

**Testimony of Nisha S. Agarwal  
Director, Health Justice, New York Lawyers for the Public Interest  
before the New York City Council, Health Committee  
– Language access in New York City’s pharmacies  
May 4, 2009**

Good morning and thank you for the opportunity to testify about Intro 859-A, concerning the provision of interpretation and translation services in pharmacies for people who are limited English proficient (“LEP”). My name is Nisha Agarwal. I am a staff attorney with New York Lawyers for the Public Interest (NYLPI), a non-profit civil rights law firm. NYLPI strives to meet the legal needs of low-income New Yorkers who, among other things, face discrimination in the health care 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 laws 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 may know, the New York State Attorney General's Office completed investigations of and reached settlement agreements with 7 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, one of the groups testifying here today. The OAG's settlement agreements represent a huge step forward in the enforcement of existing law, and are an indication of the importance of this issue in New York City and statewide.

Nevertheless, still more needs to be done to ensure patient 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 if they need to be able to translate medication labels into the hundreds of languages spoken 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 to provide interpretation.

The City Council can remedy this problem by enacting Intro 859-A, which clarifies the obligations that pharmacies have to make

their services accessible to all, regardless of language spoken. The purpose of such legislation is not to supplant existing mandates, or even to add new and onerous regulation, but to provide concrete guidance to pharmacies operating within the unique context of New York City'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, among other things. 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 enacted the new regulations to strengthen and provide greater clarity to the existing requirements, and the results, two years later, have been quite impressive: advocates have monitored hospitals and found vast improvements in the numbers 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 regulations; 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 must 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 or death significance. The fact that so many people in our city are nevertheless unable to access these important services is troubling, but it is also a problem that it is within our capacity to fix. On behalf of my LEP clients, I urge the City Council to pass Intro 859-A and make pharmacy services equally accessible to all New Yorkers regardless of the language they speak.

Thank you.