I could not read the prescriptions. If I had been able to read the prescriptions I would have known how to take the medicine. So I wanted to come here today to give

this testimony so that maybe you can hear me so that hopefully this law can become a reality. Thank you very much.

MS. IDA TORRES THROUGH AN INTERPRETER: Good afternoon. My name is Ida Torres and I'm here to tell you about my experiences with pharmacies in New York City. I do not speak much English and I definitely do not feel safe reading or listening to medication instructions in English.

I used to go to Dwayne Reed across the street from Woodhall Hospital in Brooklyn. I stopped going to this pharmacy because I could never communicate with anyone there. Once I went to Woodhall with muscle pain and my doctor gave me a prescription. I went to Dwayne Reed to fill the prescription figuring I would ask the pharmacist how to take the medication.

When I got the bottle I noticed that all of the information was printed in English. Since I could not read any of the information I tried to ask somebody at the pharmacy for help. However I could not find anyone to help me because nobody spoke Spanish in

the pharmacy. Since I did not feel comfortable taking medicine without knowing what it was or how to take it, I decided not to take it at all. Instead I took over the counter Tylenol.

I believe that being informed about my medication in Spanish will improve my health since I will feel safe enough to take the medications my doctor prescribes me. As a member of Make the Road New York, I've done a lot of work to ensure that pharmacies do not put lives at risk by giving people medication they cannot understand. While we have made advances, we will need a law that will ensure that people like me are safe when taking medication.

Intro 859 will do a lot to protect the health of many people in New York. Thank you very much.

MR. THEO OSHIRO: I'm Director of Health Advocacy and Make the Road New York. I want to thank all of the Council Members who are here today and especially those who have signed onto Intro 859, Council Members Arroyo, Mendez, Gioia and Sears, we really appreciate your support on this.

Make the Road New York is a community based member-led organization with offices in Bushwick, Brooklyn, Jackson Heights and Elmhurst Queens, sorry, and Port Richmond, Staten Island, all areas of New York City with high numbers of limited English proficient community members. Over the years Make the Road New York has worked to ensure that people who do not speak English or do not speak it proficiently have equal access to services.

Many of our community members are eager to learn English and are in the process of doing so. The ESL classes that we offer at Make the Road New York are always full and we often have to turn students away for lack of space.

There are far fewer subsidized English classes offered today than 16 years ago even though the number of immigrants in New York has grown. In light of the situation and the fact that many of our community members work 12 to 18 hour days, learning English is a difficult and long process.

Regardless of whether people have access to English classes or not, there will

always be people in New York City who do not feel comfortable talking about certain matters in English. Title VI says that no entity that receives Federal money can discriminate on the basis of race, national origin, or color. Thus if entities like hospitals, government agencies or pharmacies are not making their services equally available to all, they are violating Title VI.

In the case of hospitals, Title VI was not sufficient to get hospitals to improve their language access services. Health advocates successfully fought for regulation that explicitly mandates that hospitals mush provide translation and interpretation services to its LEP patients, Limited English Proficient patients.

The implementation of the hospital language access regulation has resulted in vast improvements in hospitals around New York City. Pharmacies and medications are also an important part of the healthcare system. Pharmacies provide the medicines people need to get healthy.

While many community members now receive language services when they are in hospitals, they are left un-aided when they go to

the medicines their doctors prescribe them. Many of our community members do not take the medicines they should be taking because they cannot understand the English-only labels, rather than put their lives in danger by taking the wrong dosage or making some other mistake, they choose to forego their badly needed medicines.

Some use their children or grandchildren to translate labels for them, putting a great responsibility on young children. Others take medications the wrong way and experience strong physical effects which lead them back to the doctor or the emergency room. Parents fear giving medications to their children for fear they will misunderstand the English-only labels.

Many LEP patients never get counseling from their pharmacists something required by law governing pharmacies because the pharmacist cannot communicate with him or her leaving the community member to try to decipher what the medicine is and how to take it. By providing translation and interpretation services pharmacies would not only be safeguarding patient health but they would surely improve their flow of

customers and strengthen their business.

About two years ago Make the Road New York, New York Lawyers for the Public Interest and the New York Immigration Coalition filed a civil rights complaint with the Attorney General. This complaint detailed many civil rights violations by pharmacies across New York that were not providing language services. Just two weeks ago the Attorney General announced important settlements with some of the City's largest pharmacy chains to provide translated materials and interpretation services to LEP customers.

While this was a huge step in the right direction, there are still various other pharmacies that are not covered under the Attorney General's settlements. Also the AG settlements will eventually expire leaving pharmacies without any official guidance on how to provide these vital, lifesaving services.

Intro 859 offers common sense solutions that will go a long way in preventing some of the dangers that have gotten our members sicker instead of better. Common sense solutions such as providing translated labels and warning

sheets and the use of interpreters during patient counseling. We urge the City Council to support Intro 859. This law will meet a critical need protecting the health and safety of all New Yorkers regardless of what language they speak.

And I just wanted to respond to some of the issues that were brought up earlier regarding especially cost. You know, we understand that pharmacies and many people have to take costs into account, but as was said before, we're talking about the health of people and the lives of people. And in many ways this integral--this is integral. We can't consider the cost and let that be a barrier to people staying healthy and really staying alive and making sure that their pharmacies are making them better, or their medicines are making them better.

You know the legislation doesn't prescribe, you know, having interpreters on site at the pharmacies, that, you know, pharmacies can do different things like use technologies like Language Line and computer systems to provide translation and interpretation services.

And, you know, the issue was

brought up of, you know, pharmacies being or clients being directed to other pharmacies. Right now those pharmacies that would need to direct other people--people to other pharmacies are already putting themselves in danger by hurting a patient by giving them a medication that they won't know how to take. You know, there is obviously the issue of the person's health and their life. But do pharmacies really want to run that danger of giving their clients a medication that might hurt them and that might come back to the pharmacy later on?

Right now those pharmacies aren't fulfilling their requirement to safeguard the lives of their patients and to make sure that they know what they're going to be taking and putting into their bodies. So, you know, we believe that this is the key issue here. And we thank the City Council for listening to our testimony today and urge you to support Intro 859. Thank you very much.

[Pause]

MS. NISHA AGARWAL: Good afternoon and thank you for the opportunity to testify about

Intro 859 concerning the provision of interpretation and translation services in pharmacies for people who are Limited English Proficient. My name is Nisha Agarwal. I am a Staff Attorney with New York Lawyers for the Public Interest a nonprofit civil rights law firm. NYLPI strives to meet the legal needs of low income New Yorkers who, among other things, face discrimination in the healthcare setting because of their race, national origin or the language they speak.

As many have testified today, language barriers prevent thousands of people who are LEP from obtaining medications and other important services in pharmacies throughout New York City. Laws do exist that should prevent this from happening. Under Federal law, as Theo mentioned, such as Title VI of the Civil Rights Act of 1964, people who are LEP are entitled to receive interpretation and translation services so that they may access hospitals, clinics and pharmacies among other things, on equal terms as everyone else.

Also under the State Education Law,

pharmacists must provide individualized counseling to their customers to ensure that they know how to take their medication properly and safely. And medication bottles must be labeled in such a manner that customers can easily understand them. Pharmacies cannot meet these requirements for their LEP customers without also providing interpretation and translation services.

Recently, as many of you know, the New York State Attorney General's Office completed investigations of and reached settlement agreements with seven of the largest chain pharmacies in New York regarding their compliance with existing language access laws. These agreements were the result of a civil rights complaint that our office filed on behalf of Make the Road New York. And the Office of the Attorney General Settlement Agreements represent a huge step forward in the enforcement of existing laws. They're an indication of the importance of this issue, not only in New York City but statewide.

Nevertheless still more needs to be done to ensure patients' safety and to ensure equal access to all chain pharmacies, not merely

those covered by the settlement agreements. And more needs to be done to ensure that language access is available well into the future and not simply for the period that the settlement agreements are in effect.

This is where the City Council can step in. Existing language access laws are very broad. They tell pharmacies that they must make their services accessible to LEP individuals but they do not tell them how or to what extent. So in a city like New York where over 1 million people are LEP, pharmacies may not know that they need to be able to translate medication labels into the hundreds of languages spoken by people throughout the City or simply the handful that are especially prominent in the communities where they are located.

Sometimes, also, pharmacies mistakenly assume that if they were to provide interpretation services for the purposes of patient counseling they would have to hire pharmacists who spoke dozens of different languages or have on staff interpreters, when in fact the obligation could easily be met by

training existing staff or using a variety of different technologies available.

The City Council can remedy this problem by enacting Intro 859 which clarifies the obligations that pharmacies have to make their services accessible to all, regardless of the language spoken. The purpose of such legislation is not to supplant existing mandates or to even add new or more onerous regulation but to provide concrete guidance to pharmacies operating within the unique context of New York's many and diverse communities.

To give you an example of how clearer guidance can have a tremendous impact in the area of language access, in September 2006, the New York State Department of Health promulgated new regulations governing language access in hospitals that provided very specific requirements about when interpretation services should be made available; where notices should be posted; and in what languages.

In that case, as in this one, laws were already on the books requiring hospitals to provide language assistance services but patients

were still not receiving them, often to disastrous consequences. The State Department of Health's new regulations strengthened and provided greater clarity to the existing requirements and the results two years later have been quite impressive.

As Theo mentioned, advocates have monitored hospitals and found vast improvements in the number of patients who actually receive interpretation services during their hospital visits. Patients themselves report heightened knowledge of their rights to language assistance services due to notice requirements contained in the new regulation. And as an attorney working in this area, I have noticed that hospital administrators are increasingly willing to negotiate with me and my clients to figure out how to provide the necessary services, and not about whether or why they should do so in the first place.

With similar guidance from the City Council we can achieve the same results with pharmacies in New York City.

For people who are LEP, being able

to access prescription medications and other important services in pharmacies in a language they can understand can be of life of death significance. The fact that so many people in our city are never--unable to access to these important services is troubling but it is also a problem within our capacity to fix. On behalf of my LEP clients I urge the City Council to pass Intro 859 and make pharmacy's services equally accessible to all New Yorkers regardless of the language they speak.

And before I conclude, I'd just also want to respond to an earlier concern that was raised by the individuals testifying from the Department of Consumer Affairs. There was a question raised about how you determine which languages are the primary languages for the pharmacies that need to provide translated labels. And there was the concern that was raised that the DCA would have to go out and survey each community district to find out what languages were spoken by 1% or more of the population in that community.

The reality is the Department of City Planning, every year, produces a report

available online that lists the top ten languages spoken by people within that community district and lists the percentage of people speaking that language. So it's really just a matter of virtually downloading the reports from the Department of City Planning, looking to see which languages are spoken by 1% or more and providing that list to the pharmacies in the area.

It is certainly not a huge, onerous task. In fact our office completed that analysis ourselves and while I don't have the data in front of me, we were able to determine what languages would be spoken in the different community districts. In most cases it's not more than one or two languages other than English that would be required.

CHAIRPERSON RIVERA: I mean thank you for stating that on the record because that's part of what we had asked, you know, before, does another City agency have this type of information, you know, at hand. And the answer was no. So now we can go back and say there has to be intergovernmental conversation and sharing of the information so that way it can be properly

facilitated. So thank you for that. Do we have any questions? Council Member Mendez?

COUNCIL MEMBER MENDEZ: Good afternoon. I'm sorry, I have a mint in my mouth. Earlier I mentioned to DCA that my experience had been that in these small pharmacies they always have someone who speaks another language. To anyone on this panel who works with constituents, do you know that to be a fact, the same experience?

MR. OSHIRO: Yeah. In the neighborhoods that we work in through Make the Road New York which is Elmhurst, Port Richmond and Bushwick, and also just the same way in my personal experience, most pharmacies do have bilingual staff members who can do interpretation on site.

You know, the New York Academy of Medicine's study also showed that smaller mom and pop pharmacies already were providing the kinds of services that we're talking about. And, you know, it makes sense for small pharmacies because they want--they're very connected to the community. They know people by name. They want to be able to

keep customers. And so it's in their interest to be able to speak to a community member in their own language and to be able to relate to them. And that, you know, it's part of the reason why smaller pharmacies do it. So yeah, the answer is yes.

COUNCIL MEMBER MENDEZ: And again, in my experience and some of my friends, the problem we're encountering is more with the bigger pharmacies. Is that in fact your experience with some of your constituents?

MR. OSHIRO: Right. The vast majority of the pharmacies that we get complaints about at our organization are bigger pharmacies, chain pharmacies that are right in immigrant communities and, you know, right in the middle of Bushwick or Jackson Heights, and don't have--either don't have the--they often have the ability, but do not really provide the labels and the interpretation, translation that they should for that community member.

So yes, the vast majority of our complaints do come from larger chain pharmacies and that's why we think this legislation would

have such a big effect.

COUNCIL MEMBER MENDEZ: And in your opinion, if the bigger pharmacies were able to print all those instructions in another language. I'm, you know, I'm sure you know what I'm talking about when you go to a pharmacy and then they attach this piece of paper to it and it tells you how to use the medication, how not to use it, what not to use it with and what kind of side effects you might have.

If they were able to print that in another language would that be very helpful to some of the consumers who are going into that pharmacy?

MR. OSHIRO: Yes. You know, one of our members stated before and actually that we've heard a lot is, you know, the health status of many of our community members is not great. And so they have a lot of medications that they take. So often, you know, you might think, well why can't the pharmacist just talk to them or someone, you know, speaking in their language tell them how to take this medication.

The truth is that many of our

members have various medications that they take. It's hard for them to be able to remember what the pharmacist said about any particular medication. The labels and what you're talking about the translated information and warning sheets, would go a long way. Those are the things that people look towards, you know, if they're worried about side effects or contraindications, things like that.

They know that the information is contained there. And they try to read it and sometimes have to get children or someone to translate that material for them. So having that material translated into their own language would be huge for them because they would be empowered, really, to take the medication in the right way and not harm themselves.

COUNCIL MEMBER MENDEZ: I want to thank this panel for their testimony, for answering my questions, and I want to thank you Mr. Chair.

CHAIRPERSON RIVERA: Thank you very much. Are there any other questions on behalf of the Committee? No. Seeing none, thank you very

much.

[Pause]

CHAIRPERSON RIVERA: And we've also been joined by Council Member John Liu.

The next panel will consist of Ann Fellows and Lawrence Mandleker [phonetic].

[Pause]

CHAIRPERSON RIVERA: Here.

[Pause]

[Witnesses getting settled]

MR. LAWRENCE MANDELKER: Chairman Rivera and members of the Committee, my name is Lawrence Mandelker [phonetic]. I'm testifying on behalf of the New York Metropolitan Retail Association known as NYMRA. Our members are national chain realtors operating in the City. Some of our members have or are pharmacies within their stores. They would be subject to regulation under this bill as chain pharmacies.

It's my pleasure to be among you today. As I understand it, approximately 50% of the pharmacies in this City fall under the bill definition of chain pharmacies. The remaining 50%...

[Audience being asked to be quiet]

MR. MANDELKER: The remaining 50% are independent pharmacies, hospitals, health clinics and other health system providers.

Regardless of where patients have their prescriptions filled, according to Attorney General Cuomo, unless it is declined, State and Federal law require pharmacists to a] counsel patients about the name and dosage of medications, the duration of therapy, side effects, contraindications and storage; b] solicit from patients the information they need to fully offer counseling such as the patient's allergies, drug reactions, chronic diseases and other medications; c] affix labels to all prescription medications they dispense in terms that are likely to be read and understood by the patient; and d] not discriminate against patients because of their national origins.

Based on the foregoing, he has entered into comprehensive agreements which have been styled as Assurances of Discontinuance, with many of the largest chain pharmacies to provide language assistance in New York to customers with

Limited English Proficiency. The agreements have effectively defined best practices in New York in how to provide such language assistance. It would have been impractical for the Attorney General to enter to agreements with every single pharmacy in the State and therefore he negotiated with the largest chain pharmacies.

Frankly, the only reason to pass this bill would be to cover the many pharmacies in the City that would not be affected by the agreements. I could not help but notice the very moving testimony we had by some of the members in the prior panels who talked about going to pharmacies and not being able to be understood or to understand the instructions. But only two of those pharmacies were chain pharmacies, the other pharmacies were unidentified.

Local pharmacies aren't doing this. They don't have the ability to provide the written instructions that this bill calls for. Neither do we. But as I say the only reason to pass this bill would be to cover the pharmacies that are not covered already by the agreements.

Intro 859-A would address the

language proficiency needs of the customers of chain pharmacies whose needs are already effectively addressed by the various Assurances of Discontinuance. It would not address the language proficiency needs of the customers in the remaining pharmacies in New York.

With their health at stake, those customers need more than a sign referring them to the nearest chain pharmacy for language assistance. Particularly for the elderly, infirm and those pressed for time by the responsibilities of childcare and employment, that's not very much assistance.

It was a question earlier about hiring language speakers or telling people to come back later. Chain pharmacies do this also. We are in the business of trying to make money and satisfy customers. But that's not sufficient. That's what the Assurances of Discontinuance have taught us.

So government has to make choices. Do the needs of Limited English Proficiency individuals justify that the burdens in this bill be imposed on all and not just some pharmacies in

the City? In making that decision, please keep in mind that although a chain pharmacy is likely to have more revenue, it will also have substantially higher expenses. Moreover anyone who follows financial news knows that retailers are losing money hand over fist.

So let's talk about burden. A useful starting point is the ballot used for primary and general elections in the City. There may be 150 languages spoken in the City, but the Board of Elections only speaks 4 of them: English, Spanish, Chinese and Korean. We heard from the Department of Consumer Affairs that other City agencies speak as many as 6 languages: Spanish, Chinese, Russian, Korean, Haitian, Creole and Arabic.

The Assurances of Discontinuance require chain pharmacies to provide written translations in Spanish, Chinese, Italian, Russian, French and five additional languages, based on the chain's assessment of the largest number of Limited English Language Proficiency customers likely to be encountered by its pharmacists throughout the State. The additional

languages are to be added within 45 days after the implementation of their pharmacy computer systems. Implementation of pharmacy computer systems is not required until March 31st, 2010.

Ms. Fellows is going to speak more about these computer systems but let me just say something, as someone who's not an expert in computers and therefore asks simplistic questions. Isn't it just like Google? You put in a phrase, you go to translations, you pick the language and you get the phrase translated. And the answer is it's not.

Each one of these labels is specific to a specific medicine, to the specific patient, specific dosage, specific contraindications, etcetera, etcetera. You don't just put it in, in advance. Each one of these has to be individually prepared. It's not a job that you do in two seconds. It's not a job that you do cheaply.

Intro, in contrast to what the Assurances of Discontinuance require, Intro 859-A is effective 180 days after passage and requires chain pharmacies to provide written translations

in any language spoken by 1% of the population of the community district in which the pharmacy is located. And after a year, 1% of its customers for the previous year, even if that language is spoken by fewer than 1% of the residents of the district.

Now it's true that the Planning Commission does put out statistics every year. But it's based on the 2000 census, that's the dirty little secret. So it's nine years out of date. So you have to--you can't just rely on information nine years ago.

Base on the countries of origin of the foreign-born residents of Queens Community District, and I use that as example 'cause it's one of the most diverse, that are reflected in the 2000 census, under the bill, the primary pharmacy language for that District, languages for that District are likely to be Russian, Chinese, Spanish, Spanish-Creole, Korean, Hebrew, Polish, Romanian, Persian and either Hindi, Gujarati [phonetic], Urdu or whatever other language the Indian immigrants in that District speak. And we got this--we just looked at the number of

residents in the District, the number of foreign-born residents and figured out what languages they speak.

All of those languages, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 or 13, are potential 1% languages. During the 1st year, 1% of the pharmacies' customers in that District might be comprised of residents who speak Japanese, Hungarian, French, including Cajun, Haitian-Creole and Patois, German, Italian, Tagalog [phonetic], Armenian, Portuguese, including Portuguese-Creole, Arabic, Greek and Serb-Croatian. Although other community districts may not be as diverse.

Chain pharmacies are likely to implement system wide pharmacy computer systems that will necessarily have to "speak in every primary pharmacy language of every community district in the City, as well as in every other language that might be spoken by 1% of its customers in any community district." In other words, as a practical matter, under this bill the chain pharmacy computer system will have to handle between 100 and 150 languages. That 150 number doesn't come from it. It comes from you 'cause

it's in the preamble to the bill.

The Assurances of Discontinuance require chain pharmacies to have a telephonic translation service with trained interpreters who speak all of the languages that the pharmacy "can reasonably expect its customers to speak." In contrast, Intro 859-A requires oral counseling to be given "in the primary language of the LEP individual." Again that, on a system wide basis could be 100 to 150 languages.

So what's the take-away from all of this? The Assurances of Discontinuance provide time for chain pharmacies to implement in their pharmacy computer--to implement their pharmacy computer systems and essentially limit the languages to be dealt with. They are the product of good faith negotiations that resulted in an aggressive, workable solution to a real world problem.

Attorney General Cuomo has stated that these agreements will "ensure that those who don't speak English as their first language have the medical information needed to protect their health and wellbeing." Two weeks ago when the

latest of these agreements were signed, and by the way, as far as I can tell, they cover all of the national chains with the exception of one which already does more than what's called for in the agreement. Two weeks ago when the latest of those agreement were signed, Andrew Friedman, Executive Director of Make the Road New York, that organization testified and sponsored a lot of testimony here today, stated we are very pleased with these agreements.

Let me say that again: we are very pleased with these agreements and thank the Attorney General for his efforts.

If the Council is not going to cover independent pharmacies, hospitals, clinics, etcetera, there's no reason to pass this legislation and impose further requirements on chain pharmacies beyond those agreed to under the Assurances of Discontinuance. Better to just allow the legislation to pend, observe how effective the Assurances of Discontinuance turn out to be and then come back to the bill if there's still a problem that needs to be addressed.

I thank the Committee for this opportunity to testify and the courtesies that you've extended. I hope my comments will be taken into consideration as you move forward in considering the bill. And should you need any assistance that NYMRA is able to provide, we will be more than happy to do so.

MS. ANN FELLOWS: Good afternoon. My name is Ann Fellows. I'm with the National Association of Chain Drug Stores and I hope I can answer some of the questions that have been raised earlier today.

First I'd like to thank you. You may not recall I appeared before you last year when your Committee considered Pharmacists as Immunizers, and a Resolution was passed by this Committee which was instrumental in getting this State to finally pass legislation, the State Board of Pharmacy acted swiftly and now pharmacists as soon as they are qualified are allowed to give immunizations. And you did a great service to our community and we appreciate your support of what pharmacists do in the healthcare community.

Regretfully I am not here today to

give a total endorsement to your proposal. You have raised some interesting points and I'd like to go through them and tell you how we think it could be--if you decide to proceed along these lines, maybe a more effective strategy that could accomplish your goals. I will try not to repeat anything that my learned colleague here hasn't already raised.

One of the things that I wanted to raise and what you've heard about is the 150. It's just a huge number and it'd be very difficult. I brought props because I thought y'all might be bored by now. And what I want to show you is what a sign would look like in just 14 languages. Right now pharmacies are required to post 11 signs in a pharmacy. 10 are by State law, 1 is, as you heard earlier a New York City law on contraception.

This is--

CHAIRPERSON RIVERA: [Interposing] Oh that's - - .

--what it looks like in 14 languages. And what we have to do and what, under your proposal, independents have to do, is you

have to post in every language. So even if a pharmacy, an independent pharmacy could provide service say in one language, say in Spanish, they would still have to post it in every other language that they couldn't do it.

So this sign as you can see is large. It's--this is only 14 languages. We're thinking in some cases it could be as many as 20 or 30. And it would have to be of a size that people could read otherwise what's the point. So we don't really think that that particular requirement is very workable given the space we have in a lot of our pharmacies.

Another issue that we'd like to raise is this is the first time we are aware of any city trying to regulate the scope of practice of pharmacies. As you know, each State has a State Board of Pharmacy. And we would urge that you set up a collaborative working group with the State Board of Pharmacy so that anything that is agreed upon could be uniformly rolled out.

We do have concerns about the proposal only addressing chain pharmacies. Half of your--as you heard earlier, half of your

pharmacy population doesn't fit under that category and we think it could be confusing to the patients. Also there's a cost involved in providing these services. The New York Academy of Medicine estimated that when they provided the services on a very limited basis, just the oral, it was $10 a call.

We are not aware of any written translation service for beyond one, maybe two languages, Spanish and French. It does not exist. So to date we would not know how we could even fill that thing but we have to assume that it would be on the same magnitude of cost, if not greater, to provide that. Therefore you would be putting half of your pharmacy population at a $10 to $20 disadvantage for every prescription it filled. And if this is something that you think is important, we think it should be important across the whole pharmacy community.

We would urge you to look at what California has done. In 2003 they enacted legislation which is across the whole healthcare community. It is important that limited English speaking patient, at any point in the process, be

afforded explanations that they can comprehend. This goes across the doctors, dentists, nurses and pharmacies. It is being managed by the healthcare plans which are the central source, that's where the billing goes into. That's the ones that can keep it across the communities, sort of like having a medical home.

And we would think that you would want to look at this approach rather than singling out part of one part of the healthcare community. They have just rolled this out, although it passed in 2003, it has taken a while to get it up and running because, as you've heard, you want the translations to be accurate and you want the customer and the patients comfortable with the process and what is available to them.

So we, again, would urge you to work with the State Board of Pharmacy on such an approach as that. And we think that that might be a better method of ensuring good medical care for the citizens of New York.

And let's see if I have any other final points. I guess I would open it up to questions and answers if you have any.

CHAIRPERSON RIVERA: Council Member Inez Dickens.

COUNCIL MEMBER DICKENS: Thank you so much Mr. Chair. And I want to thank all that came down to testify on behalf of Make the Road New York. And I thank you for your testimony as well for coming down.

And I, in my District, and that's the District I'm talking about, it's ever-growing with a population from Senegal and other West African countries. So that the language that is now being spoken quite a bit in my District is Yoruba and Senegalese. Is that something that--because if--and I believe now we're up to about 8% of Senegalese in my District. And this bill requires 1% as a minimum, if there's 1% or more of a language spoken then--and you cannot go by the census, I don't care whether it's 2000 or later, because that is a group of people that are not in the census, particularly of 2000, and probably in 2010 they will not be a part of that census.

So I would not be interested or inclined in you looking at the census for my community, fully, and relying upon that as a total

way of calculating the languages.

Would you include in that piece that you showed us, as well as in the access to the computerization, be able to include the language of the people of my community, Senegalese and Yoruba?

MS. FELLOWS: What we have found is true across all pharmacies is that when a pharmacy is located in a neighborhood with a particularly high level of one particular foreign language being spoken, someone in that pharmacy speaks it. It may not be the pharmacist. It might be the clerk. But somebody speaks it. And having a particular--one particular language is, orally, is not the issue, as much as in writing. No we would not have that capacity.

COUNCIL MEMBER DICKENS: Well in my--'cause in my community, I dare say, I haven't come across any pharmacy that has someone that speaks Senegalese or Yoruba. Now sometimes Haitian Patois and sometimes, of course, French--

MS. FELLOWS: [Interposing] Um-hum.

COUNCIL MEMBER DICKENS: --of which some African nations also speak French. So that

they may have, those pharmacies may have somebody that addresses that. But I'm very concerned about this growing population in my community.

MS. FELLOWS: Um-hum.

COUNCIL MEMBER DICKENS: As to how this would address and protect those residents, that is on the increase in this country. And particularly in New York.

MR. MANDELKER: Council Member, you have raised a very, very important issue and it illustrates three different points. One, it illustrates how difficult it is to ascertain what the languages are because, you're right, I agree with you, you can't rely on a 2000 census and you probably are not going to be able to rely on a 2010 census to capture the language diversity of districts, particularly as immigrants, an immigrant population comes into that district.

Secondly, I guarantee you, dollars to doughnuts, that if we were to try to find a written language translation program, I mean we could eventually find it, but we're not going to find it in 180 days. If we'd go to one of these translation services that translates by telephone,

again, eventually we will find someone. But it's not going to be tomorrow. It's not going to be in 180 days. That's why it's so difficult because as former Mayor Dinkins used to call it, this gorgeous mosaic of New York, has so many languages. I mean it never even occurred to me to think about Yoruba or Senegalese. And I'm sure there are a lot of other African languages that are to be found in districts 'cause we've been talking a lot about Spanish today, a lot of the witnesses testified in Spanish. And it was very moving testimony. And one of the things I kept on thinking is I'm fortunate that I spoke English and there was an English translation. But what if I spoke Yoruba?

COUNCIL MEMBER DICKENS: Yoruba.

MAN: Yoruba. If I spoke that and not English. I wouldn't have known what they were saying. And it just goes to show the difficulties.

So what I think we're saying is there is a need here to be met. We think that in so far as the chain pharmacies are concerned, the Attorney General has taken a huge first step, a

good first step. And now I think we need to just see what the experience is and then if we need to tinker with it by legislation, that's an appropriate thing. That's why I suggest, I think we just let--our recommendation would be just let the legislation pend, see how it works out and then if there's a need to do something, we should do something.

COUNCIL MEMBER DICKENS: Well I just, just for the record, I happen to be a strong supporter of small neighborhood pharmacies more so than the chain pharmacies for a variety of reasons. And I want to thank Make the Road New York for bringing this to the City Council's attention. So that all nationalities can be addressed in this and not just the 15 or 20 that you mentioned. So thank you so much. Thank you.

CHAIRPERSON RIVERA: Ms. Fellows, I just wanted to follow up on a couple of things. You mentioned that it would be an over--that it would be too much of a burden on the industry to, you know, to implement this type of law but under the Attorney General's, isn't there a time table on when you have to get a certain amount of

languages, in translations?

MS. FELLOWS: I have not read the agreements because of--I represent the trade association. So I did not enter into any of the agreements. As I understand, there is--each company indicated how much time they would need to get ready 'cause they want to roll it out right. You don't want to roll it out, take it back and then launch it again.

Some of our members have already have in place and have had in place for almost a year now, the oral translation service which they have contracted out. Others are handling it a different way with people on staff.

So each one's taking it differently and the AG as I understand it, has allowed flexibility to play to the strengths that each company brings. And as long as you meet their criteria, you can accomplish it how you want to.

MR. MANDELKER: Perhaps I can help with this answer--

CHAIRPERSON RIVERA: [Interposing] Yes. And with the written translation, that's what I'm trying--

MR. MANDELKER: [Interposing] Yes.

CHAIRPERSON RIVERA: --to get at.

MR. MANDELKER: I've read virtually all of the agreements. And what it says, and we have to understand 'cause it's a term of art, they talk about implementing a pharmacy computer system. Now a pharmacy computer system isn't all just printing. It's a combination of printing and telephone. But what they say in this last round of agreements which was signed April 21st, is that the pharmacies have 11 months to implement a pharmacy computer system in 5 languages.

And then they, within 45 days, have to add an additional 5 languages. We're talking about the written. And those are called Pharmacy Written Languages, under these agreements. So the pharmacies have, let's see, it's 11 months and 45 days--a little bit over a year to implement it and they know what the 5 languages are going in. And they pick the other 5 languages based on the population that they feel is likely to be frequenting their pharmacies.

So it's not an unlim--that's the difference because it's a limited--it's a limited

world. And you have to speak to them only if it's in a written language, if you're giving advice in the pharmacy, otherwise you have to have a translation service.

CHAIRPERSON RIVERA: Okay. So it's a matter of time and a limited universe of roughly about 10 languages opposed to the 150.

MR. MANDELKER: Correct. Because as a practical matter, our computers are going to have to address all the languages in the City, if there's this 1% requirement. 'Cause there are 2-- remember there are 2 1% requirements. There's the 1st requirement that says you have to speak a pharmacy language, that's a defined term in the bill, that reflects 1% of the language spoken at home by the residents of a community district, in which the store is located. And then the year after that 1% of the language that Limited English Proficiency customers of that pharmacy have in the next year, which could be less than 1% of the languages spoken in the district.

So in effect it means our computers are going to have to speak all of the languages. And that is a huge undertaking. And the language

translation services that we would have to get, it's also a huge undertaking because we don't know what our universe is. I mean we know that there is a huge universe. And that's why we say let's see what the experience of the Assurances of Discontinuance are because they're wonderful agreements. They do important things. And we should monitor them. And you can have hearings from time to time to see what's going on with them and if you see that there's a big hole in those agreements, you can address them.

And, you know, I don't know how to address the independent pharmacies because if it's burdensome to us, it's going to be way, way burdensome to them, but they are providing a very important health service for their patients. And, you know, if our patients are worthy of protection, why are their patients less worthy of protection?

And I'm not saying this to say you should do it to them also, make this a poison pill. I think everybody is sincere here. There's a problem that needs to be address. It really, really needs to be addressed. And the advocates

are to be commended for bringing it to us, bringing it to you, bringing it to the Attorney General. But we have to try to solve a problem and solve a problem in an orderly way because this is too important to get wrong.

These translations are really, really important. The advocates are right. This is live and death. And the translations have to be done right.

COMMITTEE COUNSEL: [Chuckling] You've been abandoned.

CHAIRPERSON RIVERA: I've been abandoned. Thank you very much. That's the line of questioning from me. Thank you.

MS. FELLOWS: Thank you.

MR. MANDELKER: Thank you.

MS. FELLOWS: And if we can be of any assistance, we'd be happy…

CHAIRPERSON RIVERA: Thank you again. Okay the next panel will consist of Linda Weiss, Stacey Bailey and Michael Wolf.

[Pause]

CHAIRPERSON RIVERA: We have testimony to give to the Sergeant at Arms and

he'll give it to me. And… my dear, and my counsel's abandoned me also. [chuckling] she says she'll be right back. Okay so at this point, whoever wants to go first. Just state your name for the record and you may proceed.

MS. STACEY BAILEY: Hi. My name is Stacey Bailey and actually Mike Wolf had to leave today, I'm sorry. I apologize--

CHAIRPERSON RIVERA: [Interposing] That's okay.

MS. BAILEY: --on his behalf. So good afternoon and thank you for the opportunity to speak here today about the pressing public health issue of language access in pharmacy practice. My name is Stacey Bailey and I direct the Health Literacy and Learning Program in the Institute for Healthcare Studies at Northwestern University in Chicago, Illinois.

The mission of the Health Literacy and Learning Program or HLLP is to advance the study of health literacy and to develop and test interventions that can improve an individual's ability to obtain, process and understand basic information needed to make appropriate health

decisions. This program links the fields of medicine and education in order to improve how health systems educate patients and families on important health issues.

Much of our work at HLLP has been dedicated to improving how prescription medication information is provided to and understood by individuals. Our research includes examinations of the extent and associations of limited health literacy with medication understanding and use and descriptive studies analyzing how health systems provide prescription medication information to patients.

Some of our recent work has focused on developing innovative and viable low literacy intervention strategies to help patients better understand and manage their medication regimes. Many of these intervention strategies are currently being tested in an IH funded randomized clinical trials.

So I'm here in New York today to give my full support for Intro 859 as a means of promoting language access in pharmacy practice. Many studies including those conducted by our

research team have highlighted the serious barriers individuals with Limited English Proficiency face when seeing language concordant pharmacy care.

Interpreter services are rarely available to assist pharmacists in counseling LEP patients. Medication instructions are frequently unavailable in languages other than English. And patient information leaflets and medication guides are often written at a reading level that is too difficult for many patients, regardless of their primary language to understand.

The potential impact of linguistic barriers on LEP patients' understanding and use of medication regimes is great. Safe and appropriate use of prescription medications is a prerequisite for managing chronic disease and maintaining health. Additionally two recent Institute of Medicine reports, Preventing Medication Error and Standardizing Medical Labels, have identified poor understanding of prescription medication instructions as a root cause of a larger proportion of outpatient medication errors and adverse events. And I think we've heard testimony

earlier today that kind of alludes to this fact.

LEP patients' difficulty accessing and understanding prescription medication instructions could exacerbate the health disparities already experienced by this population. It is clear that action must be taken to promote language access in pharmacy settings.

Intro 859 represents a strong first step towards this goal by requiring the provision of language concordant verbal counseling and prescription labeling for LEP individuals. New York is leading the way for other states and cities and the proposed legislation here is the forerunner of current efforts by numerous state boards of Pharmacy, the Food and Drug Administration and then United States Pharmacopoeia to promote multilingual medication instructions for LEP individuals. I also want to mention on Michael Wolf's behalf that he is on panels for the FDA and also the USP and they definitely have had conversations about this proposed bill. It's definitely on everyone's radar.

So while Intro 859 gives detailed

information to assist pharmacies in providing language appropriate care to LEP individuals, I would like to suggest this mandate also be accompanied by clear guidance on how to appropriately translate prescription medication instructions. Efforts must be taken to ensure that translated materials are of the highest quality.

Our research team recently completed a survey of language access in 764 pharmacies across 4 different states. And data from the survey indicated that pharmacies are frequently using suboptimal methods of translation to provide the language concordant Rx labeling. For example pharmacies reported using online translation engines or staff with only basic language proficiency.

So guidance on appropriate methods of translation must be provided to pharmacies to make certain that prescription medication information is understood by all individuals. And I'd also recommend that perhaps a set of best practices prescription instructions can be made available in multiple languages and be shared with

pharmacies to ensure that the most understandable medication information is given to patients and their families.

So in conclusion I want to again express my support for Intro 859 and commend the New York City Council for considering this step towards ensuring that LEP individuals receive the vital prescription medication information they need in their primary language.

This proposal could greatly improve current pharmacy care and the health of many New Yorkers. So thank you for your time today and for considering this proposal.

MS. LINDA WEISS: I'm Linda Weiss from the New York Academy of Medicine and I directed the study that's cited in the legislation. And I'm here with Simone Marie Meeks, a Senior Policy Associate and we want to thank you for the opportunity to speak today. And I'm going to talk about the work that we've done, but just want to point out to start that although the New York Academy of Medicine has led the research, we've done it as a collaborative with advocates, with physicians and with pharmacists

and pharmacy schools. So in approaching the work we're trying to answer a lot of the questions that came up today about the feasibility.

So I'll just go ahead. Thank you again for the opportunity to speak today. We greatly appreciate the City Council's interest in language access in pharmacy settings. At the New York Academy of Medicine, we've been working on this issue for several years and would like to share some of our work and findings with you.

We started our work on pharmacies and language access with the research cited in Section 1 of the proposed legislation. We conducted a telephone survey of a random sample of 200 New York City pharmacies which included questions on frequency in language of Limited English Proficient customers; languages spoken by pharmacy staff; ability to print translated medication labels and leaflets; frequency of translations; and other policies and practices regarding multilingual medication information.

We found that 88% of the pharmacists that we surveyed reported that they had LEP patients on a daily basis but less than

40% reported that they translated labels daily. 23% of those with daily LEP customers never provided translated labels. Independent pharmacies were approximately 4 times more likely to provide translated labels on a daily basis as compared to chains, although a number of chains did have resources for translation including both the label and the verbal translation.

Furthermore there was variability in chain pharmacists' knowledge regarding their translation capabilities. So if we, you know, interviewed two pharmacists from one chain we might get two different answers regarding their capabilities. And we heard from the pharmacists that we work with that there's very limited training regarding the resources that are available.

Labels, as I said, were inadequate, according to our survey. Verbal translation was also inadequate. There were many bilingual pharmacists we identified by few spoke the language of their community. Only 22% spoke Spanish which is of course the language, the predominant language of LEP New Yorkers.

Pharmacists participating in the survey reported using other staff, other customers' family members or nearby merchants, none of whom had interpreter training and many of whom would violate HIPAA regulations by providing interpretation. Those were the people that provided medication instructions to their LEP patients. Several chains developed systems to access telephone interpreters, including contracting with Language Line and other commercial services but there was minimal use of the services.

In our interviews with LEP patients, we asked them to bring in prescription medication bottles. Among this--we did Spanish and Chinese, among Spanish speakers, less than 20% of the medicines they brought in included medication instructions. And less than half of them knew that Spanish labels were available from pharmacies. The Chinese speakers were actually--they had much higher, both knowledge, and translation.

Through those surveys we identified a number of reasons for inadequate language

services. And many of these concerns can be addressed with the resources available to chain pharmacies. So one was the concern about possible errors when printing translated labels into languages they don't understand. So they notice errors in the English, they type it, the prescription in, in a code, and they notice errors in the English printed out on the label. And so they were, assumed there would be similar errors in the translation but were concerned that they wouldn’t be able to proofread it and identify the errors and that they would be held liable.

They identified inadequacies in translated software, including inability--and this just seems, to me, personally solvable, inability to print two languages on a single label. So they can print English or they can print Chinese but they can't print English and Chinese together. I'm not a programmer but it seems like something someone could solve.

Limitations in the number of languages available with the dispensing software programs. And that was especially true in the independent pharmacies. And then costs associated

with purchasing translated instructions. So one dispensing software company charged $10 per language per month, that would be more an issue again for independent pharmacies.

There were inadequate systems for identifying patients needing language services and for informing patients that language services exist. So just 8% of the pharmacies sampled reporting having signs informing patients that language services are available. 10% said that they recorded language preference in patient records.

We noticed both in the survey and in work that came after, just a general lack of awareness regarding the importance of full language access for medication efficacy and safety. Many pharmacists were satisfied with the use of ad hoc interpreters even if those interpreters had no interpreter or pharmacy training, if they were children, if they were, you know, worked in the store next door. Similarly they trusted that all their patients had someone at home or in their family who could translate written medication instructions.

Lack of awareness regarding methods such as signs to ensure full utilization of language resources, there was a lack of awareness regarding methods, including the most basic which are signs, to ensure full utilization of the services available.

Since doing this survey we also have conducted pilot interventions in eight New York City pharmacies including two HHC Pharmacies, six independent pharmacies. And the pilot interventions included paying for the telephone interpreting services for the participating pharmacies. And we're not finished with that part of the project but some preliminary observations from the pilot work.

Despite the fact that we were providing $100 a month honorarium, and were paying for all the intervention, any kind of intervention they wanted, the phone, signs, recruitment was very difficult. And I felt that this kind of confirmed that this was not a high priority for pharmacists. We were not able to recruit any chain pharmacies, only independent and HHC.

The pilot pharmacies that did

participate, they reported that in, except in rare instances, using the telephone interpreting service did not add time to the patient interaction and that the interpreters were available almost immediately. This was a concern of theirs to start.

Patient and pharmacist satisfaction with the telephone interpreting was high. In reviewing Language Line bills, the average call was almost four minutes long and cost about $9, so it was around $2, $2-something per minute, but we had not the best rate. If you contracted with Language Line on a wider scale I'm sure you would--there are reduced rates that they offer. And pharmacy chains because of the higher usage would be able to get those better rates. Once made available, signs informing patients of language services were posted and used as a means to add to the customer base.

We found that among our pilot pharmacies which again were mostly independents, they were very interested in whatever kind of translated patient information we could get them. We got leaflets from the Poison Center, from the

Department of Health. And that the customers were interested in those materials.

The pharmacists participating in the pilot expressed interest in interpreter training and interpreter assessment because they did feel like they're going to use the cashier or the clerk that they have there, there was--we couldn't figure out a way to get them trained in a way or in the time they had available. So they wanted maybe two hours at a maximum where interpreter training courses are generally at least eight hours.

So that's--and the last piece of work that we're currently doing is in collaboration with the College of Pharmacy at St. John's University, the Center for Immigrant Health at NYU, and the Center for Immigrant Health. We developed a continuing education course for practicing pharmacists which was offered four times at St. John's for credit.

Enrollment was pretty low. Again I feel that this is not a big interest of pharmacists. We got about 15 people per class and then the people who came, I mean, they were really

just there for the CE credits. But once they got there, they seemed quite interested. And when we did a pre and post, we saw that even this just like two and a half hour class resulted in changes in attitude.

We saw an increased desire to improve language services, 55% at the pretest, 85% at the posttest said they would improve their language services. And then in the posttest again, half the participants said they anticipate making changes to their language services in the two months following the class.

So based on these, both our survey, just our kind of collaboration with different people in the community, the pilot interventions and the course, we have a number of recommendations. So one would be education and training of all pharmacists, focused on the significance of language services and methods for implementing them. This is from our observations, this is not at all a priority for pharmacists. But our experience suggests that education may increase their motivation.

We would also recommend enforcement

of language access laws according to the four factors that Federal fund recipients are to utilize in determining steps to take and to assist LEP patients. Those pharmacy chains with large resource bases and already developed systems for providing langue services should be required to implement language services.

We also recommend development of systems to facilitate cost effective language services in independent pharmacies such as some kind of internet database of verified translations that can be printed, citywide or statewide. Reduced rate contract for phone interpreting services. And just to go back to the kind of internet database, the person who spoke before me talked about how complicated this is, but really it's not so complicated.

You're translating like three times a day, one time a day. There are many languages but these are very short phrases. And I fear that people are making it sound more complicated than it might be.

We would recommend promotion of increased demand for language services through

outreach to LEP patients so they know which New York City pharmacies provide language services and they know to request those services.

And then finally prescription forms should include a box to indicate language needs of patients. Medical providers should be informed that pharmacies can provide verbal and written language services and that they should encourage patients to access such services.

We thank you again for the opportunity to speak on this important issue and welcome your questions and comments.

CHAIRPERSON RIVERA: Thank you very much. You know, a lot of this stuff, you know, we appreciate your testimony and the fact that you helped us with the initial finding for the legislation. And, you know, we see some of the recommendations that you have. And one of them is to make sure that, let me see… it's the prescription forms should include a box to indicate language needs of patients. I mean that would go a long way to ensure that way the patient could have actually, you know, the information.

The pharmacist can work in

collaboration with the doctor so. But that I think is a State requirement. That would require State action so. But thank you very much for your recommendations. And at this point in time there are no questions from Committee members. Thank you. [Chuckling].

And the last panel is Elizabeth Miranda. Last but not least.

[Pause]

MS. ELIZABETH MIRANDA: Good afternoon and that you for the opportunity to testify about the proposed legislation requiring pharmacists in New York City to provide the interpretation and translation services to people who are Limited English Proficient.

My name is Elizabeth Miranda. And I want to testify as someone who not long ago came to this country without speaking English and had to navigate these waters myself and as the President of Translation Plus, a language service company.

Our company specializes in Life Science, 80% of our projects are health-related. We work on a daily basis with medical

communication including patient information, clinical studies as well as onsite and telephone interpretation services. Some of our clients are Merck, Roche, medical centers like New York Presbyterian and the University Hospital of the UMJNJ [phonetic].

As a language professional aware of the challenges know English speaking patients face when having health issues, I strongly support and believe that the proposed legislation is not only the right thing to do but we will ultimately benefit not only the City of New York but our country. I would like to point out that words have multiple meanings based on context and culture and cannot be exactly replaced. Direct word for word or literal translation by a device or a non-specialized professional translator can be dangerous, especially with critical medical translations.

In my experience, word by word translations can be claimed to meet the standard of being accurate and objective. However in practice non-professional translations can fall short of expressing the message accurately and

objectively. Since cultural traditions often impact the decision about whether or not to take medication, as we saw some examples today, it's as important that issues like risks and side effects be communicated in a culturally correct manner. If the person translating, a bilingual pharmacy employee, relative, etcetera, does not clearly understand the objective of the translation, that is no assurance that he or she will communicate the message appropriately.

As an example is a mistranslation of the terms feeling blue in a post-partum depression study. The term means being depressed after giving birth. It was incorrectly translated as blue baby syndrome, the medical term an experience bilingual person felt appropriate in that context. I have included more information on this issue with the printed copies of my testimony,

I would like to state that this legislation is not only important but very doable. Its implementation can already be seen in hospitals and medical centers where language services have been a legal requirement for some

time. The following foreign language strategies are used successfully and cost effectively. Interpretation training for bilingual employees; telephone interpretation services; and professional translation of vital patient information often along with an English version.

For pharmacies I would like to point out that there may be creative ways of leveraging the initial cost of professional translation by implementing solutions that integrate language options with pharmacy management software. It's my belief that even one additional tragedy that's prevented because the necessary information is properly communicated would make this legislation worth while. And that the work that will be done by the pharmacy industry as a result of your efforts will ultimately be deployed nationally.

So in a sense, you are setting a national standard and it's worth setting the bar consistent with best industry practices that can be delivered on a cost effective basis.

Just to follow up with what Dr. Weiss says, in average the price for

interpretation, phone interpretation services, is $1.35, and the average call is 4 minutes. And the connection time is 40 seconds in average.

Also all the phone interpretation services that exist in this country already, already provide the services in at last 150 languages for phone interpretation services. Of course, when you talk about large chains implementing, this price would be lowered because of the volume that they would use.

And translation also, before, earlier today there were several questions of pressing a button and having the computer translating something. This is possible after a professional done translation was implemented in the software. So the cost initially probably would be diluted if several industries, several pharmacies would translate the material even together or through a national association or something like that.

And then after the translation was done, accurately, for each single drug that it has in the pharmacy, then this would be implemented through this software which would totally dilute

the cost and be very cost effective.

Thank you again for the opportunity.

CHAIRPERSON RIVERA: Seeing no one else for questioning, thank you very much ladies and gentlemen. This hearing is adjourned.

[Gavel banging]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature ____Laura L. Springate_____

Date _____May 25, 2009_____