

## **Pharmacy Access for Limited English Proficient Customers**

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### **Problem Statement:**

Linguistic access to health care is a basic human right, and a civil right guaranteed by Title IV of the 1964 Civil Rights Act, which prohibits discrimination based on national origin, and by extension, language spoken. This includes linguistic access to medication instructions and the state-mandated consultation by pharmacists upon filling a new prescription. Any pharmacy that accepts federal funding (such as Medicare and MaineCare) is obliged to comply with the Civil Rights Act so that all customers receive an equal right to benefit from their goods and services. Most pharmacies in Maine are part of a chain – Rite Aid, CVS, Target, Wal-Mart, Walgreen, Hannaford, and Osco (Shaws). These companies are failing to provide meaningful communication with Limited English Proficient customers despite easy-to-implement remedies such as telephonic interpretation available 24/7 in over 150 languages.

In November 2008, The Attorney General of New York State announced a Settlement Agreement with CVS and Rite Aid over this issue, requiring the pharmacies to provide oral counseling via telephonic interpretation and in writing in the 6 most-frequently encountered languages used in NY.

The same linguistic barriers to pharmacy services exist in Maine, and there is no plan to hold Maine pharmacies accountable to comply with federal law and Maine licensing requirements. This issue has been brought to the attention of the Maine Attorney General's office, the Maine Board of Pharmacy, Office of Licensing and Registration, Maine CDC and Office of Minority Health, and the NAACP; efforts are being made to educate pharmacists and key providers of health care, case management and social services to LEP Mainers to educate and provide self-advocacy tools to their constituents.

- Lack of instructions led to Coumadin, a blood thinner, being taken at double the dose
- Parasite regimen for Somali Bantus was never followed – too complex without clear directions
- Local “translators” feel compelled to accompany clients to the pharmacy on their own time
- Children sent to pharmacy to pick up medications for their parents, including narcotics, without proper counseling to the responsible adult

- Test phone calls to several pharmacies asking about communication with LEP clients and was told clients “bring someone”, usually family.
- Visits to several Portland area pharmacies reveal no signage offering language access. Questions asked of pharmacists reveal no knowledge of policies requiring utilization of, nor the availability of telephone interpreting services. Phone calls to several pharmacy managers have not been returned; only one chain has engaged in conversation about language access.

### **Maine Demographic Information:**

There are an estimated 36,389 – 58,000 people in Maine who are “Limited English Proficient (LEP)” that is, who speak English less than well enough to negotiate the necessary complexity of daily life. Some have arrived as refugees, with a well-founded fear of persecution, predominantly from war-torn countries, in fear for their lives with little more than the clothes on their backs. Some are here as migrant and seasonal farm workers, estimated at 8,000 – 12,000 each year, harvesting the foods produced locally and enjoyed by Mainers as well as shipped all over the world. The Maine Department of Education notes over 78 languages spoken in homes throughout Maine.

The most prevalent language needing to be accommodated in Maine is Somali, with the predominance of Somali speakers in Portland and Lewiston. Additional languages to be accommodated include Spanish, Russian and Arabic.

### **Desired Outcomes:**

Language Access Issue addressed by pharmacy owners, Pharmacists in Charge, Pharmacy District Managers and Pharmacists. Policy development and staff training is needed to ensure Maine Pharmacies:

- Identify whether a customer needs assistance in understanding their prescription medication
- Track language spoken in customer data bases
- Inform customers of their right to free assistance in reading and understanding their prescription medication with signage and offers of interpretation in their own language. Such signs are readily available for free.
- Provide prescription labels and directions regarding dosage and safety information in the predominant non-English languages spoken in Maine
- Provide additional assistance in all languages through a telephone interpreting service
- Ensure that pharmacy staff counsel customers about their prescription medication in the customer's own language

Ascertain if legislation to limit “agents” who can pick up medications or interpret instructions to adults is a feasible and prudent step  
Clarify if MaineCare reimbursement is available for pharmacy interpreter costs (MaineCare reimburses medical providers for the costs of interpretation incurred while delivering MaineCare-covered services to enrollees. See MaineCare Manual Chapter 1 Section 1.06-3)

### **Sources and Contacts:**

A Report to the Justice Action Group on Access to Maine Courts for Individuals with Limited English Proficiency, January, 2005  
<http://www.abanet.org/legalservices/sclaid/atjresourcecenter/downloads/melepfinalreport1-6-05.pdf>

Grace A. Valenzuela, “A Report on Translation and Spoken Language Interpretation. Services for Non-English Speaking or Limited English-Proficient People”

### **Maine Law:**

The pharmacist shall attempt to ascertain and shall record any allergies and idiosyncrasies of the patient and any chronic conditions which may relate to drug utilization as communicated to the pharmacy by the patient. [1987, c. 710, §5 (NEW).]

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*Complaint to New York State Attorney General Results in Landmark Settlement Agreements with National Pharmacy Chains to Provide Medication Information in Patients' Primary Languages*

New York, NY - Today, over a million immigrant New Yorkers celebrated an important civil rights victory, when the New York State Attorney General, Andrew Cuomo, announced the signing of settlement agreements with CVS and Rite-Aid pharmacies that require both pharmacy chains to provide free language assistance services to non-English speaking patients. The agreements are the result of a civil rights complaint filed by Make the Road New York and the New York Lawyers for the Public Interest, alleging that CVS, Rite-Aid and other pharmacies throughout New York City violated civil rights laws by failing to provide interpretation services and translated medication labels for patients who are limited English proficient (LEP).

"We spoke with dozens of community members and conducted our own investigation of the problem, and it was clear that significant numbers of limited-English-proficient patients were not receiving the translation and interpretation services that pharmacies have to provide by law," said Barcilides Matos, a Board Member of Make the Road New York. "We are glad that the Attorney General's office responded to our complaint, investigated this problem, and reached a resolution with two of the largest chain pharmacies in the country."

The groups cited cases in which people were forced to put their health or that of their children at risk because they did not understand the labels on the medicines they took home. "Once, I took a bottle of what I thought was a syrup for my child to drink. I gave him a couple of teaspoons and later I found out that it was actually something to put on his skin. I didn't know because nobody at the pharmacy explained this when they gave it to me, and the label was in English," said Maria Cadena, a Spanish-speaking Queens resident, and a member of Make the Road New York.

"I work with community members who tell me that they are afraid to even go to the pharmacy anymore because they know they will not be able to communicate," said

Theo Oshiro, Director of Health Advocacy at Make the Road New York. "Hopefully, as a result of these settlement agreements, we will see major improvements in pharmacies throughout New York."

According to Nisha Agarwal, a lawyer at New York Lawyers for the Public Interest, pharmacies are required to make sure their patients understand the medicines they are taking home. "Federal civil rights law, New York State law, and New York City law all make it clear that pharmacies should provide translation services in order to ensure equal access. It is clear that many pharmacies are breaking the law," said Agarwal. "The agreements that the Attorney General signed with CVS and Rite-Aid are a clear signal that these laws will be enforced, and that all pharmacies must comply to ensure equal access and patient safety."

The settlement agreements signed today will impact over 2,000 CVS and Rite-Aid stores across New York State, and require, among other things, that pharmacies make translated prescription labels available in the top six languages spoken in New York and ensure that customers of the pharmacy receive medication counseling in their primary language.

"The Attorney General's office is to be congratulated for signing these agreements," Mr. Oshiro added. "But the true victory belongs to the hundreds of immigrant community members who stepped forward, spoke up, and took action to ensure that all New Yorkers can safely access pharmacies regardless of the language they speak."

## CUOMO ANNOUNCES AGREEMENTS WITH TWO OF THE NATION'S LARGEST PHARMACIES TO PROVIDE CUSTOMERS WITH PRESCRIPTION MEDICATION INSTRUCTIONS IN THEIR PRIMARY LANGUAGE

[http://www.oag.state.ny.us/spanish/media\\_center/2008/nov/nov13a\\_08\\_spanish.html](http://www.oag.state.ny.us/spanish/media_center/2008/nov/nov13a_08_spanish.html)  
Inability to Understand Vital Prescription Medication Information Has Harmed New Yorkers and Puts Thousands at Risk After Cuomo's Undercover Investigation, CVS and Rite-Aid Will Provide Free Language Services, Helping Over 1 Million New Yorkers

NEW YORK, NY (November 13, 2008) – Attorney General Andrew M. Cuomo today announced that two of the largest pharmacy chains in the United States – CVS and Rite-Aid – have entered into agreements with his office to provide New York customers with prescription medication instructions in their primary language. With these agreements, CVS and Rite-Aid, which also owns Eckerd and Genovese pharmacies, will counsel all pharmacy customers about prescription information in their own language and provide written translations in Spanish, Chinese, Italian, Russian, French, and Polish.

Attorney General Cuomo initiated an undercover investigation into the policies and procedures of pharmacies after receiving and reviewing complaints that pharmacies routinely fail to advise non-English speaking customers in a language that allows them to understand the purpose, dosage, and side-effects of their medications. New York law requires pharmacists to personally provide information about prescription drugs to all patients, orally and in writing, and prohibits pharmacies from conducting business in a way that discriminates against non-English speakers. According to census data, over one million New Yorkers do not speak English well or at all.

“Understanding prescription information is a matter of life and death,” said Attorney General Cuomo. “Our state has always been proud to be the home to people from all throughout the world. We need to make sure that all New Yorkers can read and understand the vital information about their medications, regardless of whether English is their first language. CVS and Rite-Aid have taken important steps to ensure that customers receive proper assistance in understanding their medication, and my office’s investigation into the practices of other pharmacies continues.”

The health and safety of New Yorkers are put at risk when they are unable to comprehend the instructions for using their medication. Non-English speaking New Yorkers have experienced allergic reactions, adverse side effects, and other health problems due to their inability to understand medical instructions, and in some instances, have refrained from taking medication at all.

The agreements with the Attorney General, which affect more than 2,000 stores statewide, require the pharmacies to:

- \* Identify whether a customer needs assistance in understanding their prescription medication
- \* Inform customers of their right to free assistance in reading and understanding their prescription medication
- \* Provide prescription labels and directions regarding dosage and safety information in the six languages that are spoken by more than one percent of the population of New York
- \* Provide additional assistance in all languages through a service called Language Line
- \* Ensure that pharmacy staff counsel customers about their prescription medication in the customer's own language

Andrew Friedman, Co-Executive Director of Make the Road New York said, "I applaud the Attorney General for taking this matter seriously and continuing to protect New Yorkers. Not only does the law require pharmacies to provide interpretation and translation services, but as a practical matter, **you cannot take care of people if you cannot communicate with them. Pharmacies must provide language access for prescription medications to prevent harm to patients.**"

Nisha Agarwal, Staff Attorney at New York Lawyers for the Public Interest said, "Whether a person understands the purpose of their prescription medication can be a life or death issue. I am grateful to the Attorney General's Office for taking the lead on this **vital public health issue and requiring pharmacies to counsel and communicate with customers in the customer's language.** These agreements will help protect the health and well-being of these hundreds of thousands of New Yorkers who speak languages other than English."

Harvey V. Fineberg, M.D., Ph.D., President of the Institute of Medicine said, "I applaud these agreements as an important step forward in ensuring safer use of medication. As many as 168 million of the 4 billion prescriptions written each year could be going to patients who are not able to fully understand the information provided. As a result, hundreds of thousands of people are put at risk each year for medication error. The agreements between Attorney General Cuomo and the pharmacies requiring appropriate language services for customers should drastically reduce that number in New York."

The Attorney General's office received complaints about the practices of New York pharmacies from the non-profit organization Make the Road New York. The office is continuing its investigation. The cases are being handled by Deputy Attorney General for Social Justice James Rogers, Deputy Bureau Chief for Civil Rights Alphonso B. David, and Counsel for Civil Rights Spencer Freedman.

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**Availability of Spanish prescription labels: a multi-state pharmacy survey.**

2009: Bailey Stacy Cooper; Pandit Anjali U; Curtis Laura; Wolf Michael S

Medical care 2009;47(6):707-10.

**BACKGROUND: Patient misunderstanding of prescription drug label instructions is a leading cause of medication errors.** Among Latino patients, **limited English proficiency is a major barrier to comprehension of medication instructions.**

**OBJECTIVES:** To determine the availability of Spanish prescription drug label instructions. **RESEARCH DESIGN:** A telephone survey was conducted in 4 states selected due to either a rapid growth in their Latino population (GA, NC) or a large, existing Latino population (CO, TX). **SUBJECTS:** A list of retail pharmacies was obtained from each state board of pharmacy. A simple random sample of 10 percent of pharmacies within each state was generated (N = 764). **MEASURES:** The ability of pharmacies to print prescription instructions in Spanish and the process for translating instructions. **RESULTS: Two hundred sixty-seven (34.9%) pharmacies reported no translation services, 166 (21.7%) reported limited translation services, and 331 (43.3%) stated they were able to perform translations.** In bivariate analyses, significant differences between pharmacy characteristics and the availability of Spanish labels were noted. In multivariate analysis including pharmacy type, location, percentage Latino population, and state, only metropolitan location was found to be a significant independent predictor of pharmacies offering full Spanish translation services (adjusted odds ratio: 1.72, 95% confidence interval: 1.04-2.84). **CONCLUSIONS: The majority of pharmacies surveyed offered limited or no translation services. Lack of translation services is not isolated to rural areas or locations with a marginal Latino population. Spanish-speaking patients encounter barriers to acquiring instructions that support the safe and effective use of medications.**

[http://www.biomedexperts.com/Abstract.bme/19433992/Availability\\_of\\_Spanish\\_prescription\\_labels\\_a\\_multi-state\\_pharmacy\\_survey](http://www.biomedexperts.com/Abstract.bme/19433992/Availability_of_Spanish_prescription_labels_a_multi-state_pharmacy_survey)

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