GETTING IN THE DOOR

LANGUAGE BARRIERS TO HEALTH SERVICES AT NEW YORK CITY'S HOSPITALS

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"Of all the forms of inequality, injustice in health care is the most shocking and inhumane."
Martin Luther King, Jr.

INTRODUCTION

New York City has a rich history of immigration from virtually every nation in the world. Almost two-thirds of the City's residents are immigrants and their children and more than 140 different languages are spoken by New Yorkers from more than 200 different countries.[1] The cultural diversity in the City is a powerful source of its strength, but it also can present major challenges to the institutions charged with providing services to people in need. Nowhere is this more obvious than in health care.

Immigrants face enormous barriers in navigating the City's complicated health care system, including cultural impediments, lack of insurance, undocumented status and poverty. Language problems make this challenge significantly more difficult. Indeed, health care providers surveyed in the City found language difficulties to be a major obstacle in providing health care to immigrants and a serious threat to medical care quality "since clinicians could not get information to make good diagnoses and because patients might not understand the treatment regimens prescribed for them."[2]

Although many immigrants speak English, the sheer number of New Yorkers with limited English proficiency[3] in need of language services creates a formidable challenge for the City's health care providers. The 2000 census shows that more than 3.5 million New Yorkers speak another language at home.[4] Of these, more than 915,000, or more than 12 percent of the City's population, report that they speak English "not well" or "not at all."[5]

The barriers created by linguistic isolation have serious implications for the well-being of limited-English proficient ("LEP") individuals and their families. Children of immigrants are more than twice as likely as children of American-born parents to be in "fair" or "poor" health.[6] Foreign-born children are just 14 percent of New York City's children, but accounted for 22 percent of new lead poisoning cases in 2002.[7] Hispanic children have by far the highest rate of pediatric obesity in New York City. Almost one third of Hispanic children between the

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1 The Center for New York City Affairs, http://www.newschool.edu/milano/nycaffairs/immigrant/.

2 Jane Perkins, *Ensuring Linguistic Access in Health Care Settings: An Overview of Current Legal Rights and Responsibilities*, Kaiser Commission on Medicaid and the Uninsured, August 2003, p. 4. Citation in footnote omitted.

3 According to the U.S. Department of Health and Human Services, LEP individuals are persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.

4 U.S. Census Bureau, 2000 Census Special Tabulation, Table B P-8, Population Division – New York City Department of City Planning (July 2003). Population figures reflect New Yorkers ages 5 years old and over.

5 *Id.*

6 Jane Reardon-Anderson, et al., *The Health and Well-Being of Children in Immigrant Families*, The Urban Institute, November 2002, No. B-52, p. 3, http::://www.urban.org/url.cfm?ID=310584

7 "*New Country, New Perils: Immigrant Children and Family Health in NYC*," Milano Graduate School, Center for New York City Affairs, New School University, April 2004, p. 6.

ages of 6 and 11 are obese, a condition that can lead to diabetes and other significant health problems.[8]

Not surprisingly, most attention on language access in the health care arena has concentrated on ensuring that hospitals provide interpretation services so they can communicate appropriately with LEP patients about their medical care. In March 2003, for instance, the New York State Attorney General settled two civil rights complaints against Brooklyn hospitals that allegedly had not provided skilled interpretation services during the delivery of medical care and/or did not provide patients with appropriately translated medical forms and materials.[9]

This focus is extremely important. However, all too often, because of language difficulties, LEP individuals and their families also have trouble getting in the door to see a doctor in the first place. Language barriers make it difficult to get information about medical services, to make appointments, to understand payment terms, to obtain publicly-subsidized medical insurance and otherwise to go through the steps necessary to access health care services. This is a major problem for patients and is costly for the entire health care system because poor communication deters people from receiving timely treatment and results in increased costs and inefficiencies overall. In fact, studies show that non-English speaking patients are less likely to use primary and preventive health services and more likely to rely instead on emergency rooms.[10]

For this reason, the New York City Comptroller's Office studied the ability of LEP callers to get information from their local hospitals and affiliated clinics that would allow them to access medical services by using testers to call the hospitals at four important access points: the general information telephone number; a clinic appointment telephone number; the number for the health insurance/billing office; and the emergency department telephone number. The Comptroller used Spanish-language testers to perform the study because the large number of New Yorkers whose first language is Spanish – 23.9 percent of the population – meant that most hospitals in the City should be able to accommodate the LEP Spanish-speakers living in their service area and unquestionably could be evaluated based on their ability to do so.

Unfortunately, not all of the hospitals that were part of the study lived up to this standard. Nearly 75 percent of the hospitals performed poorly in one or more departments, with close to 10 percent performing poorly in three or more of the departments tested. This is particularly troubling because these hospitals are likely to be even less equipped to accommodate LEP individuals who speak languages less common in New York City, such as Chinese, Russian, Korean and Italian. There can be little doubt that the nearly 400,000 LEP New Yorkers who speak languages other than Spanish face even greater barriers to obtaining hospital care than those identified in this study.

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8 *Id.*, p. 7.

9 Wyckoff Heights Medical Center, a private hospital, and Woodhull Medical and Mental Health Center, a public hospital. In addition, in September, 2003, Attorney General Spitzer settled complaints regarding the lack of language assistance with two Utica, New York hospitals.

10 Perkins, *supra* note 2, at p. 3.

STANDARDS AND METHODOLOGY

Providing language access services to LEP individuals seeking medical care is not only humane, good public policy, and economically efficient in the long term, but also is legally required. Under federal, state and local law, publicly-funded health care providers – for example, hospitals, managed care organizations, state Medicaid agencies, and nursing homes – must take reasonable steps to provide LEP individuals with meaningful access to their facilities and programs.[11]

Unfortunately, the overlapping mandates set forth by these laws are not always clear-cut. For instance, there are four "reasonableness" factors that must be analyzed in order to determine the extent of a provider's obligations under Title VI of the Civil Rights Act of 1964. This means that an individual provider's language access obligations may vary between LEP speakers of different languages. To be as conservative as possible, therefore, we evaluated the hospitals' ability to accommodate LEP individuals who speak Spanish, the non-English language most commonly spoken in New York City, and only included hospitals that have a significant Spanish-speaking patient population, so there can be no doubt regarding their obligations to these patients.

Hospitals were selected for testing using a two-step process. First, we defined each hospital's primary "catchment,"[12] or service area, by reviewing data collected by the New York State Health Department (the Statewide Planning and Research Cooperative System – also known as "SPARCS") to determine the zip codes from which each hospital drew at least half of its patients during 2001. We then examined 2000 Census data to establish the percentage of people living in those zip codes who speak Spanish at home. Any facility whose primary catchment area contained at least one zip code with 20 percent or more Spanish-speakers was included in the survey.

Using Spanish-speaking testers, we called the 51 hospitals Citywide that met this criterion using a standard four-part script, which was pre-tested on hospitals in New Jersey. Of these, nine or 17.6 percent were public hospitals operated by the New York City Health and Hospitals Corporation (HHC) and 42 or 82.4 percent were "voluntary," or private, hospitals. A list of all hospitals included in the survey is attached as Appendix A.

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[11] Appendix B contains a more detailed discussion of the applicable laws and regulations.

[12] The primary catchment area is defined as the area covered by the zip codes from which the hospital receives the top 50 percent of its admissions.

FINDINGS:

1. Spanish-Speaking Callers Were Unable to Get Information from More than a Third of the Hospitals' General Information Numbers

As the initial entry point for many people seeking hospital services, the general information line is a service for which good language access is critical. General information is the telephone number most people call to obtain information about hospital departments and services, get directions and hours of operation, and otherwise navigate a hospital and its various divisions.

Our testers called the general telephone number for the hospitals in the study and asked the attendant, in Spanish, whether he or she spoke Spanish. If the attendant did not speak Spanish, the tester asked, again in Spanish, if there was someone else available who could. If the tester ultimately was able to get a Spanish speaker on the telephone, s/he then stated that s/he needed an appointment with one of the hospital's clinics, and asked for the relevant telephone number or, alternatively, asked to be transferred to that clinic. If the tester was unable to get assistance in Spanish, s/he called back, in English, to obtain the clinic telephone number so the rest of the survey could proceed.

Table 1 illustrates the performance of each hospital's general information personnel in accommodating Spanish-speaking LEP callers. The majority, 31 or 60.8 percent of the hospitals, had a Spanish-speaking attendant for their general information number or were able to transfer the tester to a Spanish-speaker within five minutes. Only one hospital, St. Vincent Catholic Medical Centers – Mary Immaculate Hospital, took more than ten minutes to provide a Spanish-speaking person to assist the tester. Disturbingly, 19 or more than 37 percent of the hospitals never provided the tester with assistance in Spanish and the tester was forced to call back in English to obtain the clinic information. This is particularly troubling because LEP individuals obviously do not have that luxury and would be forced to enlist the help of others who speak English to obtain this most basic information in order to receive services from these hospitals.

Table 1. Performance of Hospitals' General Information Personnel

Hospital	Did the General Information Operator Speak Spanish?	If No, Did S/he Get Someone Who Did?	Wait Time For The Spanish Speaker (mins)
Beth Israel Medical Center/Petrie Campus	Yes	-	-
Bronx-Lebanon Hospital Center/Fulton Pavilion	Yes	-	-
Cabrini Medical Center	Yes	-	-
Jacobi Medical Center (**HHC**)	Yes	-	-
Kings County Hospital Center (**HHC**)	Yes	-	-
Long Island College Hospital	Yes	-	-
Lutheran Medical Center	Yes	-	-
Maimonides Medical Center	Yes	-	-
Mount Sinai Hospital	Yes	-	-
New York Methodist Hospital	Yes	-	-
New York Westchester Square Medical Center	Yes	-	-
New York-Presbyterian Hospital, Allen Pavilion	Yes	-	-
New York-Presbyterian Hospital/Columbia Presbyterian Center	Yes	-	-
North General Hospital	Yes	-	-
St Luke's-Roosevelt Hospital Center /St Luke's Hospital Div	Yes	-	-
St. Luke's-Roosevelt Hospital Center /Roosevelt Hospital Div	Yes	-	-
St. Vincent Catholic Medical Centers/St Joseph's Hospital	Yes	-	-
Beth Israel Medical Center/Herbert & Neil Singer Division	No	Yes	Less than 2
Harlem Hospital (**HHC**)	No	Yes	Less than 2
Lincoln Medical & Mental Health Center (**HHC**)	No	Yes	Less than 2
Metropolitan Hospital Center (**HHC**)	No	Yes	Less than 2
Montefiore Medical Center/Jack D. Weiler Hospital	No	Yes	Less than 5
New York Hospital Medical Center of Queens	No	Yes	Less than 2
Our Lady of Mercy Medical Center	No	Yes	Less than 2
Parkway Hospital	No	Yes	Less than 5
Queens Hospital Center (**HHC**)	No	Yes	Less than 2
St. Vincent Catholic Medical Centers/St Johns Queens	No	Yes	Less than 5
SUNY Downstate Medical Center (University Hosp of Bklyn)	No	Yes	Less than 2
Victory Memorial Hospital	No	Yes	Less than 2
Woodhull Medical & Mental Health Center (**HHC**)	No	Yes	Less than 2
Wyckoff Heights Medical Center	No	Yes	Less than 2
St. Vincent Catholic Medical Centers/Mary Immaculate	No	Yes	More than 10
Bellevue Hospital Center (**HHC**)	No	No	Operator hung-up
Bronx-Lebanon Hospital Center/Concourse Pavilion	No	No	Operator unable to help
Brookdale University Hospital and Medical Center	No	No	Operator hung-up
Brooklyn Hospital/Downtown Campus	No	No	Operator hung-up
Elmhurst Hospital Center (**HHC**)	No	No	Operator hung-up
Flushing Hospital Medical Center	No	No	Operator hung-up
Interfaith Medical Center	No	No	Operator hung-up
Jamaica Hospital Medical Center	No	No	Operator hung-up
Montefiore Medical Center/Henry & Lucy Moses Div	No	No	Operator hung-up
Mount Sinai Hospital of Queens	No	No	Operator hung-up
North Shore University Hospital at Forest Hills	No	No	Operator hung-up
NYU Downtown Hospital	No	No	Operator hung-up
Peninsula Hospital Center	No	No	Operator hung-up
St Barnabas Hospital	No	No	Operator hung-up
St John's Episcopal Hospital	No	No	Operator unable to help
St. Vincent Catholic Medical Centers/ St Vincent's Midtown Hospital	No	No	Operator hung-up
St. Vincent Catholic Medical Centers/St Mary's Hospital Brooklyn	No	No	Operator hung-up
St. Vincent Catholic Medical Centers/St Vincent Manhattan	No	No	Operator hung-up
St. Vincent Catholic Medical Centers/St Vincent's Staten Island	No	No	Operator hung-up

2. A Lack of Language Access Prevented Spanish-Speaking Callers From Scheduling Appointments with a Third of the Hospital Clinics Tested

We also evaluated the ability of clinics at the hospitals[13] to accommodate LEP individuals who wanted to be seen by medical providers. Our Spanish-speaking testers called the clinics to try to schedule an appointment and to determine whether interpretation services would be available if they came in for care. They asked the attendant who answered the clinic telephone, in Spanish, whether he or she spoke Spanish. As before, if the answer was "no" the tester asked to speak with someone who did. If the clinic was able to put someone on the telephone who spoke Spanish, the tester made an appointment[14] and asked whether someone who speaks Spanish would be available to translate at the visit.

Table 2 reflects the clinics' performance. Thirty, or 60 percent of the hospital clinics, were able to provide an attendant who spoke Spanish immediately or within five minutes. Another two hospitals were able to provide someone who spoke Spanish within ten minutes. NYU Downtown Hospital's obstetrics and gynecology clinic and St. Vincent – St. Johns Queens' health center left our testers on hold for more than ten minutes before finally putting a Spanish-speaking attendant on the telephone. Although these clinics ultimately did accommodate our testers, long waits on hold can discourage prospective patients and deter them from obtaining care.

More significantly, nearly a third, or 16 clinics, were not able to provide anyone who could communicate with the testers in Spanish. In five of these cases, the testers hung up the telephone after being left on hold to wait for a Spanish-speaker for periods of up to a half hour. For instance, our tester called New York Methodist Hospital's medical clinic three times to try to make an appointment: the first time she waited on hold to be transferred to a Spanish-speaker for ten minutes before hanging up, the second time she waited for 20 minutes before hanging up, and the third time she waited for ten minutes before finally conceding defeat.

This is a very serious problem. For LEP individuals seeking care, the barrier to obtaining medical services from these 16 clinics is extraordinarily high. Even scheduling an appointment would require repeated telephone calls as well as the assistance of an English-speaking friend or family member, making it much more difficult than necessary to obtain treatment.

Of the 50 clinics tested, 34 told the testers that they would provide bilingual medical staff or interpretation services at the appointment, although the personnel providing the interpretation service varied widely. Seven clinics told the tester that s/he would be seen by a Spanish-speaking doctor. Another eight said that an interpreter would be available. Nineteen other clinics reported that the tester would be seen by a "staff member" (15) or "someone" (4), but were not more specific.

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[13] One hospital, New York Westchester Square Medical Center, does not provide outpatient services and therefore has no clinic. However, the other departments covered by the survey were rated.

[14] Testers called back and cancelled the appointment within the same day.

Table 2. Performance of Hospitals' Clinics

Hospital	Did Appointment Desk Scheduler Speak Spanish?	If No, Did S/he Get Someone Who Did? How Long Was The Wait?	Who Will Speak My Language at Time of The Visit?
Beth Israel Medical Center/Herbert & Neil Singer Division	Yes	-	Interpreter
Beth Israel Medical Center/Petrie Campus	Yes	-	Staff member
Bronx-Lebanon Hospital Center/Concourse Pavilion	Yes	-	Interpreter
Bronx-Lebanon Hospital Center/Fulton Pavilion	Yes	-	Staff member
Brookdale University Hospital and Medical Center	Yes	-	Someone
Brooklyn Hospital/Downtown Campus	Yes	-	Doctor
Elmhurst Hospital Center (**HHC**)	Yes	-	Doctor
Flushing Hospital Medical Center	Yes	-	Staff member
Jacobi Medical Center (**HHC**)	Yes	-	Interpreter
Kings County Hospital Center (**HHC**)	Yes	-	Staff member
Lincoln Medical & Mental Health Center (**HHC**)	Yes	-	Doctor
Metropolitan Hospital Center (**HHC**)	Yes	-	Interpreter
Montefiore Medical Center/Henry & Lucy Moses Div	Yes	-	Interpreter
Mount Sinai Hospital	Yes	-	Staff member
Mount Sinai Hospital of Queens	Yes	-	Staff member
New York-Presbyterian Hospital, Allen Pavilion	Yes	-	Interpreter
New York-Presbyterian Hospital/Columbia Presbyterian Center	Yes	-	Staff member
North General Hospital	Yes	-	Someone
North Shore University Hospital at Forest Hills	Yes	-	Staff member
Parkway Hospital	Yes	-	Staff member
Queens Hospital Center (**HHC**)	Yes	-	Doctor
St Barnabas Hospital	Yes	-	Doctor
St. Luke's-Roosevelt Hospital Center /Roosevelt Hospital Div	Yes	-	Doctor
St. Vincent Catholic Medical Centers/Mary Immaculate	Yes	-	Staff member
St. Vincent Catholic Medical Centers/St Joseph's Hospital	Yes	-	Staff member
St. Vincent Catholic Medical Centers/St Mary's Hospital Brooklyn	Yes	-	Someone
St. Vincent Catholic Medical Centers/St Vincent's Staten Island	Yes	-	Staff member
Woodhull Medical & Mental Health Center (**HHC**)	Yes	-	Staff member
Wyckoff Heights Medical Center	Yes	-	Doctor
St Luke's-Roosevelt Hospital Center /St Luke's Hospital Div	No	Yes, 2-5 minutes	Interpreter
Bellevue Hospital Center (**HHC**)	No	Yes, 5-10 minutes	Someone
Victory Memorial Hospital	No	Yes, 5-10 minutes	Staff member
NYU Downtown Hospital	No	Yes, over 10 minutes	Interpreter
St. Vincent Catholic Medical Centers/St Johns Queens	No	Yes, over 10 minutes	Staff member
Cabrini Medical Center	No	No	Operator hung up
Harlem Hospital (**HHC**)	No	No	-
Interfaith Medical Center	No	No	Operator Hung Up
Jamaica Hospital Medical Center	No	No	Caller Hung Up*
Long Island College Hospital	No	No	-
Lutheran Medical Center	No	No	Caller Hung Up*
Maimonides Medical Center	No	No	-
Montefiore Medical Center/Jack D. Weiler Hospital	No	No	-
New York Hospital Medical Center of Queens	Recording in English	-	-
New York Methodist Hospital	No	No	Caller Hung Up*
Our Lady of Mercy Medical Center	No	No	Operator Hung Up
Peninsula Hospital Center	No	No	-
St John's Episcopal Hospital	No	No	-
St. Vincent Catholic Medical Centers/ St Vincent's Midtown Hospital	No	No	Caller Hung Up*
St. Vincent Catholic Medical Centers/St Vincent Manhattan	No	No	-
SUNY Downstate Medical Center (University Hosp of Bklyn)	No	No	Caller Hung Up*
New York Westchester Square Medical Center	No Clinic	No Clinic	No Clinic

*Caller eventually hung up after being left on hold.

3. More than 40 Percent of the Time, Calls in Spanish to Hospital "Billing" Offices Ended in Frustration

Since finances are often a major issue for people in need of medical care, the testers also called the office identified by the clinic as the place to call with inquiries about paying the hospital bill. Testers asked the attendant in the billing office whether s/he spoke Spanish or could get someone on the telephone who did. If the tester was successful in speaking to someone in Spanish s/he then asked if an appointment was necessary to find out if s/he qualifies for Medicaid. The caller also asked if other forms of help would be available if s/he did not qualify for Medicaid, and whether someone who speaks Spanish would be available at the office visit.

Table 3 reflects the hospital's performance. Thirty, or almost 60 percent of the hospitals, provided a Spanish-speaking attendant or were able to transfer the caller to one. All of these hospitals, except for four, indicated that a Spanish-speaker would be available when the tester came in for the office visit. North Shore University Hospital at Forest Hills and Our Lady of Mercy Medical Center both referred the testers to their local medicaid office, while the testers hung-up after being left on hold for more than 15 minutes by operators at Elmhurst Hospital Center and at Parkway Hospital.

However, a substantial portion, 21 or 41.2 percent of these calls, ended in frustration as testers were unable to reach an attendant who spoke Spanish. In these cases, frequently nobody ever picked up the telephone, or the call went to an English-only recording. Notably, at the New York Methodist Hospital medical clinic, the operator hung-up the telephone immediately upon hearing the tester speak Spanish, twice.

Overall, hospital billing offices performed more poorly than any other department. This poor performance is particularly disturbing given the importance of making appropriate financial arrangements, including accessing Medicaid and other publicly-funded insurance programs, to ensure that patients and their families are not overwhelmed by medical bills. Moreover, it is worth noting that at the five hospitals where nobody in the billing department ever picked up the telephone, all callers, not just Spanish-speakers, would have received no service.

Table 3. Performance of Hospitals' Billing Departments

Hospital	Did the Billing Operator Speak Spanish?	If No, Did S/he Get Someone Who Did?	Will Be Someone Who Speaks My Language Upon Visit?
Beth Israel Medical Center/Petrie Campus	Yes	-	Yes
Bronx-Lebanon Hospital Center/Fulton Pavilion	Yes	-	Yes
Elmhurst Hospital Center (**HHC**)	Yes	-	Hung-up*
Flushing Hospital Medical Center	Yes	-	Yes
Harlem Hospital (**HHC**)	No	Yes	Yes
Jacobi Medical Center (**HHC**)	Yes	-	Yes
Kings County Hospital Center (**HHC**)	Yes	-	Yes
Lincoln Medical & Mental Health Center (**HHC**)	Yes	-	Yes
Long Island College Hospital	No	Yes	Yes
Lutheran Medical Center	Yes	-	Yes
Maimonides Medical Center	No	Yes	Yes
Metropolitan Hospital Center (**HHC**)	Yes	-	Yes
Montefiore Medical Center/Henry & Lucy Moses Div	Yes	-	Yes
Mount Sinai Hospital	Yes	-	Yes
New York Hospital Medical Center of Queens	Yes	-	Yes
New York-Presbyterian Hospital, Allen Pavilion	Yes	-	Yes
North Shore University Hospital at Forest Hills	No	Yes	Referred**
NYU Downtown Hospital	Yes	-	Yes
Our Lady of Mercy Medical Center	No	Yes	Referred**
Parkway Hospital	Yes	-	Hung-Up*
St Barnabas Hospital	Yes	-	Yes
St Luke's-Roosevelt Hospital Center /St Luke's Hospital Div	Yes	-	Yes
St. Luke's-Roosevelt Hospital Center /Roosevelt Hospital Div	Yes	-	Yes
St. Vincent Catholic Medical Centers/ St Vincent's Midtown Hospital	No	Yes	Yes
St. Vincent Catholic Medical Centers/Mary Immaculate	No	Yes	Yes
St. Vincent Catholic Medical Centers/St Johns Queens	Yes	-	Yes
St. Vincent Catholic Medical Centers/St Joseph's Hospital	Yes	-	Yes
St. Vincent Catholic Medical Centers/St Mary's Hospital Brooklyn	Yes	-	Yes
St. Vincent Catholic Medical Centers/St Vincent's Staten Island	Yes	-	Yes
Woodhull Medical & Mental Health Center (**HHC**)	No	Yes	Yes
Bellevue Hospital Center (**HHC**)	No Answer	-	-
Beth Israel Medical Center/Herbert & Neil Singer Division	Recording in English	-	-
Bronx-Lebanon Hospital Center/Concourse Pavilion	No	No	-
Brookdale University Hospital and Medical Center	No	No	-
Brooklyn Hospital/Downtown Campus	No	No	-
Cabrini Medical Center	No	No	-
Interfaith Medical Center	Recording in English	-	-
Jamaica Hospital Medical Center	Recording in English	-	-
Montefiore Medical Center/Jack D. Weiler Hospital	Recording in English	-	-
Mount Sinai Hospital of Queens	Recording in English	-	-
New York Methodist Hospital	Operator Hung Up	-	-
New York Westchester Square Medical Center	No	No	-
New York-Presbyterian Hospital/Columbia Presbyterian Center	No	No	-
North General Hospital	No Answer	-	-
Peninsula Hospital Center	Recording in English	-	-
Queens Hospital Center (**HHC**)	No Answer	-	-
St John's Episcopal Hospital	No	No	-
St. Vincent Catholic Medical Centers/St Vincent Manhattan	No Answer	-	-
SUNY Downstate Medical Center (University Hosp of Bklyn)	Recording in English	-	-
Victory Memorial Hospital	No Answer	-	-
Wyckoff Heights Medical Center	No	No	-

* Hung-up after being left on hold for more than 15 minutes by the Spanish-Speaking Operator

** Referred to neighborhood Medicaid Office.

4. Overall, Hospital Emergency Departments Were More Likely to Provide Better Spanish Language Access Services To Callers than the Other Departments

The testers called the hospitals' emergency departments and asked, in English, whether a Spanish-speaking doctor or an interpreter would be available in the emergency room to assist the tester's Spanish-speaking friend who was planning to come in for care. Since most people do not call the emergency room before going to the hospital, and in order to minimize the impact on operations, we decided to make these calls in English, between 7:00 PM and 9:00 PM.

Not surprisingly, given the explicit obligations imposed by New York State Health Department regulations and the New York City Emergency Room Interpreter Law,[15] overall hospital emergency rooms were more likely to do a much better job of accommodating LEP callers than other departments. The majority, 35 or 68.6 percent, indicated that a Spanish-speaking doctor or other professional staff would be available. This is heartening, since emergency rooms are often the only way that the uninsured interact with the health care system and language barriers compound this problem, resulting in lower quality health care for many LEP individuals.[16] Not all of the calls, however, were without problems. The operator for the emergency department at St. Luke's Roosevelt Hospital Center /St. Luke's Hospital Division told our tester that interpretation services would be available, but added, "tell your friend to go to school."

Eleven, or more than 21 percent of the emergency departments, indicated that they would get "someone" to translate. This response raises questions about whether there are appropriate systems in place to accommodate Spanish-speaking LEP patients in these facilities, but probably would not have deterred potential LEP patients from going there for care. Only three of the hospital emergency departments – Bronx Lebanon Hospital, Concourse Division, St. John's Episcopal Hospital and Victory Memorial Hospital – reported that they provide no interpretation service. The St. John's attendant advised the tester to tell her friend to bring her own interpreter, and the tester for Bronx-Lebanon Hospital, Concourse Division was transferred five times by emergency room staff before eventually being told, "no one speaks your language." Another two hospital emergency departments did not answer the telephone when it rang. The individual hospitals' performance is shown in Table 4.

Although the emergency rooms were the best performing departments overall, this performance rating carries a caveat. Since the rating was based solely on questions in English, rather than actual LEP caller experience, the data are less direct.

[15] See Appendix B.

[16] Medical interpretive services can cut costs and result in improved heath care J. Bernstein, et al., The *Use of Trained Medical Interpreters Affects Emergency Department Services, Reduces Charges and Improves Follow-up*, Boston Medical Center, 2001.

Table 4. Performance of Hospitals' Emergency Department

Hospital	Is a Spanish-Speaking ER Doctor Available?	If Not ER Doctor, Then Who Will Help?
Bellevue Hospital Center (**HHC**)	Yes	Staff member
Brookdale University Hospital and Medical Center	Yes	Interpreter
Brooklyn Hospital/Downtown Campus	Yes	Staff member
Cabrini Medical Center	Yes	Doctors Speak Spanish
Harlem Hospital (**HHC**)	Yes	Staff member
Interfaith Medical Center	Yes	Staff member
Jacobi Medical Center (**HHC**)	Yes	Staff member
Jamaica Hospital Medical Center	Yes	Staff member
Kings County Hospital Center (**HHC**)	Yes	Staff member
Lincoln Medical & Mental Health Center (**HHC**)	Yes	Staff member
Long Island College Hospital	Yes	Interpreter
Lutheran Medical Center	Yes	Staff member
Metropolitan Hospital Center (**HHC**)	Yes	Staff member
Montefiore Medical Center/Henry & Lucy Moses Div	Yes	Staff member
Montefiore Medical Center/Jack D. Weiler Hospital	Yes	Staff member
Mount Sinai Hospital of Queens	Yes	Staff member
New York Hospital Medical Center of Queens	Yes	Staff member
New York Methodist Hospital	Yes	Interpreter
New York Westchester Square Medical Center	Yes	Staff member
New York-Presbyterian Hospital, Allen Pavilion	Yes	Staff member
New York-Presbyterian Hospital/Columbia Presbyterian Center	Yes	Interpreter
Our Lady of Mercy Medical Center	Yes	Staff member
Parkway Hospital	Yes	Staff member
Peninsula Hospital Center	Yes	Interpreter
Queens Hospital Center (**HHC**)	Yes	Staff member
St Barnabas Hospital	Yes	Staff member
St Luke's-Roosevelt Hospital Center /St Luke's Hospital Div	Yes	Interpreter
St. Luke's-Roosevelt Hospital Center /Roosevelt Hospital Div	Yes	Staff member
St. Vincent Catholic Medical Centers/ St Vincent's Midtown Hospital	Yes	Staff member
St. Vincent Catholic Medical Centers/Mary Immaculate	Yes	Staff member
St. Vincent Catholic Medical Centers/St Johns Queens	Yes	Staff member
St. Vincent Catholic Medical Centers/St Vincent Manhattan	Yes	Staff member
St. Vincent Catholic Medical Centers/St Vincent's Staten Island	Yes	Staff member
SUNY Downstate Medical Center (University Hosp of Bklyn)	Yes	Staff member
Wyckoff Heights Medical Center	Yes	Staff member
Beth Israel Medical Center/Herbert & Neil Singer Division	Yes	Someone
Beth Israel Medical Center/Petrie Campus	Yes	Someone
Bronx-Lebanon Hospital Center/Fulton Pavilion	Yes	Someone
Flushing Hospital Medical Center	Yes	Someone
Maimonides Medical Center	Yes	Someone
North General Hospital	Yes	Someone
North Shore University Hospital at Forest Hills	Yes	Someone
NYU Downtown Hospital	Yes	Someone
St. Vincent Catholic Medical Centers/St Joseph's Hospital	Yes	Someone
St. Vincent Catholic Medical Centers/St Mary's Hospital Brooklyn	Yes	Someone
Woodhull Medical & Mental Health Center (**HHC**)	Yes	Someone
Bronx-Lebanon Hospital Center/Concourse Pavilion	No	No Spanish Speakers
Elmhurst Hospital Center (**HHC**)	No Answer	-
Mount Sinai Hospital	No Answer	-
St. John's Episcopal Hospital	No	Bring Own Interpreter
Victory Memorial Hospital	No	No Spanish Speakers

CONCLUSIONS AND RECOMMENDATIONS

The results of our survey were mixed. A number of hospitals provided appropriate Spanish-language telephone services to callers in all departments tested. These hospitals include Beth Israel Medical Center/Petrie Campus, Bronx-Lebanon Hospital Center/Fulton Pavilion, Jacobi Medical Center, Kings County Hospital Center, Lincoln Medical & Mental Health Center, Metropolitan Hospital Center, New York-Presbyterian Hospital, Allen Pavilion, Parkway Hospital, St Luke's-Roosevelt Hospital Center /St Luke's Hospital Div., St. Luke's-Roosevelt Hospital Center /Roosevelt Hospital Div., St. Vincent Catholic Medical Centers/St Joseph's Hospital, Woodhull Medical & Mental Health Center. The Emergency department indicated the ability to provide interpretation services and Spanish-speaking LEP callers to the other departments of these institutions were able to obtain information in a timely manner so they could access the health services they needed.

Other hospitals, unfortunately, did not provide adequate services to the Spanish-speaking testers. Only St. John's Episcopal Hospital performed poorly in all four departments, but another five hospitals – Bronx-Lebanon Hospital Center/Concourse Pavilion, Interfaith Medical Center, Jamaica Hospital Medical Center, Peninsula Hospital Center, St. Vincent Catholic Medical Centers/St Vincent Manhattan – did poorly in three departments. Many of the hospitals that failed to appropriately assist Spanish-speakers also treated our testers rudely; as reflected in Tables 1 through 4, telephone attendants who could not communicate with the testers often responded by hanging up on them or leaving them on hold for excessive periods of time.

These results are more troubling than they initially appear because our survey identified only the most obvious initial barriers to access at these hospitals. Because we used Spanish-speaking testers in hospitals serving neighborhoods with a large Spanish-speaking population, there could be no doubt that these hospitals frequently encounter Spanish-speaking LEP individuals seeking care. In addition, the prevalence of Spanish-speakers in New York City means that many hospital staff speak the language and can communicate with Spanish-speaking LEP callers even if they were not hired specifically to provide bilingual services.[17] LEP callers speaking other languages, therefore, would likely have a much more difficult time than our testers, even at the hospitals that did well in the survey.

For the most part, we observed little or no correlation among the performance of the four departments tested within individual hospitals. The majority of hospitals had some departments that provided good language access services to our callers, but at the same time had other departments that performed inadequately.

This lack of consistency may be attributable to the nature of hospitals themselves. Most are very large, multi-departmental institutions whose divisions are managed with a large degree of autonomy. In the absence of an institutional mandate to accommodate LEP individuals and a commitment to ensure that public access points have language services, an LEP caller's ability to communicate with an individual hospital department may depend entirely on whether a

[17] Of course, for medical interpreting, staff would require specialized training

bilingual employee will happen to be available that day. Access to hospital services is too important an issue to be left to chance in this manner.

Despite the lack of consistency, we took note of a number of patterns. Overall, emergency departments did the best job of accommodating LEP callers. In contrast, an unacceptable number of the calls to hospital billing departments resulted in frustration for LEP callers, and in some cases, for potential English callers as well.

Although clinics were neither the worst nor the best performers, calls to clinics, more than any other single department, resulted in some of the worst experiences reported by the testers. Too often callers to the clinics waited on hold for more than 20 and sometimes more than 30 minutes, or had the telephone hung-up or the call disconnected. Some hospital clinic telephone numbers put callers through to a recording, in English, with no Spanish-language option.

As a group, HHC hospitals performed consistently better than the voluntary hospitals. Five, or 55.6 percent of the nine HHC hospitals, provided good LEP services to our testers in all four departments, while only seven, or 16.7 percent of the 42 voluntary hospitals, did as well. Similarly, none of the HHC hospitals performed badly in three or more departments, although six, or 14.3 percent, of the voluntary hospitals did so.

The percentage of LEP New Yorkers is likely to increase because of continued immigration, making the problems highlighted in this report more urgent. There clearly is need for improvement among New York City's hospitals to ensure equitable access to quality care for LEP individuals and their families. Accordingly, we make the following recommendations:

1. The New York State Department of Health should amend its "Patients' Rights" regulations to explicitly require hospitals to provide language access services in all departments that routinely interact with the public, including information and appointment telephone lines.

2. Hospitals must strengthen their corporate commitment to providing services to LEPs. Each hospital should designate a person or department responsible for overseeing and coordinating LEP services system-wide to avoid the kind of inconsistency in service we observed in our survey. A good starting point would be to identify the best practices within top-performing departments and duplicate them in poorly performing departments.

3. Hospitals should increase their commitment to hiring bilingual staff for all positions that regularly interact with the public, including telephone attendants. They should also make available and inform all employees of the option to use commercial language lines, which allow English-speaking staff to communicate with LEP individuals in more than 100 languages.

4. Hospitals should train employees on courteous service and hold them accountable for all instances of rudeness and poor service to LEP patients and others.

5. New York City's Department of Health and Mental Hygiene should regularly monitor language access performance at all hospitals located within the City. The results of this monitoring project for individual hospitals should be made public, similar to the way in which restaurant violations are published.

APPENDIX A
(Hospitals Surveyed)

Hospital Name	Borough	Status
Bellevue Hospital Center	Manhattan	HHC
Beth Israel Medical Center/Herbert & Neil Singer Division	Manhattan	Voluntary
Beth Israel Medical Center/Petrie Campus	Manhattan	Voluntary
Bronx-Lebanon Hospital Center/Concourse Pavilion	Bronx	Voluntary
Bronx-Lebanon Hospital Center/Fulton Pavilion	Bronx	Voluntary
Brookdale University Hospital and Medical Center	Brooklyn	Voluntary
Brooklyn Hospital/Downtown Campus	Brooklyn	Voluntary
Cabrini Medical Center	Manhattan	Voluntary
Elmhurst Hospital Center	Queens	HHC
Flushing Hospital Medical Center	Queens	Voluntary
Harlem Hospital	Manhattan	HHC
Interfaith Medical Center	Brooklyn	Voluntary
Jacobi Medical Center	Bronx	HHC
Jamaica Hospital Medical Center	Queens	Voluntary
Kings County Hospital Center	Brooklyn	HHC
Lincoln Medical & Mental Health Center	Bronx	HHC
Long Island College Hospital	Brooklyn	Voluntary
Lutheran Medical Center	Brooklyn	Voluntary
Maimonides Medical Center	Brooklyn	Voluntary
Metropolitan Hospital Center	Manhattan	HHC
Montefiore Medical Center/Henry & Lucy Moses Division	Bronx	Voluntary
Montefiore Medical Center/Jack D. Weiler Hospital	Bronx	Voluntary
Mount Sinai Hospital	Manhattan	Voluntary
Mount Sinai Hospital of Queens	Queens	Voluntary
New York Hospital Medical Center of Queens	Queens	Voluntary
New York Methodist Hospital	Brooklyn	Voluntary
New York Westchester Square Medical Center	Bronx	Voluntary
New York-Presbyterian Hospital/Allen Pavilion	Manhattan	Voluntary
New York-Presbyterian Hospital/Columbia Presbyterian Center	Manhattan	Voluntary
North General Hospital	Manhattan	Voluntary
North Shore University Hospital at Forest Hills	Queens	Voluntary
NYU Downtown Hospital	Manhattan	Voluntary
Our Lady of Mercy Medical Center	Bronx	Voluntary
Parkway Hospital	Queens	Voluntary
Peninsula Hospital Center	Queens	Voluntary
Queens Hospital Center	Queens	HHC
St Barnabas Hospital	Bronx	Voluntary
St John's Episcopal Hospital	Queens	Voluntary
St Luke's-Roosevelt Hospital Center /St Luke's Hospital Division	Manhattan	Voluntary
St. Luke's-Roosevelt Hospital Center /Roosevelt Hospital Division	Manhattan	Voluntary
St. Vincent Catholic Medical Centers/ St Vincent's Midtown Hospital	Manhattan	Voluntary
St. Vincent Catholic Medical Centers/Mary Immaculate	Queens	Voluntary
St. Vincent Catholic Medical Centers/St Johns Queens	Queens	Voluntary
St. Vincent Catholic Medical Centers/St Joseph's Hospital	Brooklyn	Voluntary
St. Vincent Catholic Medical Centers/St Mary's Hospital Brooklyn	Brooklyn	Voluntary
St. Vincent Catholic Medical Centers/St Vincent Manhattan	Manhattan	Voluntary
St. Vincent Catholic Medical Centers/St Vincent's Staten Island	Staten Island	Voluntary
SUNY Downstate Medical Center (University Hospital of Bklyn)	Brooklyn	Voluntary
Victory Memorial Hospital	Brooklyn	Voluntary
Woodhull Medical & Mental Health Center	Brooklyn	HHC
Wyckoff Heights Medical Center	Brooklyn	Voluntary

APPENDIX B

RELEVANT FEDERAL LEGAL AUTHORITY

Title VI and Associated Regulations:
Section 601 of Title VI of the Civil Rights Act of 1964 ("Title VI") provides that no person shall "on the ground of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance…" [18] The U.S. Supreme Court has treated the failure to provide language access as national origin discrimination. [19]

Regulations promulgated by the Department of Health and Human Services (HHS) pursuant to § 602 of Title VI forbid a recipient/covered entity ("recipient"), *e.g.*, hospitals that receive Medicare or Medicaid, from "utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin … " (*Emphasis added*.) [20] Pursuant to HHS regulations, any program or activity that receives federal funding, either directly or indirectly, through a grant, contract or subcontract and without regard to the amount of funds received, is subject to the requirements of Title VI. Further, these protections reach all of the operations of the organization, not just the part that received federal funds.

The last few years have seen the release of much federal guidance regarding how entities can comply with civil rights laws. For instance, the Clinton administration issued Executive Order 13166 ("EO 13166"),[21] "Improving Access to Services for Persons with Limited English Proficiency," which requires, among other things, that federal agencies that provide financial assistance to non-federal entities to publish guidance on how the recipients can provide meaningful access to LEP individuals and thus comply with Title VI. On July 8, 2002, the Bush administration affirmed its commitment to EO 13166. The federal government launched a website, www.lep.gov, a clearinghouse providing and linking to information, tools and technical assistance regarding Limited English Proficiency and language services.

EO 13166 designated the Department of Justice (DOJ) as the lead agency charged with providing LEP guidance to the other agencies. The Office for Civil Rights at HHS (HHS- OCR) issued language access guidelines ("Policy Guidance") for its recipients in August, 2000, which were revised in 2002 and in 2003. [22] Basically, four "reasonableness" factors must be analyzed in order to determine the extent of a recipient's Title VI obligations.

1. The number or proportion of LEP individuals who will be excluded from the program or activity absent efforts to remove language barriers. Programs that serve a few or even one

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18 42 U.S.C. § 2000d, *et seq.*

19 See Lau v. Nichols, 414 U.S. 563 (1974) (San Francisco school district had violated Title VI when it failed to provide adequate instruction to a significant number of non-English speaking students of Chinese origin and was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.)

20 45 CFR § 80.3(b)(2).

21 65 FR 50121 (August 16, 2000).

22 68 FR 47311 (August 8, 2003).

LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access.

2. The frequency of contact. "Where the frequency and number of contacts with individuals who speak a particular language is very small, Title VI may impose fewer substantial LEP obligations on recipients. At the same time, when an agency serves a large LEP population, it will have to take more substantial steps to ensure that it meets its Title VI obligations."

3. The nature and importance of the program, activity, or service to the beneficiary. "Where the denial or delay of access may have life or death or other serious implications, the importance of the full and effective delivery of LEP services is at its zenith."

4. The resources available to the recipient. "A larger recipient with extensive resources may have to take greater steps than a smaller recipient with limited resources. Although on-the-premises translators may be needed in some circumstances, written translation, access to centralized interpreter language lines or other means, may be appropriate in others. Costs must be factored into this balancing test as part of the consideration of 'resources available.' 'Reasonable steps' may cease to be reasonable where the costs imposed substantially exceed the benefits in light of the factors outlined in the DOJ LEP Guidance."

Regarding the oral language assistance obligations of recipients, the Policy Guidance describes various options, *e.g.*, bilingual staff, contracting for interpreters, telephone interpretation lines. The Policy Guidance permits family members or friends to serve as oral interpreters but the recipient must inform LEP individuals that they are not required to use them. LEP individuals also must be informed of the option of having an interpreter provided at no charge. The Policy Guidance advises recipients to use "extreme caution" regarding the use of minors as interpreters.

Hill-Burton Act:
In 1946, Congress enacted the Hill-Burton Act[23] to encourage the construction and modernization of public and nonprofit community hospitals and health centers. In return for receiving federal funds, the facilities agreed to comply with "community service" obligations, which include a general principle of making services available to all persons residing in the facility's service area without discrimination on the basis of national origin, among other things. HHS-OCR has consistently taken the position that the community service obligation requires hospitals to address the needs of LEP patients.[24]

Emergency Medical Treatment and Active Labor Act of 1986:
The Emergency Medical Treatment and Active Labor Act of 1986 ("EMTALA")[25], was passed to reduce the practice of "dumping" patients who come to hospitals in an emergency condition. EMTALA provides that a hospital's responsibilities to the patient include the diagnosis, treatment, informed consent and notification of condition and intent to discharge or transfer to another facility. It is necessary for a hospital to attempt to communicate with LEP patients prior to discharge or transfer in order to avoid liability under EMTALA.

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23 42 USC 291, *et seq*.

24 Jane Perkins, "*Overcoming Language Barriers to Health Care*," Popular Government (Fall 1999).

25 42 USC 1395dd.

RELEVANT STATE LEGAL AUTHORITY [26]

A source of potential protection for LEP patients is the New York State Human Rights Law, which can be construed to prohibit national origin discrimination regarding health care:[27]

Additionally, New York State Department of Health regulations, entitled "Patient's Rights," require hospitals to "manage a resource of skilled interpreters and to provide translation/transcription of significant hospital forms, instructions and information in order to provide effective visual, oral and written communication with all persons receiving treatment in the hospital regardless of a patient's language … The capacity of the resources shall be determined by the following criteria: (i) interpreter services and translation/transcriptions of significant hospital forms and instruction shall be regularly available for non-English speaking groups comprising more than one percent of the total hospital service area population … and (ii) interpreters … shall be available to patients in the inpatient and outpatient setting within 20 minutes and to patients in the emergency service within 10 minutes of a request to the hospital administration by the patient, the patient's family or representative or the provider of medical care.[28] Further, the regulation provides that hospitals must provide patients with "the right to exercise these rights regardless of the patient's language . . . Skilled interpreters shall be provided to assist patients in using these rights…"[29]

RELEVANT LOCAL LEGAL AUTHORITY

Emergency Room Interpreter Law:
New York City's Emergency Room Interpreter Law[30] mandates "the immediate provision of interpretation services for non-English speaking residents in all hospital emergency rooms located in New York City, when such non-English speaking residents comprise at least ten percent of the patient population of the service area of a particular hospital."

Human Rights Law:
The City's Human Rights Law[31] prohibits discrimination based on national origin from playing any role in actions relating to, *inter alia*, public accommodations in the City. § 8-107(17) specifically prohibits an unlawful discriminatory practice based on disparate impact.

Local Law 73:
On December 22, 2003, Mayor Bloomberg signed Local Law 73, "Equal Access to Human Services," into law. This law is concerned with language access in contexts other than health services, *e.g.*, employment services, food stamps offices, child care subsidies. Although this law does not explicitly cover hospitals, the issue of Title VI and linguistically appropriate health care comes into play due to HHS's provision of federal financial assistance [32]to HRA, an agency that administers Medicaid and which is an agency covered under Local Law 73. Local Law 73 provides for document and in-person translation for six primary languages: Arabic, Chinese, Haitian Creole, Korean, Russian and Spanish. The various provisions of this law are to be phased in over the course of five years.

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26 The recent NYS Assembly bill 5431-B and Senate bill 5161-B regarding interpretation and translation in hospitals are not addressed because they have not been signed into law.

27 NY Exec § 290, *et seq*

28 Patient's Rights, 10 NYCRR § 405.7, *et seq.*

29 *Id.*

30 NYC Administrative Code § 17-174.

31 NYC Administrative Code § 8-101, *et seq.*

32 42 U.S.C. 1396, *et seq.*

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