



U.S. Department of Justice

United States Attorney
Northern District of Texas

September 7, 2011

Via Electronic Mail

Paul S. Leslie, Esq.
General Counsel
Parkland Health & Hospital System
5201 Harry Hines Blvd.
Dallas, Texas 75235

Re: Request for Information and Notice to Preserve Documents

Dear Mr. Leslie:

We are writing to notify you that the U.S. Attorney's Office for the Northern District of Texas is monitoring the ongoing survey by the Centers for Medicare and Medicaid Services and State of Texas. To assist this office in our review, we request that Parkland Health & Hospital System (Parkland) produce as soon as practicable the information within the enclosed attachment. While we initially are seeking only those records critical to this process, we may supplement this request at a later date. Nonetheless, all information (electronic or otherwise) pertaining to the survey and the requested information, should be preserved by Parkland for inspection and production.

The type of information to be preserved should include all documents, records, data, correspondence, notes, and other materials, whether official or unofficial, original or duplicative, drafts or final versions, partial or complete versions, that may relate to the claims or defenses in this case. Preservation must occur regardless of whether the information ultimately may be withheld as privileged, or ultimately determined to be unreasonably burdensome to produce. To the extent an employee/contractor who may have any relevant records retires, changes positions, etc., Parkland should preserve and not destroy potentially relevant documents and records, whether in hard copy or electronic form. These obligations extend to all persons and/or contractors. Be advised that this office may share any documents produced by Parkland with any person deemed necessary.

Letter to Paul S. Leslie, Esq.
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We appreciate Parkland's cooperation in this matter. If you have any questions, please contact me at 214.659.8600.

JAMES T. JACKS
UNITED STATES ATTORNEY

/s/ Sean McKenna

Sean McKenna
Assistant U.S. Attorney

Enclosure

cc: Lisa Steele, Assistant Regional Counsel, HHS-OGC
Assistant Special-Agent-in-Charge Bubba Whittington, HHS-OIG

I. Definitions

1. As used herein, "Parkland" refers to Parkland Health and Hospital System and/or Dallas County Hospital District; and any officers, directors, employees, agents and representatives and all other persons acting or purporting to act on behalf of Parkland.

2. The terms "records," "documents" and "materials" mean every writing or record of whatever type and description, to include:

a. All drawings, graphs, charts, photos, images, sound recordings, notes, memoranda, communications, logs, instructions, guidelines, correspondence, policies, procedures, internal manuals, directives, diaries, journals, marketing materials, training materials and other data or data compilations stored in any medium from which information can be obtained or translated, if necessary, by you into a reasonably usable form for production, however made;

b. All handwritten, typed, printed, recorded, transcribed, taped, filmed, graphic or sound-reproduction material;

c. All "electronically stored information" such as:

i. Electronic correspondence (e.g., e-mail messages, voice mail messages, text messages and instant message dialogues);

ii. Electronically created and stored writings or records (e.g., word processing documents, spreadsheets, data compilations, presentation documents and personal and shared calendars);

iii. Computer data-bases (e.g., financial and human resource databases);

iv. System information (e.g., logs or "metadata" created by a computer system detailing and tracking events on the system including changes to documents); and

v. All of the above in whatever media it may be stored including:

1) Online storage media (e.g., computer hard drives, network storage devices, PDAs, "Blackberries" and cell phone memory chips, fax machine and photocopier memory chips, and related residual data or replicant files);

2) Near-line storage media (e.g., disk and tapes libraries that access individual disks or tapes);

3) Off-line storage devices (e.g., floppy disks, CD ROMs, DVD ROMs and flash drives); and

4) Back-up tapes.

d. All drafts or non-identical copies of every document where such draft or copy is not identical to the original because of any addition, deletion, alteration, or notation; and

e. All attachments, enclosures, or other matter affixed to or incorporated by reference within documents responsive to this document request.

3. "Communication" means the transmission of information between two or more persons (in the form of facts, ideas, inquiries or otherwise) orally or in writing and includes any conversation whether face-to-face or by means of telephone, facsimile, letter, notes of conversations, memorandum, or electronic mail message of whatever type and description in the possession, custody or control of Parkland or its employees/contractors, however made, and includes all handwritten, typed, printed, recorded, transcribed, and taped writing or record.

4. "Relate to" or "relating to" or "discussing" mean to make a statement about, refer to, discuss, describe, reflect, evidence, identify, deal with, consist of, or in any way pertain, in whole or in part, to the subject. These terms include the synonyms pertaining, concerning, supporting, refuting, reflecting, describing, containing or connecting in any other matter to the matter described.

II. General Instructions

1. Except as otherwise provided in these instructions, this document request requires the production of all documents responsive to one or more of the specifications set out below which are in the possession, custody or control of Parkland or any entity associated therewith, regardless of where located.

2. Unless otherwise stated in any specification, this document request refers to the time period from January 1, 2008, to the present, and calls for the production of all documents dated, created or held by Parkland at any time during that time frame. The documents to be produced pursuant to this document request shall include all documents prepared, sent, dated, received, in effect, or otherwise came into existence at any time

during the requested document period, unless another time period is specified in a request.

3. The documents which are within the scope of these requests are those in Parkland's possession, custody or control, including documents in the possession of any parent corporation, divisions, subsidiaries, affiliates, predecessors, successors, assigns and their officers, directors, employees, independent contractors, representatives, agents, attorneys or any other person acting or purporting to act on their behalf. Parkland is required to search all files reasonably likely to contain responsive documents, including files left behind by former officers, directors, agents and employees. Parkland is also required to produce responsive documents in the possession of its sales, marketing and other field staff, including such documents maintained by such employees/agents at their homes, personal offices or other locations out of which they work and such documents maintained by such employees on their personal computers (including, but not limited to, electronic mail messages maintained on their personal computers).

4. Parkland is required to produce the originals of all documents and other items which are responsive, in whole or in part, to this document request along with all copies of any such document which differs from the original by virtue of any addition, deletion, alteration, notation, or inscription on any part of the document, including its back. Copies of documents requested by will be accepted provided that the original documents be made available to employees of the Department of Justice or Office of Inspector General, U.S. Department of Health and Human Services.

5. If the requested documents are maintained in a file, the file folder is included in the request for the production of those documents.

6. Instructions for Electronically Stored Information:

a. Where this document request calls for the production of documents that can be retrieved from or are stored in electronic form, except where otherwise specified, Parkland is directed to produce the documents in their native electronic format (e.g., electronic database form, not electronic page image form). If the electronically stored information is in a proprietary format that is not accessible by publicly available software packages, Parkland is directed to produce all software programs and programming instructions and other material necessary for the reading, printing, sorting and re-organization of any electronically stored or machine readable documents.

b. All electronically stored information shall be provided on standard Windows-accessible media, such as compact optical/data disk such as CD or DVD. If

standard Windows-accessible media can not be used, the Department of Health and Human Services Office of Inspector General will designate a format for the data production.

c. In addition to the electronically stored information, Parkland shall provide a complete and accurate description of the information, such as a data dictionary. This description shall include translation tables for all fields that contain coded values. Parkland shall also provide a description of each file, specifying the scope and time period of the information contained. If the information is provided in a generic format, Parkland shall provide a complete and accurate description of the data layout, and control-total information, including the number of records and sums for selected numeric variables, for each file transmitted.

7. Parkland is to designate an officer or employee (Custodian) as the person responsible to produce documents to the agent listed on the document request return date. The Custodian shall have direct knowledge of, and responsibility for, the search conducted by Parkland for documents responsive to this document request and the selection of the documents to be produced.

8. By separation into separate file folders or other enclosures, Parkland is to identify the paragraph and subparagraph of Section III "Documents to be Produced" to which each document produced pursuant to this document request is responsive. (If a document is responsive to more than one paragraph, it is to be placed in the file folder of the first paragraph to which it is responsive and for each subsequent paragraph to which it is responsive, the file folder should refer to the existence and location of the responsive document in the earlier file.) The Custodian shall sign and mark each folder or other enclosure with the name of the Company, the date of the document request, and the paragraph of the document request to which the documents are responsive.

9. No document called for by this document request shall be destroyed, modified, redacted, removed, or otherwise made inaccessible, except insofar as documents are withheld under claim of privilege in compliance with the instructions below.

10. To the extent that documents responsive to this document request once were, but no longer are, in the possession, custody, or control of Parkland this request requires production of all existing indices, lists or documents in the entity's possession, custody or control which reflect the transfer or destruction of, or references to, such documents. If no documents exist that are responsive to a specification, a written statement to that effect shall be provided at the time of production.

11. When a requested document contains both privileged and non-privileged material, the non-privileged material must be disclosed to the fullest extent possible. If a privilege is asserted with regard to a part of the material contained in a document, the party claiming the privilege must clearly indicate the portions to which privilege is claimed. For each document that has been redacted or altered in any fashion, identify the reason for the redaction or alteration, the date of the redaction or alteration, and the person performing the redaction or alteration. Any redaction must be clearly visible on the redacted document.

12. If Parkland withholds any document on the ground of any privilege, it shall provide a log or index setting forth:

- a. the type of document (e.g., letter, memorandum, contract, etc.);
- b. the date of the document, if known;
- c. the title of the document;
- d. the name, address, and position of the author of the document and of any person who assisted in its preparation;
- e. the name, address, and position of each addressee or recipient of the document or any copies of it;
- f. the names and titles of all persons to whom the document or a copy of the document was sent or to whom the document or a copy, or any part thereof, was shown;
- g. the number of pages;
- h. a brief description of the subject matter;
- i. the paragraph of the document request to which it is responsive; and
- j. the factual and legal basis(es) for your claim of privilege or grounds for non-production asserted with respect to the document.

We request that Parkland produce the following documents in the format specified by the United States of America. Unless otherwise stated, this request refers to the time period

from January 1, 2008, through the present (relevant time period) and calls for the production of all requested documents dated at any time during that time period.

III. Documents to be Produced

1. All documents (including supporting documentation) related to the evaluation and treatment of all patients who received psychiatric items or services, including but not limited to the following: all medical records and files, doctors' orders and notes, nurses' notes and activity flow sheets, therapists' notes, patients' treatment plans for services, documents reflecting diagnoses, test results, billing records, clinician identities, time sheets, appointment books and calendars, patient sign-in logs and financial records, claims for reimbursement submitted to the Medicare program; all explanations of medical benefits; all documents that constitute, discuss or refer to the disallowance of any claims or parts of claims submitted to the Medicare program; patient ledgers, claims for payment, accounts receivable and payable, and correspondence.

2. All documents that constitute or relate to any protocols, quality assurance, compliance, assessment, overpayments, audits, reviews, or complaints for Medicare items or services provided to any of the patients identified in Request 1.

3. All documents relating to the preparation, medical necessity, coding or billing of any Medicare item or service provided to any of the patients identified in Request 1.

4. All documents that constitute or relate to policies utilized by Parkland in documenting, preparing, and submitting claims to Medicare with respect to the items or services of the type provided to the patients identified in Request 1, including but not limited to, written instructions to employed staff or contracted billing agents, manuals, policy statements, procedures, guidance or other material created for or used by Parkland clinicians or staff and/or individuals responsible for billing, internal memoranda, bulletins, letters, instructions, handbooks, billing agent contracts, notes or minutes of meetings or notes of telephone calls during which billing issues were raised, and educational or instructional material provided to Parkland by insurers (including but not limited to Medicare).

5. All documents relating to the supervision of any item or service of the type provided to the patients identified in Request 1.

6. All documents relating to supervision prior to, during, and after the provision of any item or service of the type provided to the patients identified in Request 1.
7. All documents relating to training, orientation, licensing, credentialing, qualification, and education requirements for individuals who provide any item or service of the type provided to the patients identified in Request 1.
8. All documents relating to sales, marketing, business outcomes, and return on investment relating to any item or service provided to the patients identified in Request 1.
9. All minutes, notes, memoranda from all meetings relating to any item or service provided to the patients identified in Request 1.
10. All documents that relate to Medicare coverage and payment requirements for these procedures, including documents that relate to any communication between Parkland and any payer, regarding any item or service provided to the patients identified in Request 1.
11. All documents that relate to or indicate the number of any item or service provided to the patients identified in Request 1.
12. All documents sufficient to identify by name, title, employment tenure, current or last known home address and telephone number, of all current Parkland employees, residents, directors, officers, partners, managers, executives, and independent contractors (a list containing all such information may be provided in lieu of documents).
13. All documents sufficient to identify by name, title, employment tenure, current or last known home address and telephone number, of all former Parkland employees, residents, directors, officers, partners, managers, executives, and independent contractors employed during the relevant time period (a list containing all such information may be provided in lieu of documents).
14. All documents that relate to the legal and organizational structure of Parkland, whether created in response to this subpoena or otherwise, including but not limited to:
 - a. organizational or corporate papers filed with federal and state agencies and any amendments thereto; and

- b. descriptions of Parkland's organizational structure, the reporting responsibilities of the company's personnel by name and position, and the relationship to parent(s), subsidiary(ies), affiliate(s), and any other entity(ies) in which the company has an ownership interest.

15. All documents, regardless whether provided to CMS or the State of Texas, regarding any survey or request for information from those entities or their agencies, during the relevant time period, regardless whether the information relates to any item or service provided to the patients identified in Request 1.

Parkland Health & Hospital System

Memo

Legal Hold Memorandum– Confidential

To: Distribution List
From: Paul Leslie, General Counsel
Cc: Debra Davis (DEBRA.DAVIS3@phhs.org)
Date: September 8, 2011
Re: **Department of Justice – Request for Information and Notice to Preserve Documents**
Retention of DCHD/Parkland Records, Documents, and Information Related to Centers
for Medicare and Medicaid Services and/or State of Texas.

Department of Justice: On September 7, 2011, the U.S. Department of Justice, United States Attorney, Northern District of Texas delivered to Parkland Health & Hospital System (“Parkland”) a Request for Information and Notice to Preserve Documents relating to Centers for Medicare and Medicaid Services and/or State of Texas for the period of **January 1, 2008 through the present**. **A copy of the Information Request and Notice to Preserve Documents is attached hereto as Exhibit “A”.**

DCHD/Parkland intends to fully cooperate with the request. Parkland will also start the process of gathering all relevant documents in reference to the Request for Information, but **immediate preservation of this information now is critical.**

What You Must Do Immediately: You must immediately save and **not** delete, double-delete, or otherwise destroy hard copy documents or electronic data located on any source, including but not limited to, computers, laptops, PDAs, etc. having to do with the matters described above. You are being requested to immediately notify Debra Davis (DEBRA.DAVIS3@phhs.org) in the Legal Affairs Department if you are in possession of any of the requested material. You need to identify any records, documents and information and where this information is stored, whether hard copy or electronically. I request that you preserve all documents (hard copy and electronic) that could be relevant to the Request for Information. Be sure to include any documents you may not be sure about. Please contact Debra Davis or me if you need any assistance in identifying relevant material. We can always weed out irrelevant material, but we may be subject to sanctions if we do not preserve responsive information because our search and retention efforts were not sufficiently thorough.

Although you should begin to identify and maintain all hard copy documents related to the **Request for Information** and relevant DCHD/Parkland materials related to any Centers for Medicare and Medicaid Services and/or State of Texas surveys from any source, you must consult with me and/or Pamala Duke, Information Security Manager, Information Technology – Information Security Management at extension 2-4765 on the best approach for maintaining **electronic data**. Therefore, please do not open or forward electronic documents until we discuss how to best preserve that data.

The information that must be preserved is specifically identified in the attached Exhibit A. Generally, however, the following broad categories must be maintained **(BUT YOU MUST REVIEW AND RELY ON THE SPECIFIC REQUESTS AND INSTRUCTIONS IN THE ATTACHED EXHIBIT A).**

Included are originals, drafts, or copies of any and all of the paper or electronic records that relate to:

- (1) All materials related to any Centers for Medicare and Medicaid Services and/or State of Texas survey since January 1, 2008 to present; and
- (2) All materials (including supporting documentation) related to evaluation and treatments, benefits, and all billing aspects of any patients who received psychiatric items or services from January 1, 2008 to present.

As instructed, however, please review the attached Exhibit "A" carefully for all of the documents and material that must be maintained. Should you have any doubts, as to whether a document or material should be maintained, please hold until you get specific clarification from Legal Affairs.

Any program that calls for periodic document destruction, **must be suspended** with respect to relevant records, documents and information records (hard copy or electronic) for the duration of the pending Request for Information. **None of these documents should be destroyed as part of such a program until further notice.**

The destruction of evidence, whether intentional or inadvertent, can result in serious penalties imposed by the law, and could impair our ability to respond to the request. The failure to preserve documents may constitute spoliation (destruction) of the requested material and could potentially subject DCHD/Parkland to extreme penalties.

If you or one of your direct reports leaves DCHD/Parkland, please ensure that any relevant records, documents, and information (as well as the employee's computer) are preserved by contacting Debra Davis, Senior Paralegal, at ext. 24566 or Paul Leslie, General Counsel, at ext. 24686 prior to the employee's departure.

Preserve Records, Documents, and Information, and Do Not Destroy, Until Released from this Legal Hold: The Legal Affairs Department will notify you when these records, documents, and information may be released from the litigation hold. If your contact information changes, please notify Debra Davis or me as soon as possible.

POTENTIAL LOCATIONS OF ELECTRONIC DOCUMENTS AND DATA

1. Please determine whether you store any data related to this matter on external storage devices, such as flash drives, CDs, DVDs, etc.
2. Please determine if you store information relevant to this matter on a shared computer drive. This may include Word documents, Excel spreadsheets and PowerPoint presentations. When asked to describe the location of such information, please be as exact as possible, indicating the drive and as many subfolders as possible.
3. Please determine on what drive your email archive is located. If you are unsure, you can contact your local technical support staff to assist you. Additionally, please let me know if you use any other electronic equipment on which relevant information may be stored.
4. Please determine if you have any voicemails related to this dispute. Any such voicemails that you have now or receive in the future should be preserved.
5. Please determine if you keep hard copy files related to this dispute. This includes handwritten notes, calendars, phone message logs and any other writing.

All information that currently exists in electronic form should continue to be preserved in electronic form.

Return a Signed Copy of this Memo Acknowledging Receipt to Legal Affairs: Please print out a copy of this memo, sign and date it, and **return the signed copy to Debra Davis no later than September 19, 2011.** The copy should be addressed to: Debra Davis c/o Paul Leslie, General Counsel, Legal Affairs Department. Please mark the envelope "CONFIDENTIAL" and seal the envelope so the contents cannot be read by others.

You are welcome to contact me at ext. 24686 or Debra Davis at ext. 24566 should you have any questions or concerns. Thank you for your cooperation.

Acknowledgement:

I acknowledge that I have read this memo:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Distribution List: Postmaster Distribution List

EXHIBIT “A”