

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND
ASTRIA HEALTH**

I. BACKGROUND

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

2. Astria Health, headquartered in Sunnyside, Washington, is the parent non-profit organization of Sunnyside Community Hospital and Clinics. “Astria Health” includes: Sunnyside Community Hospital, Birch Street Clinic, Cancer Center, Grandview Medical Center, John Hughes Student Health Center, Lincoln Avenue Family Medicine, Lower Valley OB/GYN, Medical Plaza in Prosser, NOV/A Health, Plastic Surgery Center, Specialty Center Surgical Group, Sunnyside Cardiology Clinic, Sunnyside Pediatrics, Valley Internal Medicine, Valley Regional Podiatry, Valley Regional Nephrology, Valley Regional Orthopaedics, Valley Regional Urgent Care & Family Practice, Vintage Valley Family Med, West Side, Yakima Ambulatory Surgical Center, and Yakima Valley Health & Speech Center. “Astria Health” as referred to in this Agreement also includes any hospital, clinic, or other medical facility offering services to the public acquired by Astria Health during the duration of this Agreement.¹

3. This matter was initiated based on a complaint alleging that NOV/A Health had violated Title III of the Americans with Disabilities Act of 1990, as amended (“ADA”), 42 U.S.C. §§ 12181-12189, and the Department of Justice’s implementing regulation, 28 C.F.R. Part 36. Specifically, the Complainant, who is Deaf-Blind and uses Tactile American Sign Language (“TASL”) as his primary means of communication, alleged that he was denied

¹ Astria Health has recently completed the process of purchasing : Toppenish Community Hospital, Yakima Regional Medical & Cardiac Center, Ahtanum Ridge Family Medicine, Central Valley Gastroenterology, Central Valley Vascular Center, Central Washington Occupational Medicine, Central Washington Rehabilitation Clinic, Central Washington Surgical Associates, Selah Clinic, Summitview Family Medicine, Terrace Heights Family Physicians, Valley Medi-Center, and West Side Medi-Center.

effective communication on multiple occasions between January 10, 2017 through June 20, 2017 when he sought treatment for his Type II diabetes. Complainant alleges that despite requests for a TASL interpreter, NOV/A Health failed to provide appropriate auxiliary aids and services for appointments on January 10, January 17, February 28, March 29, and April 11. As a result, Complainant alleges four of the aforementioned visits were canceled and he received no care. Complainant further alleges for the one visit that was not canceled, he was not able to effectively communicate with NOV/A personnel, and he was forced to rely on his support service provider, who is not proficient in medical terminology.²

II. INVESTIGATION AND DETERMINATIONS

4. The United States Attorney's Office for the Eastern District of Washington ("U.S. Attorney's Office") is authorized under 42 U.S.C. § 12188 and 28 C.F.R. Part 36, Subpart E, to investigate the allegations of the complaint in this matter to determine Astria Health's compliance with Title III of the ADA. 28 C.F.R. § 36.502. The U.S. Attorney's Office has the authority to, where appropriate, negotiate and secure the full range of relief available under Title III of the ADA, including equitable/injunctive relief, requiring the provision of auxiliary aids and services, and seeking monetary damages and a civil penalty.

5. Complainant is Deaf-Blind 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. Astria Health is a "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 it owns and operates hospitals, clinics, or medical facilities, which are places of public accommodation. The ADA prohibits public accommodations, including hospitals and clinics, from discriminating

² Many deaf-blind individuals use support service providers (SSPs) to assist them in accessing the world around them. SSPs are not "aids and services" under the ADA.

on the basis of disability in the full and equal enjoyment of their goods, services, facilities, privileges, advantages or accommodations. 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.

7. On the basis of our investigation, the United States concluded that Complainant did not receive appropriate auxiliary aids and services necessary for effective communication in violation of 42 U.S.C. § 12182(b)(2)(A)(iii) and 28 C.F.R. § 36.303 during Complainant's period of care from January 10, 2017 through April 11, 2017.

8. Astria Health fully cooperated with the United States' investigation in this matter and the Parties have determined that the United States' investigation can be resolved without litigation.

III. DEFINITIONS

10. The term "Auxiliary Aids and Services" includes qualified interpreters, including ASL and TASL interpreters, provided either on-site or through video remote interpreting ("VRI") services; note takers; real-time computer-aided transcription services (CART); 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 ("TTYs"), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; qualified readers; taped texts; audio

recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods, services, or technology making aurally or visually delivered information available to individuals who are deaf, hard-of-hearing, blind, have low vision, or a combination thereof. 28 C.F.R. § 36.303.

11. The term "Hospital Personnel" means all employees, full-time and part-time, who have or are likely to have direct contact with Patients or Companions (as defined herein) at Astria Health owned hospitals, clinics, or medical facilities.

12. The term "Active Members of the Hospital Medical Staff" means all physicians who are credentialed to provide medical services at Astria Health owned hospitals, clinics, or medical facilities, whether or not they are direct employees of the same.

13. The term "Qualified Interpreter" means an interpreter who, via on-site appearance or VRI service, 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, deaf-blind interpreters, sign language interpreters, oral transliterators, and cued-language transliterators. For purposes of this Agreement, a Qualified Interpreter must be knowledgeable with medical terminology.

14. The term "Patient" shall be broadly construed to include any individual who is deaf, hard-of-hearing, blind, low-vision, or deaf-blind (or individual accompanied by a Companion as defined in 28 C.F.C. § 36.303(c)(1)(i)) who is seeking to receive, or receiving health care services, including mental health services, from the Hospital (whether on an inpatient or outpatient basis), or seeking to use any other goods or services provided by the Hospital, such as the opportunity to donate blood or attend health education classes. The broad construction of

this term also includes (but is not limited to) individual who is deaf, hard-of-hearing, blind, low-vision, or deaf-blind and seeking to communicate with Hospital Personnel regarding past, present or future health care services, such as scheduling appointments, obtaining test results, and discussing billing issues. Notably, the term Patient as used in the agreement does not have the standard dictionary definition of patient but rather refers to those individuals who are deaf, hard-of-hearing, blind, low-vision, or deaf-blind and request services of any kind from Astria Health.

IV. EQUITABLE RELIEF

A. Prohibition of Discrimination

15. Nondiscrimination. Astria Health shall provide appropriate Auxiliary Aids and Services, including Qualified Interpreters, where such aids and services are necessary to ensure effective communication with Patients and companions who are deaf, hard-of-hearing, blind, low-vision, or deaf-blind. Pursuant to 42 U.S.C. § 12182(a), Astria Health shall also provide Patients and companions who are re deaf, hard-of-hearing, blind, low-vision, or deaf-blind with the full and equal enjoyment of the services, privileges, facilities, advantages, and accommodations of Astria Health as required by this Agreement and the ADA.

16. Discrimination by Association. Astria Health shall not deny equal services, accommodations, or other opportunities to any individual because of the known relationship of that person with someone who is re deaf, hard-of-hearing, blind, low-vision, or deaf-blind. *See* 42 U.S.C. § 12182(b)(1)(E).

17. Retaliation and Coercion. Astria Health shall not retaliate against or coerce in any way 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. *See* 42 U.S.C. § 12203.

B. Effective Communication

18. Appropriate Auxiliary Aids and Services. Consistent with 42 U.S.C. § 12182(b)(2)(A)(iii), Astria Health will provide to Patients and companions any appropriate Auxiliary Aids and Services that are necessary for effective communication after making the assessment described in paragraphs 19-20 of this Agreement. Appropriate Auxiliary Aids and Services will be provided as soon as practicable (without compromising patient care), except that the provision of on-site interpreters must be within the time frame described in paragraph 28 of this Agreement.

19. General Assessment Criteria. The determination of appropriate Auxiliary Aids and Services, and the timing, duration, and frequency with which they will be provided, will be made by Astria Health in consultation with the person with a disability. The assessment made by Hospital Personnel will take into account all relevant facts and circumstances, including, for example, the individual's communication skills and knowledge, and the nature and complexity of the communication at issue. To guide this determination, Astria Health will provide Patients or Companions with a notice of services and model communication assessment form similar to the **Model Communication Assessment Form** attached to this Agreement as **Exhibit A**. Astria Health will draft a document substantially similar to Exhibit A to serve this purpose and will provide it to the United States for review within **thirty (30) days of this Agreement** for approval. Once the document is approved, Astria Health will begin providing the document to all new Patients and their Companions at intake at either the regular admissions desk or the Emergency Department within **thirty (30) days of the document's approval**.

20. Time for Assessment. The determination of which appropriate Auxiliary Aids and Services are necessary, and the timing, duration, and frequency with which they will be

provided, must be made (a) at the time an appointment is scheduled for the Patient if the Patient makes the appointment or, (b) on the arrival of the Patient or companion at Astria Health, whichever is earlier. If someone other than the Patient schedules the appointment and that individual identifies a need for auxiliary aids and services for a Patient or Companion then (1) that person must be asked if the Patient is deaf, hard-of-hearing, blind, low-vision, or deaf-blind and if so, then what Auxiliary Aids and Services are necessary when the Patient presents in person and (2) an independent assessment will be performed when the Patient presents for their appointment. Hospital Personnel will perform an assessment informed by the information collected as described in paragraph 19 as part of each initial inpatient assessment and document the results in the Patient's medical chart. It may not necessary to perform the assessment for each subsequent visit to Astria Health or to require the Patient to request Auxiliary Aids and Services for each subsequent visit to Astria Health. In the event that the initial form of communication is not effective or circumstances change (see paragraph 28, below), Hospital Personnel will reassess which appropriate Auxiliary Aids and Services are necessary, in consultation with the person with a disability, where possible, and provide such aid or service based on the reassessment.

21. Assistive Device Point Persons. Astria Health will designate an employee(s) with the collateral title of Assistive Device Point Person. The employee(s) so designated or his or her designee(s) will be on duty and available to Astria Health, Patients, and companions twenty-four (24) hours a day, seven (7) days a week, to answer questions and provide appropriate assistance regarding immediate access to, and proper use of, the appropriate Auxiliary Aids and Services, including Qualified Interpreters.

- The Assistive Device Point Person and his or her designees will know where the appropriate auxiliary aids are stored and how to operate them and will be responsible for their replacement and distribution. The Assistive Device Point Person will also be responsible for the maintenance and repair of the auxiliary aids.
- Astria Health will include in its intranet under the name “Assistive Device Point Person” and its “Quick List” phone directory the telephone number through which the on-duty Assistive Device Point Person can be contacted twenty-four (24) hours a day seven days a week by Hospital Personnel providing services to Patients.
- The Assistive Device Point Person and his or her designees will be designated by Astria Health no later than **thirty (30) days** following execution of this Agreement and notice of such designation will be provided to the U.S. Attorney’s Office.

22. Auxiliary Aid and Service Log. Astria Health will maintain a log in which requests for Qualified Interpreters on-site or through video remote services will be documented.

The log will indicate:

- a. The name of the Patient or companion;
- b. The nature of the Auxiliary Aid or Service requested;
- c. The time and date the request was made by the Patient (if applicable);
- d. The time and date the request was made by staff after assessing the needs of the Patient (if applicable);
- e. The name of the staff member making the request;
- f. The time and date the request was made for, *i.e.* for immediate use (emergent need) or for a scheduled appointment (stating the date and time of the appointment);
- g. The time and date the request was fulfilled; and
- h. The nature of the Auxiliary Aid or Service provided.

If the requested Auxiliary Aid or Service was not provided, was not provided in the type requested, or was provided outside of the timeliness provisions contained in paragraph 28 of this agreement, the log shall contain a statement explaining why. Such logs will be maintained by

the Assistive Device Point Person for the entire duration of the Agreement, and will be incorporated into the semi-annual Compliance Reports as described in paragraph 42 of this Agreement. The Hospital will begin using the Auxiliary Aid and Service Log no later than sixty days **(60) days** following execution of this Agreement.

23. Complaint Resolution. Astria Health will implement a grievance resolution mechanism for the investigation of complaints regarding effective communication with Patients and Companions. In particular:

- a. Astria Health will maintain records of all grievances regarding effective communication, whether oral or written, made to Astria Health and actions taken with respect thereto.
- b. At the time Astria Health completes its assessment described in paragraphs 19-20 and advises the Patient and/or companion of its determination of which appropriate Auxiliary Aids and Services are necessary, Astria Health will notify such Patients and/or companions of its grievance resolution mechanism, to whom complaints should be made, and of the right to receive a written response to the grievance.
- c. A written response to any grievance filed shall be completed within thirty (30) days of receipt of the complaint.
- d. Copies of all grievances related to provision of services for Patients and/or companions and the responses thereto will be maintained by the Assistive Device Point Person for the entire duration of this Agreement.

24. Prohibition of Surcharges. All appropriate Auxiliary Aids and Services required by this Agreement will be provided free of charge to the Patient and/or companion.

C. Qualified Interpreters

25. Circumstances Under Which Interpreters May be Required. Although the determination of whether and what Auxiliary Aids and Service is appropriate to a given situation is generally up to Astria Health (as informed by its assessment (paragraphs 19 and 20) and the input or request of the Patient or Companion), some circumstances may require that Astria

Health provide a qualified sign language interpreter or qualified oral interpreter to Patients s.

Such circumstances typically arise when the communication is particularly complex or lengthy.

For example, such circumstances 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. Communications immediately preceding, during, and immediately after surgery or other procedures and during physician's rounds;
- e. Obtaining informed consent for treatment;
- f. Providing instructions for medications, post-treatment activities, and follow-up treatments;
- g. Providing mental health services, including group or individual counseling for patients and family members;
- h. Providing information about blood or organ donations;
- i. Discussing powers of attorney, living wills and/or complex billing, and insurance matters; or
- j. During educational presentations, such as birthing or new parent classes, nutrition and weight management programs, and CPR and first-aid training.

In such circumstances, Astria Health will presume that a qualified sign language interpreter or qualified oral interpreter is necessary for effective communication with a Patient or companion who relies upon such Auxiliary Aids and Services.

27. Chosen Method for Obtaining Interpreters. Within **thirty (30) days** after execution of this Agreement, Astria Health will provide the United States with a list of the name(s) of the interpreter services currently used by Astria Health for securing qualified on-site interpreters as well as VRI services. This list of interpreters should indicate the type of

interpreter service provided by the interpreter named as well as which hospital or clinic where the interpreter is able to provide services. If the names of the interpreter services used by Astria Health changes during the term of this Agreement, Astria Health shall notify the U.S. Attorney's Office of the change within thirty (30) days.

28. Provision of Interpreters in a Timely Manner.

a. *Non-scheduled Interpreter Requests:* A "non-scheduled interpreter request" means a request for an interpreter made by a Patient or companion less than two (2) hours before the Patient's appearance at Astria Health for examination or treatment. For non-scheduled interpreter requests, Hospital Personnel will complete the assessment described in paragraphs 19-20 above.

- A Qualified Interpreter (**via VRI**) will be provided as soon as practicable, but no more than **one (1) hour** from the time Astria Health completes the assessment (absent exigent circumstances affecting patient care which may extend the time for providing such service).
- In the event that an **on-site** Qualified Interpreter is required, an interpreter will be provided as soon as practicable, but no more than **two (2) hours** from the time it becomes clear that a live interpreter is necessary for effective communication.

As described below in section (c) of this paragraph, Astria Health will document the on-site interpreter service's response time, including the time of contact and the time of arrival.

Deviations from this response time will be addressed with the interpreting service provider, and performance goals will be reviewed with the U.S. Attorney's Office every six months. Astria Health shall not be held responsible for circumstances beyond its control in obtaining on-site interpreter services, such as delays due to weather or interpreter service response, as long as Astria Health makes all of the following reasonable efforts to obtain on-site interpreter services in a timely manner and documents those efforts. If no Qualified Interpreter can be located, Hospital Personnel will:

- i. Exert reasonable efforts (which shall be deemed to require no fewer than five (5) telephone inquiries and/or emails and/or text messages unless exceptional circumstances intervene) to contact any Qualified Interpreters or interpreting agencies already contracted with the Hospital and request their services;
- ii. Inform the Assistive Device Point Person of the efforts made to locate an interpreter and solicit assistance in locating an interpreter;
- iii. Inform the Patient or Companion (or a family member or friend, if the Patient or Companion is unavailable) of the efforts taken to secure a Qualified Interpreter and that the efforts have failed, and follow up on reasonable suggestions for alternate sources of Qualified Interpreters, such as contacting a Qualified Interpreter known to that person; and
- iv. Document all of the above efforts.

b. *Scheduled Interpreter Requests.* A “scheduled interpreter request” is a request for an interpreter made two (2) or more hours before the services of the interpreter are required. For scheduled interpreter requests, Astria Health will complete the assessment described in paragraphs 19-20 above in advance, and, when a Qualified Interpreter is appropriate, Astria Health will make a Qualified Interpreter available at the time of the scheduled appointment. If a Qualified Interpreter fails to arrive for the scheduled appointment, upon notice that the Qualified Interpreter failed to arrive, Astria Health will immediately call the interpreter service for another Qualified Interpreter and comply with the timeframes set forth in paragraph 28(a).

c. *Data Collection on Interpreter Response Time.* Astria Health will monitor and document in the Auxiliary Aid and Service Log, described in paragraph 22, the response time of each Qualified Interpreter service it uses to provide communication to Patients or companions through its established process of monitoring outside vendors. Astria Health will document and investigate, per the grievance process identified in paragraph 23, any complaints by the Patients or companions regarding the quality and/or effectiveness of services provided by the interpreter service.

d. *Modification of Performance Standards.* If after being properly documented as per Paragraph 28(a)(i)-(iv) it appears the response time standards described in Paragraph 28 of this Agreement cannot be maintained despite Astria Health's good faith efforts, Astria Health is entitled to request the consent of the United States to such modifications of the response time standards as may be reasonable under the circumstances. The United States will consider such request reasonably and in good faith and will not deny its approval unreasonably. Any such modifications to which the parties agree will be deemed an amendment to this Agreement.

29. Video Remote Interpreting ("VRI"). When using VRI services, Astria Health 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: (1) a patient's limited ability to move his or her head, hands or arms; vision or cognitive issues; or significant pain; (2) space limitations in the room; (3) the complexity of the medical issue; or (4) any other time when there are indicators that VRI is not providing effective communication. Whenever, based on the circumstances, VRI does not provide effective communication with a Patient or companion (after it has been provided or is not available), 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. The on-site Qualified Interpreter shall be requested and provided in a timely manner as required by

paragraph 28 of this Agreement; the two hours begins when it becomes evident that VRI cannot provide effective communication.

30. Notice to Patients and Companions. As soon as Astria Health Hospital Personnel have determined that a Qualified Interpreter is necessary for effective communication with a Patient or companion, Astria Health will inform the Patient or companion (or a family member or friend, if the Patient or Companion is not available) of the current status of efforts being taken to secure a Qualified Interpreter on his or her behalf. Astria Health will provide additional updates to the Patient or companion as necessary until an interpreter is secured. Notification of efforts to secure a Qualified Interpreter does not lessen Astria Health's obligation to provide Qualified Interpreters in a timely manner as required by paragraph 28 of this Agreement.

31. Other Means of Communication. Astria Health agrees that between the time an interpreter is requested and the interpreter is provided, Hospital Personnel will continue to try to communicate with the Patient or companion for such purposes and to the same extent as they would have communicated with the person but for the disability, using all available methods of communication, for example, using sign language pictographs. This provision in no way lessens Astria Health's obligation to provide Qualified Interpreters in a timely manner as required by paragraph 28 of this Agreement.

32. Restricted Use of Certain Persons to Facilitate Communication. Astria Health will not rely on an adult friend or family member of the Patient or companion to interpret except:

- a. In an emergency involving an imminent threat to the safety of an individual or the public where there is no interpreter available; or
- b. Where the Patient or companion specifically requests that the adult friend or adult family member interpret, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances. If the requested adult friend or adult family member is not a Qualified Interpreter, Astria Health may also provide a Qualified Interpreter at no

cost to the Patient or companion. The adult friend or adult family member will not be compensated by Astria Health for the time a Qualified Interpreter is required. A Qualified Interpreter is required for the situations listed in paragraph 28.

Astria Health will not rely on a minor child or Patient to interpret except in the limited circumstances described in (a) above.

D. Notice to the Community

33. Policy Statement. Within **ninety (90) days** of the entry of this Agreement, Astria Health shall post and maintain signs of conspicuous size and print at all Astria Health admitting stations and wherever a Patient's Bill of Rights is required by law to be posted, with substantially similar language to that provided in the **Sample Posting** attached as **Exhibit B** notifying the public of the availability of Auxiliary Aids and Services and their related rights. These signs will include the international symbol for "interpreter."

34. Website. Astria Health will include on its website the same or substantially similar policy statement. All new and redesigned web pages, web applications, and web content ("Web Pages") published by Astria Health must act in accordance with the Web Content Accessibility Guidelines 2.0 principles of Perceivable, Operable, Understandable and Robust.

35. Patient Handbook. Astria Health will include in all future printings of its Patient Handbook (or equivalent) and all similar publications a statement to the following effect:

To ensure effective communication with Patients and their Companions who are deaf, hard-of-hearing, blind, low-vision, or deaf-blind, we provide appropriate auxiliary aids and services free of charge to the Patient or Companion, such as: sign language, tactile, and oral interpreters, video remote interpreting services, TTYs, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, televisions with caption

capability or closed caption decoders, and open and closed captioning of most Hospital programs.

Please ask your nurse or other Hospital Personnel for assistance, or contact the Information Office at _____ (voice or TTY), room _____.

Astria Health will also include in its Patient Handbook a description of its complaint resolution mechanism.

E. Notice to Astria Health Hospital Personnel and Physicians

36. Website. Astria Health shall publish on its intranet a policy statement regarding Astria Health's policy for effective communication with Patients. This policy statement includes, but is not limited to, language to the following effect:

If you recognize or have any reason to believe that a Patient or a relative, close friend, or Companion of a Patient is re deaf, hard-of-hearing, blind, low-vision, or deaf-blind, you must advise the person that appropriate auxiliary aids and services, such as sign language, tactile, and oral interpreters, video remote interpreting services, TTYs, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, televisions with captioning or closed caption decoders, and open and closed captioning of most hospital programs, will be provided free of charge to the Patient or Companion when appropriate. If you are the responsible health care provider, you must ensure that such aids and services are provided when appropriate. All other personnel should direct that person to the appropriate ADA Administrator(s) at _____ and reachable at _____.

37. Notice to Personnel. Astria Health policy for effective communication with Patients will be accessible to all Hospital Personnel and Active Members of the Hospital Medical Staff. The policy will also be provided to all newly hired Hospital Personnel and all Active Members of the Hospital Medical Staff upon their affiliation or employment with Astria Health.

F. Training

38. Training of the Assistive Device Point Person and His or Her Designees. Astria Health will provide mandatory training for the Assistive Device Point Person and his or her designees as set forth in paragraph 21 of this Agreement. Such training must be provided to the United States within **thirty (30) days** of this Agreement for review. Once approved by the United States, the training will occur within **sixty (60) days**. Such training will be sufficient in duration and content to train the Assistive Device Point Person and his or her designees in the following areas:

- a. to promptly identify communication needs of Patients and companions, including when an in-person Qualified Interpreter is necessary;
- b. to secure Qualified Interpreter services or VRI services as quickly as possible when necessary;
- c. to use, when appropriate, flash cards and/or pictographs (in conjunction with any other available means of communication that will augment the effectiveness of the communication);
- d. how and when to use VRI services, including how to make and receive calls;
- e. to encourage Active Members of Astria Health Medical Staff to notify the Assistive Device Point Person or his or her designee of Patients and companions as soon as Patients schedule admissions or other health care services at Astria Health; and
- f. Astria Health's complaint resolution procedure described in paragraph 26 of this Agreement.

39. Training of Hospital Personnel. Except for Active Members of the Hospital Medical Staff, who are governed by paragraph 41 of this Agreement, Astria Health will provide mandatory in-service training in accordance with annual training policies to all Hospital Personnel who have contact with Patients.

- a. The training will address the needs of Patients and companions and will include the following objectives:
 - i. to promptly identify communication needs of Patients and companions, including when an in-person Qualified Interpreter is necessary;
 - ii. to secure Qualified Interpreter services or VRI services as quickly as possible when necessary;
 - iii. to use, when appropriate, flash cards and/or pictographs (in conjunction with any other available means of communication that will augment the effectiveness of the communication); and
 - iv. how and when to use VRI services, including how to make and receive calls.
- b. Such training must be provided within **one hundred twenty (120) days** of the Effective Date of this Agreement, unless training related to the needs of Patients and companions has been provided within the same calendar year of the Effective Date of this Settlement in accordance to Astria Health's training schedule and annually thereafter.
- c. New employees must be trained in the same manner within **thirty (30) days** of their hire.

40. Training Attendance Records. Astria Health will maintain for the duration of this Agreement, confirmation of training conducted pursuant to paragraphs 38-39 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.

41. Training of Active Members of the Hospital Medical Staff. Astria Health will provide Active Members of the Hospital Medical Staff a hard copy of its policy on the communication needs of Patients or companions by delivering it to their office addresses. The policy shall be accompanied by a cover letter that:

- a. indicates the additional availability of the policy on the intranet,

- b. invites the recipient to reach out to the Assistive Device Point Person if they have questions about the policy; and
- c. requests that if and when they become aware that a Patient or companion who is deaf, hard-of-hearing, blind, low-vision, or deaf-blind will be visiting Astria Health for health care services, that they promptly notify the Assistive Device Point Person of the expected visit.

G. Reporting, Monitoring, and Violations

42. 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, Astria Health will provide a written report (“Compliance Report”) to the U.S. Attorney’s Office regarding the status of its compliance with this Agreement. The Compliance Report will include data relevant to the Agreement, including but not limited to:

- a. the information required in Auxiliary Aid and Service Log described in paragraph 22.
- b. the information maintained in the complaint records described in paragraph 23, including the number of complaints received by Astria Health from Patients and companions regarding Auxiliary Aids and Services and/or effective communication, and the resolution of such complaints including any supporting documents.

Astria Health 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.

43. Complaints. During the term of this Agreement, Astria Health will notify the U.S. Attorney’s Office if any person files a lawsuit, complaint, or formal charge with a state or federal agency, alleging that Astria Health failed to provide Auxiliary Aids and Services to Patients or companions or otherwise failed to provide effective communication with such Patients or companions. Such notification must be provided in writing via certified mail within **twenty (20) days** of the date Astria Health received notice of the allegation and will include, at a minimum,

the nature of the allegation, the name of the person making the allegation, and any documentation of the allegation provided by the complainant. Astria Health will reference this provision of the Agreement in the notification to the U.S. Attorney's Office.

H. Remuneration for Complainants and Release

44. Compensatory Relief for Complainant. Within **thirty (30) days** after receiving the executed Agreement, Complainant's signed release (a Blank Release Form is at **Exhibit C**), and an executed IRS Form W-9, Astria Health will send by FedEx, a check in the amount of three thousand five hundred dollars (\$3,500) made out to Complainant. This check is compensation to the Complainant pursuant to 42 U.S.C. § 12188(b)(2)(B). The check shall be mailed to:

Joseph P. Derrig
Assistant United States Attorney
U.S. Attorney's Office for the Eastern District of Washington
920 West Riverside Avenue
Spokane, WA 99201

I. Enforcement and Miscellaneous

45. Duration of the Agreement. This Agreement will be in effect for two (2) years from the Effective Date.

46. 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 47. 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 Astria Health 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.

47. Compliance Review and Enforcement. The United States may review compliance with this Agreement at any time during normal business hours 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 Astria Health, and the parties will attempt to resolve the concern(s) in good faith. The United States will allow Astria Health thirty (30) days from the date it notifies Astria Health 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.

48. 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.

49. 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.

50. 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.

51. Effective Date. The effective date of this Agreement is the date of the last signature below.

52. 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.

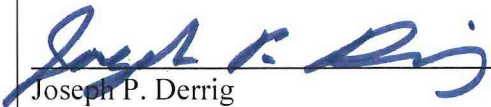
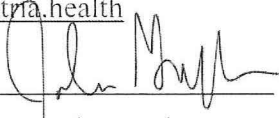
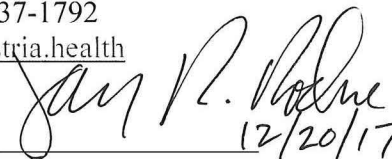
FOR THE UNITED STATES:  Joseph P. Derrig Assistant United States Attorney United States Attorney's Office Eastern District of Washington 920 West Riverside Avenue Spokane, Washington 99201 Phone: (509) 835-6338 Joseph.Derrig@usdoj.gov Date: <u>12/21/17</u>	FOR ASTRIA HEALTH: _____ John Gallagher President and Chief Executive Officer Astria Health 1016 Tacoma Ave Sunnyside, WA 98944-2263 jg@astria.health Date:  <u>12/20/17</u> _____ Jay Rodne, Esq. Counsel for Astria Health Astria Health P.O. Box 979, Sunnyside, WA 98944 (509) 837-1792 Jay@astria.health Date:  <u>12/20/17</u>
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EXHIBIT A:
COMMUNICATION ASSESSMENT FORM

How Can We Help You?

At _____, we want you to get your health information in a way that you understand. We will arrange for an interpreter or other aids to you, your family member or companion who is deaf, hard of hearing, blind, has low vision, or has speech disabilities. These services are free to you.

Date: _____ Time: _____

Name of Patient: _____

Who needs communication help? ☐ Patient
☐ Family Member
☐ Friend / Companion
☐ Other: _____

What is the disability or disabilities?
☐ Deaf
☐ Hard of Hearing
☐ Blind
☐ Low-vision
☐ Speech Disability
☐ Other: _____

Do you want a professional sign language or oral interpreter for your visit?

- ☐ Yes. Choose one:
- ☐ American Sign Language (ASL) interpreter
 - ☐ Pidgin Signed English (PSE) interpreter
 - ☐ Signed English interpreter
 - ☐ Tactile American Sign Language (TASL) interpreter
 - ☐ Oral interpreter
 - ☐ Other. Explain: _____
- ☐ No.
- ☐ No. I do not use sign language
 - ☐ No. I do not use interpreters to lip read.
 - ☐ No. I prefer to have family members/ friends help with communication.
 - ☐ No. I do not feel an interpreter is necessary.
 - ☐ No. I do not want one for this visit.

Would an assistive device be helpful to you?

☐ TTY/TDD (text telephone)

☐ Assistive listening device (sound amplifier)

☐ Brailled materials

☐ Qualified note-takers

☐ Writing back and forth

☐ Video translation services

☐ Other. Explain: _____

Name of person who is filling out this form: _____

Any questions? Please call our office at _____ (voice), or _____ (TTY),
or visit us during normal business hours.

EXHIBIT B

[Hospital or Clinic Name] and its staff are committed to providing equal access to patients, family members, and companions with disabilities.

To ensure effective communication, [Hospital or Clinic Name] provides qualified sign language and oral interpreters, and other auxiliary aids and services **free of charge** for patients, family members, and companions who are deaf, hard of hearing, blind, have low-vision, or have speech disabilities.

To request auxiliary aids or services, please speak to _____. If an auxiliary aid or service is denied, you can request a reconsideration by providing this office with a written statement explaining why you need the aid or service that was denied. If needed, office staff can help write down your request for reconsideration. If you have any problems, please speak to _____ directly.

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities. People who are deaf, are hard of hearing, or have speech disabilities have the right under the ADA to request auxiliary aids and services. For more information about the ADA, call the Department of Justice's toll-free ADA Information Line at 1-800-514-0301 (voice), 1-800-514-0383 (TTY) or visit the ADA Home Page at www.ada.gov

