

SUBPOENA

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE
CONGRESS OF THE UNITED STATES OF AMERICA**

To Holy Cross Germantown Hospital

You are hereby commanded to be and appear before the
Committee on Energy and Commerce
Select Investigative Panel on Infant Lives

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 316 Ford House Office Building, Washington, DC 20515

Date: May 23, 2016

Time: 5:00 p.m.

- to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

- to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

To United States Marshals or any authorized staff member

_____ to serve and make return.


Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this 5th day of May, 2016.



Chairman or Authorized Member

Attest:



Clerk

PROOF OF SERVICE

Subpoena for

Holy Cross Germantown Hospital

Address c/o Elizabeth Simpson

1500 Forest Glen Road, Silver Spring, MD 20910

before the Committee on Energy and Commerce

Select Investigative Panel on Infant Lives

U.S. House of Representatives
114th Congress

Served by (print name)

Title

Manner of service

Date

Signature of Server

Address

Holy Cross Germantown Hospital

In accordance with the attached schedule, instructions, and definitions, you, Holy Cross Germantown Hospital, are required to produce all documents in unredacted form described below:

- 1) All communications and documents referring or relating to any of your patients¹ who originated from, were referred from, or were transported from or by the following persons, entities, and/or locations:
 - a) LeRoy H. Carhart
 - b) Mary Lou Carhart
 - c) Germantown Reproductive Health Services
 - d) 13231 Executive Park Terrace, Germantown, Maryland 20874
 - e) 13233 Executive Park Terrace, Germantown, Maryland 20874
- 2) For each patient identified in the communications and documents called for in Request 1 above, documents sufficient to show the date and time the patient was transferred to Holy Cross Germantown Hospital.
- 3) For each patient identified in the communications and documents called for in Request 1 above, documents and communications sufficient to indicate whether any infant was born alive to any such patient and all documents and communications relating or referring to postnatal care for any such infant.

Instructions

- 1) The relevant time period for above-referenced documents is January 1, 2010 to the present.
- 2) If there are no responsive documents, provide a written explanation detailing why no such documents exist.
- 3) In complying with this subpoena, you are directed that no document may be redacted in any way except that that all patient information protected by the American Health Portability and Accountability Act of 1998 (HIPAA) shall be redacted.
- 4) In complying with the subpoena, be apprised that the U.S. House of Representatives and the Committee on Energy and Commerce, Select Investigative Panel on Infant Lives (“Select Panel”) do not recognize any of the non-disclosure privileges associated with the common law, with the Freedom of Information Act, with attorney client privilege, or contractual privileges such as non-disclosure agreements.

¹ Please note Instruction ¶3, which directs you to redact all patient information protected by the American Health Portability and Accountability Act of 1998.

- 5) In complying with this subpoena, you are directed to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also directed to produce records that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as records that you have placed in the temporary possession, custody, or control of any third party.
- 6) No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Select Panel.
- 7) In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
- 8) Each document produced shall be produced in a form that renders the document capable of being copied.
- 9) Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served. To the extent that documents were not stored with file labels, dividers, or identifying markers, they shall be organized into separate folders by subject matter prior to production.
- 10) All documents or groups of documents, produced shall be identified by the paragraph number in the Attachment to the subpoena to which the documents, or groups of documents, are responsive.
- 11) It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.
- 12) If any of the subpoenaed information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), you shall consult with Select Panel staff to determine the appropriate format in which to produce the information. Documents produced in electronic format shall be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in Paragraphs 8 and 9 above. Documents produced in an electronic format shall also be produced in searchable format.
- 13) If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible, and your production shall be accompanied by a written explanation of why full compliance is not possible.
- 14) In the event that a document is withheld on any basis, provide the following information concerning each and every such document withheld from production: (a) the reason the document is not being produced; (b) type of document; (c) general subject matter; (d) date, author and addressee; and (e) relationship of author and addressee to each other.

- 15) If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipient(s)) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
- 16) If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
- 17) This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
- 18) All documents shall be Bates-stamped sequentially and produced sequentially.
- 19) Two sets of responsive records shall be produced, one set to the Majority staff and one set to the Minority staff. The Majority set shall be delivered to Majority staff in Room 316 of the Ford House Office Building and the Minority set shall be delivered to the Minority staff at 361 Ford House Office Building. You shall consult with the Select Panel staff regarding the method of delivery prior to sending any material.
- 20) Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Select Panel since the date of receiving the Select Panel's request or in anticipation of receiving the Select Panel's request, and (3) all documents identified during the search that are responsive have been produced to the Select Panel, identified in a log provided to the Select Panel, as described in Paragraph 14 above.

Definitions

- 1) The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, accounting and financial records of any kind (including checks (front and back), wire transfers, cash or check payments or receipts, and check requests), working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other

communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term “document” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “document” also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

- 2) The term “documents in your possession, custody or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
- 3) The term “communication” means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.
- 4) The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.
- 5) The terms “entity” means natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other

legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

- 6) The term “person or persons” mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
- 7) The terms “referring” or “relating,” with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
- 8) The terms “you” and “your” refer to Holy Cross Germantown Hospital, whether known by this name or a different name, its past and present officers, directors, employees, consultants, contractors, agents, representatives, subsidiaries, and/or parents.