

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**STATE OF FLORIDA, AGENCY FOR HEALTH
CARE ADMINISTRATION,**

Petitioner,

DOAH CASE NO. 17-005769

v.

**REHABILITATION CENTER AT
HOLLYWOOD HILLS, LLC,**

Respondent.

**AMENDED NOTICE OF TAKING DEPOSITION DUCES TECUM
OF THE GOVERNMENT REPRESENTATIVE(S)
OF THE FLORIDA DEPARTMENT OF HEALTH**

TO: ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that pursuant to Florida Rules of Civil Procedure 1.310(b)(1) and (b)(6), the Rehabilitation Center at Hollywood Hills, LLC ("Hollywood Hills") notices the following deposition:

The government representative(s) of the Florida Department of Health, located at 4052 Bald Cypress Way, Tallahassee, FL 32399, with the most knowledge of the following topics upon which this deposition is being requested:

- Communications with the Hollywood Hills from September 9, 2017 through September 13, 2017.
- Communications pertaining to the Hollywood Hills from September 9, 2017 to present.
- The Governor's direction to AHCA and DOH to immediately suspend Hollywood Hills' license and the basis for said direction.

EXHIBIT 50

Witness Juel

Date 12/14/17

- Any efforts made by the Department of Health (“DOH”) to “escalate” or otherwise increase the priority of power restoration to Hollywood Hills from September 10, 2017 through September 13, 2017.
- Communications with state agencies and the Governor’s Office regarding Hollywood Hills from September 9, 2017 through September 13, 2017.
- Any efforts by DOH to determine the number of nursing home residents or ALF residents that died between September 9, 2017 through September 16, 2017, including the number of deaths at each facility, and cause of death.
- Any investigation by DOH pertaining to Hollywood Hills from September 9, 2017 to present.
- Any investigation by DOH of any nursing homes or assisted living facility for deficiencies alleged to be associated with Hurricane Irma.
- The deaths of residents of Hollywood Hills from September 9, 2017 to present and the medical cause of those deaths.
- The medical records of the residents of Hollywood Hills from September 9, 2017 to present.
- Nursing homes and assisted living facilities who reported losing electrical power from September 9, 2017 through September 15, 2017.
- The custodian of the documents being requested in the subpoena.

The deposition will take place on November 27, 2017 at 9:00 a.m. at 3301 Thomasville Road, Suite 201, Tallahassee, Florida 32308.

Pursuant to Florida Rule of Civil Procedure 1.310(b)(6), please designate one or more officers, directors, managing agents, or other persons who consent to do so, to testify on your behalf on the matters listed above.

The deposition will continue from day to day as necessary.

The documents requested from the deponent are attached hereto as Exhibit A.

This deposition is being taken for the purpose of discovery, to perpetuate testimony at final hearing, and for such other purposes as are permitted under the applicable statutes, Rules of Court, and Florida Rules of Civil Procedure.

Respectfully submitted,

/S/ GEOFFREY D. SMITH

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by e-mail to the following this 13th day of November, 2017:

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/S/ GEOFFREY D. SMITH

GEOFFREY D. SMITH

Exhibit A

DEFINITIONS

1. **"Hollywood Hills"** or **"Rehabilitation Center at Hollywood Hills"** means Rehabilitation Center at Hollywood Hills, LLC, its agents, representatives, employees, and any persons or entities acting on behalf of Hollywood Hills.

2. **"Persons"** means any natural person, expert witness, individual, proprietorship, partnership, corporation, association, organization, joint venture, firm or other business enterprise, governmental body, group or natural persons or other entity.

3. **"Document"** means any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed. The category includes, but is not limited to, correspondence, memoranda, notices, e-mails, messages, letters, telegrams, teletype, facsimile, bulletins, notice of meetings, chronological data, minutes of meetings and conferences, books, reports, charts, ledgers, worksheets, invoices, receipts, returns, affidavits, contracts, canceled checks, statistical surveys, magazine or newspaper articles, statistics, releases, and any and all drafts or alterations, or modifications of the foregoing. Also included as documents are graphics or aural records or representations, tapes, cassettes, discs, and other information which is stored or processed by means of data processing equipment and which can be retrieved in printed or graphic form. Document also means copies of any of the above. In addition, document means any notations made on such copies or original, and the reasons why such notations were made.

4. **"Communication"** means any transmission or transfer of information of any kind, orally, in writing, or in any other manner at any time or place, and under any circumstances whatsoever.

5. The term “**pertain to**” means having any connection, association, or concern with, or any relevance, relation, pertinence, or applicability to, or any implication or bearing upon the subject of the inquiry.

INSTRUCTIONS

1. Claim of Privilege. If production of a requested document is withheld pursuant to any claim of privilege, provide in your written response to this Request to Produce, the following identifying information for each such document, as required by Rule 1.280(5), Fla. R. Civ. P.:

- (a) the date of creation of such document;
- (b) the author of such document;
- (c) the addressee of such document, where applicable;
- (d) a brief description of the nature of the document and any attachments, including the number of pages;
- (e) a statement of the basis upon which the privilege is claimed; and
- (f) the number of each specific request to which the document or thing would be responsive.

2. Interpretation of Request. Words in the past tense include the present, and words in the present tense include the past. Use of the singular shall be deemed to include the plural and vice versa. Use of the masculine shall be deemed to include the feminine where appropriate, and vice versa.

3. Custody of Documents. If there is any document or other tangible item described by this request which is no longer in your possession, custody, or control, or is no longer in existence or accessible to you, please indicate:

(a) the date and nature of the disposition of such document or other tangible item, including, but not limited to, whether such document or item (1) is missing or lost; (2) has been destroyed; or (3) has been transferred to another person or entity;

(b) the circumstances surrounding such disposition, including any authorization therefor, and

(c) where applicable, the person or entity currently in possession, custody, or control of such document or item.

4. Form or Production. Documents shall be produced in an orderly and coherent manner. Please identify the specific document request to which the produced documents are responsive.

DOCUMENTS REQUESTED

1) All Documents and Communications pertaining to Hollywood Hills from September 9, 2017 to present, including, but not limited to, all telephone logs, telephone transcripts or notes, recordings, emails, analyses, memorandums, letters, notices, text messages, or website updates.

2) Any Document containing a list of all nursing homes and assisted living facilities who reported losing electrical power from September 9, 2017 through September 15, 2017.

3) All Documents, including, but not limited to, any medical records, causes of death, analyses, or memoranda, pertaining to the residents and patients of Hollywood Hills who perished between September 9, 2017 through present.

4) All Documents or Communications which evidence any timeline of events relating to Hollywood Hills from September 9, 2017 through present.

5) All statutes, rules, regulations, policies, or procedures pertaining to a nursing home or assisted living facility's hurricane preparedness, power outages, or emergency preparation plan.

6) All Documents or Communications pertaining to Governor Scott's September 13, 2017 call to investigate Hollywood Hills, including, but not limited to, any emails, analyses, memorandums, or letters.

7) All Documents or Communications pertaining to Governor Scott's direction to AHCA and DOH to institute emergency rules pertaining to nursing homes and assisted living facilities after Hurricane Irma and the basis for said direction.

8) All Documents or Communications pertaining to Alexis Lambert's September 11, 2017 call to Natasha Anderson, including, but not limited to, any transcripts, recordings, notices, analyses, memoranda, emails, or letters produced as a result of this call.

9) All Documents or Communications evidencing any emergency calls from Hollywood Hills to DOH or to DOH's Emergency Medical Services System from September 9, 2017 to present, including, but not limited to, call logs, transcripts, or recordings.

10) All Documents or Communications pertaining to the decision to evacuate Hollywood Hills from September 9, 2017 through September 15, 2017, including any analyses, memoranda, emails, or notices.

11) All Documents, Communications and phone records between any representative of DOH and any representative of EMS relating to Hollywood Hills or any resident of Hollywood Hills, including 911 call logs, transcripts, recordings, notes or emails.

12) All Documents or Communications pertaining to the prioritization of restoring power to health care facilities after and during Hurricane Irma, including, but not limited to, policies, procedures, memoranda, or emails. This request should also include any policies or

procedures used to determine “critical facilities” or the priority of facilities to have their power restored.

13) All Documents or Communications pertaining to telephone calls between DOH and Florida Power & Light from September 9, 2017 through present, including, but not limited to, telephone call logs, call transcripts or notes, recordings, transcripts, memoranda or email evidencing the call and/or the content of the call.

14) Any Documents or Communications, including, but not limited to, any and all records, documents, notes, videos, voice messages, recordings, photographs and any other paper or electronic data, pertaining to air temperatures at Hollywood Hills on September 10, September 11, September 12, and September 13, 2017.

15) Any Documents or Communications, including, but not limited to, any and all records, documents, notes, videos, voice messages, recordings, photographs and any other paper or electronic data, pertaining to compliance and/or noncompliance with emergency disaster plans at Hollywood Hills from September 9, 2017 to present.

16) Any Documents or Communications, including, but not limited to, any and all records, documents, notes, videos, voice messages, recordings, photographs and any other paper or electronic data, pertaining to the deaths of any individuals who were nursing home residents at the time of death or were nursing home residents within 30 days prior to their deaths for the time period from September 10, 2017 through compliance with this request, and for each individual identified, the response must include his/her Minimum Data Set, the Centers for Medicare & Medicaid Services Standard Analytic Files for part A claims and Medicare enrollment data that includes date of death.

17) For each resident death allegedly associated with Hollywood Hills post Hurricane Irma, the complete medical examiner file including but not limited to, all photographs taken during external examination, unstained slides of all tissue taken during autopsies, the Medical Examiner Investigative Report, and the Medical Examiner's Autopsy Report.