



Department  
of Health

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Amy Acton, M.D., MPH, Director

OCT 25 2019

Via e-mail and regular U.S. mail

Jennifer Branch  
Gerhardstein & Branch  
Carew Tower  
441 Vine Street, Suite 3400  
Cincinnati, Ohio 45202

Re: Women's Med Center of Dayton  
2019 New License Variance Request

Dear Ms. Branch:

Pursuant to R.C. 3702.304 and O.A.C. 3701-83-14 and after careful review and consideration and consultation with the department's medical director, I am granting the variance request of Women's Med Center of Dayton for the anticipated 2019 license period. This variance is an alternative to the requirement for a written transfer agreement as set forth in R.C. 3702.303 and O.A.C. 3701-83-19. The variance is being granted based on the information submitted and on the four identified back-up physicians. This variance request is part of the Women's Med Center's new licensure application which was submitted on August 27, 2019. The back-up physicians listed are: Sheila Barhan, M.D., Janice Duke, M.D., Jerome Yaklic, M.D. and Margaret Dunn, M.D..

The variance covers only the written transfer agreement requirement, which is one component of an overall license application. Women's Med Center's new license application will be fully reviewed and Women's Med Center will receive a license only if its application satisfies all other components of the licensure process, as described in Ohio Administrative Code Chapter 3701-83. An on-site inspection will be conducted to ensure compliance with the licensure requirements.

It is my expectation that Women's Med Center will comply with the requirements of R.C. 3702.307 and will notify me within 48 hours of any proposed modification to the variance protocol or the information contained in the variance application described in R.C. 3702.304(B). This information includes, but is not limited to, changes to the back-up physician(s) listed. Women's Med Center must also notify me within one week after becoming aware of any event that may affect a back-up physician's ability to practice medicine, including discipline by the state medical board, ability to

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admit patients to the hospital identified in Women's Med Center's variance application, or any court judgments that affect a back-up physician's ability to practice medicine or provide back-up services. Further, as a condition of this variance, if Women's Med Center proposes any modifications to the approved variance during the licensure period, Women's Med Center must obtain written approval from the department prior to making any unilateral changes. In addition, Women's Med Center shall comply with its Emergency Medical Protocol.

R.C. 3702.306 provides that a variance granted by the director of health under section 3702.304 of the Revised Code is effective for the period of time specified by the director, except that it shall not be effective beyond the date the ambulatory surgical facility's license expires.

Because Women's Med Center's license has not yet been issued, if it does qualify for a license, I specify that this variance expires one year from the date that the new license is issued and will coincide with Women's Med Center's next license renewal. Because this variance will expire on the date the facility's license expires, the facility may apply for a new variance with its next license renewal application. Finally, pursuant to R.C. 3702.305, I may rescind this variance at any time and for any reason.

If you have any questions regarding this variance, please contact Lisa Eschbacher, Deputy General Counsel, at 614-466-4882.

Sincerely,



Amy Acton, MD, MPH  
Director of Health

cc: James Hodge, Bureau Chief, Bureau of Regulatory Operations  
Lisa Eschbacher, Deputy General Counsel, ODH