

SETTLEMENT AGREEMENT

Between the U.S. Department of Health and Human Services
Office for Civil Rights

and

Bertrand Chaffee Hospital

Transaction Number: 10-114668

I. Introduction

This Settlement Agreement ("the Agreement") is entered into by the United States Department of Health and Human Services, Office for Civil Rights ("OCR"), and Bertrand Chaffee Hospital ("the Hospital"). This Agreement resolves the issues in OCR transaction number 10-114668, a complaint filed on behalf of [REDACTED] (the affected party). The complainant, [REDACTED] alleged that the Hospital engaged in unlawful discrimination on the basis of disability (deaf). Specifically, the complainant alleged that the Hospital failed to provide the affected party appropriate auxiliary aids (sign language interpreter) while she was treated at the Hospital in February 2010. The complainant further alleged that there was no TTY service available for the affected party while she received treatment at the Hospital.

OCR's investigation found that the Hospital failed to provide the affected party a qualified sign language interpreter during triage and throughout her treatment at the Hospital until her discharge. OCR's investigation also found that the Hospital failed to provide the affected party with the use of a TTY. OCR found that the failure to provide the affected party with a qualified sign language interpreter and TTY mechanism denied her an equal opportunity to participate in, or benefit from programs and services offered by the Hospital, in violation of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504) and its implementing regulation, 45 C.F.R. § 84.4(a) and (b)(1)(ii). OCR further concluded that, by failing to provide the affected party with a sign language interpreter and TTY service, the Hospital discriminated against the affected party in violation of 45 C.F.R. §§ 84.52(a)(2) and (d)(1).

A. Parties to the Agreement

1. United States Department of Health and Human Services, Office for Civil Rights; and
2. Bertrand Chaffee Hospital.

B. Jurisdiction

Bertrand Chaffee receives Federal financial assistance through its participation in the Medicare and Medicaid programs and is subject to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), and its implementing regulation, 45 C.F.R. Part 84. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

C. Background

The U.S. Department of Justice, Disability Rights Section, Civil Rights Division referred the complaint to OCR on June 16, 2010 and Region II received the complaint on July 2, 2010. The Hospital, which also encompasses the Jennie B. Richmond Nursing Home, is an acute and long-term health care complex located in Springville, in Western New York State. According to the Hospital's website, it is a 130-bed complex providing both inpatient and outpatient care.

D. Purpose of Agreement

The purpose of this Agreement is to ensure the Hospital's compliance with Section 504 and its implementing regulation. The Hospital agrees to the terms stipulated in this Agreement and affirms its assurance of compliance with all provisions of Section 504 and its implementing regulation.

The promises, obligations or other terms and conditions set forth in this Agreement constitute the exchange of valuable consideration between the Hospital and OCR.

The actions described in this Agreement fully address the issues raised in the complaint. It is understood and agreed by OCR that completion of these actions will ensure that the Hospital is in compliance with Section 504, as it pertains to the issues specifically addressed during this investigation.

II. Definitions

For the purpose of this Agreement, the terms listed below shall have the following meaning:

- A. **Appropriate Auxiliary Aids and Services** include, but are not limited to, qualified sign language or oral interpreters; qualified note-takers; computer-assisted real time transcription services; written materials; telephone handset amplifiers; assistive listening devices and systems; telephones compatible with hearing aids; closed captioning decoders; open and closed captioning; teletypewriters (TTY's, also known as TDDs); videotext displays; or video interpreting services, ensuring effective communication with individuals who are deaf or hard of hearing. *See* 45 C.F.R. § 84.52(d)(3).
- B. **Hospital Personnel** means all employees and independent contractors with contracts to work on a substantially full-time or part-time basis at the Hospital, including, without limitation, nurses, physicians, social workers, technicians, admitting personnel, billing staff, security staff, therapists,

volunteers, and anyone else who has or is likely to have direct contact with Patients and/or Companions.

- C. **Qualified Interpreter** includes “sign language interpreters,” “oral interpreter”, or other “interpreters” who are able to interpret competently, accurately, and impartially, both receptively and expressively, using any specialized terminology necessary for effective communication in a health care setting to a Patient and/or Companion who is deaf or hard of hearing. An interpreter must be able to sign to the individual who is deaf and/or hard of hearing what is being said by the hearing person, and to voice to the hearing person what is being signed by the individual who is deaf or hard of hearing. Because a qualified reader or interpreter must be able to interpret impartially, a family member or friend of the individual who requires a communication-related auxiliary aid or service may not be qualified to render the necessary auxiliary aid or service because of factors such as professional or personal involvement. Additionally, although an interpreter may be certified, a certified interpreter is not necessarily qualified. Similarly, certification is not required in order for an interpreter to be qualified.

Not all interpreters are qualified for all situations. For example, an interpreter who is qualified to interpret using American Sign Language is not necessarily qualified to interpret orally. Someone who has only a rudimentary familiarity with sign language or finger spelling is not a qualified interpreter. Also, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone signing and translate their signed or finger-spelled communication into spoken words is not a qualified interpreter. A qualified interpreter may include a relay interpreter who has specific skill and training in acting as an intermediary between a Patient and/or Companion and a sign language interpreter in instances when the interpreter cannot otherwise independently understand the Patient’s and/or Companion’s primary mode of communication.

- D. **Parties** means the Hospital and OCR
- E. **Patient** is broadly construed to mean any individual who is seeking or receiving health care services.
- F. **Companion** means a person who is one of the following: (a) a person whom the Patient designates to communicate with the Hospital on his or her behalf regarding the Patient’s condition or care; or (b) a person legally authorized to make health care decisions on behalf of the Patient; or (c) such other person with whom Hospital personnel would ordinarily and regularly communicate in relation to the Patient’s medical condition or treatment.

- G. **Section 504 Coordinator** shall mean the individual designated to coordinate the Hospital's efforts to comply with and carry out its Section 504 responsibilities.
- H. **Section 504 Grievance Procedure** means the Hospital's process for addressing complaints of disability discrimination from employees, applicants, Patients, Companions, and other interested parties that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints.
- I. **TTY or TDD** the terms "TTY" (teletypewriter) or "TDD" (telecommunications device for deaf persons) shall mean devices that are used with a telephone to communicate with persons who are deaf or hard of hearing or who have speech impairments by typing and reading communications.

III. **General Provisions**

- A. **Facilities Covered by Agreement** This Agreement covers the Hospital located at 224 East Main Street, Springville, New York, 14141-1443.
- B. **Suspension of Administrative Actions** Subject to the continued performance by the Hospital of the stated obligations and required actions contained in this Agreement and in conformity with Section III-G, "Compliance with the Terms of Agreement," OCR shall suspend administrative actions on OCR Transaction Number 10-114668.
- C. **Effective Date and Term of the Agreement** This Agreement shall become effective as of the date that both Parties have signed it (the "Effective Date"). This Agreement shall remain in effect for three hundred and sixty five days following the Effective Date of this Agreement (the "Term"). At such time, the Agreement shall terminate, provided that OCR determines that the Hospital is in compliance with the Agreement. Notwithstanding the Term of this Agreement, The Hospital acknowledges that it shall comply with Section 504 for so long as it continues to receive Federal financial assistance.
- D. **Effective Date of Provisions of the Agreement** Unless expressly provided otherwise in this Agreement, the effective date of provisions in the Agreement is the date that both parties have signed the Agreement.
- E. **The Hospital's Continuing Obligation** Nothing in this Agreement is intended to relieve The Hospital of its continuing obligation to comply with other applicable non-discrimination statutes and their implementing regulations, including Section 504. See 45 C.F.R. Part 84.

- F. **Effect on Other Compliance Matters** The terms of this Agreement do not apply to any other issues, investigations, reviews or complaints of discrimination that are unrelated to the subject matter of this Agreement and that may be pending before OCR or any other Federal Agency. Any unrelated compliance matter arising from subsequent reviews or investigations shall be addressed and resolved separately. This Agreement also does not preclude further OCR compliance reviews or complaint investigations. OCR shall review complaints against the Hospital that are received after the Effective Date of this Agreement. Nothing in this paragraph shall be construed to limit or restrict OCR's statutory and regulatory authority to conduct compliance reviews or complaint investigations.
- G. **Prohibition Against Retaliation and Intimidation** The Hospital shall not retaliate, intimidate, threaten, coerce or discriminate against any person who has filed a complaint, assisted or participated in any matter in the investigation or matters addressed in this Agreement.
- H. **OCR's Review of The Hospital's Compliance with Agreement** OCR may, at any time, review the Hospital's compliance with this Agreement. As part of such review, OCR may require the Hospital to provide written reports, permit inspection of its facilities, interview witnesses and examine and copy documents. Throughout the term of this Agreement, the Hospital agrees to retain records required by OCR to assess the Hospital's compliance with the Agreement and to submit the requested reports to OCR. OCR will maintain the confidentiality of all documents, files and records received from the Hospital, and will not disclose their contents except where necessary in formal enforcement proceedings or where otherwise required by law.
- I. **Compliance with the Terms of Agreement** In consideration of the Hospital's full implementation of the provisions of this Agreement, OCR agrees not to initiate enforcement proceedings with respect to the violations identified in Complaint No. 10-114668. In the event that OCR notifies the Hospital that the Hospital has failed to fully implement any provision of this Agreement, the parties will confer and attempt to reach agreement as to what steps may be necessary to resolve the compliance issues to both parties' satisfaction. If an agreement is not reached, OCR may terminate this Agreement, with thirty (30) calendar days notice, and take appropriate measures to effectuate the Hospital's compliance with Section 504. Such measures may include administrative proceedings to suspend, terminate, or refuse to grant or continue HHS financial assistance to the Hospital, and/or referral of the case to the United States Department of Justice for judicial proceedings to enforce the law.

- J. **Non-Waiver Provision** Failure by OCR to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision shall not be construed as a waiver of OCR's right to enforce other deadlines or any provisions of this Agreement.
- K. **Entire Agreement** This Agreement constitutes the entire understanding between the Hospital and OCR in resolution of OCR Transaction Number 10-114668. Any statement, promise or agreement not contained herein shall not be enforceable through this Agreement.
- L. **Modification of Agreement** This Agreement may be modified by mutual agreement of the parties in writing.
- M. **Effect of the Hospital Program Changes** The Hospital reserves the right to change or modify its programs, so long as The Hospital ensures compliance with Section 504 and other applicable Federal statutes and the provisions of this Agreement. Significant program changes that may affect compliance with this Agreement or any applicable statutes and regulations within OCR's jurisdiction must be reported to OCR promptly.
- N. **Publication or Release of Agreement** OCR places no restrictions on the publication of the terms of this Agreement. In addition, OCR may be required to release this Agreement and all related materials to any person upon request consistent with the requirements of the Freedom of Information Act, 5 U.S.C. § 552 and its implementing regulations 45 C.F.R. Part 5.
- O. **Authority of Signer** The individual who signs this document on behalf of the Hospital represents that he or she is authorized to bind the Hospital to this Agreement.
- P. **Third Party Rights** This Agreement can be enforced only by the parties specified in this Agreement, their legal representatives and assigns. This Agreement shall be unenforceable by third parties and shall not be construed to create third party beneficiary rights.
- Q. **Technical Assistance** OCR will provide appropriate technical assistance to the Hospital regarding compliance with this Agreement, as requested and as reasonably necessary.
- R. **Miscellaneous** When OCR verifies that the Hospital has completed all actions contained in this Agreement, OCR shall consider all matters related to this investigation resolved and will so notify the Hospital in writing.

IV. **General Obligations**

- A. **Disability Non-discrimination** The Hospital shall provide Patients with disabilities with the full and equal enjoyment of the services, privileges, facilities, advantages, and accommodations of the Hospital as required by Section 504.
- B. **Non-discrimination by Association** The Hospital shall not deny equal services, accommodations, or other opportunities to any individual because of the known relationship of the individual with someone who is deaf or hard of hearing.
- C. **Section 504 Grievance Procedure** Within sixty (60) calendar days after the Effective date of this Agreement, the Hospital shall develop and submit to OCR for review and approval, a grievance procedure for addressing complaints of disability discrimination, including complaints regarding the failure to provide appropriate auxiliary aids and services. The grievance procedure shall incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging any actions prohibited under Section 504 (see sample Notice of Grievance Procedures at Attachment A).

OCR shall review the Section 504 Grievance Procedure within thirty (30) calendar days of receipt. Within thirty (30) calendar days of notice of approval of the grievance procedure by OCR, the Hospital shall implement the grievance procedure.

The Hospital shall take steps to notify Hospital Personnel, applicants, Patients, Companions, and interested persons of the information contained in the Section 504 Grievance Procedure. The information shall be communicated as follows:

1. Within thirty (30) calendar days after approval by OCR, the Hospital shall post copies of the Section 504 Grievance Procedure in visible locations in the Hospital and on the Hospital website.
2. The Hospital shall publish the Section 504 Grievance Procedure in Patient handbooks or in similar publications within sixty (60) calendar days of approval of the Grievance Procedures by OCR; and
3. The Hospital shall offer additional assistance, including prominently displayed signage translated into frequently encountered languages, when limited English proficiency may be a barrier to the Patients' and/or Companions' understanding of the Section 504 Grievance Procedure.

D. Notice of Nondiscrimination under Section 504 Within sixty (60) calendar days after the Effective Date of this Agreement, the Hospital shall develop and submit to OCR for review and approval, a Notice of Nondiscrimination that: states that the Hospital does not discriminate on the basis of disability and that appropriate auxiliary aids and services shall be provided free of charge to deaf or hard-of-hearing Patients and/or Companions; provides the grievance procedure for filing and resolving complaints about disability discrimination, including complaints regarding the failure to provide appropriate auxiliary aids and services; and provides the name, telephone number, functions and office location of the Section 504 Coordinator and Hospital staff member(s) who have been designated to provide assistance regarding access to appropriate auxiliary aids and services (see sample Notice of Nondiscrimination at Attachment B).

Within thirty (30) calendar days of approval of the Notice by OCR, the Hospital shall take steps to notify Patients, Companions, and Hospital Personnel of the information contained in the Notice of Nondiscrimination.

This information shall be communicated by:

1. Posting signs in visible locations at all the Hospital's entry points;
2. Including this information in brochures or written information about the Hospital disseminated to current or prospective Patients;
3. Posting the information on the Hospital's website: and
4. Offering additional assistance, including prominently displayed signage translated into frequently encountered languages, when limited written English proficiency may be a barrier to the Patient's and/or Companions' understanding of the notice.

V. **Provision of Appropriate Auxiliary Aids and Services**

A. **Recognition**

The Hospital recognizes that deaf or hard of hearing Patients and/or Companions that are deaf or hard of hearing need appropriate auxiliary aids and services to access and fully participate in health care provided by the Hospital. The Hospital is committed to providing appropriate auxiliary aids and services in a timely manner to deaf or hard of hearing Patients and/or Companions to ensure an equal opportunity to participate fully in the services, benefits, activities and programs administered by the Hospital. This includes ensuring effective communication between Hospital Personnel, contractors, or subcontractors and deaf or hard of hearing Patients and/or Companions.

B. **Assessment of Interpreter Resources; Agreement**

Within sixty (60) days after the Effective Date of this Agreement, the Hospital shall assess the resources available to assist the Hospital with meeting its obligations under this Agreement and the Hospital will enter into a contract with an individual or organization that will provide qualified sign language interpreter services to the Hospital.

C. **Initial Assessment**

The Hospital shall consult with the deaf or hard of hearing Patient and/or Companion, wherever possible, to determine which appropriate auxiliary aids and services are needed to ensure effective communication. While consultation is strongly encouraged, the ultimate decision as to which measures to take to ensure effective communication rests in the hands of Hospital Personnel, provided that the method chosen results in effective communication. The assessment made by Hospital Personnel shall take into account all relevant facts and circumstances, including without limitation the following:

1. the nature, length, and importance of the communication at issue;
2. the individual's disability and communication skills and knowledge;
3. the Patient's health status or changes thereto;
4. the Patient's and/or Companion's request for or statement of the need for a particular auxiliary aid or service; and

5. the reasonably foreseeable health care activities of the Patient (e.g., group therapy sessions, medical tests or procedures, rehabilitation services, meetings with health care professionals or social workers, or discussions concerning billing, insurance, self-care, prognoses, diagnoses, history, and discharge from treatment).

In the event that Hospital personnel determines that communication is not effective, they shall reassess which appropriate auxiliary aids and services are necessary, in consultation with the deaf or hard of hearing Patient and/or Companion, where possible.

D. Time for Assessment

1. Scheduled Appointments. Beginning sixty (60) calendar days after the Effective Date of this Agreement, the Hospital will have in place a process to ensure that when a patient arrives at the Hospital seeking medical services as part of a scheduled appointment, a trained Hospital Personnel shall perform an initial communication assessment to determine whether a deaf or hard of hearing Patient and/or Companion requires auxiliary aids or services in order to ensure effective communication. The assessment will consider the timing, duration, and frequency for which appropriate auxiliary aids or services will be provided. The deaf or hard of hearing Patient and/or Companion, will be provided with an appropriate identified auxiliary aid or service. The results of the assessment and any necessary auxiliary aids or services for the patient and/or Companion will be documented in the Patient's registration records.

2. Non-Scheduled Incidents. (all situations not covered by "Scheduled Appointments"). The determination of which appropriate auxiliary aids or services are necessary to ensure effective communication, and the timing, duration, and frequency with which they will be provided shall be made by Hospital Personnel upon the arrival of the deaf or hard of hearing Patient and/or Companion at the Hospital. Trained Hospital Personnel shall perform and document, in the deaf or hard of hearing Patient's medical record, a communication assessment as part of each initial assessment.

3. Continuation of Provision of Appropriate Auxiliary Aids or Services After conducting an initial assessment, the Hospital shall continue to provide appropriate auxiliary aids or services to the deaf or hard of hearing Patient and/or Companion, during the entire period of the Patient's initial visit and subsequent visits, without requiring subsequent requests for the appropriate auxiliary aids or services by the Patient and/or Companion. Hospital Personnel shall keep records that reflect the ongoing provision of appropriate auxiliary aids or services to deaf or hard

of hearing Patients and/or Companions, such as notations in the Patients' medical records.

4. Determination Not to Provide Requested Auxiliary Aid or Service
If, after conducting the assessment as described in Section V.C of this Agreement, the Hospital decides not to provide the auxiliary aid or service requested by the deaf or hard of hearing Patient and/or Companion, Hospital Personnel shall so advise the person requesting the auxiliary aid or service and document the date and time of the decision, the name and title of Hospital Personnel who made the decision, the basis for the determination, and the alternative auxiliary aid or service, if any, that the Hospital has decided to provide. A copy of this documentation shall be provided to the deaf or hard of hearing Patient and/or Companion and retained in the Patient's medical record.

E. General Circumstances When Auxiliary Aids or Services Will Be Provided

The Hospital shall provide auxiliary aids or services, including but not limited to qualified interpreters, to deaf or hard of hearing Patients and/or Companions for these general situations:

1. Obtaining the Patient's medical history or information about the Patient's ailments or condition;
2. Explaining and describing medical procedures or treatment;
3. Discussing diagnosis, test results, prognosis, and treatment options;
4. Obtaining informed consent or permission for procedures or treatment;
5. Communicating during treatment and testing;
6. Explaining the reason for, how to take, and possible side effects of medication;
7. Discussing complex financial or insurance matters;
8. Making educational presentations;
9. Discussing discharge or post-operative planning or instructions; and
10. Any other circumstances in which auxiliary aids or services are necessary to ensure a Patient's and/or Companion's privacy, confidentiality, or other rights provided by Federal, state, or local law.

The foregoing list of circumstances is not exhaustive and does not imply that there are not other circumstances when it may be appropriate to provide auxiliary aids or services for effective communication.

Nothing in this Agreement shall require that an electronic device or equipment, constituting an appropriate auxiliary aid or service be used when or where its use may interfere with medical or monitoring equipment or may otherwise constitute a threat to any Patient's medical condition.

F. Provision of Qualified Interpreters

1. **Scheduled Appointments:** The Hospital shall make a qualified interpreter available at the time of the appointment, if an interpreter is necessary for effective communication.

2. **Non-scheduled Incidents:** For any situation that is not a scheduled appointment, the Hospital shall make an interpreter available as soon as possible, but in no case later than 20 minutes in non-emergent situations and 10 minutes in emergency situations, the time periods required by the New York State Department of Health ("NYSDOH"), currently stated at 10 N.Y.C.R.R. § 405.7(a)(7)(ix)(a); provided, however, that if the Commissioner of NYSDOH has approved a time limited alternative for the Hospital in accordance with 10 N.Y.C.R.R. § 405.7(a)(7)(ix)(a), then: (i) The Hospital shall provide OCR with a copy of any documentation received from NYSDOH regarding the approval and terms of such time limited alternative; and (ii) the Hospital shall comply with the terms of such time limited alternative during the time period specified by NYSDOH. Notwithstanding the approval of a time limited alternative by NYSDOH, the Hospital shall make a qualified interpreter available no later than two (2) hours from the time the request is made, if an interpreter is necessary for effective communication.

3. **Interim Services:** The Hospital agrees that, between the time an auxiliary aid or service is requested and the time it is made available, Hospital Personnel will continue to try to communicate with the Patient and/or Companion who has a hearing impairment for such purposes and to the same extent as they would have communicated with the person but for the hearing impairment, using appropriate auxiliary aids or services.

G. Restricted Use of Certain Persons to Facilitate Communication

Due to confidentiality and competency concerns, potential emotional involvement and other factors that may adversely affect the ability to facilitate effective communication, the Hospital may not request or permit a family member, companion, advocate, or friend of a Patient and/or

Companion who is deaf or hard of hearing to interpret or facilitate communication between Hospital Personnel and such Patient and/or Companion unless all four of the following factors are present:

- i. Such person wishes to provide such assistance;
- ii. Such use is necessary or appropriate under the circumstances, giving appropriate consideration to any privacy and confidentiality issues that may arise;
- iii. The Patient and/or Companion has been made aware of the full range of auxiliary aids or services options available free of charge; and
- iv. The Patient and/or Companion wishes such person to provide such assistance and Hospital Personnel has made a good faith effort to obtain a written acknowledgement from the Patient and/or Companion that he/she agrees to the use of the person to interpret or facilitate communication. If the Patient or Companion is not willing to provide a written acknowledgement, Hospital Personnel shall document its good faith efforts to obtain such acknowledgement and the reason why the acknowledgement was not obtained.

In time-sensitive, life-threatening situations, the Hospital may rely upon communications through a family member, advocate or friend until a qualified interpreter or other appropriate auxiliary aid or service is obtained. In such situations, the Hospital shall retain the above-required written documentation in the patient's medical record. Children shall not be used as interpreters unless there is an emergency situation involving imminent threat to safety or welfare of an individual or the public where there is no adult interpreter available.

H. Procedures for Obtaining Qualified Interpreters in a Timely Manner

When a qualified interpreter is necessary for effective communication, the Hospital shall take the following steps to obtain a qualified interpreter. Steps 1, 2 and 3 should be taken in the order in which they are listed below:

1. Request a qualified interpreter from a list of qualified interpreters maintained by the Hospital, from among any qualified sign language interpreters on Hospital staff, or from an agency with whom the Hospital has an ongoing contract for qualified sign language or oral interpreter services;

2. Exert reasonable efforts to obtain services from any interpreting agencies known to the Hospital or qualified interpreters who provide services on a freelance basis; and
3. Inform the Patient and/or Companion who is deaf or hard of hearing of the efforts taken to secure a qualified sign language interpreter and the efforts that have failed, and follow up on reasonable suggestions for alternate sources of qualified interpreters, such as a qualified interpreter known to that person.

I. Telephone Communications

The Hospital shall take the following steps to ensure that Patients and/or Companions who are deaf or hard of hearing can communicate effectively by telephone:

1. Patient Rooms: The Hospital shall make a TTY device available to Patients and/or Companions who have hearing impairment upon arrival in a patient room.

2.Storage and Accessibility of Equipment: Portable TTY devices shall be stored in places that are readily accessible at all times of the day or night to all Hospital staff that has patient contact. TTY's shall be made available to Patients and/or Companions who have hearing or speech impairments. The Hospital shall make reasonable efforts to provide a TTY to a Patient and/or Companion within twenty (20) minutes from the time it is requested.

All Hospital staff shall be notified in writing of the storage location of a TTY device that is closest to their work area(s).

VI. Policies and Procedures for Ensuring Effective Communication with Deaf or hard of Hearing Patients and/or Companions

- A. Within sixty (60) calendar days after the Effective Date of this Agreement, the Hospital shall revise and submit to OCR for review and approval, the revised Language Assistance for Limited English Proficient Persons and Hearing Impaired policies and procedures (the Policy) for ensuring effective communication with deaf or hard of hearing Patients and/or Companions, consistent with the requirements of this Agreement and Section 504.

OCR shall review the Policy within thirty (30) calendar days of receipt. The Policy shall not be implemented by the Hospital without the approval of OCR.

The revised Policy for effective communication with deaf or hard of hearing Patients and/or Companions shall include:

1. Roles and responsibilities of the Hospital's Section 504 Coordinator, including an explanation of how Hospital Personnel will work together to ensure effective communication with deaf or hard of hearing Patients and/or Companions;
 2. Provision of appropriate auxiliary aids or services, including assessment of communication needs, standards for determining appropriate auxiliary aids or services, general circumstances when auxiliary aids or services will be provided, and documentation of the provision of auxiliary aids or services;
 3. Provision of qualified interpreters, including, timely provision of services, procedures for obtaining qualified interpreters, restricted use of certain persons as interpreters in accordance with Section V.G, and measures to oversee and ensure the quality of the services provided by qualified interpreters;
 4. Provision of training to new and existing Hospital Personnel about the obligation to ensure effective communication with deaf or hard of hearing Patients and/or Companions; and
 5. Development of a method for monitoring the implementation of the revised policies and procedures for ensuring effective communication with deaf or hard of hearing Patients and/or Companions.
- B. Within thirty (30) calendar days of approval by OCR, the Hospital shall implement the revised policies and procedures to provide effective communication with deaf or hard of hearing Patients and/or Companions. The Hospital shall disseminate the revised policies and procedures to Hospital Personnel, contractors, and subcontractors and publish them in a Hospital-wide communication piece for Hospital Personnel and contractors.

VII. Training of Hospital Personnel

Within sixty (60) calendar days of approval by OCR of Hospital's revised policies and procedures for providing effective communication with Patients and/or Companions who are deaf or hard of hearing, the Hospital shall take the following steps to ensure that Hospital Personnel receive training on the revised policies and procedures:

1. The Hospital shall provide training to all Hospital Personnel who interact with Patients and/or Companions on its revised policies and procedures for ensuring effective communication with deaf or hard of hearing Patients and/or Companions. Such training shall be sufficient in content to train Hospital Personnel to promptly identify communication needs and preferences of services, and to secure appropriate, effective auxiliary aids or services, including qualified interpreter services, as quickly as possible when necessary. Such training shall include topics such as the various degrees of hearing impairment, sensitivity to the needs of the deaf or hard of hearing community, language and cultural diversity in the deaf or hard of hearing community, dispelling myths and misconceptions about persons who are deaf or hard of hearing, the proper use and role of qualified interpreters, and procedures and methods for accessing qualified interpreters.

2. The Hospital shall provide training to all Hospital Personnel who have interactions with Patients and/or Companions on the use of any TTY devices or other technology employed by the Hospital.

VIII. Reporting

A. Auxiliary Aid Log

Beginning not later than sixty (60) calendar days after the Effective Date of this Agreement, the Hospital shall maintain a log (which may be one log or the aggregate of multiple logs) of information about requests for auxiliary aids or service that the Hospital receives and the Hospital's response (Auxiliary Aid Log). The Auxiliary Aid Log shall include the following information:

1. The date and time that a deaf or hard of hearing Patient and/or Companion requests an auxiliary aid or service and the type of auxiliary aid or service that is requested;
2. A code that identifies the deaf or hard of hearing Patient and/or Companion who requests an auxiliary aid or service;
3. The name and title of Hospital Personnel who makes the determination concerning the request for an auxiliary aid or service;
4. The Hospital's decision whether to grant or deny the requested auxiliary aid or service and the basis for the decision;
5. The time and date that each auxiliary aid or service is provided and the type of auxiliary aid or service that is provided on each occasion.
6. Any complaints/grievances that the Hospital receives about the provision of an auxiliary aid and/or service, and for each complaint, the outcome of the investigation or review.

Such Auxiliary Aid Log shall be retained by the Hospital throughout the balance of the Term of this Agreement.

The Auxiliary Aid Log report shall cover all requests for auxiliary aids or services during the specified time period, as follows:

- a. 61-90 calendar days after the Effective Date of this Agreement;
- b. 91-150 calendar days after the Effective Date of this Agreement;
- c. 151-210 calendar days after the Effective Date of this Agreement;
- d. 211-270 calendar days after the Effective Date of this Agreement.

B. Compliance Reports

Within one hundred eighty (180) calendar days after the Effective Date of this Agreement, the Hospital shall provide OCR with the following:

1. Documentation and a letter certifying that the communication of information required by Sections IV and VI of this Agreement has occurred. The letter shall specify the date(s) that such communication occurred, the method of communication, and the persons to whom the information was provided. Documentation shall include copies of the Notice of Nondiscrimination and information about the revised policies and procedures for effective communication for deaf or hard of hearing Patients and/or Companions that were provided to Hospital Personnel; and
2. Documentation and a letter certifying that the training of Hospital Personnel described in Section VII has been completed. The letter shall specify the date(s), time(s) and location(s) of the training, the person(s) conducting the training, the content of the training, and the names and titles of those who participated in the training.
3. A copy of the Auxiliary Aid Log, reflecting all requests for auxiliary aids or services since the log was created pursuant to Section VIII A of this Agreement.
4. A copy of the contract the Hospital has entered into with an individual or organization that will provide qualified sign language interpreter services to the Hospital.

Within three hundred thirty (330) calendar days after the Effective Date of this Agreement, the Hospital shall provide OCR with documentation and a letter certifying that the Hospital has completed all the actions required by the Agreement.

a. **Maintenance of Records**

The Hospital shall maintain appropriate records to document the information contained in the Compliance Reports and shall make them available, upon request, to OCR and shall retain those records throughout the Term of this Agreement.

C. **Documentation of Denial of Auxiliary Aids or Services**

In the event that the Hospital denies a Patient and/or Companion's request for a particular auxiliary aid or services, the Hospital shall document the decision to deny the request and the basis for that decision. The Hospital shall provide its denial documentation to OCR in accordance with the same schedule set forth in VIII(A) above.

D. **Patient Satisfaction Questionnaire**

The Hospital will mail a Customer Satisfaction Questionnaire to every Patient who is identified during the assessment process described in Section V (the "Assessment") as needing an auxiliary aid or service or whose Companion is identified during the Assessment as needing an auxiliary aid or service. Questionnaires will be mailed to the Patient within one month of the Assessment. The Hospital shall provide copies of the returned questionnaires to OCR in accordance with the schedule set forth in Paragraph VIII(A) above.

E. **Summary of Section 504 Grievances**

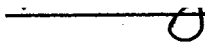
At six (6), eight (8), and ten (10) months after the Effective Date of this Agreement, the Hospital shall provide OCR with letters describing the number and type of Section 504 grievances filed against the Hospital and the status and/or outcome of each grievance.

IX. Signatures

/s/

Date:

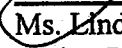
9/19/2011


Mr. Nils Gunnensen
Chief Executive Officer
Bertrand Chaffee Hospital

/s/

Date:

9/26/2011


Ms. Linda C. Colón
Acting Regional Manager
U.S. Department of Health & Human Services
Office for Civil Rights – Region II