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March 18, 2025

Via Email Only

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RE: Response and Request for Extension in Response to VFOIA Request from Kristine Pierce to DMAS Dated March 12, 2025

Dear Messrs. Werkheiser and Cobb,

The Virginia Department of Medical Assistance Services (“DMAS”) has retained McGuireWoods LLP in connection with the Virginia Freedom of Information Act (“VFOIA”) request from Kristine Pierce of Fishing Point Healthcare dated March 12, 2025 (the “VFOIA Request”). This letter is sent in response to the VFOIA Request as provided by Code § 2.2-3704(B).

To start, it is not possible to produce responsive documents to this VFOIA Request within the statutory five-day period. The VFOIA Request requires production of “[a]ny written communication” relating to four distinct, but expansive, topics. DMAS will need to complete a reasonable search to identify such responsive documents and therefore is invoking the statutory seven additional working days to respond, as is permitted by Code § 2.2-3704(B)(4).

Given the breadth of the VFOIA Request, which potentially implicates a large number of documents and numerous custodians, I would like to arrange a meeting to reach an agreement concerning the production of the records requested. As you may expect, it will take some time to identify document custodians, collect, review, and produce the documents that may be responsive to the VFOIA Request. We would also like to discuss the production format asked for in the VFOIA Request. DMAS specifically disputes any implication that it has improperly “altered” any document produced in response to a request under VFOIA, or that it would do so in response to this request. Please let us know when you might be available to do so this week. We would like to avoid having to petition the Circuit Court for the City of Richmond for additional time under Code § 2.2-3704(C), if possible, and trust that our history of cooperation on these VFOIA matters will continue.

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Moreover, in responding to the VFOIA Request, DMAS expects to incur costs “in accessing, duplicating, supplying, or searching for the requested records.” Code § 2.2-3704(F). Ms. Pierce will be charged for those costs. *Id.* But DMAS will “make all reasonable efforts to supply the requested records at the lowest possible cost.” *Id.* DMAS may require Ms. Pierce to pay a deposit for the further processing of the VFOIA Request because the “charges for producing the requested records are likely to exceed \$200.” Code § 2.2-3704(H). Please let us know whether you would like a cost estimate in advance of DMAS supplying the requested records.

DMAS reserves all rights, remedies, positions, and defenses under the law. Moreover, to the extent the requested records exist, it is expected that at least some of the records requested will be subject to one or more exemption under VFOIA. Those exempt records will be withheld in whole or in part.

Thank you for your attention to this matter. Please let me know if you have any questions, comments, or concerns.

Very truly yours,

/s/ Brian E. Pumphrey

Brian E. Pumphrey

cc: John J. Woolard, Esq., *via email*