

RIGHTS & RESPONSIBILITIES:

The Rights of Requesters and the Responsibilities of the Chesapeake Hospital Authority under the Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), codified in § 2.2-3700 et seq. of the Code of Virginia, ensures that citizens of the Commonwealth and representatives of the media have the right to access public records held by Chesapeake Hospital Authority (the “Authority”), a public body, and its officials and employees. A public record encompasses any form of documentation be it written, electronic, audio, or video that is created, owned, or held by a public entity or its officers or employees in the transaction of public business. All public records are generally considered accessible, except for those that fall under specific statutory exemptions. The intent of FOIA is to enhance public awareness of government operations, and to support this goal, the law mandates a liberal interpretation favoring access, while any exemptions for withholding records must be construed narrowly.

Your FOIA Rights

- **Access Records:** You have the right to request records, regardless of format (paper, electronic, audio/video).
- **Transparency:** You have the right to receive a response within a five-day period, beginning the day after receipt.
- **Cost Estimate:** You have the right to ask for an estimate of charges for finding or copying records.
- **Reason Not Needed:** You do not have to explain why you want the records.
- **Legal Action:** You have the right to petition a court to enforce compliance if you believe your FOIA rights have been violated.

Making a FOIA Request for Records from the Authority

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
- Your request must identify the records you are looking for with “reasonable specificity,” meaning a level of detail that allows us to identify and locate them effectively. This is a “common-sense” standard and does not pertain to the quantity of records requested. Instead, it emphasizes the need for clarity in your request to facilitate our search for the relevant documents.

- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of the Authority, nor does it require the Authority to create a record that does not exist.
- You may choose to receive electronic records in any format used by the Authority in the regular course of business. For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records. It's important to be clear about what you need and how you want to receive it. This helps ensure that your request is processed smoothly and you get the information you are looking for.
- If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

To request records from the Authority, you may direct your request via:

Email: FOIA@chesapeakearegional.com

Fax: 757-312-6829 Attn: Judith Harris, FOIA Officer

Phone: 757-312-6100

Mail:

FOIA Officer

Attn: Administration

Chesapeake Regional Healthcare

736 Battlefield Blvd N

Chesapeake, Va. 23320

Dear FOIA Officer:

This is a request under the Virginia Freedom of Information Act (Va. Code § 2.2-3700 et seq.).

I request a copy of the following documents: [Be as specific as possible. Include dates, titles, names of persons, or file names if known, to avoid delays or increased search costs].

If there are any fees for searching or copying the records, please inform me if they exceed \$ [Amount, e.g., \$25.00] before filling my request.

In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at: foiacouncil@dls.virginia.gov, or by phone at (804) 698-1810 or [toll free] 1-866-448-4100.

The Authority's Responsibilities in Responding to Your Request

- The Authority must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- The reason behind your request for public records from the Authority is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow the Authority to require you to provide your name and legal address.
- FOIA requires that the Authority make one of the following responses to your request within the five-day time period:
 - We provide you with the records that you have requested in their entirety.
 - We withhold all the records that you have requested, because all of the records are subject to a specific statutory exemption. If all the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld and state the specific section of the Code of Virginia that allows us to withhold the records.
 - We provide some of the records that you have requested but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 - We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.

- If it is practically impossible for the Authority to respond to your request within five working days, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records or that requires an extraordinarily lengthy search and we feel that we cannot provide the records to you within 12 working days without disrupting our other organizational responsibilities, the Authority may petition the appropriate court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to the court to ask for more time.

FOIA Charges

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of supplying the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia.
- The Authority reserves the right to charge for requests depending on the scope of information requested. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs. Typically, the Authority estimates charging between \$86/hr. at a blended staff rate for support staff to access, search, and duplicate responsive correspondence and \$98.56/hr. for review and redaction of responsive correspondence. If we estimate that it will

cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request.

- The five days that we have to respond to your request do not include the time between when we ask for a deposit and when you respond. If you do not respond within 30 days, then your request will be deemed to be withdrawn.
- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront or give you the opportunity to modify your request to lower the estimated costs.
- If you owe the Authority money from a previous FOIA request that has remained unpaid for more than 30 days, the Authority may require payment of the past-due bill before we respond to your new FOIA request.

Types of records

The following is a general description of the types of records held by the Authority:

- Personnel records concerning employees and officials of the Authority;
- Records of contracts which the Authority has entered into;
- Bylaws;
- Resolutions adopted by the Authority's Directors;
- Agenda Materials; and
- Policies and Procedures.

If you are unsure whether the Authority has the record(s) you seek, please contact the FOIA Officer directly at the contact information set forth earlier in this document.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The Authority commonly withholds records subject to the following exemptions, including but not limited to:

- **Personnel Information:** Records concerning identifiable individuals, except access for the subject of the record (Va. Code § 2.2-3705.1 (1)).

- **Legal Advice & Attorney Work Product:** Written legal advice to the Authority, any other information that is protected by attorney-client privilege, and legal memoranda and other work product compiled for litigation or concerning matters that are the subject of closed meetings (Va. Code § 2.2-3705.1 (2), (3)).
- **Test/Examination Results:** Records used to evaluate student performance or employee qualifications (Va. Code § 2.2-3705.1 (4)).
- **Closed Meeting Records:** Materials compiled exclusively for use in authorized closed meetings (Va. Code § 2.2-3711 and Va. Code § 2.2-3705.1(5)).
- **Vendor Proprietary Information:** Software or vendor data that may be in public records (Va. Code § 2.2-3705.1 (6)).
- **Real Property:** Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease (Va. Code § 2.2-3705.1 (8)).
- **Personal contact information:** Information furnished to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members (Va. Code § 2.2-3705.1 (10)).
- **Contract Negotiation:** Records relating to the negotiation and award of a contract, prior to the contract being awarded (Va. Code § 2.2-3705.1 (12)).
- **Sensitive Financial Info:** Account numbers or routing info for credit/debit cards (Va. Code § 2.2-3705.1(13)).
- **Patient Records:** Health records, except that an individual may request to personally review their own health records (Va. Code § 2.2-3705.5(1)).
- **Health Care Committees:** Information and records held by certain health care committees and entities (Va. Code § 2.2-3705.5 (14)).
- The Authority is also granted FOIA exemptions in Section 7.2 of Chapter 271 of the 1966 Acts of Assembly. These additional exemptions include: records pertaining to the qualifications for or continued membership on the Authority's medical staff; proprietary information gathered by or in possession of the Authority from third parties; contract cost estimates prepared for confidential use and awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its staff; financial statements not publicly available which may be filed with the Authority from third parties; customer account information; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies that affect competitive position.

Policy Regarding the Use of Exemptions

The Authority's general policy is to apply exemptions as outlined previously and in other suitable situations under the Virginia Freedom of Information Act (FOIA). However, it is important to recognize that FOIA mandates a pro-access interpretation of the law, meaning that any exemptions granted should be applied narrowly.