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**BEHAVIOR SERVICES OF THE ROCKIES VIOLATES THE AMERICANS WITH
DISABILITIES ACT**

**Lawsuit filed in federal district court claims behavioral health service agency discriminates
against the deaf by failing to provide qualified sign language interpreters to parent of a
child with autism receiving services**



Photo Above: Behavior Services of the
Rockies Logo



Photo Above: Sign Language Symbol

Today, nearly 25 years after the passage of the Americans with Disabilities Act (“ADA”) the Colorado Cross-Disability Coalition (“CCDC”) Legal Program filed a lawsuit on behalf of Kirstin Kurlander, Peter Kurlander, and Jax Kurlander. Jax Kurlander is a four year old boy who has Autism Spectrum Disorder. His parents Kirstin and Peter Kurlander sought behavioral health services to which Jax is entitled through insurance. Jax’s mother, Kirstin Kurlander, is *profoundly* deaf and communicates most effectively using American Sign Language (“ASL”). According to its [website](#), Behavior Services of the Rockies (“BSOTR”) “is a group of dedicated behavior analytic practitioners located in Colorado [who] strive to deliver the best quality behavior supports to improve the independence, inclusion, and overall quality of life for our clients by providing evidence-based, pragmatic treatment, consultation and teaching based on the principles of Applied Behavior Analysis (ABA).” Their goal, the website says, “is to transfer and teach skills to clients and caregivers, and to develop top-quality practitioners to expand the availability of high quality services throughout Colorado.”

In providing the services to Jax Kurlander, the lawsuit alleges that BSOTR failed to provide qualified sign language interpreters that were necessary to communicate with his mother, Kirstin Kurlander.

“The law is very clear,” said Kevin Williams, CCDC’s Legal Program Director. “When a medical services provider communicates with an individual who is deaf, they must arrange for and pay for a qualified sign language interpreter if doing so is necessary to provide effective communication. This is true if it is the client who is deaf, or, as in this case, it is the parent of the client who must understand the behavioral needs of her son.”

The ADA applies to the “[professional office of a health care provider, hospital, or other service establishment.](#)” The ADA and other laws that prohibit discrimination against people with disabilities require the provision of qualified sign language interpreters when doing so is necessary for communication that is as effective as the communication provided to hearing individuals. These regulations can be found online on the Department of Justice’s ADA website. The regulations dealing with interpreters and what are known as [auxiliary aids and services](#) for providing effective communication to those who are deaf and hard of hearing can be found there as well. The ADA requires that medical facilities furnish the same aids and services for effective communication to [companions who are individuals with disabilities](#), which includes, in this case, the deaf parent of a four-year-old boy who has Autism Spectrum Disorder.

The Kurlanders were pleased with the services their son, Jax, was receiving from BSOTR, but when it came time for a meeting to discuss the assessment plan for their son, Kirstin Kurlander requested that BSOTR provide a sign language interpreter. BSOTR not only refused to provide a sign language interpreter, but also told the Kurlanders they would have to find services elsewhere.

“I was shocked,” said Kirstin Kurlander. “Twenty-five years after the passage of the ADA, I never dreamed that asking for an interpreter for a meeting with these therapists to discuss my son’s needs would cause them to stop providing services altogether.”

The lawsuit requests that the Court order BSOTR to continue providing services to Jax Kurlander, provide qualified sign language interpreters for meetings with Kirstin Kurlander, unspecified damages, additional services to make up for the time the Jax Kurlander was not provided with services, and recovery of the plaintiffs’ reasonable attorneys’ fees and costs as is permitted under the ADA and other statutes.

“It just does not make sense,” said Peter Kurlander, Jax’s father, “that BSOTR would act this way. We liked the therapist, and we thought Jax might make real progress. Because the ADA requires providing interpreters, we let them know that was their obligation. They just turned us away.”

“It is common for medical providers not provide sign language interpreters,” said Julie Reiskin, Executive Director of CCDC. “When communicating something as complicated as a treatment plan or assessment for a child with autism, it is incredibly important that the parents of the child understand the recommendations of the treatment provider.”

The ADA does allow for other forms of auxiliary aids and services other than sign language interpreters, but the key is that communication must be “effective.”

Specifically, the ADA says the following:

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. A public accommodation should consult with individuals with disabilities whenever possible to determine what type of auxiliary aid is needed to ensure effective communication, but the ultimate decision as to what measures to take rests with the public accommodation, provided that the method chosen results in effective communication. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. See 28 C.F.R. § 36.303(b).

The lawsuit alleges that through a series of email messages, Kirstin Kurlander requested that BSOTR get a sign language interpreter for a meeting a week in advance and made it clear that she would reschedule the meeting if BSOTR was unable to find an interpreter in that amount of time.

The United States Department of Justice (“DOJ”) is responsible for implementing the regulations under the ADA and for enforcing the Act. As the DOJ said when it created the regulations, written notes often do not ensure effective communication, particularly in medical situations, and thus “interpreters should be used when the matter involves more complexity, such as in communication of medical history or diagnoses, in conversations about medical procedures and treatment decisions, or in communication of instructions for care at home or elsewhere.” See [Title III Regulations 2010 Guidance and Section-by-Section Analysis](#) (*Determining appropriate auxiliary aids*).

The [Colorado Cross-Disability Coalition](#) (“CCDC”) Legal Program brought this lawsuit on behalf of itself and the Kurlanders. CCDC has been involved in many lawsuits filed for the purpose of securing effective communication on behalf of individuals who are deaf. These cases include medical facilities, police departments and detention facilities. A list of the Legal Program’s [current cases](#) can be found on CCDC’s website. [Completed cases](#) are also available there.

CCDC is a non-profit, disability rights advocacy organization whose mission is to advocate for social justice for people with all types of disabilities.

You may find out more about this lawsuit on CCDC’s website on [CCDC’s website](#). Updates will be provided at this website as the case progresses as well. The filed [Complaint](#) is available there as well.