

RESOLUTION AGREEMENT

between the

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

and

ST. VINCENT'S HOSPITAL STATEN ISLAND

and

ST. VINCENT'S CATHOLIC MEDICAL CENTERS OF NEW YORK

This Resolution Agreement ("Agreement"), dated *July 31*, 2006, is entered into by the People of the State of New York, by Eliot Spitzer, Attorney General of the State of New York, St. Vincent's Hospital Staten Island ("SVHSI"), and St. Vincent's Catholic Medical Centers of New York ("SVCMC").

WHEREAS SVHSI is a public health facility licensed by the State of New York, subject to New York Public Health Law §§ 2801-c, 2803, and 10 N.Y.C.R.R. § 405.7, which require, among other things, that all hospitals operating in the State provide skilled interpretation services and translations or transcriptions of significant hospital forms, instructions, and information in order to ensure effective visual, oral, and written communication with all patients regardless of their language;

WHEREAS SVHSI receives, and at all relevant times has received, Federal financial assistance administered by the United States Department of Health and Human Services ("HHS") and as a recipient of such funds is subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. ("Title VI"), and the HHS Title VI regulations at 45 C.F.R. Part 80, which, among other things, prohibit a recipient of HHS funds from engaging in policies or practices that have the effect of discriminating against individuals on the basis of national origin, including policies or practices that preclude or inhibit equal access to a recipient's programs and activities for patients of limited English proficiency;

WHEREAS SVCMC is a not-for-profit corporation organized under the laws of the State of New York that operates hospitals and other health care facilities, including SVHSI;

WHEREAS SVCMC has filed for reorganization under Chapter 11 of the United States Bankruptcy Code, and the bankruptcy proceeding is currently pending before the United States Bankruptcy Court in the Southern District of New York;

WHEREAS the Office of the Attorney General ("OAG") received complaints concerning the provision of language interpretation and translation services at SVHSI, and subsequently commenced

an investigation into SVHSI's policies, procedures, and practices regarding language assistance services;

WHEREAS the parties herein share the common goals of ensuring that all patients of limited English proficiency obtain meaningful access to hospital programs and services; developing comprehensive language assistance policies, procedures, and practices that improve, in a cost effective manner, the language assistance services provided to these patients; and better monitoring the provision of such services to these patients;

WHEREAS SVHSI had a number of policies, procedures, and resources for providing language assistance services prior to the commencement of the OAG's investigation;

WHEREAS SVHSI expressly denies any wrongdoing or liability in this matter;

WHEREAS the parties herein desire to obviate further investigation or litigation, and it is expressly understood that this is a compromise settlement entered into solely for the purposes of avoiding the expense and inconvenience of further investigation and litigation; and

WHEREAS, in consideration of the covenants and understandings set forth herein and intending to be legally bound thereby, the OAG, SVHSI, and SVCMC hereby agree as follows:

I. **DEFINITIONS**

- 1.1. "Effective Date" means the date this Agreement is executed by the parties hereto.
- 1.2. "Hospital Employee" means any employee, staff member, agent, consultant, or representative of SVHSI.
- 1.3. "Hospital Primary Languages" means Spanish and any other language in which interpretation is required in one percent or more of SVHSI's Patient Visits during the most recent calendar year.
- 1.4. "Language Identification Card" means the document used to ascertain a Patient's Primary Language, containing the following statement in multiple languages: "Point to Your Language We Will Call An Interpreter."
- 1.5. "LEP patient" means a patient whose primary language is not English and who cannot speak, read, write, or understand English at a level sufficient to permit such patient to interact effectively with health care providers.
- 1.6. "Medical Information" means any information about a patient's medical condition, medical ailments, medical history, or any course of medical treatment proposed, followed, or discussed with a patient that must be documented in the patient's medical records.

- 1.7. "SVHSI" means St. Vincent's Hospital Staten Island and Bayley Seton Hospital, operating divisions of SVCMC.
- 1.8. "Native Speaker" means a Hospital Employee who lived in a non-English speaking country until at least age 16, or received a high school, undergraduate, or graduate degree from an institution whose primary instructional language is other than English.
- 1.9. "Patient's Primary Language" means the language primarily spoken by the LEP patient and in which such patient requires language assistance.
- 1.10. "Patient Visit" means an admission or a visit for medical services to any SVHSI facility.

II.
COMPLIANCE WITH LAW

- 2.1. SVHSI shall comply fully with the obligations, terms, and conditions set forth in Title VI and the regulations promulgated thereunder, N.Y. Public Health Law §§ 2801-c, 2803 and the regulations promulgated thereunder, and 10 N.Y.C.R.R. § 405.7.

III.
REVISIONS TO LANGUAGE ASSISTANCE POLICIES AND PROCEDURES

SVHSI shall revise its existing language assistance policies, procedures, and practices to incorporate the requirements of this Article, and shall provide and secure language assistance services in a manner consistent with these requirements and revised policies, procedures, and practices:

A. Assessment of Interpreters and Language Banks.

- 3.1. Within 90 days after the Effective Date, SVHSI shall ensure that the foreign language abilities of all Hospital Employees who provide interpretation services shall be assessed, unless they are Native Speakers or have already completed a medical interpretation course. The assessment shall determine whether the Hospital Employee's language skills are sufficient to interpret Medical Information effectively to and from the relevant foreign language(s) and English. This assessment may be conducted by any appropriate, qualified institution or interpretation program, or by appropriate, qualified SVHSI staff. In the event that SVHSI elects to use its own staff to develop the assessment tool, the assessment tool shall be subject to the approval of the OAG, which shall not be unreasonably withheld.
- 3.2. After the Effective Date, any Hospital Employee, other than a Native Speaker, who volunteers to provide interpretation services must have his or her foreign language abilities assessed to determine whether they are sufficient to interpret Medical Information effectively to and from the relevant foreign language(s) and English.
- 3.3. Within 90 days after the Effective Date, SVHSI shall establish a written Language Bank identifying Hospital Employees who may interpret or translate Medical Information to LEP

patients. The Language Bank shall include only: (a) Hospital Employees whose foreign language abilities have been assessed and determined to be sufficient to interpret Medical Information effectively to and from the relevant foreign language(s) and English; (b) Native Speakers; and (c) those Hospital Employees who had previously been certified as “medical interpreters” by virtue of their completion of a medical interpretation course (collectively, “Qualified Interpreters”). The Language Bank shall also indicate the appropriate contact information for each Qualified Interpreter, including their department, work shift, and telephone extension, and shall indicate the non-English language(s) that they speak. The Language Bank shall be regularly updated to ensure its accuracy, and shall be available at each patient admission or registration desk, information desk, nurse’s station, financial services and billing office, and other appropriate locations.

- 3.4. Bilingual staff who are not Qualified Interpreters may not communicate Medical Information to an LEP patient, except in urgent or emergency circumstances in which immediate action is necessary in order to protect the health, safety, or welfare of the patient.
- 3.5. SVHSI shall maintain records of the tool(s) used to assess Hospital Employees’ foreign language abilities and the results of such assessments.
- 3.6. SVHSI shall make reasonable efforts to: (a) ensure that each shift includes a sufficient number of Qualified Interpreters for each of the Hospital Primary Languages to meet anticipated language assistance needs; (b) develop and implement methods to ensure that Qualified Interpreters receive appropriate recognition for providing interpretation services; and (c) develop and implement incentives to encourage Hospital Employees to volunteer to become Qualified Interpreters. Nothing in this paragraph shall preclude Hospital Employees from using telephonic interpretation services under the circumstances set forth in paragraph 3.9(c).

B. Identification of Language Assistance Needs.

- 3.7. SVHSI shall ensure that Hospital Employees defer to a patient’s own assessment of his or her need for interpretation services. If an LEP patient expresses a need for an interpreter, interpretation services shall be provided. Hospital Employees having difficulty identifying the Patient’s Primary Language first shall use a Language Identification Card to ascertain the language, and then, if necessary, shall contact the individual(s) appointed or designated pursuant to subparagraph 5.1 or the telephonic interpretation service, described in subparagraph 3.8, for further assistance.

C. Providing and Securing Language Assistance Services.

SVHSI shall ensure that Hospital Employees inform LEP patients of their right to receive free interpretation services, and provide or secure language assistance services consistently with the following provisions:

- 3.8. *Telephonic Interpretation Services.* SVHSI shall continue to maintain a contract with a company qualified to provide telephonic interpretation services using trained and

tested interpreters, and shall continue to provide training to Hospital Employees in the use of those telephonic interpretation services.

3.9. *Procedures.*

LEP individuals shall be provided with language assistance services as described below:

- (a) If the Hospital Employee is fluent in the Patient's Primary Language, he or she may communicate with the patient in that language subject to the restrictions of subparagraph 3.4.
- (b) Where an LEP patient requires translation or interpretation of Medical Information and the Hospital Employee is not a Qualified Interpreter in the Patient's Primary Language, the Hospital Employee first shall seek to locate a Qualified Interpreter who is on duty within the particular department. If no Qualified Interpreter is available within the department, the Hospital Employee shall secure an appropriate Qualified Interpreter by contacting the Patient Relations Department, during normal business hours, or the Administrator on Duty, during other times, who will be responsible for securing a Qualified Interpreter. The Patient Relations Department and the Administrator on Duty shall continue to maintain records reflecting requests for interpreters and how such requests are handled. Except as provided in subparagraph 3.4 above, Hospital Employees may not use individuals who are not Qualified Interpreters to interpret Medical Information for an LEP patient.
- (c) Hospital Employees shall seek to provide face-to-face interpretation services where possible. If no Qualified Interpreter is available to provide the necessary language assistance within the time period required by 10 N.Y.C.R.R. § 405.7(a)(7)(ii), the Hospital Employee shall access the telephonic interpretation service to assist the LEP patient.

3.10. *Refusal of Language Assistance Services.* Hospital Employees shall document in the patient's medical records an LEP patient's declination of language assistance services. Such documentation shall include, at a minimum:

- (a) an acknowledgment, signed by the patient or, if he or she refuses, by the Hospital Employee, that free language assistance services were offered to the LEP patient and that he or she knowingly declined those services;
- (b) the name of the interpreter who explained, in the Patient's Primary Language, the patient's right to free language assistance services, unless such explanation was provided in writing;
- (c) a statement that the interpreter the patient decided to use in place of services offered by SVHSI appeared to be over 18 years of age; and

- (d) the LEP patient's reason(s) for refusing language assistance services and the name and relationship to the patient of any interpreter the patient decided to use in place of services offered by SVHSI, unless the patient declines to provide this information, in which case this declination shall be documented.

3.11. *Recording Patient's Language Abilities and Needs.* Hospital employees shall continue to record in SVHSI's computer system for each Patient Visit: (a) the Patient's Primary Language, or English if the patient is not an LEP patient; and (b) whether the patient requires language assistance services.

3.12. *Telephone Contact with LEP Patients.*

- (a) When a Hospital Employee receives a telephone call from an LEP patient and does not speak the Patient's Primary Language, such employee shall use the telephonic interpretation service or enlist the assistance of bilingual staff to communicate with the LEP patient.
- (b) Within 90 days after the Effective Date, SVHSI's automated answering system shall be updated to ensure that all pre-recorded options are available in Spanish as well as English.

D. Monitoring.

3.13. *Reporting Periods.* SVHSI shall collect and report data over three Reporting Periods. The first Reporting Period shall begin within three months after the Effective Date and end one year after the Effective Date. The second and third Reporting Periods shall begin at the close of the prior Reporting Period and end one year thereafter.

3.14. *Review of Sample of LEP Patient Visits.*

- (a) At the end of each Reporting Period, SVHSI shall generate a random sample of no fewer than 100 Patient Visits during the Reporting Period by LEP patients who were identified as needing language assistance services upon registration ("Sample LEP Visits"). The sample shall reflect a representative cross-section of Patient Visits by LEP patients, and shall be drawn from various departments. SVHSI shall review the medical records from the Sample LEP Visits to assess the extent to which the LEP patients' language assistance needs were met in an adequate and appropriate manner. Based on a review of the sample, SVHSI shall calculate:

- (1) The percentage of the Sample LEP Visits in which there is a record that the LEP patient declined language assistance services, as well as a breakdown of such visits in percentage terms by Patient's Primary Language and principal reasons offered for the refusal;
- (2) The percentage of the Sample LEP Visits in which there is a record that the LEP patient received language assistance services, as well as a breakdown of

such visits in percentage terms by type of language assistance resource used;

- (3) The percentage of Sample LEP Visits in which there is no record that the LEP patient either declined or received language assistance services, as well as a breakdown of such visits in percentage terms by Patient's Primary Language.

- (b) SVHSI shall develop clear written protocols and methodologies for conducting these record reviews. The reviews may be conducted as part of SVHSI's record review process.

3.15 *Patient Satisfaction Surveys.* Within 90 days after the Effective Date, SVHSI shall amend its existing patient satisfaction surveys to include question(s) related to the adequacy, availability, and timeliness of language assistance services. SVHSI shall offer these surveys in each of the Hospital Primary Languages and distribute them to a significant number of LEP patients who speak these languages.

3.16. *Provider Satisfaction Surveys.* At least once during each Reporting Period, SVHSI shall distribute surveys to a significant number of health care medical providers regarding language assistance services. The providers surveyed shall cover a range of departments, positions, and shifts at SVHSI. The surveys shall question providers about, among other things: (a) their awareness of language assistance policies, procedures, and resources; (b) the availability and quality of Qualified Interpreters and the telephonic interpretation service; (c) the frequency with which different language assistance resources are used; and (d) suggestions for improving language assistance services.

3.17. *Spot Checks.* SVHSI periodically shall conduct spot checks of various departments to observe the extent to which Hospital Employees are complying with language assistance policies and procedures, including the requirements set forth in this Agreement.

3.18. *Telephone Tests.* At least twice during each Reporting Period, SVHSI shall conduct test telephone calls to assess the adequacy of staff responses to telephone inquires from LEP persons. Calls shall be made in a minimum of three non-English languages to the general information line and a sample of clinical departments. SVHSI shall maintain records reflecting the results of these tests.

3.19. *Language Assistance Monitoring Reports.* Within three months after the end of each Reporting Period, a report shall be prepared (the "Language Assistance Monitoring Report") summarizing the following information:

- (a) The information and results collected through record reviews, patient satisfaction surveys, provider satisfaction surveys, spot checks, telephone tests, and any other mechanisms employed to monitor the provision of language assistance services during the Reporting Period;
- (b) A review of all complaints related to language assistance services made during the Reporting Period, including a summary of each such complaint and its resolution;

- (c) The number of LEP patients who visited SVHSI during the Reporting Period, and the number of such individuals who indicated upon registration a need for language assistance services, broken down in percentage terms by Patient's Primary Language; and
- (d) The total number of Patient Visits to SVHSI during the Reporting Period, and the number of such visits where the patient indicated upon registration a need for language assistance services, broken down in percentage terms by Patient's Primary Language.

3.20. *Internal Needs Assessment.* SVHSI shall use the Language Assistance Monitoring Reports to evaluate the efficacy and timeliness of language assistance services, the extent to which Hospital Employees are complying with language assistance policies and procedures, including the requirements set forth in this Agreement, and the need for corrective measures or modifications in the amount or allocation of language assistance resources ("Internal Needs Assessment").

- (a) Addressing Service Deficiencies. SVHSI shall devise and implement appropriate corrective measures. If the percentage in subparagraph 3.14(a)(3) exceeds ten percent, the Hospital shall develop and implement an appropriate remedial strategy, including additional monitoring, retraining, increases in language assistance resources, and appropriate disciplinary measures.
- (b) Report. Within three months after the end of each Reporting Period, SVHSI shall prepare a report summarizing the findings of the Internal Needs Assessment, the changes SVHSI has made or plans to make within a specified time frame in response to the Internal Needs Assessment, and the reasons for these changes ("Internal Needs Assessment Report"). The Report shall include, at a minimum: (1) a section identifying any observed service deficiencies and summarizing the remedial steps SVHSI has taken, or plans to take, to address these deficiencies; and (2) for the second and third Internal Needs Assessment Reports, a section summarizing any changes made pursuant to the prior Internal Needs Assessment.

3.21. SVHSI executive staff shall review the Language Assistance Monitoring Report and the Internal Needs Assessment Report.

IV. **TRAINING**

4.1. *LEP Policy Summary.*

- (a) Within 30 days after the Effective Date, SVHSI shall develop a concise, clear summary of the procedures that Hospital Employees must follow when they come into contact with LEP patients (the "LEP Policy Summary"). The LEP Policy Summary shall explain the following:

- How to identify the Patient's Primary Language and need for interpretation and/or translation services;
- Where to record the Patient's Primary Language and need for interpretation and/or translation services in SVHSI's computer system and within the patient's medical records;
- The need to inform LEP patients of their right to free interpretation and/or translation services;
- How to secure and provide appropriate interpretation and/or translation services;
- How to document the provision of interpretation and/or translation services, or an LEP patient's refusal of such services;
- The time limits for providing language assistance services set forth in 10 N.Y.C.R.R. § 405.7(a)(7)(ii);
- The obligation of Hospital Employees to use only Qualified Interpreters to communicate Medical Information to LEP patients, except in urgent or emergency circumstances in which immediate action is necessary in order to protect the health, safety, or welfare of the patient;
- The limited circumstances under which family members and minors can provide interpretation services; and
- SVHSI's preference for face-to-face interpretation services.

(b) The LEP Policy Summary shall be subject to the approval of the OAG, whose approval shall not be unreasonably withheld. Upon OAG approval, SVHSI shall distribute the LEP Policy Summary to all Hospital Employees with patient contact responsibilities, and shall post the LEP Policy Summary in each patient registration and admission area, nurse's station, financial services and billing office, pharmacy, and any other locations in which language assistance services are regularly provided.

4.2. Within 90 days after the Effective Date, SVHSI shall train all Hospital Employees with patient contact responsibilities regarding any changes in language assistance policies and procedures required by this Agreement. All Hospital Employees shall be informed that they may not use individuals who are not Qualified Interpreters to communicate Medical Information to an LEP patient. Thereafter, on at least an annual basis, SVHSI shall continue to train Hospital Employees with patient contact responsibilities on all language assistance policies and procedures and the legal obligation to provide language assistance services to LEP patients. SVHSI shall continue to maintain attendance records for such training sessions.

- 4.3. All new Hospital Employees shall receive training on the revised language assistance policies and procedures within 14 days of their start date.
- 4.4. SVHSI's Operations Manual and Patient Relations Manual and all other written training materials used by SVHSI shall be amended to be consistent with the revised language assistance policies and procedures.
- 4.5. Within 90 days after the Effective Date, SVHSI shall develop a clear and concise protocol instructing telephone operators, receptionists, and other Hospital Employees who regularly answer telephones on how to handle calls from LEP patients. SVHSI shall distribute the written protocol to such Hospital Employees, and shall train them on its requirements.

V.

LANGUAGE ASSISTANCE COORDINATOR

- 5.1. Within 30 days of the Effective Date, SVHSI shall appoint or designate a specific individual or individuals who will be responsible for implementing, coordinating, and monitoring language assistance services and for ensuring compliance with this Agreement. The appointed or designated individual(s) shall report to SVHSI's Executive Director or other senior SVHSI management officials.

VI.

REPORTING REQUIREMENTS

- 6.1. Within three months after the end of each Reporting Period, SVHSI shall provide the OAG with the Language Assistance Monitoring Report and Internal Needs Assessment Report.
- 6.2. The OAG shall have access to review, subject to patient confidentiality restrictions, any SVHSI document relating to language assistance services or the implementation of this Agreement.

VII.

APPROVAL BY BANKRUPTCY COURT

- 7.1. SVCMC shall seek from the United States Bankruptcy Court any necessary approvals of this Agreement within four weeks of the Effective Date.

VIII.

JURISDICTION AND OTHER PROVISIONS

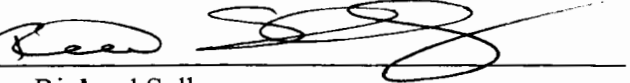
- 8.1. Notwithstanding any provision of this Agreement to the contrary, the OAG may, in its sole discretion, grant written extensions of time for SVHSI and/or SVCMC to comply with any provision of this Agreement.

- 8.2. The signatories to this Agreement warrant and represent that they are duly authorized to execute this Agreement and that they have the authority to take all appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.
- 8.3. The parties may seek to enforce this Agreement through administrative or judicial enforcement proceedings, including a civil action in federal or state court, as appropriate, seeking specific performance of the provisions of this Agreement. However, in the event of a dispute among the parties regarding any issue arising hereunder, the parties shall attempt in good faith to resolve the dispute before seeking administrative or judicial intervention.
- 8.4. The failure by the OAG to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of the OAG's right to enforce other deadlines and provisions of this Agreement. If any provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective in a legal forum, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding on the parties.
- 8.5. This Agreement constitutes the entire agreement between SVHSI, SVCMC, and the OAG on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by either party or agents of either party that is not contained in this Agreement shall be enforceable.
- 8.6. Nothing in this Agreement is intended to, nor shall, limit the OAG's investigatory or compliance review powers otherwise provided by law or this Agreement.
- 8.7. This Agreement may be executed in multiple counterparts, each of which shall be deemed a duplicate original.
- 8.8. If SVCMC sells or otherwise transfers SVHSI to another entity during the duration of this Agreement, SVCMC shall make best efforts to ensure that the contract of transfer expressly provides that at the closing of the transaction, (1) the transferee shall assume all obligations and liabilities accruing from and after the closing date with respect to this Agreement and (2) the transferee agrees to be fully bound by the terms of this Agreement ("Assumption Provisions"). If it appears that the contract of transfer will not contain the Assumption Provisions, SVCMC shall notify the OAG of this fact within a reasonable period of time prior to the closing of the transaction.
- 8.9. SVHSI shall not retaliate, intimidate, threaten, coerce, or discriminate against any person, including any SVHSI patient, who has filed a complaint, testified, assisted, or participated in any manner in the investigation of the matter addressed in this Agreement.

8.10. This Agreement shall expire 42 months after the Effective Date.

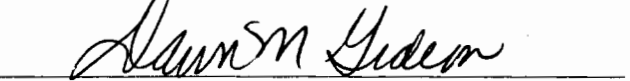
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound thereby, have caused this Resolution Agreement to be executed, by their duly authorized attorneys or representatives, on July 31, 2006.

ST. VINCENT'S HOSPITAL STATEN ISLAND

By: 

Richard Salhany
Vice-President of Operations
355 Bard Avenue
Staten Island, New York 10310
(718) 818-1234

**ST. VINCENT'S CATHOLIC MEDICAL
CENTERS OF NEW YORK**

By: 

Dawn Gideon
Chief Operating Officer
St. Vincent's Catholic Medical Centers
130 West 12th Street
New York, New York 10011
(212) 404-7000

**OFFICE OF THE ATTORNEY GENERAL OF
THE STATE OF NEW YORK**

By: 

Natalie Williams
Civil Rights Bureau Chief
120 Broadway
New York, New York 10271
(212) 416-8240