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CLIENT ADVISORY

June 12, 2013

Virginia Department of Health Issues Updated Guidance on IFFC Procedure

On June 6, 2013, the Virginia Department of Health's Adjudication Unit issued an updated Guidance Document on the conduct and procedure for Certificate of Public Need Informal Fact Finding Conferences ("IFFC") at the Department. Effective May 31, 2013, VDH Guidance Document ADJ-004 replaces ADJ-003, which has been in place since November 2002. This new Guidance Document is available at http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\601\GDoc_VDH_5258_v1.pdf. Upon review of the new Guidance Document, there are a few notable features:

- The Guidance establishes the preferred method of receiving post-IFFC filings. The Adjudication Officer will accept either hard copy or e-mailed submissions, but hard copies of any submissions are preferable. If submission is made by e-mail only, a statement to that effect should be included within the body of the e-mail.
- Consistent with routine practice at the Department, the Guidance Document clarifies that e-mail or hard copy submissions must be received by the Adjudication Officer by 5 p.m. on the date agreed upon as the close of the record date in order to be considered.
- The Guidance no longer requires the pre-filing of documents that "relate complex facts or data to be discussed at the IFFC." The previous Guidance required that these documents be filed three days before the date of the IFFC.
- Most importantly, the Guidance Document also seems to change the good cause decision time frame. A decision on a Petition for Good Cause has historically been made at the time of, or just prior to, the Commissioner's decision on the merits. The new Guidance Document now states that a party seeking Good Cause Standing "will be notified if their petition is successful before the review of the application, or applications, on their merits, is undertaken."

As always, the attorneys at Hancock, Daniel, Johnson & Nagle, P.C. are available to answer any questions you may have in the Certificate of Public Need area. If you have any questions or concerns, please contact Tom Hancock, Jeannie Adams, Emily Towey, or Berkeley Horne at (866) 967-9604, or by email at thancock@hdjn.com, jadams@hdjn.com, etowey@hdjn.com, or bhorne@hdjn.com. Additional information about Hancock, Daniel, Johnson & Nagle, P.C. is available on the firm's website at www.hdjn.com.

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