

## RESOLUTION AGREEMENT

between the

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

and

ST. ELIZABETH MEDICAL CENTER

This Resolution Agreement ("Agreement"), dated September 12, 2003, is entered into by the People of the State of New York, by ELIOT SPITZER, Attorney General of the State of New York (the "OAG"), and St. Elizabeth Medical Center ("St. Elizabeth"), located in Utica, New York.

WHEREAS the OAG and St. Elizabeth share the common goals of assuring that all patients of limited English proficiency ("LEP patients") obtain meaningful access to all programs and services provided by St. Elizabeth; developing comprehensive language assistance policies, procedures, and practices that improve, in a cost effective manner, the language assistance services provided to LEP patients; and enabling St. Elizabeth to better track and monitor the language assistance needs of its patients and to respond to any changes in these needs;

WHEREAS St. Elizabeth is a public health facility licensed by the State of New York, subject to N.Y. 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 St. Elizabeth 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 LEP patients;

WHEREAS, upon receiving complaints from LEP patients in February and March 2002 about St. Elizabeth's interpretation and translation services, the OAG commenced an investigation into St. Elizabeth's policies, procedures, and practices regarding language assistance services for **LEP** patients;

WHEREAS St. Elizabeth, even prior to the commencement of the OAG's investigation, had a procedure for providing language assistance services to patients in need of those services, including contracts with several interpreter services, and had made significant efforts to improve its language assistance policies and procedures and to enhance both the language assistance services rendered and the facility's ability to monitor them;

WHEREAS this Agreement thus incorporates language assistance resources already being implemented by St. Elizabeth;

WHEREAS St. Elizabeth expressly denies any wrongdoing or liability in this matter and desires to expend its resources to improve the existing program of interpretive services;

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;

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

## **I. DEFINITIONS**

1.1. "St. Elizabeth" means the health care network consisting of the St. Elizabeth Medical Center, a hospital located at 2209 ~~Genesee~~ Street, Utica, New York, and the St. Elizabeth Medical Group, a collection of non-hospital-based medical offices and primary care clinics in and around Utica, New York.

1.2. "Clinical Departments" means the emergency room, inpatient departments, and outpatient departments or clinics (including primary care clinics) within St. Elizabeth.

1.3. "LEP patient" means a patient whose primary language is not English and who cannot speak, read, write or understand the English language at a level sufficient to permit such patient to interact effectively with health care providers.

1.4. "Effective Date" means the date this Agreement is executed by the parties hereto.

1.5. "St. Elizabeth's Primary Languages" means Bosnian, Spanish, and any other languages identified pursuant to subparagraph 10.4(b) below.

1.6. "Patient's Primary Language" means the language primarily spoken by an LEP patient and in which such patient requires language assistance.

1.7. "Medical Information" means any communication about a patient's medical condition, medical ailments, medical history or any course of medical treatment proposed, followed or discussed with a patient that the Hospital requires to be documented in the patient's medical records.

1.8. "Patient Visit" means an inpatient admission or a visit for medical services to the emergency department or an outpatient clinic.

1.9. "LEP Patient Encounter" means an interaction between an LEP patient and an employee of the Hospital that involves communication of Medical Information.

## **II. COMPLIANCE WITH LAW**

2.1. St. Elizabeth 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.**  
**LANGUAGE ASSISTANCE COORDINATOR**

3.1. Within two months after the Effective Date, St. Elizabeth shall appoint a Language Assistance Coordinator who shall be responsible for implementing, coordinating, and monitoring St. Elizabeth's language assistance services for LEP patients and ensuring compliance with this Agreement. The Language Assistance Coordinator, personally or through a designee, shall:

(a) train all St. Elizabeth employees on the language assistance policies and procedures set forth in this Agreement;

(b) monitor staff in all Clinical Departments through unannounced visits, documentation reviews and other measures to ensure compliance with these language assistance policies and procedures, and where warranted, retrain staff and take other appropriate corrective actions to remedy any deficiencies or problems;

(c) assess the foreign language abilities of and provide training in medical interpretation to bilingual staff, as required for staff to communicate or interpret Medical Information;

(d) conduct periodic patient and provider satisfaction surveys;

(e) assess on a regular basis the language needs of the communities in the geographical area that St. Elizabeth serves;

(f) collect information sufficient to prepare, and then prepare, the reports described in Article X below;

(g) review, investigate and respond to complaints about language assistance services;

(h) communicate with community groups, advisory councils and associations serving LEP patients; and

(i) assist Clinical Department heads on a regular basis in meeting the obligations set forth in this Agreement.

3.2. The Language Assistance Coordinator shall report to the President and CEO or other senior management official.

**IV.**  
**LANGUAGE ASSISTANCE POLICY AND PROCEDURE**

**4.1. Identification of LEP Patients at Registration or Admission**

(a) Within three months after the Effective Date, St. Elizabeth shall ensure that fields for the following questions are included in its patient admission and registration forms and, where registration is computerized, in their corresponding computerized screens: "Do you need an interpreter?" and "If so, in what language?" The computerized registration and admission fields shall be mandatory and the completed fields shall appear whenever a patient's computer record is subsequently accessed. St. Elizabeth shall train its registration and admission staff on the appropriate completion of these forms and computer fields.

(b) Within three months after the Effective Date, St. Elizabeth shall develop a system of prominently marking LEP patient charts in a manner identifying the patient's need for language assistance and the Patient's Primary Language.

#### 4.2. Language Assistance Resources

St. Elizabeth shall maintain the following language assistance resources in sufficient quantity and quality to ensure timely and meaningful access of all LEP patients to St. Elizabeth's services, activities and programs:

##### (a) Bilingual Staff

(1) St. Elizabeth shall continue its efforts to actively recruit and seek to retain bilingual staff. It shall encourage bilingual staff to communicate with LEP patients who speak a language in which the bilingual staff person is fluent, except that a bilingual employee shall not communicate Medical Information to any LEP patient unless St. Elizabeth has assessed his or her foreign language abilities and determined them to be sufficient to communicate Medical Information effectively in the foreign language.

(2) St. Elizabeth shall maintain records of the tool(s) used to assess employees' foreign language abilities and the assessment results of all bilingual staff deemed qualified to communicate Medical Information.

##### (b) Staff Interpreters

(1) St. Elizabeth shall continue utilizing willing bilingual staff as Staff Interpreters. Only staff whose language skills are determined to be sufficient to interpret effectively to and from the relevant foreign language and English may serve as Staff interpreters. St. Elizabeth shall assess the foreign language abilities of interested staff and shall maintain the assessment tool(s) used and the test results of staff determined to be qualified to serve as Staff Interpreters.

(2) Before serving as Staff Interpreters, staff must complete training in medical interpretation that is offered by an instructor qualified in the training of medical interpreters; provides training and instruction in the role of the interpreter, the mechanics of interpreting effectively, interpreter ethics, medical and anatomical terminology, relevant cultural issues, and (for non-medical staff only) how medical providers gather information; involves some practice exercises (for example, role playing); and provides post-training competency evaluation. Such training may be provided through a "train-the-trainer" model, or other means that promote efficiency without compromising the quality of instruction.

(3) On a monthly basis, each Staff Interpreter shall inform the Language Assistance Coordinator of the language assistance services he or she has provided.

(4) St. Elizabeth shall maintain a list including the name, extension, Clinical Department, and foreign language abilities of all Staff Interpreters.

(5) St. Elizabeth shall update its Staff Interpreter list once every six months, and shall ensure that the most recent version thereof is available on its intranet system and in paper format, if no computer is available, at each patient admission or registration desk, information desk, and nurses station, as well as in the financial services and billing office.

(c) Contract Interpreters

(1) St. Elizabeth shall continue to utilize, on such terms and in such a manner as it sees fit, interpreters supplied by organizations that provide trained interpretation services ("Contract interpreters") in order to ensure the adequate availability of face-to-face interpretation services in St. Elizabeth's Primary Languages.

(2) Within two months after the Effective Date, St. Elizabeth shall provide the OAG with copies of all of its contracts with Contract Interpreter organizations of its choosing. Thereafter, St. Elizabeth shall inform the OAG of any additional contracts into which it enters and of significant changes in any existing contracts (including, but not limited to, termination of any such contract).

(d) Telephonic Interpretation Services

(1) St. Elizabeth shall maintain a contract with a provider of telephonic interpretation services, which shall be accessible to all employees at all times, preferably through the use of dual-handset phones.

(2) St. Elizabeth shall ensure that the number and locations of appropriate phones are adequate to serve the telephonic interpretation needs of St. Elizabeth's LEP patients.

(e) Visual Resources

Employees may use non-verbal communication tools, such as pictorial boards, to communicate with an LEP patient under appropriate circumstances. Such circumstances shall be set forth in detail in both the Hospital's policy and procedure and the patient's individual care plan, and may include, for example, discussion of Activities of Daily Living or other brief communication in which both the questions asked of the patient and the answers the patient may provide can be easily and adequately conveyed through visual means.

(f) Other Interpreter Resources

Nothing in this Agreement shall prevent St. Elizabeth from providing additional language assistance resources for LEP patients.

**4.3. Procedure for Providing or Securing Language Assistance Services**

Within three months after the Effective Date, St. Elizabeth shall amend its policies and procedures to promulgate the policies and procedures set forth in this Section and shall provide detailed procedures for staff to follow in securing each of the interpreter resources listed in subparagraph 4.3(a)(2) below:

(a) Procedures

(1) *Identifying an LEP Patient's Primary Language.* If an employee encounters an LEP patient, the employee shall identify the Patient's Primary Language. St. Elizabeth shall maintain a multi-language identification card, in substantially the form of Exhibit A, on its intranet system and in paper format, if no computer is available, at each patient admission or registration cubicle, information desk, emergency department information desk(s), Clinical Department registration desk, and security guard post. Employees having difficulty

identifying the Patient's Primary Language first shall use the language identification card and then, if necessary, shall contact the Language Assistance Coordinator or the telephonic interpretation service for further assistance.

(2) *Steps for Providing or Securing Language Assistance.* After identifying the Patient's Primary Language, the employee shall provide or secure language assistance services for the LEP patient as follows:

(i) If the 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 4.2(a);

(ii) If the employee does not speak the Patient's Primary Language or has not been deemed qualified to communicate Medical information, and only as consistent with the Hospital's policy and procedure and the patient's individual care plan, he or she may use a Visual Resource, as described in subparagraph 4.2(e) above, to communicate with the patient.

(iii) If the use of a Visual Resource is not appropriate, or if at any time during the use of a Visual Resource there is any doubt whatsoever that the employee and the patient are communicating effectively, the employee shall secure a Contract Interpreter or a Staff Interpreter. (The Hospital shall in its policy specify the order in which these resources shall be used.)

(iv) If no Contract Interpreter or Staff Interpreter is available to provide the necessary language assistance within a reasonable time, the employee shall access a telephonic interpretation **service** to assist the patient.

If at any time an LEP patient wishes to use a family member, friend or other interpreter resource not provided by St. Elizabeth for language assistance ("Outside Interpreter"), staff shall follow the procedures set forth in paragraph 4.3(b) below.

(3) *Time Limit on Securing Language Assistance Services.* Language assistance services shall be available to LEP patients in the inpatient and outpatient setting within twenty (20) minutes of a request for such services, pursuant to 10 N.Y.C.R.R. § 405.7(a)(7)(ii).

(4) *Time Limit on Securing Language Assistance Services for Emergency Department Visits.* Language assistance services shall be available to LEP patients in the emergency department(s) within ten (10) minutes of a request for such services, pursuant to 10 N.Y.C.R.R. § 405.7(a)(7)(ii).

(5) *Documenting Language Assistance.* In every instance in which Medical Information is provided to an LEP patient in a foreign language by any means (by a bilingual staff member, by a Contract Interpreter, by telephonic interpretation, or if applicable by a Staff Interpreter), the clinician, or his or her designee, should note in the patient's chart who provided the language assistance services; the language; the time and date that such services were requested and then provided; what facts were communicated; and the fact that the patient understood. This notation should be recorded in a specific and uniform location in the patient's chart that allows for ready review by the Language Assistance Coordinator; for inpatients, the notation may be made in the nursing notes.

(b) Refusals of St. Elizabeth's Language Assistance Services

(1) If an LEP patient wishes to use an Outside Interpreter, staff shall inform the LEP patient, through one of the interpreter resources identified in paragraph 4.2 or in writing in the Patient's Primary Language, that St. Elizabeth will provide an interpreter at no cost to the patient.

(2) If the LEP patient declines St. Elizabeth's interpretation services, the employee may use the Outside Interpreter if the employee reasonably concludes that the Outside Interpreter is able and willing to provide effective interpretation services.

(3) If, at any time during the visit, an employee believes that the Outside Interpreter is hampering effective communication with the LEP patient, the employee shall secure one of St. Elizabeth's interpreter resources.

(4) Absent an emergency or other unusual circumstance, staff shall not use a person under 16 years of age as an interpreter. If the patient requests the use of such person even after being informed of the availability of free interpretation provided by the Hospital, staff further shall inform the LEP patient, through one of the interpreter resources identified in paragraph 4.2 or in writing in the Patient's Primary Language, that hospital policy discourages interpretation by persons under 16 years of age.

(5) If an LEP patient declines St. Elizabeth's language assistance services, the employee shall document such refusal in a specific and uniform location in the LEP patient's medical records, such that it can be readily reviewed by the Language Assistance Coordinator. Such documentation shall include, at a minimum:

(i) an acknowledgment that free language assistance services were offered to the patient and that he or she knowingly declined those services, signed by the LEP patient or, if he or she refuses, by the staff offering such services;

(ii) 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;

(iii) the patient's reasons for refusing language assistance services; and

(iv) if an Outside Interpreter is used, the Outside Interpreter's name, age, and relationship to the patient.

(c) Assisting LEP Patients While Awaiting An Interpreter. While waiting for an interpreter, employees shall use non-verbal communication tools, such as language and/or pictorial boards and telephonic interpretation services, to determine whether the LEP patient has any immediate needs.

(d) Telephone Contact with LEP Patients. Employees shall use the telephonic interpretation service, or if applicable Staff Interpreters, when speaking with LEP patients by telephone about Medical Information.

## V.

### TRAINING ON LANGUAGE ASSISTANCE POLICIES AND PROCEDURES

- 5.1. St. Elizabeth shall conduct training sessions on an annual basis for all hospital staff regarding St. Elizabeth's legal obligation to provide language assistance services to LEP patients and the language assistance policies and procedures set forth in this Agreement. All hospital staff shall receive such training within six months after the Effective Date. The training sessions may include a segment on the cultural needs of St. Elizabeth's diverse patient population, including any barriers to accessing care that may be specific to particular segments of St. Elizabeth's patient population. The hospital shall maintain attendance records for each training session.
- 5.2. St. Elizabeth shall develop and distribute to all staff at the training sessions described in paragraph 5.1 written materials describing St. Elizabeth's language assistance policies and procedures as set forth in this Agreement.
- 5.3 Within three months after the Effective Date, St. Elizabeth shall produce a summary of the language assistance procedures set forth in subparagraph 4.3(a)(2) of Article IV (the "Summary"), distribute the Summary to all employees with patient contact responsibilities, and post the Summary on its intranet system, and in paper format, if no computer is available, in the patient registration and admission areas, at each nursing station, in the financial and billing office, and in any other location in which language assistance services are regularly provided.
- 5.4 Within six months of the Effective Date or four weeks of a new employee's start date, whichever is later, St. Elizabeth shall provide such employee with training on St. Elizabeth's language assistance policies and procedures and the corresponding written materials.
- 5.5 St. Elizabeth shall develop all written materials and training materials relating to its language assistance services in consultation with the OAG and shall thereafter notify the OAG of any significant changes therein.

## VI.

### INFORMING PATIENTS OF THEIR LANGUAGE ASSISTANCE RIGHTS

- 6.1. St. Elizabeth shall inform all patients of their right to receive free interpretation services if they are LEP patients.
- 6.2. Within two months after the Effective Date, St. Elizabeth shall post and maintain signs informing patients that "Free Interpretation Services Are Available" in at least English and each of the Hospital's Primary Languages, in a conspicuous manner throughout the Hospital, including at a minimum all locations where the patient's bill of rights is posted.
- 6.3. Within four months after the Effective Date, St. Elizabeth shall prepare and distribute brochures, written in English and each of St. Elizabeth's Primary Languages, containing:
- (a) notification of the right to free interpretation services, instructions on how to obtain such services (including how to contact the Language Assistance Coordinator and the Risk Management Office), and other basic hospital information;
  - (b) a clear statement on the cover in bold-faced type, written in both English and the Patient's Primary Language, that the patient is an LEP patient and requires language assistance services in that Primary Language;



(c) notification of the right to make a formal complaint about any of St. Elizabeth's services, including St. Elizabeth's language assistance services; the procedures for making a complaint, including where to find a complaint form and how to file it; and the names and addresses of the government agencies, including the OAG, and the New York State Department of Health, where the patient may register a complaint if the matter is not resolved to the patient's satisfaction.

These brochures shall be provided to LEP patients upon their registration or admission, in the appropriate language. Further, St. Elizabeth shall maintain displays of these brochures in a conspicuous location near all points of entry into St. Elizabeth sites, the patient information desk, the Risk Management Office, all patient registration and admission areas, and any other appropriate areas.

6.4. St. Elizabeth shall continue its community marketing efforts, and specifically shall include notification of free language assistance services in all its foreign-language advertising.

## **VII.** **COMPLAINTS**

7.1. The Risk Management Office shall provide to the Language Assistance Coordinator copies of all complaints about language assistance services within a reasonable period of time.

7.2. Complaints shall be investigated thoroughly and resolved in a timely manner consistent with usual hospital practice.

## **VIII.** **SIGNAGE AND TRANSLATION OF DOCUMENTS**

8.1. Within four months after the Effective Date, St. Elizabeth shall review the English language **signage** throughout the facility, and determine which signs (if any) should be translated into St. Elizabeth's Primary Languages. These signs shall be translated into all of St. Elizabeth's Primary Languages and shall be posted (with the English signs) within nine months after the Effective Date.

8.2. Within nine months after the Effective Date, St. Elizabeth shall translate the following material into all of St. Elizabeth's Primary Languages and make such translated material available in the same manner as the corresponding English-language documents:

- (a) key financial forms and information;
- (b) medical consent forms;
- (c) advance directives;
- (d) general discharge instructions;
- (e) explanation of billing information; and
- (f) any other material St. Elizabeth considers vital to a patient's medical care and treatment.

8.3. If and when St. Elizabeth develops or begins using new written materials of the types described in paragraph 8.2, it shall translate those materials into all of St. Elizabeth's Primary Languages within four months.

8.4. St. Elizabeth shall, on an ongoing basis, review its patient education materials and determine which should be translated into St. Elizabeth's Primary Languages. St. Elizabeth shall translate into St. Elizabeth's Primary Languages all patient education material necessary to ensure

equal access to health care services.

## **IX. RECRUITMENT**

9.1. St. Elizabeth shall consider fluency in one or more of St. Elizabeth's Primary Languages as a positive job qualification when hiring staff who will have patient contact responsibilities. St. Elizabeth shall advertise job openings in venues accessible to qualified people fluent in St. Elizabeth's Primary Languages.

## **X. MONITORING**

10.1 **Reporting Periods.** St. Elizabeth shall collect and report monitoring data over three Reporting Periods. The first Reporting Period shall begin three months after the Effective Date and end one **year** after the Effective Date. The second and third Reporting Periods shall begin at the end of the prior Reporting Period and end one year thereafter.

10.2. **Data Collection and Reporting.** For each Reporting Period, the Language Assistance Coordinator shall prepare a report (the "Language Assistance Monitoring Report") that summarizes **the** information collected during that period, pursuant to the requirements below.

(a) **Registration Records of Patient Visits.** At the end of each Reporting Period, the Language Assistance Coordinator shall retrieve the following data from St. Elizabeth's computerized registration and admission system and, for departments whose registration is not computerized, from those departments' registration and admission forms:

(1) the number of LEP patients who visited St. Elizabeth during the period, broken down in percentage terms by Patient's Primary Language; and

(2) the number of Patient Visits during the period, broken down in percentage terms by Patient's Primary Language.'

(b) **Patient and Provider Satisfaction Surveys**

(1) Within six months after the Effective Date, and periodically thereafter, St. Elizabeth shall conduct patient and provider satisfaction surveys regarding the Hospital's language assistance services. Inpatient surveys shall be conducted once every three months, outpatient surveys once every six months, and provider surveys once every year. The LEP patients chosen for the survey shall represent all of St. Elizabeth's Primary Languages, in approximate proportion to St. Elizabeth's LEP patient population. The surveys shall also cover a range of departments and shifts. The surveys shall **question** participants regarding, among other things: (i) awareness of St. Elizabeth's language assistance set-vices; (ii) frequency with which each language assistance resource **was** used; (iii) the quality of each such resource; (iv) the timeliness of each such resource; and (v) suggestions for improving St. Elizabeth's language assistance services.

(2) At the end of each Reporting Period, the Language Assistance Coordinator shall review the surveys for the period and shall analyze the responses of patients and providers.

(3) The number of LEP patients included in the survey shall reflect reasonable

efforts to reach a meaningful number of patients speaking each of the Hospital's Primary Languages. The number of medical providers included in the survey shall reflect reasonable efforts to reach a meaningful number of providers in each of the Hospital's Clinical Departments.

(c) Review of Sample of LEP Patient Visits. At the end of each Reporting Period, St. Elizabeth shall generate a random sample ("Sample") of Patient Visits by LEP patients to the Hospital during the period ("LEP Patient Visits"). For the first Reporting Period, St. Elizabeth shall randomly select 100 LEP patient files for analysis. For the subsequent Reporting Periods, St. Elizabeth and the OAG shall jointly determine the size of the Sample. The files selected shall reflect a representative cross-section of LEP Patient Visits, including visits to all Clinical Departments in approximate proportion to their relative share of Patient Visits. Based on a review of the Sample, the Language Assistance Coordinator shall calculate and report:

(1) the percentage of LEP Patient Visits in which there is a record that the LEP patient declined language assistance services at any time during that visit;

(2) for LEP Patient Encounters during LEP Patient Visits in which there is no record that the patient declined language assistance services:

(i) the percentage of such encounters in which there is a record that the LEP patient received language assistance services; and

(ii) the percentage of such encounters in which there is no record that the LEP patient received language assistance services;

(3) for LEP Patient Encounters in which there is a record that the LEP patient received language assistance services:

(i) a breakdown in percentage terms of the frequency of use of each language assistance resource; and

(ii) the percentage of such encounters in which the time required to obtain assistance exceeded 30 minutes;

(4) for LEP Patient Visits in which there is a record that the patient declined language assistance services:

(i) the percentage of such visits in which the record suggests that the refusal occurred at or before the first LEP Patient Encounter; and

(ii) a breakdown in percentage terms of such visits by: (a) Patient's Primary Language and (b) principal reasons offered for the refusal;

(5) for LEP Patient Visits to primary care clinics, the percentage of such visits in which the clinic interpreter log reflects that the patient received language assistance services but there is no record of any such services in the patient's medical records; and

(6) the extent to which the use of Visual Resources conforms to the Hospital's policy and procedure and/or the patient's individual care plan.

(d) Review of Complaints. At the end of each Reporting Period, the Language Assistance Coordinator shall review any complaints related to St. Elizabeth's language assistance services made during the prior year and briefly summarize each such complaint and its resolution.

### 10.3 LEP Population Trends

(a) For the first Reporting Period, the OAG shall compile data from the United States Census Bureau on English language ability for the population residing in the zip codes 13501, 13502, 13503, 13504, and 13505 (the "Relevant Zip Codes") and shall advise St. Elizabeth, in writing, whether there are any languages, in addition to St. Elizabeth's Primary Languages, spoken by one percent or more of the population in the Relevant Zip Codes.

(b) For the second and third Reporting Periods, the OAG shall compile data on bilingual education participation and usage in the Utica City School District and shall advise St. Elizabeth, in writing, whether there are any languages, in addition to St. Elizabeth's Primary Languages, spoken by one percent or more of the population therein.

**10.4 Internal Needs Assessment.** St. Elizabeth shall use the Language Assistance Monitoring Report, as well as the data on LEP population trends, to evaluate the efficacy of its language assistance services and to determine the need for corrective measures or modifications in the amount or allocation of language assistance resources ("Internal Needs Assessment"), as set forth below:

(a) Addressing Service Deficiencies

(1) St. Elizabeth shall determine to what extent staff are complying with the language assistance policies and procedures set forth in this Agreement. As part of this assessment, St. Elizabeth shall consider, in particular, whether the data in the Language Assistance Monitoring Report reflect lapses or substantial delays in language assistance services.

(2) To the extent such lapses or delays are observed, the Language Assistance Coordinator shall devise and implement appropriate corrective measures, which may include retraining, more frequent spot checks, and/or increases in St. Elizabeth's language assistance resources. Such remedial steps shall be directed, to the extent possible, to the departments, shifts, and/or personnel at issue.

(3) If the percentage in subparagraph 10.2(c)(2)(ii), 10.2(c)(3)(ii), or 10.2(c)(5) exceeds ten (10) percent, the Hospital shall develop and implement within two months an appropriate remedial strategy, including additional sampling and retraining, specifically targeted at the Clinical Departments, shifts, and/or personnel at issue.

(b) Modification of Primary Languages. Any language in which interpretation is required in one percent or more of the Patient Visits during a Reporting Period shall be designated a St. Elizabeth Primary Language for purposes of this Agreement for the next Reporting Period. No later than three months prior to the beginning of the next Reporting Period, St. Elizabeth shall make best efforts to comply with all obligations under this Agreement pertaining to St. Elizabeth's Primary Languages.

(c) Outreach Efforts. For St. Elizabeth's Primary Languages and any language spoken by one percent or more of the population in the Relevant Zip Codes and/or the Utica City School District, St. Elizabeth shall continue to:

(1) inform the relevant community about St. Elizabeth and its services and programs and services, including its language assistance services;

(2) learn about the health needs of the relevant community; and

(3) encourage members of the relevant community with fluency in the particular language to seek employment opportunities at St. Elizabeth.

(d) Other Modifications. St. Elizabeth shall make any additional modifications it deems necessary to effectuate the terms and purposes of this Agreement.

(e) Report. The Language Assistance Coordinator shall prepare a report summarizing the findings of the Assessment, the changes St. Elizabeth has made or plans to make within a specified time frame in response to the Assessment, and the reasons for these changes (the "internal Needs Assessment Report"). The Report should include, at a minimum:

(1) a section identifying any observed service deficiencies and summarizing the remedial steps St. Elizabeth has taken, or plans to take, to address these deficiencies;

(2) a section summarizing any outreach efforts undertaken or planned based on the Assessment; and

(3) for the second and third Internal Needs Assessment Reports, a section confirming any changes made pursuant to the prior Internal Needs Assessment.

## XI.

### REPORTING REQUIREMENTS

#### **11.1. Monitorins Reports**

(a) Four months after the end of each Reporting Period, St. Elizabeth shall provide to the OAG the following reports described in Article X above:

(1) the Language Assistance Monitoring Report, and

(2) the Internal Needs Assessment Report, with all relevant sections

(b) The OAG shall have **access** to review, subject to patient confidentiality restrictions, any St. Elizabeth documents relating to language assistance services or the implementation of this Agreement.

## XII.

### JURISDICTION AND OTHER PROVISIONS

12.1. Notwithstanding any provision of this Agreement to the contrary, the OAG may, in its sole discretion, grant written extensions of time for St. Elizabeth to comply with any provision of this Agreement.

12.2. 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.

12.3. If St. Elizabeth desires to modify any of the obligations and requirements set forth in this Agreement, it shall submit in writing its proposed modifications, along with any explanations for the desired changes, for review by the OAG, whose consent to any modifications consistent with the purposes of this Agreement shall not be withheld unreasonably.

12.4. 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.

12.5. 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 right of the OAG to enforce other deadlines and provisions of this Agreement.

12.6. This Agreement constitutes the entire agreement between St. Elizabeth 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.

12.7. Nothing in this Agreement is intended to confer any right, remedy, obligation or liability upon any person or entity other than the parties hereto.

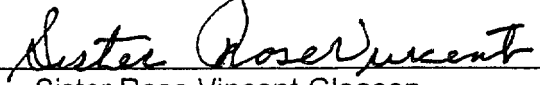
12.8. This Agreement does not apply to any other issues, reviews, or complaints, unrelated to language assistance services for LEP patients, that may be pending before the OAG or any other federal or state agency regarding St. Elizabeth's compliance with applicable statutes or regulations enforced by the OAG, or any other agency. This Agreement also does not preclude further OAG investigations, inquiries or compliance reviews of St. Elizabeth. Any matters arising from subsequent reviews or investigations shall be addressed and resolved separately in accordance with the procedures and standards of the statute(s) and implementing regulation(s) applicable to the matter(s) raised.

12.9. St. Elizabeth shall not retaliate, intimidate, threaten, coerce, or discriminate against any person, including any St. Elizabeth patient or employee, who has filed a complaint, testified, assisted, or participated in any manner in the investigation of the matter addressed in this Agreement.


12.10. This Agreement shall expire three years and six months after the Effective Date.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound thereby, have caused this Resolution to be executed, by their duly authorized attorneys or representatives, as of the date and year first above written.

**ST. ELIZABETH MEDICAL CENTER**

By:   
Sister Rose Vincent Gleason  
President and Chief Executive Officer  
2209 Genesee Street  
Utica, New York 13501

**OFFICE OF THE ATTORNEY GENERAL OF THE  
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