



**Testimony of Hayley Gorenberg, Legal Director of
New York Lawyers for the Public Interest**

**To the Joint Hearing of the New York State Assembly and Senate
Regarding the Impact of COVID-19 on
New York's Communities of Color**

The novel coronavirus pandemic may have shocked us, but once it arrived, disparate devastation in communities of color did not. The New York State legislature's inquiry into the impact of COVID-19 in New York's communities of color should help light the way forward toward addressing manifest racial injustice. On behalf of our multidisciplinary, community-driven civil rights organization, I address critical issues of medical access, including telehealth -- as well as underlying health disparities.

IMPROVING MEDICAL ACCESS

With a virus that can particularly harm and kill people with underlying medical conditions, getting accurate medical information and being able to convey a medical history can influence whether one lives or dies.

1. Address Misinformation

Aware of misinformation – sometimes well-intentioned, but still false – circulating in immigrant communities, our Health Justice Program started streaming and recording medical and legal information on Facebook live in Spanish, quickly reaching thousands of households. We have partnered with the New York Immigration Coalition, featuring NYLPI's UndocuCare project, covering public charge, and including Spanish-speaking doctors drawn from NYLPI's Medical Providers Network (<https://www.facebook.com/watch/live/?v=2644710855748578>). We made sure to include information relevant to people who were essential workers and could not stay home every day.

We need to address medical misinformation and mistrust in communities of color, rooted in generations of racist medical exploitation. Furthermore, many people of color have voiced that decisions about physically returning to work may be driven by financial priorities rather than concern for their safety. In sum, people have expressed that the return is “on their backs, and that they are being asked to go to work unsafely.

Also, believe Black women and men. Accounts of worsening illness and death after health concerns of Black people were reportedly discounted have circulated widely – and they undermine effective access to healthcare. NYLPI recommends the following:

- Amplify the voices of trusted, reliable speakers in communities of color, to keep high-quality information in wide circulation,
- Pursue affirmative messaging and training throughout government and hospital systems to address any implicit bias potentially infusing responses to reports of COVID-related symptoms, and
- Investigate reports of bias.

2. Ensure Language Access

Ensure interpreters, including sign language interpreters. If they are unavailable on-site, video conferencing is often next-best. New designs for masks with windows for lip-reading are an innovation that should last beyond the pandemic. While it’s permissible to use non-professionals like family members in emergencies, systems should be retooled to address the reality that during periods of distancing and isolation, people are more likely to show up solo for medical care or to be separated from family in order to reduce exposure of or through others who aren’t patients. In these times, it’s even more important to have interpreters available.

3. Ensure Equity in Telemedicine/Telehealth Services

We want to keep and grow what works: Telemedicine could become a prime example. It’s supposed to be more widely available during the pandemic, to cut exposure and risk. Telemedicine can allow more people to access some healthcare services more easily -- not just while “on pause,” but because telehealth may be a good modality for people with certain disabilities or health vulnerabilities. More telemedicine options could provide access for people with disabilities to improve their healthcare ongoing. At the same time, we have received reports of confusion around how to use telemedicine, as well as concerns about language availability. Investigating and troubleshooting effective access to telemedicine could promote health for communities of color.

Community concerns regarding telemedicine include the following:

- Timely language access and availability of interpreters in spoken and signed languages,

- Functional availability of telehealth, including clear, accessible instructions,
- Providers' familiarity with telehealth in low-income communities of color,
- Privacy, including concerns referenced above regarding use of family members for language interpretation, but also the significance of appointments from one's home, especially if it is crowded and privacy is lacking,
- Technology access and technology equity issues,
- Availability of physical equipment,
- Availability of services such as broadband, and
- Privacy concerns regarding what is shared electronically and via video.

Additional points relating specifically to the rights of people with disabilities include the following:

- The state should fully assess the range of qualifying examinations, visits and reviews for various benefits programs. What can be eliminated, changed, streamlined?
- Telehealth services should ensure access for people with visual impairments, including describers and any other needed supports.

COMBATING UNDERLYING HEALTH DISPARITIES

Serious health conditions that facilitate COVID-19's most deadly turns include conditions such as cardiovascular disease, obesity and diabetes that are linked to systemic racism and thus highly prevalent in low-income communities of color. Heart disease is the leading cause of death in New York State.²⁹ These health disparities are often connected to and aggravated by disproportionate siting of environmental hazards like power plants and bus depots in low-income communities and communities of color. Mounting evidence shows the dangerous fine particles (PM_{2.5}) these facilities emit amplify the deadliness of COVID-19. From the epicenter of the U.S. COVID-19 catastrophe, we see acutely devastating public health effects of high pollution levels in these communities, as long-standing health disparities are set ablaze by infection. Addressing urban air pollution is a powerful intervention.

A cascade of studies links PM_{2.5} to more serious effects of COVID-19 infection, including increased rates of death:

- A 2018 report from the World Health Organization found that "by reducing air pollution levels, countries can reduce the burden of disease from stroke, heart disease, lung cancer, and both chronic and acute respiratory diseases, including asthma. The lower the levels of air pollution, the better the cardiovascular and respiratory health of the population will be, both long- and short-term."⁹ The report specifically reinforced that "PM_{2.5} can penetrate the lung barrier and enter the blood system" and that "chronic exposure to particles contributes to the risk of developing cardiovascular and respiratory diseases, as well as of lung cancer." (Note that the World Health Organization uses a health limit of 10 micrograms

per cubic meter, while the U.S. Environmental Protection Agency's current limit is 12 micrograms per cubic meter.)

- The Harvard T. H. Chan School of Public Health earlier this year determined that “long-term exposure to air pollution increases vulnerability to experiencing the most severe COVID-19 outcomes.” The researchers analyzed and compared the infection and death rates of 3,080 counties across the United States, finding that higher levels of exposure to PM 2.5 were associated with higher death rates in COVID-19 patients. The study found that an increase of only one microgram per cubic meter of fine particles can increase the COVID-19 death rate by eight percent, and concluded by underscoring the “importance of continuing to enforce existing air pollution regulations to protect human health both during and after the COVID-19 crisis.” According to the research, lowering particulate matter in Manhattan by just one microgram per cubic meter would have correlated to hundreds fewer Covid-19 deaths in the borough by early April 2020.”
- A study by Italy's University of Sienna supports the Harvard study's findings, and further concludes that air pollution increases the likelihood of contracting COVID-19, because air pollutants impairs the first line of defense against the disease by weakening the body's upper airway system.
- A study conducted in China in 2003 also made the connection between air pollution and respiratory illnesses. The results of the Chinese study indicated that increased, long-term exposure to air pollution was associated with a higher risk of dying from Severe Acute Respiratory Syndrome (SARS), a respiratory virus closely related to COVID-19.
- A study by the Yale School of Public Health found that in China, the decrease of pollution due to the COVID-19 quarantine prevented thousands of pollution-related deaths. The authors of the study attributed these results to a decrease in nitrogen dioxide (NO₂) and PM_{2.5}.

Additional publications document the connection between high-pollution neighborhoods and respiratory illness:

- The New York Times examined how pollution affected health in three U.S. cities, focusing on workers and residents in Michigan, Texas, and California who live and work in some of the most polluted cities in the country. These low-income communities of color have notably higher rates of inflammatory lung disease and coronary heart disease -- two illnesses linked to pollution -- and have experienced exacerbated effects of COVID-19.
- The Proceedings of the National Academy of Sciences of the United States' recent report “Inequity In Consumption Of Goods And Services Adds To Racial–Ethnic Disparities In Air Pollution Exposure” reveals how people of color in the U.S. are disproportionately exposed to air pollution caused by the consumption of white Americans. According to the study, “Black and Hispanic people are typically exposed to 56% and 63% more PM_{2.5} pollution than they produce through consumption and daily activities.”

- Furthermore, in January 2020 just before the pandemic struck the Americas, staff at the EPA released the “Policy Assessment for the Review of the National Ambient Air Quality Standards for Particulate Matter” noting that the current major, peer-reviewed epidemiological studies published since 2003 challenge the current PM 2.5 standard as inadequate.

For many years, much of NYLPI’S core work toward achieving health justice and environmental justice has focused on underlying health disparities, including many caused and further aggravated by polluted air -- for example, asthma and heart disease. Last month New York Lawyers for the Public Interest and our coalition partners released the report *Dirty Energy, Big Money*, exploring how private companies make billions from operating fossil fuel “peaker” plants in environmental justice communities. (<https://nylpi.org/wp-content/uploads/2020/05/PEAK-report-Dirty-Energy-Clean-Money-May-2020.pdf>) The report spotlights the harm that the pollution from these plants inflicts on the vulnerable communities in which they run. Our report further describes how the reduction of air pollutants from these plants would improve the health and quality of life of millions of people in the epicenter of the COVID-19 crisis. As former EPA Administrator Gina McCarthy (now president of the Natural Resources Defense Council) recently noted, “Dirty air is preventing people of color, in low-income communities in particular, from being able to have a fighting chance against this pandemic.” Eliminating these antiquated, polluting plants will improve the health of low-income communities of color as it advances the state toward its climate goals as set forth under the Climate Leadership and Community Protection Act.

Our team at New York Lawyers for the Public Interest thanks the New York State legislature for your attention to these crucial issues and remains at the ready to respond to questions and to press forward.

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Since 1976 New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights and legal services advocate for New Yorkers opposing marginalization on the basis of race, poverty, disability, and immigration status. Our community-driven work integrates the power of individual legal services, impact litigation, and comprehensive organizing and policy campaigns. Guided by the priorities of our communities, we strive to create equal access to health care, achieve equality of opportunity and self-determination for people with disabilities, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color. For more information, please visit www.nylpi.org.