

EXHIBIT A



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March 13, 2018

VIA ELECTRONIC MAIL – FOIA Request@cms.hhs.gov

FOIA Officer
Centers for Medicare and Medicaid Services
Division of Freedom of Information
Mail Stop: N2-20-16
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Freedom of Information Act (FOIA) Request

Dear Sir or Madam:

On behalf of David T. Marks and the law firm of Marks, Balette, Giessel & Young, PLLC, Ernest C. Tosh and the Law Offices of Ernest C. Tosh, and Lesley Ann Clement and Clement & Associates (collectively, “Requesters”), I request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, that you promptly disclose to us copies of the following agency records:

1. For the period of July 1, 2016 to the present, all documents constituting or reflecting communications with Third Parties concerning: (a) whether Centers for Medicare and Medicaid Services (“CMS”) or any other federal agency or office, or contractor or agent thereof, should disclose Minimum Data Set (“MDS”) reports or data, in whole or in part, in any format, to members of the public, including without limitation, disclosure to litigants or their attorneys; or (b) the format in which such MDS reports or data should be disclosed to the public, including whether such materials should be redacted or de-identified and the scope of said redactions or de-identification.
2. For the period of July 1, 2016 through the present, (a) FOIA requests made by Third Parties (“Third Party Requests”) that sought or seek disclosure of: (i) FOIA requests previously made by Ernest C. Tosh or the Law Offices of Ernest C. Tosh for MDS data or reports, and/or documents relating thereto; (ii) FOIA requests previously made by David T. Marks or the law firm Marks, Balette, Giessel & Young, P.L.L.C., for MDS data or reports, and/or documents relating thereto; and/or (iii) FOIA requests previously made by Lesley Ann Clement or the law firm Clement & Associates for

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MDS data or reports and/or documents relating thereto; and (b) all CMS responses to, and correspondence regarding, such Third Party Requests.

As used herein, the term "Third Parties" means (1) any member of the public including, without limitation, nursing homes, nursing home industry associations, attorneys, law firms, lobbyists, and other individuals, corporations, or incorporated or unincorporated associations or entities; (2) United States Senators and United States Representatives, or their staff members; (3) employees or representatives of U.S. or state governmental agencies, including the Department of Health and Human Services (HHS), other than CMS. As used herein, the term "Third Parties" does not include CMS or Requesters.

For purposes of assessing fees, I am affiliated with a private business and am seeking information for commercial purposes.

I am willing to pay fees for this request up to a maximum of \$250.00. If you estimate that the fees will exceed this limit, please inform me first.

For our tracking purposes, please provide a FOIA request number and PIN as soon as possible. We will expect your response, indicating whether you will disclose the requested documents, within the time limits prescribed by FOIA and HHS regulations.

If you have any question concerning this request, please call me at 202 973 4210 or Pat Curran at 202 973 4277.

Sincerely,

Davis Wright Tremaine LLP



Burt Braverman

cc: Ernest C. Tosh
David T. Marks
Lesley A. Clement