



September 28, 2012

Mr. Thomas E. Perez
Assistant Attorney General
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: D.J. No. 204-18-212

Dear Mr. Perez:

We have received your letter of September 25, 2012, as sent in response to our letter of September 14, 2012, and in follow-up to your Findings Letter of September 4, 2012.

In your letter, you express concern about the welfare of Florida's children. The State assures you that the healthcare professionals at the Florida agencies charged with the daily responsibility of ensuring child welfare are equally concerned. Indeed, these hardworking employees at the Agency for Health Care Administration, the Department of Children and Families, and the Department of Health have dedicated their lives and careers to ensuring that this and other vulnerable populations receive necessary medical services in the most integrated setting possible.

Accordingly, after receiving your Findings Letter, the State conducted its own multi-agency investigation, during which we visited all nursing facilities where medically complex or medically fragile children reside. We also contacted the parents or caregivers of such children to ensure that they were aware of the services available for them in the community. Based on our investigation, we have concluded that the assertions in your Findings Letter are unfounded.

The State appreciates the Justice Department's offer to send lawyers from Washington to Florida, sometime in the next two weeks, to collaborate with our healthcare experts regarding the matters identified in the Findings Letter. You also assert that time is of the essence because "[c]hildren in Florida are unnecessarily living in nursing facilities." It is therefore unclear why you would wish to wait a single day to provide us with their identities. Upon our receipt of the children's names, we will immediately conduct an additional, focused investigation of those specific children so that their parents and caregivers can again explore community living options. We will also immediately work with the children's parents or caregivers to address any concerns and to ensure that they are fully aware of the extensive complement of Medicaid services available in the home. Children served by the Florida Medicaid program have such services available to them (up to twenty-four hours a day, seven days a week) whenever a doctor determines such services are medically necessary. These services include: private-duty nursing;

personal-care assistance; home health-aide services; and occupational, physical, and speech therapy.

Your stated reason for not providing us the State with the names of the children at issue, or any of the other supporting information we requested, is that "the State declined to provide information to the Department in response to our information request" This posturing does not help us address the immediate needs of medically complex or medically fragile children who are at the center of the Justice Department's concern. This position is also inconsistent with your stated desire to work collaboratively to resolve your concerns. If the Justice Department's investigation is truly motivated by a concern over child welfare, and if the goal is truly to avoid protracted and unnecessary litigation that will divert and consume the State's resources, then we should work together immediately to address the circumstances of any children your investigation has identified.

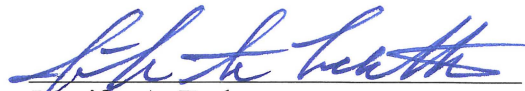
Accordingly, we would like to take the first step in that collaborative process by providing you with documents needed to resolve your concerns. As you know, the Department of Justice has filed a Statement of Interest in support of the putative class action lawsuit pending in the U.S. District Court for the Southern District of Florida, *A.R./T.H., et al. v. Dudek, et al.* In that suit, Plaintiffs (and the Department in its Statement of Interest) have made nearly identical legal and factual allegations as those asserted in your Findings Letter. Thus, in the spirit of collaboration, we will provide you a copy of all documents produced by the State in the *A.R./T.H.* suit. We will do so whether or not the Department chooses to share with us the documents we have requested.

Again, as stated in our September 14 letter, when the Justice Department provides the State with the requested documents and information, we believe that the State's healthcare professionals can immediately work to clarify any misinformation that the DOJ's lawyers may have regarding these complex issues. We look forward to working cooperatively to voluntarily address and resolve any and all concerns your attorneys may have.


Sincerely,



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