



January 18, 2017

Via U.S. Mail and Electronic Mail

Board of Commissioners
Snohomish County Public Hospital District #2
4710 196th St. SW
Lynnwood, WA 98036

Re: Compliance with the Reproductive Privacy Act, RCW 9.02

Dear Commissioners:

We write to express our concern that Snohomish County Public Hospital District No. 2 (hereinafter “the District”) is not in compliance with the Reproductive Privacy Act (“RPA”), RCW 9.02.

As you are aware, the RPA requires all public hospital districts that provide maternity services to also provide substantially equivalent pregnancy termination services.

It is our understanding that the District leases its facilities to Swedish Health Services and the facilities owned by the District are now called Swedish Edmonds. Swedish Edmonds provides a wide range of maternity care but does not provide “elective” termination services.¹ This refusal to provide services places the District in violation of the RPA. We request that the District change its policies, practices, and any relevant agreements it currently has in place with Swedish Health Services, to bring the District into compliance.

Attached is a recent decision issued by the Superior Court of Skagit County. The decision affirms that a public hospital district violates Section 160 of the RPA whenever it provides maternity care to women through “any program” and fails to provide voluntary terminations as well. The Superior Court stated that “[c]ompliance with the RPA is not aspirational; it is mandatory.” Coffey v. Pub. Hosp. Dist. No. 1, Skagit Cnty. Wash. d/b/a/ Skagit Reg’l Health, No. 15-2-00217-4 at 7 (Wash. Super. Ct. June 20, 2016). Although individual practitioners may choose either to provide or not provide these services, “the state . . . cannot exercise such an opt out.” See id. at

¹Swedish Edmonds, Reproductive Health Care Position Statement *available at* <http://www.doh.wa.gov/Portals/1/Documents/2300/HospPolicies/SwedishRH.pdf> (last accessed Jan. 18, 2017) (“Elective pregnancy terminations are not performed in Swedish facilities. . . .”); *see also* Swedish Birth and Family Clinic – Edmonds *available at* <http://www.swedish.org/locations/swedish-edmonds-birth-family-clinic> (last accessed Jan. 18, 2017); *see also* Swedish OB/GYN Specialists – Edmonds *available at* <http://www.swedish.org/locations/swedish-ob-gyn-specialists-edmonds> (last accessed Jan. 18, 2017).

AMERICAN CIVIL
LIBERTIES UNION
OF WASHINGTON
901 5TH AVENUE, SUITE 630
SEATTLE, WA 98164
T/206.624.2184
WWW.ACLU-WA.ORG

JEAN ROBINSON
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

6-7. A public hospital's interpretation of "substantially equivalent" must be reasonable and comport with the RPA's intention of ensuring that "[e]very woman has the fundamental right to choose or refuse to have an abortion" without interference or discrimination by the state. RCW 9.02.100.

The Attorney General's office has also weighed-in on this issue, stating that "[a] public hospital district cannot avoid the requirement of RCW 9.02.160 by delegating management responsibility . . . both because RCW 9.02.160 precludes a public hospital district from doing by contract what it cannot do directly and because the board of commissioners of a public hospital district remains legally responsible for operations and policy." Wash Att'y Gen. Op. 2013 No. 3, 2013 WL 4517410, at *5.

As a public hospital district serving the residents of Snohomish County, it is critical that the District provide reproductive health care services as required by state law. We would be more than happy to work with you to develop a plan that ensures women seeking reproductive healthcare services at your facilities have access to the full range of services as required by law.

We request a reply to this letter within thirty days and look forward to hearing from you. Please feel free to contact me directly should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah Rutman", with a horizontal line extending to the left and right of the name.

Leah Rutman
Policy Counsel