ATTORNEY GENERAL OF THE STATE OF NEW YORK
CIVIL RIGHTS BUREAU

IN THE MATTER OF THE INVESTIGATION OF
ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL
OF THE STATE OF NEW YORK,

AOD No. 15-180

OF

AUBURN COMMUNITY HOSPITAL

ASSURANCE OF DISCONTINUANCE

In 2014, the Office of the Attorney General of the State of New York ("OAG") commenced an investigation pursuant to Executive Law § 63(12) into Auburn Community Hospital (the "Hospital") to determine whether the Hospital provides language assistance services for patients with limited English proficiency ("LEP") and financial assistance for patients with limited financial resources. Specifically, the investigation sought to determine whether the Hospital maintains policies and procedures sufficient to ensure that (a) LEP individuals have meaningful access to the Hospital's programs and services and (b) low-income patients are able to receive financial assistance when appropriate. The OAG's investigation revealed that the Hospital lacked an adequate language assistance plan, failed to inform patients about the availability of free language assistance services, and did not provide adequate training to Hospital staff about how to communicate with LEP patients. The OAG's investigation also revealed that the Hospital did not have adequate policies, practices, or procedures for informing all patients about the existence of financial assistance or the method for applying for such aid, and made financial assistance eligibility determinations using improper factors. The OAG's investigation sought to ensure that the Hospital takes all steps required by federal and state law to remove language barriers and financial hurdles to improve overall access to health care services.

This Assurance of Discontinuance ("Assurance") contains the OAG's findings in connection with its investigation of the Hospital and the relief agreed to by the OAG and the Hospital (collectively "the Parties").

I.

DEFINITIONS

As used throughout this Assurance, the terms set forth below shall have the following meanings.

1. "Assurance" means this Assurance of Discontinuance.
2. "Auburn" or "Hospital" refers to Auburn Community Hospital, a non-profit hospital whose main location is at 17 Lansing Street, Auburn, New York; the Finger Lakes Medical Care Center and Urgent Medical Care of Skaneateles, which are operated by Auburn Community Hospital; and its owners, officers, directors, managers, representatives, subsidiaries, affiliates, employees or other persons acting on its behalf.
3. "Effective Date" means the date that this Assurance is signed by an authorized representative of the OAG.
4. "Employee" means any person carried on the payroll of the Hospital, and includes salaried and hourly employees, full-time or part-time employees, temporary, probationary or permanent employees, or other administrative personnel.
5. "Hospital's Primary Languages" for Auburn means (a) Spanish, and (b) any languages spoken by limited English speaking groups who comprise more than 1% of the population of the Hospital's service area or any languages used in at least 5% of patient visits over the course of one year, to communicate with patients who cannot speak, read, write, or understand English at the level of proficiency necessary for effective communication with health care providers.

6. "Language Assistance Coordinator" refers to the Auburn employee with the job duties set forth in Section IV, who is responsible for implementing, coordinating, monitoring, and updating the Hospital's Language Assistance Program and for ensuring compliance with this Assurance and applicable law.

7. "Language Assistance Program" refers to the policies, practices, and procedures required by this AOD to ensure meaningful access to the Hospital's services, programs, and benefits and reasonable accommodation for all Patients who require language assistance, in accordance with New York State Department of Health regulations.

8. "Limited English Proficient (LEP)" individual or person refers to an individual who does not speak English as his or her primary language and who has a limited ability to read, write, speak, or understand English.

9. "Medical Information" refers to any written or oral communication about a Patient's medical condition, ailments, history, diagnosis or any course of medical treatment proposed, followed, or discussed with a Patient that the Hospital requires to be documented in the Patient's medical records.

10. "OAG" means the New York State Office of the Attorney General.

11. "Parties" means the OAG and the Hospital.

12. "Patient" means any individual who has been admitted as an inpatient, begun receiving outpatient services as part of an encounter, or who comes to the emergency department, as those terms are defined in 42 C.F.R. § 489.24.

13. "Patient Visit" means an admission or a visit for the purpose of accessing medical services or programs of the Hospital.

14. "Patient's Primary Language" means the language identified by an LEP individual as the one he or she uses to communicate effectively and is the language in which the individual has indicated he or she would prefer the Hospital use to communicate with him or her.

15. "Qualified Interpreter" means an individual who is not a member of the Hospital workforce who is able to interpret effectively, accurately, and impartially between languages, both receptively (i.e., understands what a person says in any given language) and expressively (i.e., able to convey information back to that person), using any necessary specialized vocabulary.

16. "Vital Documents" refers to written materials that must be translated into the Hospital's Primary Languages pursuant to Chapter V, Title X of the New York State Department of Health regulations and shall include but not be limited to the documents and materials identified in Paragraph 3 of Section IV.A.

17. "Chapter V" refers to the Chapter V of Title X of the New York State Department of Health's regulations setting forth minimum standards required of medical facilities operating within the State.

18. "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et. seq and its implementing regulations, 45 C.F.R. Part 80.

19. Terms of construction:

    a. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the meaning inclusive rather than exclusive.

    b. "All" means "any and all" and "any" means "any and all."

    c. "Concerning" means relating to, referring to, describing, evidencing, regarding, reflecting, or constituting.

d. "Day" refers to a calendar day, not a business day.

e. "Including" means without limitation.

f. The singular of any word includes the plural; the plural of any word includes the singular.

II.

FINDINGS

1. Auburn Community Hospital is a not-for-profit healthcare facility licensed by the State of New York. It operates a 99-bed hospital at its main location in Auburn, New York and two satellite clinics, Finger Lakes Medical Care Center in Auburn, New York, and Urgent Medical Care of Skaneateles in Skaneateles, New York.

2. The facilities operated by Auburn are subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. ("Title VI"), and the regulations issued thereunder by the United States Department of Health and Human Services ("HHS"), 45 C.F.R. Part 80, which, among other things, prohibit a recipient of HHS funds from engaging in policies or practices that have the effect of discriminating against individuals on the basis of national origin, including policies or practices that preclude or inhibit equal access to a recipient's programs and activities. Auburn and its operating network are also public health facilities licensed by the State of New York, subject to New York Public Health Law §§ 2801-c, 2803, and the regulations promulgated thereunder by the New York State Department of Health, including 10 N.Y.C.R.R. §§ 405.7, which require that covered entities in New York State provide skilled interpretation services to patients who need them to obtain meaningful access to the entity's programs and services.

3. Auburn Community Hospital is further subject to New York State Public Health Law §2807-k(9-a) and the guidance promulgated thereunder by the New York State Department of Health, and Section 9007 of the Patient Protection and Affordable Care Act and the regulations promulgated thereunder. Pursuant to these provisions, Auburn must adopt financial assistance policies and procedures in exchange for drawing down state and federal funds for uncompensated care, and to maintain its tax-exempt status. Among other requirements, if a patient's income is at or below the federal poverty level, Auburn can charge the patient only the nominal amount specified by statute. Auburn must also extend financial assistance on a sliding scale to patients with income between 100% and 250% of the federal poverty level. For patients with income up to 300% of the federal poverty level, Auburn must cap charges at the rate paid by the hospital's highest volume payor, or Medicaid or Medicare, whichever is highest. Furthermore, Auburn must make information about its financial assistance policies publicly available and affirmatively disseminate the information to all patients, regardless of income or financial need.

A. LANGUAGE ACCESS

1. In 2014, the OAG commenced an investigation into the Hospital's provision of language assistance to LEP individuals after receiving multiple complaints alleging that Patients who are limited English proficient were not provided language assistance or informed of its availability, even when it became clear to the treating staff that the Spanish-speaking patient could not effectively communicate in English. Further, patients reported that they were given English documents that they could not read or understand, and on one occasion, a patient reported that a doctor stated he could not treat the patient because the patient did not speak English and asked why the patient and his companion were not able to speak

English since they were "in America." This patient left the Hospital without being examined or receiving any treatment.

2. As part of its investigation into these and other complaints, the OAG conducted interviews with impacted individuals and analyzed documents provided by Auburn pursuant to a request for information concerning relevant practices and policies, employee training, informational patient-directed publications, and medical and billing-related forms, among other issues.

3. The OAG's review of these materials revealed that Auburn's policies and practices are not consistent with the requirements of Title VI, do not comply with New York State Department of Health regulations concerning language assistance, and are also not consistent with relevant federal Health and Human Services guidelines. The failure to provide adequate language assistance has adversely impacted LEP Patients' ability to meaningfully access Hospital services, programs, or benefits.

4. Specifically, the OAG investigation revealed that Auburn Hospital had not developed a comprehensive language assistance program to ensure that LEP Patients have meaningful access to Auburn's services, programs, or benefits. The OAG found that, among other things:

   a. The Hospital does not have a practice of or clear procedures for the timely, initial identification of Patients' language needs. Although electronic patient files include fields in which Employees may record a Patient's preferred language, the only Hospital policy to reference the need to document such information is the Patient's Bill of Rights. None of the training materials used for orientation of new Employees or nursing staff includes specific instructions on how or when to assess language

needs, where to record language communication preferences, or whether documenting such information in patient files is mandatory.

b. The Hospital does not have any specifically designated personnel to oversee, implement, or monitor the provision of language assistance services by the Hospital, or promote employee awareness and use of such services.

c. Employees across departments, including those with direct Patient contact, are not adequately trained about the availability of and patients' rights concerning language assistance services.

d. The Hospital does not have adequate policies or training materials instructing Employees on the use of language identification cards, communication boards, telephonic language interpreter/translation services, or other such language aids. Although the Hospital has cards with the contact information and client code for obtaining an interpreter through AT&T Language Line, the only protocol for use of telephonic interpreters is found in a policy titled, "Interpreter Service for Hearing/Speech/Sight Impaired Patients" and in the statement of the Patient's Bill of Rights. Use of the telephonic interpretation/translation is irregular and inconsistent across departments and facilities.

e. The Hospital lacks adequate signage and publicly available written materials informing LEP Patients of their right to and the availability of no-cost, hospital-provided interpretation/translation services.

f. The Hospital lacks adequate written policies and training materials informing Employees about limitations on the use of adult family members and friends as interpreters, the need to consider potential conflicts-of-interest when using someone

other than a Qualified Interpreter for language assistance purposes, and the impropriety of using minors as interpreters, absent extenuating circumstances.

B. FINANCIAL ASSISTANCE

1. The OAG investigation revealed that Auburn's policies and practices do not comply with Section 9007 of the Patient Protection and Affordable Care Act and the regulations promulgated thereunder, or New York State Public Health Law §2807-k(9-a) and its corresponding guidance. Auburn had not developed a comprehensive financial assistance program to ensure that some low-income Patients are given adequate access to financial assistance. As a result, low-income Patients may not have been given adequate access to financial assistance.

2. Specifically, the OAG found that:

   a. The Hospital's application for financial assistance is "unduly burdensome," as it requires Patients to submit tax returns in order to be considered for financial assistance.

   b. Without obtaining approval from NYS Department of Health, the Hospital requires Patients to provide information about assets and uses that information in determining eligibility for financial assistance.

   c. The Hospital applies the financial assistance discount to total charges rather than an amount that is no higher than that which would be paid by Medicaid, Medicare or the Hospital's highest volume payor.

   d. The Hospital fails to inform Patients of their right to appeal a denial of an application for financial assistance.

III.

PROSPECTIVE RELIEF

WHEREAS, Auburn Hospital is subject to federal and state laws and guidelines requiring that all persons have meaningful access to Hospital programs and services, regardless of national origin and LEP status; develop comprehensive language assistance policies, procedures, and practices that and assure that language assistance services are provided to LEP persons;

WHEREAS, Auburn Hospital is subject to federal and state laws and guidelines requiring that all persons seeking services of the Hospital have meaningful access to Hospital programs and services, regardless of financial status, and require that the Hospital maintain compliant and comprehensive financial assistance policies and procedures that improve financial assistance access for low-income patients;

WHEREAS, this Assurance incorporates and improves upon the basic language assistance resources already employed by the Hospital;

WHEREAS, the Hospital neither admits nor denies the OAG's findings set forth in Section II, *supra*;

WHEREAS, the Hospital has demonstrated a commitment to addressing and correcting deficiencies in policy and practice concerning provision of and notice to patients about language assistance and financial assistance services or programs;

WHEREAS, the Parties are willing to accept the terms of this Assurance to resolve the investigation into the Hospital concerning its compliance with applicable federal and state laws; and

WHEREAS, the Parties believe that the obligations imposed by this Assurance are prudent and appropriate;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between Auburn Hospital and the OAG, as follows:

COMPLIANCE WITH THE LAW

1. The Hospital agrees to comply fully with the obligations, terms, and conditions set forth in Title VI and the regulations promulgated thereunder by the United States Department of Health & Human Services, 45 C.F.R. Part 80; N.Y. Public Health Law §§ 2801-c, 2803 and the regulations promulgated thereunder, and 10 N.Y.C.R.R. § 405.7.

2. The Hospital agrees to comply fully with Section 9007 of the Patient Protection and Affordable Care Act and the regulations promulgated thereunder, and New York State Public Health Law §2807-k(9-a) and the guidance promulgated thereunder by the New York State Department of Health.

IV.

POLICIES AND PROCEDURES

The Hospital shall supplement and/or amend its existing policies and procedures concerning language assistance and financial assistance to conform to the terms of this Assurance.

A. LANGUAGE ASSISTANCE PROGRAM

1. Within forty-five (45) days of the Effective date, the Hospital shall submit to the OAG for review and approval a Language Assistance Program (LAP) to ensure meaningful access to Auburn's services, programs, and benefits, and reasonable accommodations for LEP Patients. The LAP shall include, at minimum, the following provisions:

    a. A requirement that the Hospital provide interpreters to LEP Patients seeking emergency services within 10 minutes of a request by the Patient, the Patient's family or representative, or Hospital Employee. If the LEP Patient is not seen by a

medical provider or personnel within a reasonable amount of time after this initial provision of an interpreter, the Hospital shall provide an interpreter prior to any interaction or communication with the LEP Patient that is necessary to provide medical services. In all other settings, the Hospital shall provide interpreters to LEP Patients and within 20 minutes of a request by the Patient, the Patient's family or representative, or a Hospital Employee.

b. Written policies, procedures, and training materials to assure timely identification of a Patient's language assistance needs upon his or her initial Patient Visit through the use of appropriate language identification tools; continued provision of language assistance services for the duration of and any future Patient Visits; documentation in the medical record of the Patient's language of preference and the Patient's acceptance or refusal of language assistance services.

c. Written policies and procedures for medical service providers and personnel, as well as any administrative staff and other Employees who have direct Patient contact, about the need and legal obligation to inform Patients about the Hospital's language assistance services, guidelines for determining when a Qualified interpreter/translators should be used, and guidelines for interpretation/translation must be used, including:

   i. The location and use of language identification tools (such as language identification cards or boards);

   ii. The name, contact information, and any account references necessary to obtain the services of the third-party interpretation/translation service provider(s) with whom the Hospital has contracted;

iii. The location and availability of phones capable of allowing multiple parties simultaneous access to the same call.

d. Written policies and procedures for medical service providers and personnel, administrative staff, and any other Employees who have direct Patient contact about the use of Qualified Interpreters or telephonic interpretation/translation services, as described in Paragraph 2, *infra*.

e. Best practices for working with interpreters.

f. Mandatory documentation by Hospital Employees confirming that an LEP-identified Patient was informed of the availability of free Hospital-provided interpreter services, identifying the Patient's preferred interpreter or language assistance method, noting the date on which this discussion was held, the Patient's response, and, when applicable, the reasons why a Patient's preferred language assistance method was not used.

g. A requirement that copies of all Vital Documents, as defined in Paragraph 3, *infra*, be translated into each of the Hospital's Primary Languages and be readily accessible for immediate use by providers and Employees.

2. Consistent with applicable federal and state regulations, the Hospital shall adopt written policies concerning the use of interpreters which, at minimum, will include the following provisions:

a. The Hospital cannot require a Patient to use family, friends, or companions as interpreters.

b. Bilingual Employees who are not Qualified Interpreters should only be used as interpreters when communicating non-critical information or in an emergency when no other interpreter is available.

c. Family members, friends, or non-Hospital personnel may not act as interpreters, unless: (1) the Patient agrees to their use; (2) the Patient was offered free interpreter services by the Hospital and refused; and (3) issues of age, competency, confidentiality, or conflicts of interest have been taken into account.

d. Examples of situations in which issues of age, competency, confidentiality or other conflicts may or should preclude use of a Patient's preferred interpreter include:

   i. Where the Patient's preferred interpreter is under the age of sixteen, the Hospital must not use the preferred interpreter unless emergency circumstances exist and no other interpreter age sixteen or over is available. In such cases, the nature of the emergency and the preferred interpreter's identity and age must be documented in appropriate medical records of that Patient.

   ii. Where discussion of complex medical procedures is involved (e.g., surgery as opposed to a physical examination), the Hospital discourages the use of a non-Qualified Interpreter since the communication requires competency in using medical or other technical terminology.

   iii. Where the Patient's employer or employer's representative is the Patient's preferred interpreter, the Hospital should consider whether use of this individual raises possible conflicts of interest, e.g., disclosure of confidential medical information and/or violations of the federal Health Insurance Portability and Accountability Act (HIPAA), discussion of medical conditions or injuries

sustained at the workplace, etc. Where such conflicts may arise, the Hospital discourages the use of this individual as the interpreter.

iv. Where signs of child, partner/spousal, or other familial abuse exist, the Hospital shall not use a Patient's preferred interpreter if that individual might be the alleged perpetrator or otherwise similarly in conflict with the Patient.

v. Where the provider or other medical personnel believe that a Qualified Interpreter is needed to communicate with the Patient (e.g., to obtain informed consent, provide certain types of treatment, convey certain discharge information), the Hospital must use a Qualified Interpreter.

3. The Hospital shall maintain and make readily accessible, at all times, copies of Vital Documents in each of the Hospital's Primary Languages. A document is considered vital if it contains or requests from the Patient information that is critical for obtaining medical care or treatment, for obtaining federal or state services and/or benefits, or is required by law to be provided to/completed by Patients. Examples of Vital Documents include medical consent forms and advance directives; notices about Patients' rights and availability of free language assistance or financial assistance, including any key forms or applications; letters or notices requiring a response from the beneficiary or Patient in order to be considered for or obtain federal or state services and/or benefits; general discharge instructions, and; explanation of billing information. If and when Auburn develops or begins using new written materials that constitute Vital Documents, the Hospital shall translate those materials into each of the Hospital's Primary Languages within thirty (30) days of adoption or use of those materials, whichever is earlier.

4. The LAP shall be reviewed and updated, as necessary, by the Language Assistance Coordinator and/or any of his or her designees, as set forth in Section IV.C., *infra*.

B. FINANCIAL ASSISTANCE POLICIES

1. Within five (5) days of the Effective Date, the Hospital shall:
   a. Adopt the financial assistance application outlined by the New York State Department of Health in its May 11, 2009 guidance issued to hospital Chief Executive Officers (05-09);
   b. Eliminate the use of "asset tests" in determining eligibility for financial assistance;
   c. Allow Patients who are otherwise eligible for financial assistance to apply for financial assistance to cover cost-sharing components of health insurance, such as deductibles, copayments, and coinsurance;
   d. Allow Patients to submit financial assistance applications for at least 240 days after the date of the first post-discharge bill; and
   e. Require distribution of a financial aid application and summary to all self-pay Patients prior to discharge, even if these documents are not requested.
2. Within ten (10) days of the Effective Date, the Hospital shall provide the OAG with written confirmation that these measures have been adopted and implemented.

C. LANGUAGE ASSISTANCE COORDINATOR

1. Within thirty (30) days of the Effective Date, the Hospital shall designate a managerial or supervisory-level Employee to serve as the Language Assistance Coordinator (LAC). The LAC shall be responsible for implementing, coordinating, monitoring, and updating, as

needed, the Hospital's Language Assistance Program, as described in Section IV.A., *supra*, and for ensuring compliance with this Assurance and applicable law.

2. The Language Assistance Coordinator shall:
   a. Update and revise the Hospital's LAP and any other language assistance-related policies and procedures, as needed;
   b. Ensure that training has been provided to all medical providers and personnel, administrative staff, and other employees about the Hospital's LAP and any other matters concerning language assistance referenced in this Assurance;
   c. Assist department heads and managerial or supervisory staff in meeting the requirements of the Hospital's LAP and the obligations of this Assurance by, among other things, answering questions, providing training and tips, relaying feedback about Employee compliance with the LAP, and any other support;
   d. Conduct an annual Internal Language Needs Assessment to evaluate implementation and use of the LAP in all Hospital departments and network locations through unannounced visits in different departments and during different shifts, quarterly audits of Patient charts and other documents used as part of the Hospital's LAP, and semi-annual compilation and review of the information enumerated in Section VI, *infra*, and if warranted, shall have the authority to require retraining or other corrective measures;
   e. Conduct periodic assessments each year of Patients about satisfaction with the Hospital's LAP by mailing survey forms with a pre-addressed, pre-paid return envelope asking, among other things, about (i) the survey-taker's awareness of Auburn's language assistance services, (ii) quality of services used or, if services

were refused, reasons for refusal, (iii) timeliness of responses to any requests for assistance made by the survey-taker, and (iv) suggestions for changes to the LAP. Compilation and analysis of the results of these surveys shall be completed every six months from the Effective Date of this Assurance and considered when conducting the annual Internal Needs Assessment;

f. Instruct providers and personnel to provide feedback, positive or negative, about the Hospital's LAP through electronically filed Incident Reports, including but not limited to comments about the quality of the Hospital's language interpretation provider and interpreters, ease of following the LAP, and suggestions for changes to the LAP. Compilation and analysis of Incident Reports concerning language assistance, if any, shall be completed every six months from the Effective Date of this Assurance and considered when conducting the annual Internal Needs Assessment;

g. Receive, review, investigate, and respond to any complaints concerning language assistance, and implement any corresponding corrective measures;

h. Conduct an annual External Language Needs Assessment for the Hospital by reviewing demographic information from the Census Bureau, Hospital administrative records, school system data, or other sources to identify languages spoken by limited English-speaking groups who comprise more than one percent of the Hospital's service area population;

i. Ensure that translated copies of Vital Documents are maintained by the Hospital in each of its Primary Languages, as identified through the Internal and External Language Needs Assessments; and

j. Collect information sufficient to prepare, the reports described in Section VI, *infra*.

D. TRAINING

1. Within ninety (90) days of the Effective Date, the Hospital shall submit to the OAG for review and approval training materials from its training provider, Healthstream, that shall be mandatory for all medical service providers and personnel, as well as any administrative staff or other Employees who have direct patient contact. The Healthstream training shall be amended to reflect applicable New York State laws and regulations concerning language access and financial assistance and shall, at minimum, cover the following basic aspects of the Hospital's LAP:
   a. Availability of free language assistance services at the Hospital and network locations;
   b. Impropriety of mandating that Patients use family or friends as interpreters and of using bilingual Employees for communicating anything other than non-critical information in non-emergency situations;
   c. Manner in which to access language assistance services;
   d. Mandatory response times to interpreter requests;
   e. Name and contact information of the Language Assistance Coordinator;
   f. Importance of culturally and linguistically competent delivery of Hospital services, programs, and benefits; and
   g. Increased risk of medication errors, diagnosis and treatment errors, complications, dissatisfaction with treatment, and other negative events or outcomes from failure to provide proper interpretation or translation services.
2. Within sixty (60) days of the Effective Date, the Hospital also shall submit to the OAG for review and approval a secondary set of trainings materials that shall be mandatory for those

medical service providers and personnel, as well as any administrative staff or Employees who have direct Patient contact or communication. This secondary LAP training program shall provide greater detail about the Hospital's language assistance services and their proper use. In addition to addressing the subjects enumerated in Paragraph 1 of this Section, the secondary LAP training program shall cover the following:

a. The matters described in Subparagraphs 1(b) and 1(d) through (g) of Section IV.A above (i.e., initial language assessment, use of interpreters, documentation of interpreter/language assistance selection process).
b. The Complaint process set forth in Section IV.E., *infra.*
c. The monitoring of LAP implementation and compliance by providers and Employees through, among other things, random Patient file audits, Patient satisfaction surveys, provider/Employee feedback in Incident Reports or other communications and/or documents, and regular review of data concerning language assistance documentation and usage.

3. Within sixty (60) days of the Effective Date, the Hospital shall submit to the OAG for review and approval a mandatory training program for all personnel involved in billing, payment, discharge, and any direct communications with Patients regarding Hospital charges and bills about the revised financial assistance procedures, policies, and forms adopted or created pursuant to this Assurance.

4. Within thirty (30) days of OAG approval, the Hospital shall begin providing trainings to Hospital Employees covered by this Section, and shall complete such trainings for all covered providers and Employees no later than four months after the OAG approval.

E. COMPLAINTS

1. Within thirty (30) days of the Effective Date, the Hospital shall submit for OAG review and approval a Complaint Form that Patients and members of the public may use to submit a complaint to the Hospital about (a) language assistance and related services, or (b) financial assistance notification, application, and related policies. The Complaint Forms shall include:

   a. Questions/prompts soliciting information about the facts or incident underlying the complaint;

   b. Title and contact information for individuals responsible for receipt and review of such complaints within the Hospital; and

   c. A statement assuring confidentiality, to the extent practicable while allowing the Hospital to address the complaint.

2. Within thirty (30) days of the Effective Date, the Hospital's existing complaint review procedures, as set forth in Policy No P-168.1, shall be amended to specifically identify the titles/position and contact information for the individual(s) responsible for receipt and review of complaints concerning language assistance, financial assistance, or services related to either, and the procedures set forth therein shall apply to review of any such complaints.

   a. Within fourteen (14) days of OAG approval of the Complaint Form, the Hospital shall publish the Form and summarize the complaint review procedure on the Hospital's website by, at minimum, adding links to its "About" webpage and to its webpages concerning Language Assistance and Financial Assistance (as referenced in Paragraphs 1 through 3 of Section V *infra*) that will connect to the Patient Complaint

Form and the summary of complaint review procedures. The Hospital shall publish the Complaint Form in the Hospital's Primary Languages.

3. The Hospital shall maintain a centralized log of all complaints ("Complaint Log") received pursuant to Complaint Procedures, or received by any other means, that concern language assistance or financial assistance. The Complaint Log shall identify the date of receipt of each Complaint; the complainant's name; department, location/site, and/or personnel involved; a brief description of the nature of the complaint; and information about the review, investigation into, and response/resolution of the complaint. The Hospital shall also retain any documentation related to such complaints, investigations, responses, and resolutions.

V.

NOTICE

1. The Hospital shall prominently post for Patients (a) a notice about the availability of free language assistance services and (b) a notice about the availability of financial assistance services. These signs shall be in each of the Hospital's Primary Languages and shall be placed in prominent locations in public entryways; registration, admission, and waiting areas; other public areas frequently used or visited by Patients or their family and friends; and on a webpage concerning language assistance and financial on its website.
2. The Hospital shall create a pamphlet setting forth the "Patient's Bill of Rights" as enumerated in relevant New York State Department of Health regulations and maintain translations of this pamphlet in each of the Hospital's Primary Languages. Copies of the Patient's Bill of Rights pamphlet in English and in the Hospital's Primary Languages shall be kept in publicly accessible areas of the Hospital frequently visited or used by Patients

and their families or friends, and shall be provided to LEP Patients upon registration/admission or if requested. Additionally, the Hospital shall make the content of this document available on its website.

3. The Hospital shall create written pamphlets summarizing for Patients, in an easily comprehensible manner and in the each of the Hospital's Primary Languages, the methods for accessing the Hospital's free language assistance and applying for financial assistance. These materials shall be maintained in publicly accessible areas of the Hospital frequently visited or used by Patients and their families or friends, and shall be provided to LEP Patients upon registration/admission or if requested. Additionally, the Hospital shall post this information to its website and add a link to the Hospital's homepage directing viewers to this information.

4. The Hospital shall place a link to a free online translation tool that is reasonably capable of translating all website content into the Hospital's Primary Languages. The Hospital shall certify in writing to the OAG that such translation tool is operational within fifteen (15) days of the Effective Date.

VI.

DATA COLLECTION, MONITORING, & REPORTING

1. **Language Assistance Tracking Reports**. Within sixty (60) days of the Effective Date, the Hospital shall create and begin using a database with the ability to track – and sort by department, by network location/site, and by shift – the following information on a monthly basis:

   a. All languages identified as a Patient's Preferred Language and the number of Patients who spoke each such language;

b. The total number of Patients identified as LEP in registration/admission documents;

c. The total number of LEP Patients who

i. requested language assistance,

ii. used a Hospital-provided interpreter, and

iii. refused such services and the main reason(s) for such refusals;

d. The total number of LEP Patients whose records lack documentation about receipt or refusal of language assistance; and

e. The number of requests submitted to the interpretation/translation service providers with whom the Hospital has contracted, the nature of each request (either in-person interpretation or telephonic interpretation), the language involved in each assistance request, the time at which the request was made, the total time spent by the interpreter/translator to complete each service, and the cost incurred for each call for service.

2. **Compliance Reports**. Every six months from the Effective Date through the duration of this Assurance, the Hospital shall provide to the OAG a compliance report that includes the following:

a. Dates on which trainings related to language assistance or financial assistance were held and the personnel/departments who participated in each such training;

b. A list of all Vital Documents that are maintained in the Hospital's Primary Languages;

c. A summary of the findings of the Internal and External Language Needs Assessments;

d. A summary of the results of any Patient satisfaction surveys, Employee feedback, and Patient record audits;

e. A copy of the Language Assistance Tracking Report;

f. A copy of the Complaint Log for the preceding six-month period;

g. Any revisions or updates to policies, procedures, training, documents, or webpages concerning language assistance or financial assistance;

h. The number of applications for financial aid received, denied, approved and pended or otherwise incomplete (for approved applications, set forth the initial charge, the amount of financial assistance approved, and the amount of the patient obligation); and

i. The number of patients who submitted financial assistance applications who were ultimately referred for collection, the date of the financial assistance application, the date the account was referred for collection, and the outcome of any collection efforts.

3. The Hospital shall retain, for at least three years from the Effective Date, all documents created pursuant to or otherwise pertaining to this Assurance, whether in hard copy or electronic format.

4. As part of this Assurance, the Hospital shall cooperate with the OAG in its monitoring efforts.

VII.

SCOPE OF THE ASSURANCE, JURISDICTION, AND ENFORCEMENT PROVISIONS

1. The OAG has agreed to the terms of this Assurance based on, among other things, the representations that Auburn Community Hospital and its counsel made to the OAG and the

OAG's own findings from the factual investigation as set forth in Findings outlined in Paragraphs 2 - 8 above. To the extent that any material representations are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

2. This Assurance shall expire three (3) years after the Effective Date, except that the OAG may, in its sole discretion, extend the Assurance term upon a good-faith determination that Auburn Community Hospital has not complied with this Assurance, which non-compliance the OAG shall discuss and attempt to resolve with Auburn Community Hospital in good faith before making such determination.

3. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Auburn Community Hospital in agreeing to this Assurance.

4. Upon execution by the Parties to this Assurance, the OAG shall discontinue the instant investigation except as otherwise related to the enforcement of the terms of this Assurance.

5. This Assurance binds Auburn Community Hospital and its principals, directors, beneficial owners, officers, shareholders, successors, assigns, "d/b/a" companies, subsidiaries, affiliates, and any other business entities whom any such individuals may hereafter form or control.

6. Auburn Community Hospital represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. Auburn Community Hospital agrees not to take any action or make any statement denying, directly or indirectly, the propriety of this Assurance or expressing the view that this Assurance is without factual basis. Nothing in this Paragraph affects Auburn Community Hospital's (i) testimonial obligations or (ii) right to take legal

or factual positions in defense of litigation or other legal proceedings to which OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by Auburn Community Hospital.

7. This Assurance may not be amended except by an instrument in writing signed on behalf of all the Parties to this Assurance.

8. This Assurance shall be binding on and inure to the benefit of the Parties to this Assurance and their respective successors and assigns, provided that no party, other than the OAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

9. If the Assurance is voided or breached, Auburn Hospital agrees that any statute of limitations or other time-related defenses applicable to the subject of the Assurance and any claims arising from or relating thereto are tolled from and after the date of this Assurance. In the event the Assurance is voided or breached, the Company expressly agrees and acknowledges that this Assurance shall in no way bar or otherwise preclude NYAG from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Assurance, against the Company, or from using in any way any statements, documents or other materials produced or provided by the Company prior to or after the date of this Assurance.

10. To the extent not already provided under this Assurance, Auburn Community Hospital agrees to, upon request by the OAG, provide all documentation and information necessary for the OAG to verify compliance with this Assurance.

11. All notices, reports, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

OAG
Anjana Samant
Assistant Attorney General
Civil Rights Bureau

Carol Hunt
Assistant Attorney General
Health Care Bureau

Office of the Attorney General
120 Broadway
New York, New York 10271
(212) 416-8250
(212) 416-8074 (fax)
Civil.Rights@ag.ny.gov

Auburn Community Hospital

[CONTACT PERSON]
17 Lansing Street
Auburn, New York 13021

[PHONE/FAX/EMAIL]

Any changes in the person to whom communications should be specifically directed shall be made in advance of the change.

12. Acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of the practices or procedures referenced herein, and shall make no representation to the contrary.

13. Pursuant to New York State Executive Law § 63(15), evidence of a violation of this Assurance shall constitute prima facie proof of violation of the applicable law in any action or proceeding thereafter commenced by the OAG.

14. If a court of competent jurisdiction determines that Auburn Community Hospital has breached this Assurance, Auburn Community Hospital shall pay to the OAG the cost, if any, of such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

15. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. The OAG is willing to accept this Assurance pursuant to New York State Executive Law § 63(15), in lieu of commencing a statutory proceeding. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

16. Nothing contained herein shall be construed so as to deprive any person of any private right under the law.

IN WITNESS THEREOF, this Assurance is executed by the parties hereto on ~~August~~ October 6 __, 2015.

Dated: Auburn, New York
September 22, 2015

AUBURN COMMUNITY HOSPITAL
By: _____

Dated: New York, New York
~~September~~ October 21 6, 2015

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York

By: _____
Kristen Clarke
Chief, Civil Rights Bureau
Lisa Landau
Chief, Health Care Bureau

_____
Anjana Samant
Carol Hunt

Assistant Attorneys General

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Attorney General
120 Broadway, 23rd Floor
New York, New York 10271
Tel. (212) 416-8250
Fax (212) 416-8074