

EXHIBIT A-F

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RE: Collection of records and physician interviews needed - RHS

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Thu, May 16, 2019 at 5:38 PM

To: "Wille, Josh" <Josh.Wille@health.mo.gov>

Cc: "Hatfield, Charles" <chuck.hatfield@stinson.com>, "Moore, Richard" <Richard.Moore@health.mo.gov>

Bcc: "Wales, Emily" <Emily.Wales@ppgreatplains.org>, "Hatfield, Charles" <chuck.hatfield@stinson.com>

Josh --

I am writing with an update and to inquire again about RHS's licensure status. As you know, the Department recently requested copies of: (1) a patient roster for September 5, 2018; (2) records for the 17 patients seen on September 5, 2018; (3) the supervisory note for a patient seen on September 5, 2018; (4) the April 16, 2019 record for a patient; and (5) chapters of RHS's Policy and Procedures Manual. After receiving an assurance from you that the documents the Department sought would be held confidential under section 197.477, RSMo. because they are part of an inspection or evaluation, RHS provided those documents on May 11—with the exception of the fourth request regarding the April 16 clinic record of a patient, because RHS did not have an encounter with that patient on that date. You then clarified which records from that patient you were seeking, which we then provided on May 13. On May 14, the Department requested a copy of RHS's policy for physician credentialing, which I provided today.

Then, on May 15, the Department requested (1) the dates of QAPI meetings held in 2018, (2) the identity and position of personnel in attendance, and (3) documentation of what actions were taken to address identified problems during that time period. RHS is processing those requests.

With respect to the interviews of the physicians requested by the Department, it is my understanding that counsel for Washington University made the Department aware that Dr. Eisenberg would sit for an interview Friday, May 17, and Dr. McNicholas some time next week. Despite that these physicians are the ones responsible for the care provided at RHS when they are the attending physician, the Department rejected those offers because: "As I have previously made known to RHS, in order to complete our investigation, interviews with practitioners will need to be conducted in the following order: [redacted] Dr. Colleen McNicholas, [redacted] and Dr. David Eisenberg."

As an initial matter, I note that this order actually differs somewhat from what you provided to RHS on April 11; the Department then listed the providers in the following order: [redacted]; Dr. Colleen McNicholas; [redacted] and, Dr. David Eisenberg. While the Department did request to "conduct an interview with [redacted] first, immediately followed by Dr. McNicholas," it was far from clear that this was a mandatory order because, as you know, on April 24, the Department interviewed RHS's employee, nurse [redacted], although she was listed seventh on the initial list of eight.

We are unable to understand why the Department would request but then refuse to interview Drs. McNicholas and Eisenberg. Drs. Eisenberg and McNicholas (along with [redacted], who you've not requested to interview) supervise all care provided by trainees at RHS, and thus any questions you may have about the care provided by attending physicians or their trainees could have been explored in interviews with them. Your demand to interview the Barnes Jewish Hospital residents

is even more unreasonable, as those residents have not provided care at RHS since September 2018, when their clinical rotation at RHS ended, and there is no plan to have them return to RHS.

Finally, as you know, the physicians are not RHS employees, and therefore, we are unable to compel them to sit for an interview—particularly a free-ranging interview and under circumstances in which the Department has indicated it could make criminal or board of healing arts referrals.

We have previously raised that RHS's current license expires on May 31 and specifically requested that the licensure renewal process be completed so that there is no lapse in service. It has now been over one month since RHS timely submitted its plan of correction—on April 9—in response to the Department's March 25 statement of deficiency. Despite ample time for the Department to process and respond to the plan of correction, you've indicated that "the Department became aware of additional issues regarding RHS's compliance with the statutory and regulatory requirements of abortion facilities after the annual inspection" that the Department was investigating, though you have not indicated what those issues are or otherwise provided notice of any additional deficiencies to RHS, as required by section 197.293, RSMo. You also stated that "[b]ecause there is no date established for when the Department will be able to interview the physicians, and because RHS has not yet confirmed whether the Department will be able to collect records, the Department cannot yet confirm a date when when [sic] RHS can expect a determination on its Plan of Correction." As I noted above, RHS has provided the additional records that you referenced (as well as other documents since), and the two attending physicians responsible for the care provided by trainees at RHS that you asked to interview have offered to do so.

As you are well aware, RHS has been licensed by the Department to provide health care services to Missouri women for many years, and it is now the only available abortion provider in the state of Missouri. Its license expiration is only two weeks away. Given RHS's compliance with all the Department's demands over the past two months, including but not limited to on-site inspections, review of medical and other records, RHS's provision of records to the Department, interviews of employees, as well as the offer to interview non-employees, we expect a response to our plan of correction to allow RHS and the Department sufficient time to resolve any outstanding issues so that its the license can be renewed so that Missouri women are able to continue to exercise their constitutional right to choose. We, therefore, request that you respond to **our plan of correction by Noon CT on Monday, May 20, 2019. If you do not, we will assume you have denied our license renewal application.**

Although the Department has not shared with RHS information about the patient complaint that is the subject of its investigation, it appears possible that the Department may have concerns with how RHS complies with sections 188.027.6 and 188.047, RSMo., which relate to informed content and tissue examinations, respectively. Historically, when the Department has concerns about an interpretation of a statute or regulation on abortion, the Department has advised us of its interpretation, and RHS, through the plan-of-correction process, has adjusted its practices to meet the Department's interpretation going forward. It appears, however, the Department has no interest in working with RHS to develop and implement a plan of correction that would address any issues the Department may have. This is unfortunate; we remain committed to working with the Department on these and any other issues so that the license can be renewed without any disruption of service.

Best,
Richard

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