October 14, 2026

Ms. Arianne Perkins
Freedom of Information Act Officer
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Request under the Freedom of Information Act

Dear Ms. Perkins:

This letter constitutes a request made pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and implementing regulations of the U.S. Department of Health and Human Services ("HHS"), 45 C.F.R. Part 5.

The Emergency Medical Treatment and Labor Act ("EMTALA") is a 1986 federal law, which requires hospitals to provide stabilizing care to patients who need emergency treatment, including as a result of pregnancy complications, such as ectopic pregnancies. Lack of compliance with EMTALA results in denials and delays to care that puts patients' lives, health, and fertility at risk.

In February 2023, Kyleigh Thurman sought treatment for an ectopic pregnancy, a life-threatening condition, at Ascension Seton Williamson Hospital in Round Rock, Texas. The hospital sent her home without treatment, choosing to act days later to save her life only after her obstetrician-gynecologist traveled to Ascension Seton to plead with the staff to provide care to Kyleigh. However, the care came too late, and Kyleigh's ectopic pregnancy ruptured. Her right fallopian tube had to be removed, impacting her future fertility. Under EMTALA, Ascension Seton should have provided her with stabilizing care to end her pregnancy, but their failure to act instead put her life at risk.

The Center for Reproductive Rights ("Center") represented Kyleigh in filing an EMTALA complaint against the hospital in August 2024. In April 2025, HHS informed undersigned counsel that it had cited Ascension Seton for violating EMTALA. Ascension's Statement of Deficiencies in connection with Kyleigh's EMTALA complaint was printed on January 10, 2025.[1] When HHS determines that there was an EMTALA violation, the violating hospital has up to 90 days to submit a remediation plan and start implementing corrective actions. As of the date of this FOIA request, more than 90 days from Ascension's Statement of Deficiencies, it is unclear whether Asencion Seton has addressed any of the deficiencies found, and HHS has not released Ascension Seton's plan of correction in response to the EMTALA violation findings (hereinafter "Ascension's Plan of Correction").

[1] Ascension Seton Williamson, Statement of Deficiencies and Plan of Correction (Form CMS-2567), at 1-2 (Jan. 10, 2025), https://reproductiverights.org/wp-content/uploads/2025/06/Kyleigh-Thurman-Deficiency-Letter_CONFIDENTIAL.pdf.

The Center seeks to better understand how Asencion Seton is addressing the deficiencies found in this EMTALA matter. Releasing this information is vital to the public interest to understand how Ascension Seton will address the deficiencies in their policies and practices in order to ensure that future patients in need are protected.

Records Requested

Please provide all responsive records from August 6, 2024, through the date the search is conducted. As used herein, "records" means all records as defined in 22 C.F.R. § 171.1(b). Additionally, as used herein, any reference to HHS encompasses all regional offices (both current and past) as well as the central offices located in Washington, D.C.

We request the following to be produced within twenty business days:

1. Any and all plans of correction, communications regarding or related to corrective action or a corrective action plan, reports, disclosures, communications, or other documents sent to, received by, or exchanged with any HHS employee (temporary or permanent), official, appointee, or contractor related to Ascension's Plan of Correction.

2. All communications, meeting notices, meeting agendas, meeting notes, informational materials, draft legislation, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any HHS employee (temporary or permanent), official, appointee, or contractor related to Ascension's Plan of Correction.

3. All electronic communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachment), or messages on messaging platforms (including but not limited to Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, Truth Social messages, WhatsApp, Telegram or Parler) regarding Ascension's Plan of Correction.

The Center seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. No category of material should be omitted from search, collection, and production.

In addition to the records requested above, the Center also requests records describing the processing of this request, including records sufficient to identify search terms used, locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

Please search all records regarding agency business. You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; the Center has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.

Please note that in conducting a "reasonable search" as required by law, you must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered your agency's prior FOIA practices unreasonable. In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches. Furthermore, agencies, including the HHS, that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians' files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools would capture that email under Capstone.

Accordingly, the Center requests that HHS use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. The Center is available to work with you to craft appropriate search terms. However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

We request that you produce all responsive materials in their entirety; however, should you determine the materials contain information which falls within the statutory exemptions provided in 5 U.S.C. § 552 or 22 C.F.R. § 171.11, we request the information be reviewed for possible discretionary disclosure. We furthermore request that all reasonably segregable portions of the exempt material be provided. We request that any deleted material be described in detail, and that you specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information "only if . . . disclosure would harm an interest protected by an exemption" or "disclosure is prohibited by law." If it is your position that any portion of the requested records is exempt from disclosure, the Center requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is

actually exempt under FOIA."[2] Moreover, the *Vaughn* index "must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information."[3] Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'"[4]

You should institute a preservation hold on information responsive to this request. The Center intends to pursue all legal avenues to enforce its right of access under FOIA, including litigation if necessary. Accordingly, your agency is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, the Center welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, the Center and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Waiver or Limitation of Fees

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), documents are required to be provided to requesters without any charge or at reduced fees "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." We request a waiver (or, in the alternative, a reduction) of all fees because disclosure of the information would be in the public interest by increasing transparency into how Ascencion Seton is planning to comply with its EMTALA requirements.

Founded in 1992, the Center is the only global legal advocacy organization dedicated to reproductive rights, and its litigation and advocacy has played a key role in expanding access to reproductive health care around the world. The Center uses information gathered, and its analysis of information gathered, to educate the public through reports, briefing papers, fact sheets, periodicals, articles, blog posts, and other educational materials. Likewise, the Center also makes the materials gathered available on its public website and promotes their availability on social media platforms, such as Facebook, X (formerly known as Twitter), and Instagram. The Center receives hundreds of thousands of website page views, monthly, and publishes newsletters for public dissemination. Thus, the Center has demonstrated commitment to the public disclosure of documents and creation of editorial content.

The Center does not make this request for commercial use. 45 C.F.R. § 5.54(b)(3). As a 501(c)(3) nonprofit organization, the Center does not have a commercial purpose and the release of the information requested is not in the organization's financial interest. Accordingly, the Center qualifies for a fee waiver.

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[2] *Founding Church of Scientology v. Bell*, 603 F. 2d 945, 949 (D.C. Cir. 1979).
[3] *King v. U.S. Dep't of Just*., 830 F.2d 210, 223-24 (D.C. Cir. 1987).
[4] *Id.* at 224.

In the event that you determine you are unable to waive the fees, please provide us with prior notice if the total fees authorized will exceed $200 so that we can discuss arrangements.

Conclusion

The Center looks forward to working with your agency on this request. Thank you for your prompt attention to this matter.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the Center requests that responsive materials be provided electronically by email or in PDF or TIF format on a USB drive. Please send any responsive material being provided and acknowledgement of receipt of this request to:

Astrid Marisela Ackerman
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038
E: aackerman@reprorights.org
T: (917) 637-3604

Nicolas Kabat
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038
E: nkabat@reprorights.org
T: (917) 637-3681

If it will accelerate release of responsive records, please also provide responsive material on a rolling basis.

If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Astrid Ackerman and Nicolas Kabat. Thank you for your assistance.

Sincerely,

Astrid Marisela Ackerman
Nicolas Kabat
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038

/s/
Astrid Ackerman