

**IN THE COURT OF COMMON PLEAS OF  
ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

Commonwealth of Pennsylvania,  
By Attorney General Michelle Henry,

Petitioner,

v.

Center for Hearing and Deaf Services, Inc.

Respondent.

**CIVIL ACTION – EQUITY**

Case No. \_\_\_\_\_

**ASSURANCE OF VOLUNTARY COMPLIANCE**

AND NOW, comes the Commonwealth of Pennsylvania, acting by Attorney General Michelle Henry, through the Civil Rights Enforcement Section (hereinafter “Commonwealth” and/or “Petitioner”), which investigated the practices of the Center for Hearing and Deaf Services, Inc. (hereinafter “HDS” and/or “Respondent”) pursuant to the provisions of the Americans with Disabilities Act, 42 U.S.C. §12182 *et seq.* (ADA), the Pennsylvania Human Relations Act, 43 P.S. § 951, *et seq.* (PHRA), and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* (Consumer Protection Law), and states the following:

**PARTIES**

**WHEREAS**, Petitioner is the Commonwealth of Pennsylvania, by Attorney General Michelle Henry, through the Civil Rights Enforcement Section, with offices throughout the Commonwealth, including Strawberry Square, 14<sup>th</sup> Floor, Harrisburg, Pennsylvania 17120.

**WHEREAS**, HDS operates as a non-profit Pennsylvania corporation, which at all relevant times maintained addresses at 1945 Fifth Avenue, Pittsburgh, PA 15219; 1011 Old Salem Road, Suite 102, Greensburg, PA 15601; and 1600 Peninsula Drive, Suite 12, Erie, PA 16505.

## BACKGROUND

**WHEREAS**, Respondent has engaged in trade and commerce within Pennsylvania by offering and providing sign language interpreting or transliterating services to clients, including regularly to health care and other services providers.

**WHEREAS**, Title III of 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 any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a). Public accommodations include hospitals. 42 U.S.C. § 12181(7)(F); 28 C.F.R. § 36.104. The statute generally prohibits discriminatory actions that exclude, limit or segregate individuals with disabilities, “directly, or through contractual, licensing, or other arrangements.” 42 U.S.C. § 12182(b)(1)(A). A medical facility must ensure that persons who are deaf or hard of hearing receive auxiliary aids, such as “qualified interpreters,” to allow them to communicate effectively. 28 C.F.R. § 36.303.

**WHEREAS**, the Pennsylvania Human Relations Act declares it unlawful to “[r]efuse, withhold from, or deny to any person because of his . . . handicap or disability . . . either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such public accommodation. . . .” 43 P.S. § 955(i)(1). A medical facility is a public accommodation under the PHRA as it “is open to, accepts, or solicits the patronage of the general public. . . .” 43 P.S. § 954(l). *See also* 43 P.S. § 954(p.1)(the PHRA definition of disability that mirrors the ADA definition of disability).

**WHEREAS**, the Pennsylvania Human Relations Act further declares it an unlawful discriminatory practice for any person to aid or abet conduct made unlawful by the Act. 43 P.S. § 955(e).

**WHEREAS**, the Consumer Protection Law prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices,” 73 P.S. § 201-3, which are defined to include, *inter alia*, “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. § 201-2(4)(xxi).

**WHEREAS**, the Pennsylvania Sign Language Interpreter and Transliterators State Registration Act (Act 57) requires sign language interpreters to register with the Pennsylvania Office of Deaf and Hard of Hearing (ODHH), 63 P.S. § 1725.4(a). Registration with ODHH includes providing proof that the sign language interpreter has passed a knowledge and proficiency exam. The law articulates several exceptions to the registration requirement, one of which is if the unregistered interpreter informs the deaf individual that they are not registered and seeks a signed waiver. 63 P.S. § 1725.4(b)(5); 34 Pa. Code § 501.5(e).

**WHEREAS**, the Commonwealth investigated a complaint from a man who is deaf and non-verbal and communicates through American Sign Language (ASL) with the assistance of an ASL interpreter. On or about November 29, 2022, the complainant arrived for an appointment at Saint Vincent Hospital in Erie, PA, which contracts with HDS for the provision of ASL interpreters. Per Saint Vincent Hospital's request, HDS provided an ASL interpreter so that HDS could provide the complainant ASL interpretation services during his appointment. During the appointment, the complainant felt that the interpretation services he received were not adequate and he was not able to communicate effectively with his doctor.

**WHEREAS**, the Commonwealth alleges that the qualified contracted interpreter did not comply with Act 57.

**WHEREAS**, the Commonwealth alleges that HDS engaged in an unfair act or practice under the Consumer Protection Law.

**WHEREAS**, HDS disputes the Commonwealth's allegations, and denies that it has conducted its business in a manner that violates any of the laws cited herein.

**WHEREAS**, the Commonwealth and HDS enter into this AVC solely for the purpose of avoiding continued investigation and potential contested litigation.

**WHEREAS**, pursuant to Section 201-5 of the Consumer Protection Law, the HDS agreement to enter into this AVC shall not be considered an admission of violation of law for any purpose. *See 73 P.S. § 201-5.*

#### **SETTLEMENT TERMS**

**NOW THEREFORE**, having conducted trade and commerce within the Commonwealth, Respondent for itself, its officers, and employees, agrees to the following terms, voluntarily entered to resolve this matter:

##### **I. Conduct Provisions**

1. *Nondiscrimination*: Respondent, its officers, agents, and employees, shall not engage in, aid, or abet, disability discrimination in violation of applicable state and federal law, including, but not limited to, the ADA, PHRA, and Consumer Protection Law.

2. *Policy and Procedure*: Within 30 days of executing this AVC, Respondent will change its policy and procedure as follows:

a. When a client entity contacts HDS to request ASL interpreting services, HDS will continue first to attempt to identify an available HDS interpreter who is registered with ODHH.

b. If HDS cannot identify an ODHH-registered interpreter, HDS will identify and conditionally assign the most experienced and qualified non-registered ASL interpreter available.

c. HDS's agreement with each non-registered interpreter will require the non-registered interpreter to notify the individual needing ASL interpreting services, as far in advance to the date of the appointment as is practicable, that he or she is the only interpreter available and is not registered with ODHH. The interpreter shall provide the individual a summary description of the interpreter's experience and qualifications, and secure the individual's agreement to those services. This will give the individual needing ASL interpreting services a fair opportunity to decide whether to accept the non-registered ASL interpreter's services, reschedule the appointment for which interpreting services are needed, arrange to bring an ASL support person of their choosing, or use a different method of communication.

d. HDS's agreement with each non-registered ASL interpreter will provide that, upon arrival at the site, that ASL interpreter shall request that the individual needing ASL interpreting services sign the ODHH "Sign Language Interpreter & Transliterators State Registration Act – Request to Use Non-Registered Interpreter/Transliterators" in accordance with Act 57.

## **II. Miscellaneous Terms**

A. This Court shall maintain jurisdiction over the subject matter of this Assurance of Voluntary Compliance and over Respondent for the purpose of enforcing its terms.

B. Nothing in this Assurance of Voluntary Compliance shall be construed to waive any individual right of action by a consumer, or a local, state, federal, or other governmental entity.

C. Time shall be of the essence with regards to the obligations of Respondent.

D. Respondent agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance of

Voluntary Compliance, whether required prior to, contemporaneous with or subsequent to the Effective Date, as defined herein.

E. Amy Hart is the President/CEO of Center for Hearing and Deaf Services, Inc. and hereby states that she is authorized to enter into and execute this Assurance of Voluntary Compliance on its behalf; and, further agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance of Voluntary Compliance.

F. Any failure of the Commonwealth to exercise any of its rights under this Assurance of Voluntary Compliance shall not constitute a waiver of its rights hereunder.

G. This Assurance of Voluntary Compliance may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this Assurance of Voluntary Compliance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

H. This Assurance of Voluntary Compliance sets forth all of the promises, covenants, agreements, conditions, and understandings between the parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied. There are no representations, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Assurance of Voluntary Compliance that are not expressed herein or attached hereto. Each party specifically warrants that this Assurance of

Voluntary Compliance is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

I. Respondent understands and agrees that if any false statement in or related to this Assurance of Voluntary Compliance has been made on its behalf, such statement is made pursuant to and under penalty of 18 Pa.C.S. § 4909<sup>4</sup> relating to unsworn falsifications to authorities. CWD

J. Respondent agrees by the signing of this Assurance of Voluntary Compliance that they shall abide by each of the aforementioned provisions and that the breach of any one of these terms shall be sufficient warrant for the Commonwealth of Pennsylvania to petition this Court, or any court of competent jurisdiction, to assess the penalties provided for under Section 201-8(a) of the Consumer Protection Law, 73 P.S. §201-8(a), and to order any other equitable relief which the Court deems necessary or proper, including but not limited to ordering the dissolution, suspension or forfeiture of the franchise or right of Respondent to do business in the Commonwealth of Pennsylvania. Respondent does not waive any defenses to any actions that may be brought by the Commonwealth pursuant to, or in response to any alleged violation of, this Assurance of Voluntary Compliance.

K. If any clause, provision or section of this Assurance of Voluntary Compliance shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Assurance of Voluntary Compliance and the Assurance of Voluntary Compliance shall be construed and

enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein

L. Respondent shall not represent or imply that the Commonwealth acquiesces in, or approves of, Respondent's past or current business practices, efforts to improve their practices, or any future practices that Respondent may adopt or consider adopting.

M. If any federal, state or local government or agency passes, issues or promulgates any law, rule, regulation, standard or interpretation, including standards and interpretations of existing law, or any court of competent jurisdiction renders any decision or issues any other pronouncement, at any time while this Assurance of Voluntary Compliance is in effect, which prohibits, restricts, limits or in any way substantially changes the laws and regulations referenced herein, or which otherwise significantly affects either party's rights or obligations hereunder, or which results in this Assurance of Voluntary Compliance or a provision(s) herein as being construed as violative of applicable federal, state or local law (if not preempted), then either party may give the other notice of intent to amend this Assurance of Voluntary Compliance to the satisfaction of both parties, to address such prohibition, restriction, limitation or change. If no further amendments occur, this Assurance of Voluntary Compliance shall expire two years after its execution date.

**SIGNATURES ON SEPARATE PAGES**



**WHEREFORE**, intending to be legally bound, the signatories have hereto set their hands and seals.

**For the Petitioner:**

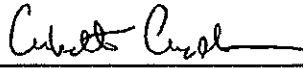
Commonwealth of Pennsylvania

Michelle Henry  
*Attorney General*

James A. Donahue, III  
*First Deputy Attorney General*

Mark Pacella  
*Executive Deputy Attorney General*  
*Public Protection Division*

Date: 6/16/23

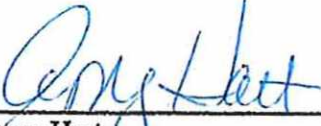
By:  \_\_\_\_\_

Corbett L. Anderson  
*Chief Deputy Attorney General*  
*Civil Rights Enforcement Section*  
PA Attorney I.D. No. 77027

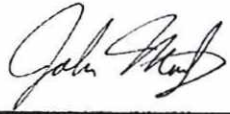
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**For the Respondent:**  
Center for Hearing & Deaf Services, Inc.

Date: 6-30-2023

By:   
Amy Hart  
President/CEO

Date: 6/30/2023

By:   
John A. Marty  
Saul Ewing LP  
Counsel for Respondent

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: 7/5/23

By: Corbett L. Anderson

Corbett L. Anderson  
Chief Deputy Attorney General  
Civil Rights Enforcement Section  
PA Attorney I.D. No. 77027  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of this Assurance of Voluntary Compliance upon all other parties or their attorney of record by:

\_\_\_\_\_ Regular First Class Mail  
\_\_\_\_\_ Certified Mail  
✓\_\_\_\_\_ Electronically Filed  
\_\_\_\_\_ Other

The response date: N/A

Corbett L. Anderson  
Name (typed)

Corbett Anderson  
Signature

Dated: 7/5/23