Arnold Schwarzenegger, Governor
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Business, Transportation and Housing Agency

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December 15, 2008

VIA MAIL AND EMAIL Hillarie643@aol.com

Hillarie Levy
2958 Chippewa Avenue
Simi Valley, CA 93063

RE: PUBLIC RECORDS ACT REQUEST
PRA No. 2008-1903

Dear Ms. Levy:

This letter is in response to your November 10, 2008 request for documents, as clarified during our December 3, 2008 telephone conversation. I understand from speaking with you that you are seeking copies of documents that reflect the DMHC's actions with respect to the complaint you submitted to the DMHC regarding "Kaiser placing cancer patients at a lower priority of receiving blood transfusions."

I understand that you initially contacted the DMHC's HMO Help Center in February, 2004 regarding the blood transfusion issue. My understanding is that there had been a delay in providing a needed blood transfusion for your daughter, Robyn Libitsky, and that a unit of blood donated by yourself for Robyn's benefit had been lost.

Following your contact with the DMHC regarding the blood transfusion and the lost unit of blood issues, as well as several other issues,[1] the DMHC investigated all of the concerns you raised. As indicated in several letters from the DMHC to you, among the actions the DMHC took were to examine all call center complaints received by the DMHC in the prior 12-month period to see if there was a pattern of complaints regarding Kaiser. With respect to the blood transfusion issue, the DMHC did not find a patter of complaints indicating Kaiser was treating cancer patients differently from other patients in that regard.

However, the DMHC did embark on a system-wide review of Kaiser's quality of care. This review was conducted as a non-routine medical survey of Kaiser, and ultimately resulted in a record fine against Kaiser of $2 million. For your convenience, I have enclosed a copy of the DMHC's Consent Agreement, dated June 30, 2007, outlining the deficiencies identified by the DMHC and directing Kaiser to pay the $2 million fine.

[1] The other issues you raised regarded the way Kaiser personnel treated patients, the Ombudsman's knowledge level, whether Kaiser was improperly attempting to obtain donor organs from cancer patients, and whether Kaiser was inadequately explaining the meaning of hospice care to cancer patients.

For your convenience, I have also included with this letter a number of letters DMHC personnel have sent to you regarding the DMHC's actions with respect to the issues you raised regarding Kaiser. These letters are as follows:

- April 27, 2006 letter from G. Lewis Chartrand;
- May 5, 2006 letter from G. Lewis Chartrand;
- June 8, 2006 letter from G. Lewis Chartrand;
- August 1, 2006 letter from G. Lewis Chartrand;
- March 20, 2007 letter from Edward G. Heidig; and,
- August 22, 2007 letter from Lucinda A. Ehnes.

There also may be a number of letters from the DMHC's HMO Help Center to you that specifically concern the blood transfusion issue. To the extent they exist, any such letters will be in the DMHC's off-site archived storage due to the age of the letters, which date back to 2004 and 2005. I have requested that the archived files be sent to me as soon as possible. Once I receive and review the files, I will forward to you copies of any documents responsive to your CPRA request. I reasonably expect to receive the files by Friday, December 19, 2008.

On a final note, as we discussed on December 3, and as I reiterated in my December 4 letter to you, some documents that DMHC may have regarding the actions it took in responding to your complaints may be subject to a number of exceptions under the California Public Records Act ("CPRA"), which make certain types of documents not subject to disclosure. For example, documents in the DMHC's investigatory files are not subject to public disclosure. Similarly, confidential communications between the DMHC's attorneys and DMHC personnel, the work product of DMHC attorneys, and information acquired in confidence by DMHC personnel in the course of their duties are not subject to disclosure. Finally, documents that contain private medical information are confidential and non-public.

Again, enclosed with this letter are the June 30, 2007 Consent Agreement and the letters identified above. When I receive from the DMHC's off-site storage any other correspondence regarding your daughter's blood transfusion issue I will send copies to you; I expect to receive those letters, to the extent they exist, by December 19. In the meantime, should you have any questions or concerns, please do not hesitate to contact me at (916) 324-2522.

Sincerely,

SARAH REAM
Staff Counsel III
Office of Legal Services

SR:sr
Enclosures