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Stephen M. Ryan
Attorney at Law
[redacted]

September 20, 2016

BY U.S. MAIL AND EMAIL

The Honorable Marsha Blackburn, Chairman
The Honorable Jan Schakowsky, Ranking Member
House Select Panel on Infant Lives
H2-316 Ford House Office Building
Washington, DC 20515

Re: Proposed Disclosure of Code Name Dr. Administrator's Deposition Transcript

Dear Chairman Blackburn:

I am writing today on behalf of my client, the University of New Mexico ("UNM") with regard to the notice posted by the Select Panel on its website last night of a business meeting on September 21, 2016. The Select Panel has proposed the meeting to consider, among other items, a resolution to release of the deposition transcript of UNM's doctor, code name: Dr. Administrator, who you publicly named in your online notice.

UNM objects to a vote to release the transcript at this time. The Select Panel would violate its own rules if it released the deposition transcript without having afforded the witness or counsel to review the transcript as required by the governing deposition regulations. *See* 161 Cong. Rec. E21-01, ¶8 ("If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days thereafter, the witness may submit suggested changes to the chair.") In fact, UNM counsel addressed this very issue with the Select Panel majority staff by email as recently as September 12, 2016 and offered to review the transcript in the Select Panel's office and at staff's convenience. *See* email from UNM Counsel, at Attachment 1. Majority staff never responded to this offer.

UNM continues to have grave concerns about the Select Panel Majority's repeated, intentional public disclosure of the names of its doctors, first in the Interim Report from July 2016, and again in the notice published on the Select Panel's website on September 19, 2016. UNM has asked repeatedly for over six months for assurances that the Select Panel would not disclose the names of its doctors or staff, who UNM has shown are in grave danger of harassment or worse by extremists who oppose their profession. One UNM doctor gave sworn testimony detailing the harassment and threats that this doctor and others have already received, both at their homes and at work. She laid out for the members of the Panel in her deposition why her name and the

[redacted]

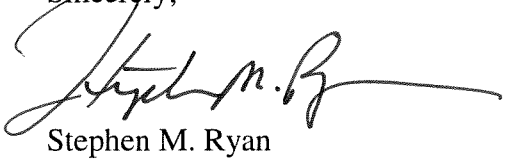
names of other doctors and staff should not be disclosed. She described the real fear these doctors carry with them each day. At various points your staff provided assurances to UNM counsel that they would take measures to protect the privacy and safety of UNM staff. The most recent and totally unnecessary online publication of a UNM doctor's name directly contravenes all of these assurances.

From the very beginning of this inquiry, UNM has expressed its well-grounded concerns regarding the safety and well-being of its students, faculty and staff. The potential for harm to these individuals is real and demonstrable. This is evidenced by the deadly attack at a Planned Parenthood clinic in Colorado last year – an attack where the assailant killed, among others, a police officer – as well as the specific death threats recently received by individuals connected to the procurement of fetal tissue. One of those death threats prompted an investigation by the FBI, and the arrest of an individual who made that specific threat. Counsel to UNM expressed these specific concerns repeatedly in correspondence to the Select Panel on January 29, February 16, February 19, March 3, April 11, and May 19 of 2016, and in various email correspondence.

The repeated public disclosure of these names demonstrates a knowing and intentional disregard for the safety of UNM personnel by the Select Panel Majority, who has been on notice since January 2016 of the charged environment surrounding these professionals and the potential danger they face. Going forward, the members of the Select Panel who vote in favor of this resolution to release the deposition transcript will personally bear responsibility for any harm that comes to these individuals.

UNM requests that if the Select Panel adopts a resolution to release the transcript, whether prematurely in violation of its rules or after UNM has had a chance to review it, that the Select Panel redact the UNM doctor's name from the transcript. The fact that the Select Panel has previously published the doctor's name does not excuse it from an ongoing obligation to avoid endangering UNM staff. Secondly, UNM requests that the Select Panel postpones the disclosure of the transcript by a minimum of a week so that UNM can work with local law enforcement and campus security to put additional security measures in place to protect students and staff.

Sincerely,



Stephen M. Ryan

cc: Elsa Kircher Cole, University Counsel
March Bell, Esq., Select Investigative Panel on Infant Lives
Frank Scaturro, Esq., Select Investigative Panel on Infant Lives
Heather Sawyer, Esq., Select Investigative Panel on Infant Lives

ATTACHMENT 1

From: Ryan, Stephen
To: Bell, March; Scaturro, Frank
Cc: Showalter, Cecilia
Subject: RE: Interrogatories.
Date: Monday, September 12, 2016 2:16:17 PM

March and Frank,

1. Thanks for agreeing to address the issue of interrogatory answers from the lab technician. We are prepared to reach agreement regarding such an interrogatory process, which we can complete in a reasonable amount of time, to which we can agree with you in advance. However, we need written assurance that the Panel Majority will not release her identity.

2. UNM remains very concerned regarding aspects of the Select Panel Majority's intentional disclosure of the names of two of its doctors in its Interim Report published on July 14, 2016. Leaving aside for now the statements we totally disagree with in your report regarding UNM, the Majority chose to deliberately publish the names of two UNM doctors in Exhibit E to the report, the "compliance chart."

From the very beginning of this inquiry, UNM has consistently expressed its well-grounded concerns regarding the safety and well-being of its students, faculty and staff. One UNM doctor gave sworn testimony to the Panel in a deposition detailing the harassment and threats that this doctor and others have already received, both at home and at work. The deposition testimony laid out for the members of the Panel why her name and the names of other doctors and staff should not be disclosed. At various points, you and the rest of your staff gave assurances and indications you might not do this. Then, the Panel's Majority published the doctors' names.

UNM has been working with campus police and local law enforcement regarding the publication of the names by the Panel Majority, as well as the publication of the, address and contact information of its doctors and the lab assistant by a "Liveactionnews" blog that was published during the same week. UNM is also concerned about the inflammatory rhetoric of both publications, and will be seeking additional security measures to safeguard these individuals and their students.

3. A related issue: With respect to the deposition of Dr. [redacted], the Panel never provided us with the opportunity to review and correct the transcript of the deposition. According to the rules, Dr. [redacted]'s deposition is therefore not final and should not be published, quoted, or cited to by the Panel. Do you want us to come up and look?

Let me know your thinking on the interrogatory process.

Stephen M. Ryan
Partner

McDermott Will & Emery LLP The McDermott Building | 500 North Capitol Street, N.W. |

Washington, DC 20001
[redacted]

Biography | Website | vCard | Email | Twitter | LinkedIn | Blog

From: Bell, March [redacted]
Sent: Wednesday, September 07, 2016 10:44 AM
To: Ryan, Stephen; Scaturro, Frank
Cc: Showalter, Cecilia
Subject: RE: Interview request

Your memory is correct – we can discuss alternatives if you like..

From: Ryan, Stephen [redacted]
Sent: Wednesday, September 7, 2016 9:25 AM
To: Scaturro, Frank [redacted]
Cc: Bell, March [redacted]; Showalter, Cecilia [redacted]
Subject: RE: Interview request

We acknowledge receipt of this. Could you both please review Mr. Bell's email to me of 5-18-5.18 pm. Let's discuss that approach. I may have a more formal response from UNM after that. And please add Ms. Showalter to our communications.
Steve Ryan

Stephen M. Ryan
Partner

McDermott Will & Emery LLP The McDermott Building | 500 North Capitol Street, N.W. |
Washington, DC 20001
[redacted]

Biography | Website | vCard | Email | Twitter | LinkedIn | Blog

From: Scaturro, Frank [redacted]
Sent: Tuesday, September 06, 2016 10:35 AM
To: Ryan, Stephen
Subject: Interview request

Steve,

We are scheduling interviews the next few weeks in connection with our investigation. Would UNM consent to having its lab technician who handles fetal tissue come in for an interview? Please let me know at your earliest opportunity, as well as what dates this month would work best for the interview.

Thanks,
Frank

Frank J. Scaturro

Special Counsel
Select Investigative Panel on Infant Lives
[redacted]

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