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TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.
EXECUTIVE COMMISSIONER

October 12, 2012

The Honorable Samuel L. Neal, Jr.
Nueces County Judge
901 Leopard Street, Room 303
Corpus Christi, Texas 78401

Jonny F. Hipp, CEO
2606 Hospital Boulevard
Corpus Christi, Texas 78405

Pamela S. Robertson, President and CEO
CHRISTUS Spohn Health System
1702 Santa Fe
Corpus Christi, Texas 78404

Dear Judge Neal, Mr. Hipp, and Ms. Roberston:

Congratulations on your completion of the agreement for the continuation of the partnership between CHRISTUS Spohn and the Nueces County Hospital District to serve the needy residents of Nueces County, the Coastal Bend, and South Texas. I share former Executive Commissioner Tom Suehs' enthusiasm for your efforts, and we look forward to your participation in the Texas 1115 Medicaid Transformation Waiver. We share your goal of improving access to high quality health care, and we are pleased to see such close collaboration.

My staff inform me that, the terms of the draft agreement that your attorneys shared with us last month offers a method for the revenue of the facilities soon-to-be jointly operated by CHRISTUS Spohn and the district to be allocated in a manner that is intended to assure the availability of public funds to help finance payments under the waiver. Staff also advises that under the draft agreement the district has the discretion to use the allocated revenue for any purpose it chooses, including the use of those funds as the non-federal share of a Medicaid supplemental payment. Based on these representations and the assurances of counsel to your organizations, my staff advises that the revenue so produced would appear to meet the definition of "public funds" in accordance with administrative rules that govern the operation of the waiver.

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Ms. Pamela S. Robertson
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My staff noted one minor discrepancy between the draft agreement and the draft certification that counsel to your organizations prepared for our review and consideration. The agreement describes "net patient revenue" as exclusive of the federal share of any Medicaid payments – meaning that the non-federal share of such payments would be treated as net patient revenue. The proposed certification, however, states that "net patient revenue" excludes *all* Medicaid reimbursement.

Although it is not clear whether parties intend to allocate some of none of the Medicaid payments paid for services to Medicaid recipients who receive care at the jointly-operated facilities, the critical representation contained in both documents is that *no federal money* will be allocated to the district under the agreement. Thus, the agreement on its face attempts to assure that an intergovernmental transfer derived in whole or in part from the shared net patient revenue complies with federal requirements that govern such transfers. We appreciate counsels' attention to these important details.

Again, please accept my congratulations for a remarkable achievement. Steve Aragon, Chief Counsel, serves as the lead staff on this matter and can be reached by telephone at (512) 424-6578 or by e-mail at Steve.Aragon@hhsc.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Janek", with a stylized flourish at the end.

Kyle L. Janek, M.D.