

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND
MINUTECLINIC LLC
USAO #2022V00009; DJ #202-66-82**

I. BACKGROUND

1) The parties (“Parties”) to this Settlement Agreement (“Agreement”) are the United States of America (“United States”) and MinuteClinic LLC (“MinuteClinic”).

2) MinuteClinic, LLC either owns or provides certain management support services to MinuteClinic-branded clinics which are typically located inside CVS pharmacy locations.

3) This matter was initiated by the U.S. Attorney’s Office for the District of Rhode Island (“U.S. Attorney’s Office”), a component of the Department of Justice, after receiving a complaint from an individual who is deaf, alleging that MinuteClinic violated Title III of the Americans with Disabilities Act of 1990 (“ADA”) by failing to provide the individual with effective communication, including sign language interpreters, during medical appointments at a MinuteClinic.

II. INVESTIGATION AND DETERMINATIONS

4) The U.S. Attorney’s Office is authorized to investigate alleged violations of Title III of the ADA. 42 U.S.C. § 12188(b)(1)(A); 28 C.F.R. § 36.502. It also has the authority to, where appropriate, negotiate voluntary settlements, and to bring civil actions enforcing Title III of the ADA should the terms of the settlement be breached. 42 U.S.C. § 12188(b)(1)(B); 28 C.F.R. § 36.503.

5) The aggrieved individual is deaf, and, as such, is an individual with a “disability” within the meaning of the ADA. 42 U.S.C. § 12102; 28 C.F.R. § 36.104.

6) MinuteClinic locations are places of “public accommodation” within the meaning of Title III of the ADA, 42 U.S.C. § 12181(7)(F) and its implementing regulations, 28 C.F.R. § 36.104, as professional offices of health care providers.

7) The ADA prohibits discrimination on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a public accommodation. 42 U.S.C. § 12182(a); 28 C.F.R. § 36.201(a). Discrimination includes failing to take such steps as necessary to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than any other individual because of the absence of auxiliary aids and services. 42 U.S.C. § 12182(b)(2)(A)(iii); 28 C.F.R. § 36.303. A public accommodation shall not require an individual with a disability to bring another individual to interpret for him or her. 28 C.F.R. § 36.303(c)(2).

8) MinuteClinic fully cooperated with the United States’ investigation in this matter. In the course of the investigation, the United States determined that MinuteClinic failed to provide the aggrieved individual with a qualified sign language interpreter that she had

requested and that was necessary to ensure effective communication for her medical appointments at MinuteClinic. In the course of the investigation, the United States also determined that while MinuteClinic's website directs hearing-impaired patients to contact MinuteClinic Patient Support (1-866-3 89-ASAP) to obtain an ASL interpreter for visits to the MinuteClinic, on at least six other occasions, when individuals called that number to request an ASL interpreter for upcoming medical appointments, the MinuteClinic representatives who answered the phone did not assist them with scheduling an interpreter.

9) On the basis of these determinations, the U.S. Attorney's Office concluded that MinuteClinic failed to furnish appropriate auxiliary aids and services to ensure effective communication with the aggrieved individual, in violation of 42 U.S.C. § 12182(b)(2)(A)(iii) and 28 C.F.R. § 36.303.

10) MinuteClinic expressly denies that it has violated Title III of the ADA, and by entering into this Agreement, does not admit any wrongdoing. This Agreement is the result of a negotiated compromise and the terms of this Agreement shall not be deemed to constitute an admission by MinuteClinic of any violation or liability under Title III of the ADA or any other law or regulation. MinuteClinic represents that it has been making significant investments to provide effective communication in its Minute Clinics and other pharmacy operations for all individuals, including those with hearing impairments, and to provide auxiliary aids and services for effective communication when needed. MinuteClinic represents that prior to and during the Department's investigation, it has been reviewing the processes for effective communication at MinuteClinics, including alternative vendors and methods to provide ASL translation. MinuteClinic acknowledges that during this on-going process there may have been miscommunication or delays with certain requests for ASL interpreters at MinuteClinics.

III. DEFINITIONS

11)The term "auxiliary aids and services" shall have the same definition as under the ADA Title III regulations and includes qualified interpreters provided through either live translation or video remote interpreting ("VRI") services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones, videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard- of-hearing. 28 C.F.R. § 36.303.

12)The term "companion" means a person who is deaf or hard of hearing and is a family member, friend, or associate of a patient seeking access to, or participating in the goods, services, facilities, privileges, advantages, or accommodations of a MinuteClinic, who, along with the patient, is an appropriate person with whom MinuteClinic should communicate regarding the patient's care. 28 C.F.R. § 36.303(c)(1)(i).

13)The term “qualified interpreter” means an interpreter who, via VRI service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. 28 C.F.R. § 36.104. Qualified interpreters include, for example, sign language interpreters, tactile interpreters, oral transliterators, and cued-language transliterators. 28 C.F.R. § 36.104.

14)The term “patient” shall be broadly construed to include any individual who is seeking or receiving health care services from a Minute Clinic.

15)The term “MinuteClinic Services” shall mean the goods, services, facilities, privileges, and advantages of MinuteClinics.

16)The term “Call Center” shall mean the MinuteClinic Patient Support hotline.

IV. EQUITABLE RELIEF

A. Prohibition of Discrimination

17) Nondiscrimination. MinuteClinic shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals seeking MinuteClinic Services because of the absence of auxiliary aids and services, unless MinuteClinic can demonstrate that taking such steps would fundamentally alter the nature of the good, services, facility, privilege, advantage, or accommodation being offered or would result in an undue burden, as defined in 42 U.S.C. § 12182(b)(2)(A)(iii). Pursuant to 42 U.S.C. § 12182(a), MinuteClinic shall also provide patients and companions who are deaf or hard of hearing with the full and equal enjoyment of MinuteClinic Services.

18) Retaliation and Coercion. MinuteClinic shall not retaliate, interfere with or coerce any person who made, or is making, a complaint according to the provisions of this Agreement or exercised, or is exercising, his or her rights under this Agreement or the ADA. 42 U.S.C. § 12203.

B. Effective Communication

19) Appropriate Auxiliary Aids and Services. Consistent with 42 U.S.C. § 12182(b)(2)(A)(iii), MinuteClinic will provide to patients and companions who are deaf or hard of hearing any appropriate auxiliary aids and services necessary for effective communication in obtaining MinuteClinic Services after making the assessment described in Paragraph 20 of this Agreement.

20)Procedures for Effective Communication in MinuteClinics. Within sixty (60) days of the Effective Date, MinuteClinic shall review and revise, as necessary, its policies and procedures for effective communication with patients or companions who are deaf or hard of hearing in the provision of MinuteClinic Services, particularly providing a qualified interpreter for such individuals where requested, consistent with the provisions in this Agreement. MinuteClinic will submit these policies and procedures to the United States for review and approval, which approval shall not be unreasonably withheld. Within ten (10) days

of being approved by the United States, MinuteClinic shall distribute its policies and procedures relating to effective communication with individuals who are deaf or hard of hearing to all Call Center representatives and MinuteClinic providers. MinuteClinic retains the discretion to decide what auxiliary aids and services to provide, so long as they are equally effective. 28 C.F.R. § 36.303(c)(1)(ii).

21) Description of Procedures. The MinuteClinic policies and procedures described in Paragraph 20 shall identify and describe:

- a) The methods by which patients or companions may request a qualified interpreter for a MinuteClinic appointment;
- b) Procedures for intake of such requests and engaging qualified interpreters within a reasonable timeframe;
- c) Procedures for communicating with patients and/or companions while a request for a qualified interpreter is pending;
- d) Procedures for training for affected personnel (including Call Center representatives and MinuteClinic providers);
- e) Procedures for recording, tracking, and monitoring requests for qualified interpreters for MinuteClinic appointments, including methods for capturing the following information:
 - (i) the date the request was made,
 - (ii) the name of the person who is deaf or hard of hearing,
 - (iii) the time and date of the scheduled appointment,
 - (iv) whether the request for a qualified interpreter was fulfilled and, if not, the reason(s) for rejecting the request, and
 - (v) the identity of the individual within MinuteClinic who addressed the request.
- f) Procedures for resolving disagreements or disputes over the provision of auxiliary aids and services in MinuteClinics (e.g., directing the patient to the Civil Rights Coordinator for Minute Clinic).

22) Minute Clinic shall maintain the documentation described in Paragraph 21(e) for the entire duration of the Agreement and will be incorporated into the semi-annual compliance reports as described in Paragraph 32 of this Agreement.

23) Prohibition of Surcharges. All appropriate auxiliary aids and services required by this Agreement will be provided free of charge to the deaf or hard of hearing patient or companion. 28 C.F.R. § 36.301(c).

C. Qualified Interpreters

24) Circumstances Under Which Interpreters May be Required. Although the determination of whether and what auxiliary aids and services are appropriate to a given situation involving MinuteClinic Services is generally to be made on a case by case basis (as informed by its assessment pursuant to Paragraph 20), some circumstances will typically require that MinuteClinic provide a qualified interpreter to patients or companions who rely upon such types of communications. Such circumstances generally arise when the communication is particularly complex or lengthy. For example, such circumstances may include, but are not limited to:

- a. Discussing a patient’s symptoms for diagnostic purposes, and discussing medical condition, medications, and medical history;
- b. Explaining medical conditions, treatment options, tests, medications, surgery, and other procedures;
- c. Providing a diagnosis or recommendation for treatment;
- d. Communicating with a patient during treatment
- e. Reviewing, explaining or obtaining informed consent for treatment;
- f. Providing instructions for medications, post-treatment activities, and follow-up treatments; or
- g. Discussing complex billing and insurance matters.

25) Video Remote Interpreting (“VRI”). If and when using VRI services, MinuteClinic shall ensure that it provides: (1) Real-time, full-motion video and audio over a dedicated high-speed, wide- bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; (2) A sharply delineated image that is large enough to display the interpreter’s face, arms, hands, and fingers, and the participating individual’s face, arms, hands, and fingers, regardless of his or her body position; (3) A clear, audible transmission of voices; and (4) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI. 28 C.F.R. § 36.303(f). VRI shall not be used when it is not effective, for example, due to a patient’s limited ability to move his or her head, hands or arms; vision or cognitive issues; significant pain; or space limitations in the room. Whenever, based on the circumstances, VRI does not provide effective communication with a patient or companion who is deaf or hard of hearing, VRI shall not be used as a substitute for an on-site qualified interpreter, and an on-site qualified interpreter shall be requested and provided in a timely manner.

26) Restricted Use of Certain Persons to Facilitate Communication. As required by the ADA Title III regulations, MinuteClinic will not rely on an adult friend or family member of the individual with a disability to interpret except in an emergency involving an imminent threat to the safety of an individual or the public where there is no interpreter available; or where the

individual with a disability specifically requests that the adult friend or family member interpret, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances. MinuteClinic will not rely on a minor child or a patient to interpret except in an emergency involving an imminent threat to the safety of an individual or the public where there is no interpreter available. 28 C.F.R. §§ 36.303 (2), (3), (4).

27) Interpretation. Nothing in this Section IV (A)-(C) shall be interpreted to exceed MinuteClinic's obligations under ADA Title III and the implementing regulations at 28 C.F.R. Part 36.

D. Notice to the Community and Personnel

28) Notice to the Community. Within **thirty (30) days** of the approval of the documents submitted to the United States pursuant to Paragraph 18, MinuteClinic shall post and maintain signs of conspicuous size and print at all MinuteClinic locations and on its website informing patients of the means and methods by which to request auxiliary aids and services, free of charge, including but not limited to ASL interpretation.

29) Notice to Personnel. Within ten (10) days after the policies and procedures contemplated in Paragraph 20 are approved by the United States, MinuteClinic will distribute its policy/policies relating to effective communication with individuals who are deaf or hard of hearing to all staff responsible for implementing those policies and procedures.

E. Training

30) Training of Call Center Staff. Within twenty (20) days after the approval of policies and procedures by the United States pursuant to Paragraph 20, MinuteClinic will provide mandatory training to all staff who answer the MinuteClinic Patient Support hotline or are otherwise responsible for providing effective communication with MinuteClinic patients. Such training will be sufficient in duration and content to train the individual in:

- a) identification of communication needs of persons who are deaf or hard of hearing;
- b) procedures for documenting requests for and provision of auxiliary aids and services;
- c) types of auxiliary aids and services available and how to secure them in a timely manner;
- d) the proper use and role of qualified interpreters;
- e) the proper use and role of video remote interpreting services;
- f) and any other applicable requirements of this Agreement.

31) Training Attendance Records. MinuteClinic will maintain for the duration of this Agreement, confirmation of training conducted pursuant to Paragraph 30 of this Agreement, which will include the names and respective job titles of the attendees, as well as the date and

time of the training session.

F. Reporting, Monitoring, and Violations

32) Compliance Reports. Beginning **six (6) months** after the Effective Date of this Agreement and **every six (6) months** thereafter for the entire duration of the Agreement, MinuteClinic will provide a written report (“Compliance Report”) to the U.S. Attorney’s Office regarding the status of its compliance with this Agreement, including but not limited to:

- a. the information described in Paragraph 21(e)(i)-(v);
- b. the number of complaints received by MinuteClinic from deaf and hard of hearing patients and companions regarding auxiliary aids and services and/or effective communication, and the resolution of such complaints, including any supporting documentation.
- c. A description of any lawsuit or formal complaint or charge filed with any state or federal civil rights agency alleging that MinuteClinic failed to provide ASL translation service to patients or companions who are deaf or hard of hearing or otherwise failed to provide effective communication with such patients during an appointment at MinuteClinic. Such description shall include the nature of the allegation, the name of the person making the allegation, and the status of corrective action (if any) by MinuteClinic.
- d. information regarding training compliance as described in Paragraph 31.

MinuteClinic will maintain records to document the information contained in the Compliance Reports and will make them available, upon request, to the U.S. Attorney’s Office, except to the extent such documents are subject to the Attorney-Client Privilege, the Attorney Work Product Doctrine, the Patient Safety Work Product Privilege and/or any other evidentiary privilege recognized under applicable law.

V. MONETARY RELIEF

33) Compensatory Relief for Aggrieved Individual. Within **thirty (30) days** after receiving the executed Agreement and the aggrieved individual’s signed release (a Blank Release Form is at Exhibit B), MinuteClinic will send by FedEx, a check in the amount FIVE THOUSAND DOLLARS (\$5,000) made out to the aggrieved individual. This check is compensation to the aggrieved individual pursuant to 42 U.S.C. § 12188(b)(2)(B), for the effects of the alleged discrimination suffered as described in Paragraphs 8 and 9. The check shall be mailed to the address listed on the signed release. A copy of the check shall be concurrently mailed to:

Amy R. Romero
Assistant United States Attorney
U.S. Attorney’s Office for the District of Rhode Island
One Financial Plaza, 17th Floor
Providence, RI 02903

VI. ENFORCEMENT AND MISCELLANEOUS PROVISIONS

34) Duration of the Agreement. This Agreement will be in effect for two (2) years from the Effective Date. The “Effective Date” of the Agreement shall be the date upon which the last signature hereto was executed.

35) Extension of Time. Should MinuteClinic determine in good faith that it is unable to meet one or more of the timeframes identified in Part IV of this Agreement using commercially reasonable efforts, MinuteClinic shall notify the United States prior to the expiration of the required deadline and shall advise the United States when the action is expected to be completed. Provided that MinuteClinic timely notifies the United States, de minimis deviations from the timeframes identified in Part IV of this Agreement shall not be deemed a material breach of this Agreement.

36) Enforcement. In consideration of the terms of this Agreement as set forth above, the United States agrees to refrain from undertaking further investigation or from filing a civil suit under Title III in this matter, except as provided in Paragraph 37. Nothing contained in this Agreement is intended or shall be construed as a waiver by the United States of any right to institute proceedings against MinuteClinic for violations of any statutes, regulations, or rules administered by the United States or to prevent or limit the right of the United States to obtain relief under the ADA for violations unrelated to this matter.

37) Compliance Review and Enforcement. The United States may review compliance with this Agreement at any time and can enforce this Agreement if the United States believes that it or any requirement thereof has been violated by instituting a civil action in U.S. District Court. If the United States believes that this Agreement or any portion of it has been violated, it will raise its claim(s) in writing with MinuteClinic, and the parties will attempt to resolve the concern(s) in good faith. The United States will allow MinuteClinic **thirty (30) days** from the date it notifies MinuteClinic of any breach of this Agreement to cure said breach, prior to instituting any court action to enforce the ADA or the terms of the Agreement.


38) Entire Agreement. This Agreement and the attachments hereto constitute the entire agreement between the parties 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 written agreement, shall be enforceable. This Agreement is limited to the facts set forth herein and does not purport to remedy any other potential violations of the ADA or any other federal law.

39) Binding. This Agreement is final and binding on the parties, including all principals, agents, executors, administrators, representatives, successors in interest, beneficiaries, assigns, heirs, and legal representatives thereof. Each party has a duty to so inform any such successor in interest.

40) Non-Waiver. Failure by any party to seek enforcement of this Agreement pursuant to its terms with respect to any instance or provision shall not be construed as a waiver to such enforcement with regard to other instances or provisions.

41) Execution. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. Electronically transmitted signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

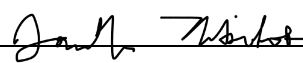
FOR THE UNITED STATES:



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Date: 6/27/2023

FOR MinuteClinic



Jonathan Thiboutot, VP MinuteClinic Operations

Date: 6/26/2023

**EXHIBIT A:
RELEASE OF CLAIMS**

For and in consideration of the relief offered to me by MinuteClinic, pursuant to the Settlement Agreement between the United States of America and MinuteClinic:

I, _____, hereby release and forever discharge MinuteClinic and its current, past, and future officers, employees, agents, successors, and assigns, of and from any Americans with Disabilities Act-related legal and/or equitable claims arising out of the facts identified or allegations made in the Settlement Agreement. As a result, I agree and promise that I will not file any Americans with Disabilities Act-related suit, charge, complaint, proceeding or action at law, in equity, or otherwise (together, Action) or any other Action in any court, or any other judicial or administrative forum, against MinuteClinic arising out of the facts identified or allegations made in the Settlement Agreement. Any rights and claims that cannot be waived by law are excluded from this Release.

This Release constitutes the entire agreement between MinuteClinic and me, without exception or exclusion.

I acknowledge that a copy of the Settlement Agreement has been made available to me. By signing this Release, I acknowledge that I have been provided the opportunity to review the Settlement Agreement with an attorney of my choosing.

I have read this Release and understand the contents thereof and I execute this Release of my own free act and deed.

Aggrieved Person's Signature

Date

Aggrieved Person's Full Mailing Address

