

**XAVIER BECERRA**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



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November 22, 2019

**Sent by Email and U.S. Mail**

Mark Schieble  
Foley & Lardner LLP  
555 California Street, Suite 1700  
San Francisco, CA 94109

RE: Proposed change in control and governance of Central California Foundation for Health

Dear Mr. Schieble:

Pursuant to Corporations Code section 5920 *et seq.*, the Attorney General hereby conditionally consents to the proposed change in governance and control of Central California Foundation for Health, a California nonprofit public benefit corporation, pursuant to the terms of the Affiliation Agreement dated January 4, 2019 with Adventist Health System/West.

Corporations Code section 5923, and California Code of Regulations, title 11, section 999.5, subdivision (f), set forth factors that the Attorney General shall consider in determining whether to consent to a proposed transaction between a nonprofit corporation and another nonprofit corporation. The Attorney General has considered such factors and consents to the proposed transaction subject to the attached conditions that are incorporated by reference herein.

Thank you for your cooperation throughout the review process.

Sincerely,

[Original Signed]

WENDI A. HORWITZ  
Deputy Attorney General

For XAVIER BECERRA  
Attorney General

cc: Daniel Settelmayer

**Attorney General's Conditions to Change in Control and Governance of Delano Regional Medical Center<sup>1</sup> and Approval of Affiliation Agreement by and between Central California Foundation for Health and Adventist Health System/West**

**I.**

These Conditions shall be legally binding on the following entities: Central California Foundation For Health, a California nonprofit public benefit corporation, Adventist Health System/West, a California nonprofit religious corporation, Adventist Health Delano, a California nonprofit religious corporation, any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of Central California Foundation For Health, Adventist Health System/West, or Adventist Health Delano, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of Delano Regional Medical Center or the real property on which Delano Regional Medical Center is located, any and all current and future owners, lessees, licensees, or operators of Delano Regional Medical Center, and any and all current and future lessees and owners of the real property on which Delano Regional Medical Center is located.

**II.**

The transaction approved by the Attorney General consists of the Affiliation Agreement by and between Central California Foundation For Health and Adventist Health System/West dated January 4, 2019, Adventist Health System/West's letter dated February 13, 2019 regarding Delano Employees During 180-Day Period Post Closing, First Amendment to Affiliation Agreement, and any and all amendments, agreements, or documents referenced in or attached to as an exhibit or schedule to the Affiliation Agreement.

All of the entities listed in Condition I shall fulfill the terms of these agreements or documents including, but not limited to, any exhibits or schedules to the Affiliation Agreement, and shall notify the Attorney General in writing of any proposed modification or rescission of any of the terms of these agreements or documents including, but not limited to, the Amended Restated Articles of Incorporation of Central California Foundation For Health, and Amended and Restated Bylaws of Adventist Health Delano, and Bylaws of the Governing Board of Adventist Health Delano attached as Exhibit 2.1(c) to the Affiliation Agreement. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5923 and obtain the Attorney General's approval.

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<sup>1</sup> Throughout this document, the term "Delano Regional Medical Center" shall mean the general acute care hospital located at 1401 Garces Hwy., Delano, CA 93215-3690 and any other clinics, laboratories, units, services, or beds included on the license issued to Central California Foundation For Health by the California Department of Public Health, effective May 29, 2019, unless otherwise indicated.

### III.

For eleven fiscal years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, Adventist Health Delano, and all future owners, managers, lessees, licensees, or operators of Delano Regional Medical Center shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

- a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of Delano Regional Medical Center; or
- b) Transfer control, responsibility, management, or governance of Delano Regional Medical Center. The substitution or addition of a new corporate member or members of Central California Foundation For Health, Adventist Health System/West, or Adventist Health Delano that transfers the control of, responsibility for, or governance of Delano Regional Medical Center shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing bodies of Central California Foundation For Health, Adventist Health System/West, or Adventist Health Delano, or any arrangement, written or oral, that would transfer voting control of the members of the governing bodies of Central California Foundation For Health, Adventist Health System/West, or Adventist Health Delano shall also be deemed a transfer for purposes of this Condition.

### IV.

For ten years from the closing date of the Affiliation Agreement, Delano Regional Medical Center shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250) and shall maintain and provide the following healthcare services at current<sup>2</sup> licensure and designations and certification with the current types and/or levels of services, including the following:

- a) 24-hour Emergency Services, including a minimum of 10 Emergency Treatment Stations and designation as an Emergency Department Approved for Pediatrics;
- b) Perinatal services, including a minimum of 16 licensed perinatal beds until the completion of a new obstetrics and delivery facility on Delano Regional Medical Center's campus as set forth in Exhibit 3.1 of the Affiliation Agreement. Once completed, Delano Regional Medical Center is required to maintain no less than 12 separate individual patient rooms with labor, delivery, recovery, and post-partum beds, and a separate cesarean-section, recovery and observation areas for the remaining portion of the ten years;
- c) Pediatric services, including a designated area of six general acute care beds;
- d) Intensive care services, including a minimum of 10 intensive care beds;

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<sup>2</sup> The term "current" or "currently" throughout this document means as of May 29, 2019.

e) Skilled Nursing (D/P) and sub-acute services, including a minimum of 51 licensed skilled nursing beds; and

f) Women's healthcare services including women's reproductive services, mammography services, those services currently provided at Delano Women's Medical Clinic located at 1201 Jefferson St., Delano, CA, and those services, policies, and procedures set forth in Exhibit 2.

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall not place all or any portion of the above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

## V.

For ten years from the closing date of the Affiliation Agreement, Delano Regional Medical Center shall maintain and provide the following healthcare services at current licensure and designation with the current types and/or levels of services:

- a) Nuclear medicine services;
- b) Occupational therapy;
- c) Outpatient Clinic –Wasco Medical Plaza & Urgent Care, located at 2300 7<sup>th</sup> St., Wasco, CA;
- d) Outpatient Clinic –Delano Urgent Care Clinic, located at 1201 Jefferson St., Delano, CA;
- e) Outpatient Clinic – Delano Wound Care Clinic, located at 1519 Garces Hwy., Delano, CA;
- f) Radiology services;
- g) Diagnostic imaging;
- h) Physical therapy;
- i) Podiatry services;
- j) Social services;
- k) Speech pathology;
- l) Blood bank services;
- m) Dialysis services;
- n) Pathology services; and
- o) Sleep lab services.

## VI.

For five years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall:

- a) Be certified to participate in the Medi-Cal program at Delano Regional Medical Center;
- b) Maintain and have Medi-Cal Managed Care contracts with the below listed Medi-Cal Managed Care Plans to provide the same types and/or levels of emergency and non-emergency services at Delano Regional Medical Center to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause:

- i) Local Initiative: Kern Family Health Care or its successor; and
  - ii) Commercial Plan: Health Net Community Solutions, Inc. or its successor;
- c) Be certified to participate in the Medicare program by maintaining a Medicare Provider Number to provide the same types and/or levels of emergency and non-emergency services at Delano Regional Medical Center to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care) as required in these Conditions; and
- d) Be certified to participate in the TRICARE program to provide the same types and/or levels of emergency and non-emergency services at Delano Regional Medical Center to TRICARE beneficiaries as required in these Conditions.

## VII.

For six fiscal years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall provide an annual amount of Charity Care (as defined below) at Delano Regional Medical Center equal to or greater than \$522,542 (the Minimum Charity Care Amount). For purposes hereof, the term “charity care” shall mean the amount of charity care costs (not charges) incurred by Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano in connection with the operation and provision of services at Delano Regional Medical Center. The definition and methodology for calculating “charity care” and the methodology for calculating “costs” shall be the same as that used by the Office of Statewide Health Planning Development (OSHPD) for annual hospital reporting purposes.<sup>3</sup>

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall use and maintain a charity care policy that is no less favorable than Adventist Health System/West’s Patient Billing: Financial Assistance Policy (Policy No. PFS-112 effective December 29, 2015) (Financial Assistance Policy) and in compliance with California and Federal law.

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano’s obligation under this Condition shall be prorated on a daily basis if the closing date of the Affiliation Agreement is a date other than the first day of Central California Foundation For Health, Adventist Health System/West, or Adventist Health Delano’s fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in U.S. City Average Base Period: 1982-84=100 (as published by U.S. Bureau of Labor Statistics).

If the actual amount of charity care provided at Delano Regional Medical Center for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-

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<sup>3</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, “the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient’s accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account.”

referenced Consumer Price Index) required for such fiscal year, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide direct healthcare services to residents in the Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of the Delano Regional Medical Center's Health Care Impact Statement, dated April 26, 2019, and attached hereto as Exhibit 1. Such payment(s) shall be made within six months following the end of such fiscal year.

### VIII.

Within 90 days from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall take the following steps to ensure that patients at Delano Regional Medical Center are informed about Adventist Health System/West's Patient Billing: Financial Assistance Policy (Policy No. PFS-112 effective December 29, 2015):

- a) A copy of the Financial Assistance Policy and the plain language summary of the Financial Assistance Policy must be posted in a prominent location in the emergency room, admissions area, and any other location in Delano Regional Medical Center where there is a high volume of patient traffic, including waiting rooms, billing offices, and outpatient service settings;
- b) A copy of the Financial Assistance Policy, the Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be posted in a prominent place on Delano Regional Medical Center's website;
- c) If requested by a patient, a copy of the Financial Assistance Policy, Application for Financial Assistance, and the plain language summary of the Financial Assistance Policy must be sent by mail at no cost to the patient;
- d) As necessary and at least on an annual basis, Delano Regional Medical Center will place an advertisement regarding the availability of financial assistance at Delano Regional Medical Center in a newspaper of general circulation in the communities served by Delano Regional Medical Center, or issue a Press Release to widely publicize the availability of the Financial Assistance Policy to the communities served by Delano Regional Medical Center;
- e) Delano Regional Medical Center will work with affiliated organizations, physicians, community clinics, other health care providers, houses of worship, and other community-based organizations to notify members of the community (especially those who are most likely to require financial assistance) about the availability of financial assistance at Delano Regional Medical Center; and
- f) All staff that interacts with patients and their families concerning payment of services shall be given annual training to make patients and their families aware of and informed of the Financial Assistance Policy.

## IX.

For six fiscal years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall provide an annual amount of Community Benefit Services at Delano Regional Medical Center equal to or greater than \$830,194 (the Minimum Community Benefit Services Amount) exclusive of any funds from grants. For six fiscal years, the following community benefit programs and services shall continue to be offered:

- a) Childbirth and Family Education;
- b) Transportation Program; and
- c) Workforce Development/Job Training.

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano's obligation under this Condition shall be prorated on a daily basis if the effective date of the Affiliation Agreement is a date other than the first day of Central California Foundation For Health, Adventist Health System/West, or Adventist Health Delano's fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in U.S. City Average Base Period: 1982-84=100 (as published by U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at Delano Regional Medical Center for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of the Delano Regional Medical Center's Health Care Impact Statement, dated April 26, 2019, and attached hereto as Exhibit 1. Such payment(s) shall be made within six months following the end of such fiscal year.

## X.

For five years from the closing date of the Affiliation Agreement, Delano Regional Medical Center shall maintain all contracts, including any superseding, successor, or replacement contracts, and any amendments and exhibits thereto, with the City of Bakersfield or the County of Kern or their subdivisions, departments, or agencies for services at Delano Regional Medical Center including the following:

- a) Transfer Agreement between Delano Regional Medical Center and Kern Medical Center; and
- b) Professional Service Agreement – Kern County.

## **XI.**

Adventist Health/West shall comply with section 3.2 of the Affiliation Agreement entitled "Cerner EMR Conversion."

## **XII.**

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall commit the necessary investments required to meet and maintain OSHPD seismic compliance requirements at Delano Regional Medical Center until January 1, 2030 under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, as amended by the California Hospital Facilities Seismic Safety Act, (Health & Saf. Code, §§129675-130070) and as such Acts may be subsequently amended, modified, or replaced.

## **XIII.**

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall maintain privileges for current medical staff at Delano Regional Medical Center who are in good standing as of the closing date of the Affiliation Agreement. Further, the closing of the Affiliation Agreement shall not change the medical staff officers, committee chairs, or independence of the medical staff, and such persons shall remain in good standing for the remainder of their tenure as medical staff officers or committee chairs at Delano Regional Medical Center.

## **XIV.**

For ten years from the closing date of the Affiliation Agreement, Delano Regional Medical Center shall have a Local Governing Board. Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano's Board of Directors shall consult with Delano Regional Medical Center's Local Governing Board prior to making changes to medical services and community benefit programs. The members of the Delano Regional Medical Center's Local Governing Board shall include physicians, medical staff, and the Chief of Staff from Delano Regional Medical Center, and community representatives from Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of Delano Regional Medical Center Health Care Impact Statement, dated April 26, 2019 and attached hereto as Exhibit 1, including at least one member from a local healthcare advocacy or community group. Such consultation shall occur at least sixty days prior to the effective date of such changes or actions unless done so on an emergency basis. The Delano Regional Medical Center's Local Governing Board's approval is required of all reports submitted to the Attorney General regarding compliance with these Conditions.



## XV.

There shall be no discrimination against any lesbian, gay, bisexual, transgender, or queer individuals at Delano Regional Medical Center. This prohibition must be explicitly set forth in Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano's written policies applicable at Delano Regional Medical Center, adhered to, and strictly enforced.

## XVI.

Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano are required to continue Delano Regional Medical Center's participation in the California Department of Health Care Services' Hospital Quality Assurance Fee Program as set forth in California law and the provider bulletins dated August 26, 2014 and May 13, 2016 (located at <http://www.dhcs.ca.gov/provgovpart/Pages/HQAF.aspx>).

## XVII.

For six fiscal years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall (a) support Delano Regional Medical Center in the continuity and growth of the its clinics as currently structured or as reorganized to be integrated with Adventist Health Physicians Network, including exercising reasonable best efforts to establish, within five years following the closing date of the Affiliation Agreement, a minimum of three new clinic locations that are certified under the Rural Health Clinics Program as defined by 42 C.F.R. Pt. 405 and provide or arrange for the provision of professional medical services to the beneficiaries covered under the Rural Health Clinics Program serving Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of Delano Regional Medical Center Health Care Impact Statement, dated April 26, 2019 and attached hereto as Exhibit 1, and (b) facilitate the staffing of such clinics by an Adventist Health affiliated physician organization. Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall work with Delano Regional Medical Center to strengthen physician affiliation strategies in Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of Delano Regional Medical Center Health Care Impact Statement, dated April 26, 2019 and attached hereto as Exhibit 1, by providing Delano Regional Medical Center access to Adventist Health's existing physician recruitment programs and practice development vehicles, and to deploy and/or develop Delano Regional Medical Center's physician affiliation resources as necessary to meet the physician recruitment needs of Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of Delano Regional Medical Center Health Care Impact Statement, dated April 26, 2019 and attached hereto as Exhibit 1, particularly with respect to the recruitment of needed family practitioners, orthopedists, urologists, obstetricians, pediatricians, general surgeons, and ear, nose and throat doctors.

For six fiscal years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall submit to the Attorney General a report every six months providing information and relevant documents regarding the progress and development of the establishment of the three new clinic locations and to strengthen physician affiliation and recruitment strategies in Delano Regional Medical Center's service area particularly with respect to the recruitment of needed family practitioners, orthopedists, urologists, obstetricians/gynecologists, pediatricians, general surgeons, and ear, nose and throat doctors as required in Condition XVII. The Chief Executive Officers of Central California Foundation For Health, Adventist Health System/West, Adventist Health Delano, and Delano Regional Medical Center's Local Governing Board shall each certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by these individuals.

#### **XVIII.**

After the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall operate Delano Regional Medical Center as a separate California nonprofit religious corporation. Consistent with charitable trust law, the assets reflected on the balance sheet effective as of the closing date of the Affiliation Agreement, including, without limitation cash, investment assets and supplemental payments received by Delano Regional Medical Center relating to periods of service prior to the closing date under (i) the Medi-Cal Hospital Reimbursement Improvement Act of 2013, California Welfare & Institutions Code Sections 14169.50 et. seq. and (ii) the Medi-Cal Disproportionate Share Hospital Program, California Welfare & Institutions Code Sections 14105.98 et. seq. and 42 U.S.C. § 1396r-4 et. seq., shall be utilized by Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano to benefit Delano Regional Medical Center and Delano Regional Medical Center's service area (8 ZIP codes), as defined on page 31 of Delano Regional Medical Center Health Care Impact Statement, dated April 26, 2019 and attached hereto as Exhibit I. Such cash and receipts will be consolidated for investment purposes under Adventist Health System/West's cash management program, but remain available to Delano Regional Medical Center when needed, subject to Adventist Health System/West's approval."

#### **XIX.**

For eleven fiscal years from the closing date of the Affiliation Agreement, Central California Foundation For Health, Adventist Health System/West, and Adventist Health Delano shall submit to the Attorney General, no later than six months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman(s) of the Board of Directors of Central California Foundation For Health, Adventist Health System/West, Adventist Health Delano, and Delano Regional Medical Center's Local Governing Board and the Chief Executive Officers of Central California Foundation For Health, Adventist Health System/West, Adventist Health Delano, and Delano Regional Medical Center's Local Governing Board shall each certify that the report is true, accurate, and complete and provide documentation of the review and approval of the report by these Boards of Directors.

## **XX.**

At the request of the Attorney General, all of the entities listed in Condition I shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

## **XXI.**

Once the Affiliation Agreement is closed, all of the entities listed in Condition I are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.

**EXHIBIT 1**

## Analysis of the Hospital's Service Area

### *Service Area Definition*

Based upon the Hospital's CY 2017 inpatient discharges, the Hospital's service area is comprised of eight ZIP Codes from which 91% of inpatient discharges originated. Nearly 70% of the Hospital's discharges originated from the top two ZIP Codes located in Delano and McFarland. In CY 2017, the Hospital's market share in the service area was approximately 33% based on total area discharges.

PATIENT ORIGIN CY 2017						
ZIP Codes	Community	Total Discharges	% of Discharges	Cumulative % of Discharges	Total Area Discharges	Market Share
93215	Delano	1,581	55.1%	55.1%	3,699	42.7%
93250	McFarland	397	13.8%	69.0%	951	41.7%
93219	Earlimart	231	8.1%	77.0%	794	29.1%
93280	Wasco	195	6.8%	83.8%	1,864	10.5%
93261	Richgrove	74	2.6%	86.4%	186	39.8%
93216	Delano	68	2.4%	88.8%	169	40.2%
93201	Alpaugh	27	0.9%	89.7%	116	23.3%
93249	Lost Hills	25	0.9%	90.6%	164	15.2%
<b>Sub-Total</b>		<b>2,598</b>	<b>90.6%</b>	<b>90.6%</b>	<b>7,943</b>	<b>32.7%</b>
<b>Other ZIPs</b>		<b>270</b>	<b>9.4%</b>	<b>100%</b>		
<b>Total</b>		<b>2,868</b>	<b>100%</b>			

Source: OSHPD Patient Discharge Database, CY 2017

Note: Excludes normal newborns

## **EXHIBIT 2**

## EXHIBIT 2: ADVENTIST HEALTH SYSTEM/WEST'S SERVICES, POLICIES, AND PROCEDURES

While Adventist Health System/West (Adventist Health) does not allow *elective* abortions to be performed in its facilities, it does allow counseling around such options to be given to a woman by her provider, who would then make an appropriate referral out of the system for such services if the woman chooses an *elective* abortion. There are no restrictions placed on performing *therapeutic* abortions including, but not limited to, abortions for fetal distress and other medical reasons, in an Adventist Health facility. In the case of a woman undergoing chemotherapy or similar situations where there would be a *medical* necessity for terminating a pregnancy, this is fully allowed. In addition, if a woman has a miscarriage and needs a D&E or D&C, Adventist Health would provide such services in its hospitals or surgery centers. If a woman (including a transman) needs a tubal ligation or a hysterectomy, Adventist Health would provide them in its hospitals. Below are Adventist Health's answers to several questions.

**Q1. What family planning counseling does Adventist Health perform? Is it nondirective, does it encompass all 18 FDA-approved methods, and does it include medication abortion?**

A. The family planning counseling performed at Adventist Health is non-directive. Any physician or provider is at liberty of discussing family planning with his/her patients. We do not direct them on what to do on this front.

**Q2. Can you help unpack the following response you gave in a previous email to a question about whether Adventist Health administers medication abortion, Plan B or IUDs: "Those services are typically done with the woman and her medical practitioner. Adventist Health does not interfere in the physician's relationship with their patients. That includes birth control of all types. The exception that would be in a hospital is in our ER where there is a victim of sexual assault. If she is not on some form of birth control, they would likely be offered a plan B pill."**

A. The services related to medication abortion, Plan B or IUDs are typically discussed with the woman and her medical practitioner. Adventist Health does not interfere in the physician's relationship with their patients. This includes discussion of Plan B and IUDs. There is no exception.

**Q2a. If the decision is between a doctor and patient, does Adventist Health's position mean (1) that the doctor provides nondirective counseling, and (2) that the hospital will allow the doctor to prescribe a form of contraceptive or medication abortion (mifepristone)?**

A. Adventist Health's position is the doctor provides nondirective counseling and the organization will allow prescriptions based on the physician judgment but does not support on demand abortions (an elective abortion without medical justification).

If a woman is sexually assaulted, and she presents at some point to the hospital for a medical forensic exam, the hospital will administer mifepristone if the doctor prescribes it.

**Q2b. And second, can you clarify the language concerning an “exception” in the ER for a victim of sexual assault? It seems to suggest that people cannot get Plan B or Medication abortion unless they have experienced sexual assault.**

A. The language concerning any exceptions is not correct as stated above. Physicians provide the necessary counseling and referrals as they see fit based on their medical judgment and their patient’s wishes. Patients will not be administered Plan B in the hospital emergency department because it is available over the counter, so it does not require a prescription. Although the drug is available over the counter, it is also available in the hospital pharmacy. The physician can and would give it to a patient in the hospital or the emergency room at their discretion. Adventist Health does not in any way restrict Plan B. Medical abortions are performed in Adventist Health facilities.

**Q3. Under what circumstances will Adventist Health perform elective operations that result in sterilization, including tubal ligations and hysterectomies?**

A. Adventist Health physicians can and do perform tubal ligations and hysterectomies in Adventist Health facilities based on their clinical judgment and mutual decision making with their patients. If a woman gives birth in an Adventist Health facility and then asks her physician to do a tubal ligation after the birth and the doctor agrees, the woman is given a tubal ligation.

**Q4. Does Adventist Health provide contraceptive services, including IUD placement and sterilization, immediately postpartum?**

A. It is the prerogative of the Adventist Health physician and patients to make decisions and treatment modalities on contraceptive services immediately postpartum.

**Q5. If Adventist Health makes referrals for abortion care, where does it refer to? Does it always act following the patient’s direction?**

A. Abortions are not performed on demand. The clinical team and providers would refer the patients based on her wishes. Adventist Health as a system does not interfere or guide those referrals. The decisions are between the physician and the patient. Adventist Health does support the patient’s wishes for such a referral as feasible and possible.

**Q6. What criteria does Adventist Health use to determine whether it considers an abortion to be elective or therapeutic? Do these criteria allow for abortion in all circumstances of miscarriage, ectopic pregnancy, and other cases of unexpected pregnancy loss?**

A. Any patient including a pregnant mother will be given all needed and necessary life saving treatment at all times. In rare cases of non-life threatening situations, and where there is lack of clarity between on demand abortions and life saving intervention for the mother, a case will be referred to an ethics committee in consultation with the board. A miscarriage, ectopic pregnancy or unexpected pregnancy loss are non-viable pregnancies and would be considered managing the patient as any other patient. Adventist Health prioritizes the safety and health of our patients and would provide the care necessary post such event as we provide any other care to our patients.

As an example, the Ethics Committee is comprised of at least five (5) members consisting of physicians and such other Staff members as the Medical Executive Committee may deem appropriate. It may include nurses, lay representatives, social workers, clergy, ethicists, attorneys, administrators and representatives from the Governing Board. The committee may, in



its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee. These individuals may not vote.

For example a pregnant woman is diagnosed with breast cancer. It is recommended that she receive chemotherapy which could harm her baby and is contemplating an abortion. Since this is not an immediate life threatening issue it would be referred to the ethics committee. Typically an ethics committee meeting would be called within a couple of days and the recommendation given. Since abortions are available in the community most women would just access that care directly.

An abortion would be performed in rare cases of non-life threatening situations, and where there is lack of clarity between on demand abortions and life saving intervention for the mother, a case will be referred to an ethics committee in consultation with the board. An abortion would also be performed for a miscarriage, ectopic pregnancy or unexpected pregnancy loss or other are non-viable pregnancies and would be considered managing the patient as any other patient.

**Q7. What treatment or referrals does Adventist Health provide for patients with gender dysphoria, (such as hormone therapy and gender-affirmation surgery)?**

A. A physician can refer their patients as the patient wishes and the physician recommends. It is between the physician and their patients. Adventist Health does not direct care and would support our patients based on their wishes. Within our system some physicians provide hormone therapy however none of our facilities currently provide gender reconstruction surgery.

**Q8. Assuming that it is medically indicated by their physician, do you provide any or all of the following health care services to all patients, including to patients who are seeking such services related to a gender transition:**

- **Hormone therapy**
- **Hysterectomy**
- **Mastectomy**

A. Adventist Health does not direct hormone therapy, hysterectomies or mastectomies. It is a physician-patient decision and if elected could be done in our facilities.