1) FOIA/PA Mail Referral Unit, Department of Justice Room 115, LOC Building, Washington, DC 20530-0001, Phone: (202) 616-3837, E-mail: MRUFOIA.Requests@usdoj.gov
2) Office of Government Information Services National Archives and Records Administration 8601 Adelphi Road-OGIS College Park, MD 20740-6001 Telephone: 202-741-5770 Toll-Free: 1-877-684-6448 E-mail: ogis@nara.gov Fax: 202-741-5769
3) Office of Information Policy (OIP), U.S. Department of Justice, 6th Floor 441 G St. NW Washington, DC 20530, E-mail: DOJ.OIP.FOIA@usdoj.gov

Dear USDOJ Freedom of Information Officer,

This letter is a formal request under the Freedom of Information Act (FOIA) 5 U.S.C. § 552 addressed to the United States Department of Justice (USDOJ) to produce material as set forth in this letter. I am requesting documents within and under the immediate control of USDOJ as well as maintained by its subagencies including the Office of Solicitor General.

I am a physician and patient advocate who is working to promote the rule of law in the United States while saving millions of American lives at risk from the ongoing Opioid Epidemic. My aim is to ensure due process and equal protection for all U.S. physicians and the patients they take care of. I am also currently working with academics in the fields of medicine, law, pharmacy, and the media, who are also engaged in encouraging public knowledge and promoting law and individual rights guaranteed under the United States Constitution and the laws of the United States.

My mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public. All the records that will eventually be produced by my FOIA request from USDOJ will be made publicly available on the internet for citizens, journalists, and scholars to review and use. USDOJ is an agency of the federal government within the meaning of 5 U.S.C. § 552(f) and has possession and control of the records that I seek.

On March 1, 2022, in his State of Union Address, the 46th President of the United States, Joseph Robinette Biden Jr., announced to the entire United States his "Unity Agenda for the Nation". President Biden announced to the World that the United States has to "Beat the Opiate Epidemic" because there are "23 million" Americans in drug recovery. He also added that we

have to “stop doctors from prescribing treatments”. The opioid epidemic has become a large issue for the United States and it seems that President Biden has advocated for doctors to stop prescribing treatments unfortunately without declaring in particular which medical treatments are verboten.

Ironically on the same day, March 1, 2022, for the first time since *Moore v. United States* (1975) the United States Supreme Court held oral arguments in *Ruan and Khan v. United States* (Case 20-1410). The brilliant, Deputy Solicitor General Eric J. Feigin, addressed the U.S. Supreme Court and stated, “we're dealing with trained professionals who voluntarily choose to work with dangerous substances with vulnerable patients, that the idea of some objective manifestation of at least an attempt to practice some recognizable form of medicine.”

Solicitor General Feigin dazzled the U.S. Supreme Court stating, “It's the kind of doctor, and I think you'll see some resemblances to the doctors here, who doesn't follow up on the background of his patients, doesn't make sure they're taking the medications, doesn't even conduct physical exams, doesn't check the database to see who else is prescribing opioids, and trusts nurse practitioners, who aren't DEA registrants, aren't allowed to do this, don't have medical licenses, to do most of the prescribing.”

The Solicitor General explained to the Supreme Court that U.S. doctors, “want to be free of any obligation even to undertake any minimal effort to act like doctors when they prescribe dangerous, highly addictive, and, in one case, lethal dosages of drugs to trusting and vulnerable patients.” Feigin also offered penetrating and powerful insights to the Supreme Court stating that, “There could be a doctor who just beneficently believes that handing out prescriptions on a street corner for cash is good -- is a legitimate medical purpose because lots of people are in pain, but I think we'd all recognize that person as a drug dealer.” Feigin also explains situations, “where a doctor just, you know, meets someone on the street who says, I have pain, writes out a script, and hands it to him without even examining him or doing any of the other things you'd think a doctor would, other than signing an illegible signature on the bottom of a prescription.”

Feigin enlightened the Supreme Court that numerous U.S. physician drug traffickers including Dr. Khan and Dr. Ruan, “they aren't actually examining the patients” and “shield all drug dealing that he's running in the guise of a doctor's office…and he prescribes substances that are -- any other doctor would say are crazy and lethal,” causing “situations like we had after

raiding Ruan's clinic where the price of opioids on the streets doubles because suddenly the supply has been cut off".

Solicitor General Feigin is correct that there are hundreds of dangerous medications and some physicians voluntarily prescribe "lethal" medications like Ziconotide where dosages are measured in infinitesimal micrograms per day. As explained by Solicitor General Feigin to the presiding U.S. Supreme Court panel, the US Department of Justice evaluates U.S. physician drug traffickers by "an honest effort, which we interpret as some objectively minimal --minimal, reasonable effort to practice some recognizable form of medicine, is to prove beyond a reasonable doubt that the defendant was not even attempting to recognizably practice medicine, ….by pointing to the honest effort standard".

Solicitor General Feigin explains the rationale of US Department of Justice "honest effort standard" (also referred in his oral arguments to the Supreme Court panel as a "objective honest effort standard", "objectively grounded mens rea" or "honest effort mens rea"): "You can't be convicted so long as you took an honest effort to prescribe for a legitimate medical purpose. And there can be reasonable mistakes about what legitimate medical purposes are." Solicitor General Feigin clarifies, "that a jury has to really believe that the doctor wasn't even trying to act as a doctor. And it's, I think, going to be informed by the expert's testimony as to the other piece of this, which is the usual course of medical practice…explicated by the honest effort standard, which I think sets forth an objective standard". "The objective component is incredibly doctor protective. It -- all it requires is some attempt to recognizably practice medicine, which wasn't present in Moore and isn't present in these cases."

Solicitor General Feigin complete and total mastery of the issue seemed to overwhelm and fluster the U.S. Supreme Court and so Feigin, finished his oral arguments stating "objective and reasonable and that what the statute is asking doctors to do when it applies to doctors at the end of the day is, if you're going to rely on your license, be at least minimally careful when you do that…when they exceed the scope of their registration and their special ability to do it, they become the same as ordinary people violating the criminal laws." And "**it's outside the usual course of medical practice because all the indicators of diversion show that the doctor really should not be prescribing these drugs to that patient**."

The U.S. Executive Branch through published public documents describes the use of statistical algorithms and other data analytic criminal forensic tools to presume 1) actual

knowledge, or 2) knowledge of being highly certain, of diversion, health care fraud or other criminal acts. Under *United States v Staples*, 511 U.S 600 (1994) knowledge is the mens rea requirement for the violation. The U.S. Executive Branch also through the USDOJ converts or manipulates primary evidence to manufacture demonstrative testimonial evidence in order to manufacture probable cause in supportive affidavits of search warrants, as well as coordinate the criminal convictions of physicians, pharmacists and other healthcare providers nationwide. The USDOJ has also partnered with Blue Cross Blue Shield and the public-private healthcare cartel called Healthcare Fraud and Prevention Partnership allowing a present day dystopian nightmare where these health insurance companies view their human clients as "milk cows" on "their plantation", branded with their "Blue Cross" insurance logos and member identity cards, paying a contracted health care provider a modest amount of money to keep their "members" healthy enough for a continuous milking stream of insurance premium payments until their human clients become too sick, old and costly, relegated to become "beef cows" and consequently denied further expensive, innovative, and experimental health care treatments.

Justice Thurgood Marshal wrote, "[t]he basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

Furthermore, U.S. Federal Courts have stated to U.S. Citizens seeking information from Federal Agencies pursuant to Freedom of Information Act that concerning federal investigations, "Obviously, where all investigatory subjects are already aware of an investigation's pendency, the "tip off" harm sought to be prevented through this record exclusion is not of concern. Accordingly, the language of this exclusion expressly obliges agencies contemplating its use to consider the level of awareness already possessed by the investigative subjects involved. Agencies must make this determination according to a good-faith, "reason to believe" standard. Furthermore, once a law enforcement matter reaches a stage at which all subjects are aware of its pendency, or at which the agency otherwise determines that the public disclosure of that pendency no longer could lead to harm, the exclusion should be regarded as no longer applicable. If the FOIA request that triggered the agency's use of the exclusion remains pending administratively at such time, the excluded records should be identified as responsive to that request and then processed in an ordinary fashion."

Based on information obtained from published US government documents, the US Attorneys Office (USAO) is now utilizing a variety of criminal forensic tools, red flags and other indicators of drug diversion to litigate the full spectrum of drug diversion and/or health care fraud matters, both independently and in partnership with USDOJ Civil and Criminal Divisions. The USDOJ and USAO also uses information from the "Pill Mill Doctor Project" which has vital information in its computerized databases of the "most likely drug seeking patients" as well as identified "bad actor" physicians.

USAOs receive many health care fraud referrals directly from investigative agencies and increasingly are developing cases in-house through data analytics. They also receive referrals through the filing of qui tam (or whistleblower) complaints. USAOs coordinate closely both internally, with AUSAs developing parallel cases with their civil or criminal colleagues, and with other USAOs, collaborating on investigations that sprawl across district borders.

Since 2018, the USAOs for ten federal districts in six states have joined the Health Care Fraud (HCF) Unit in the Criminal Division's Fraud Section (HCF Unit), as well as law enforcement partners at the FBI, HHS-OIG and DEA, to form the ARPO Strike Force, a joint law enforcement effort to identify and investigate health care fraud schemes in the Appalachian region and surrounding areas, and to effectively and efficiently prosecute medical professionals and others involved in the illegal prescription and distribution of opioids.

The Consumer Protection Branch is advancing a number of U.S. Executive Branch Department priorities to combat the nation's opioid crisis, pursuing wrongdoers throughout the entire opioid distribution chain, including pharmaceutical manufacturers, wholesale distributers, pharmacies, and health care providers. The Consumer Protection Branch is a leading member of the U.S. Executive Branch Department's Prescription Interdiction and Litigation (PIL) Task Force established in February 2018 to combat the opioid crisis at every level of the distribution system. The Consumer Protection Branch is actively working on numerous criminal and civil investigations and litigation related to opioid manufacturers.

Using a variety of data sets and advanced analytics, the Consumer Protection Branch is advancing an effort to take all appropriate action against pharmacies, pharmacists, and health care providers fueling the diversion of prescription opioids. The Consumer Protection Branch has brought a number of civil injunctive and penalty actions under the Controlled Substance Act

to stop dangerous dispensing and prescribing conduct in advance of potential criminal prosecutions.

Since 2007, the HCF Unit has deployed data analytics combined with investigative intelligence. In 2018, the HCF Unit formed its own in-house data team, which now consists of eight analysts with deep experience in Medicare and Medicaid data analysis, as well as financial analysis, who identify egregious health care fraud and prescription opioid-related targets to ensure the HCF Unit and its partners efficiently identify the worst offenders. The concept and structure of the Data Analytics Team is regarded as ground-breaking for the Department. The team uses data to identify billing patterns, suspicious prescribing practices, and curious relationships between doctors and patients that signify high-risk targets. The investigations are then prosecuted by HCF Unit prosecutors or referred to USAOs and law enforcement partners in a "targeting package," which includes data summaries and descriptions of why a pattern is suspect, such as submission of claims for dead beneficiaries, beneficiaries who live a great distance from the clinic they purportedly regularly attended in person, etc.

In April 2018, Centers for Medicare & Medicaid Services (CMS) issued a final rule that requires plan sponsors to deny payments provided by individuals and entities on a **preclusion list**, rather than requiring the enrollment of providers. The preclusion list will include individuals or entities that (1) are revoked from Medicare, under a reenrollment bar, and the conduct that led to the **revocation is detrimental to the best interests of Medicare** or (2) have engaged in behavior for which they could have been revoked had they been enrolled in Medicare and the conduct that would have led to the revocation is detrimental to the best interests of Medicare.

According to statutes Title 42 Chapter IV Subchapter B Part 411 § 411.15 Particular services excluded from coverage. The following services are excluded from coverage: (a) Routine physical checkups such as: (1) Examinations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint, or injury, except for screening mammography, colorectal cancer screening tests, screening pelvic exams, prostate cancer screening tests, glaucoma screening exams, ultrasound screening for abdominal aortic aneurysms (AAA), cardiovascular disease screening tests, diabetes screening tests, a screening electrocardiogram, initial preventive physical examinations that meet the criteria specified in paragraphs (k)(6) through (k)(15) of this section, additional preventive services that meet the criteria in § 410.64 of this chapter, or annual wellness visits providing personalized prevention

plan services. (2) Examinations required by insurance companies, business establishments, government agencies, or other third parties.

For the purposes of expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(vi) and 28 C.F.R. § 16.5(e), I am seeking all relevant information on how the US Department of Justice (USDOJ), Office of Solicitor General, Pill Mill Doctor Project, Consumer Protection Branch, Prescription Interdiction and Litigation (PIL) Task Force, HCF Unit, HCF Unit Data Analytics Team, USAO targeting package, Healthcare Fraud Prevention Partnership (HFPP), CMS Medicare's Trusted Third Party (TTP), General Dynamics Information Technology (GDIT), CMS Contractor NBI Medic Qlarant communicates and shares healthcare information or patient data of U.S. citizens with federal law enforcement departments including but not limited to the United States Department of Justice (USDOJ), Drug Enforcement Agency (DEA), Federal Bureau of Investigation (FBI) and Office of Inspector General (OIG). This request also covers any material of the types called for herein that come into existence between the date of this request and the date of USDOJ's final response.

For the purposes of 5 U.S.C. § 552(a)(6)(E)(vi) and 28 C.F.R. § 16.5(e), I instantly certify that I have a compelling need for expedited processing of its requests by USDOJ or their collaborators including the Office of Solicitor General, Pill Mill Doctor Project, Consumer Protection Branch, Prescription Interdiction and Litigation (PIL) Task Force, HCF Unit, HCF Unit Data Analytics Team, USAO targeting package, Healthcare Fraud Prevention Partnership (HFPP), CMS Medicare's Trusted Third Party (TTP), General Dynamics Information Technology (GDIT), CMS Contractor NBI Medic Qlarant, on a rolling basis of the following critical information listed below:

1. All documents within USDOJ possession pertaining to USAO identified "bad actor" physician lists, CMS preclusion lists of physicians/healthcare providers and/or Healthcare Fraud Preventive Partnership (HFPP) "provider alert" lists.
2. All documents within USDOJ possession of "bad actor" healthcare insurers or payors, CMS preclusion lists of healthcare insurers or payors, and HFPP insurers or health insurers that (1) are revoked from Medicare and the conduct that led to the revocation is detrimental to the best interests of Medicare or (2) have engaged in behavior for which they could have been revoked

had they been enrolled in Medicare and the conduct that would have led to the revocation is detrimental to the best interests of Medicare.

3. All USDOJ or Office of Solicitor General "red flags", indicators of "outside the usual course of medical practice" or other indicators of diversion as identified by USDOJ or Office of Solicitor General as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).
4. All USDOJ or Office of Solicitor General identified dangerous drugs, "crazy" drugs, highly addictive drugs, dangerous drug combinations and/or lethal dosages of drugs as prescribed by U.S. physicians to trusting and vulnerable patients as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).
5. All USDOJ or Office of Solicitor General documents pertaining to U.S. physician "honest effort standard and/or legal elements", "objective honest effort standard and/or legal elements", "objectively grounded mens rea and/or legal elements" or "honest effort mens rea and/or legal elements" as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).
6. All USDOJ or Office of Solicitor General documents pertaining to the identities of U.S. physicians as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410) who don't follow up on the background of their patients, don't make sure their patients are taking the prescribed medications, don't conduct physical exams, don't check a computer database to see who else is prescribing opioids.
7. All USDOJ or Office of Solicitor General documents pertaining to the identities of nurse practitioners as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410), who aren't DEA registrants, who do most of the prescribing of controlled substances in the United States.
8. All USDOJ or Office of Solicitor General documents pertaining to the identities of U.S. physician experts as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410) who inform the public or U.S. Court of Law though expert testimony the "usual course of medical practice".
9. All USDOJ or Office of Solicitor General documents pertaining to the entire list or identities of medical experts used by USDOJ in criminal cases against medical providers who prescribe

substances that are crazy, lethal, not for a legitimate purpose, or outside the usual course of medical practice.

10. All USDOJ or Office of Solicitor General documents pertaining to the identities of U.S. physicians whom USDOJ experts and/or physician experts have previously identified, analyzed, or evaluated as successfully or correctly practicing within the usual course of medical practice.
11. All documents as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410) that describe the "usual course of medical practice" and/or the legal elements of legitimate medical purpose as well as documents pertaining to the legal elements of acting in the usual course of professional medical practice.
12. All USDOJ or Office of Solicitor General documents pertaining to identified and/or previously identified "reasonable mistakes about what legitimate medical purposes are" as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).
13. All USDOJ or Office of Solicitor General documents pertaining to identified objective components that are incredibly doctor protective and/or identified indicators of attempts to recognizably practice medicine, as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).
14. All USDOJ or Office of Solicitor General documents pertaining to identified situations that could exist where a prescription was not issued for a legitimate medical purpose but still is in the usual course of professional practice as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).
15. All USDOJ or Office of Solicitor General documents pertaining to identified legitimate medical purposes for opiate controlled substance medications.
16. All USDOJ or Office of Solicitor General documents pertaining the identities of U.S. physicians who are handing out prescriptions on a street corner, or identities of doctors who "meets someone on the street who says, I have pain, writes out a script, and hands it to him without even examining him or doing any of the other things you'd think a doctor would, other than signing an illegible signature on the bottom of a prescription" as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).
17. All USDOJ or Office of Solicitor General documents pertaining to price information of opioids, and street drug supply as well as the described "situations like we had after raiding Ruan's clinic where the price of opioids on the streets doubles because suddenly the supply has been cut off"

as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).

18. All USDOJ or Office of Solicitor General documents pertaining to price information of opioids, and street drug supply pertaining to the situations after raiding Dr. Shakeel Khan's clinics where the price of opioids on the streets changes because suddenly the supply has been cut off.
19. All USDOJ or Office of Solicitor General documents pertaining to price information of opioids, prices of drugs of abuse, spreadsheets or databases of street drug supply and street drug prices.
20. All USDOJ or Office of Solicitor General documents, price information of opioids, prices of drugs of abuse, spreadsheets or databases of street drug supply and prices after raiding of a particular U.S. physician in a particular geographic location (i.e. Greater Philadelphia area, Monroe Michigan area etc).
21. All USDOJ or Office of Solicitor General documents, pertaining to the minimum level of physical exam deemed adequate, prior to the prescribing of controlled substances as well as documents identifying criminal or civil conflicts concerning identified U.S. Physicians who do not perform physical examinations of patients because Medicare Physical Exams Coverage pursuant to Title 42 Chapter IV Subchapter B Part 411 § 411.15 including Initial Preventive Physical Exam (IPPE) Covered only once within 12 months of first Part B enrollment, Annual Wellness Visit (AWV) Covered once every 12 months and/or Routine Physical Exam not covered by Medicare and prohibited by statute. See https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/preventive-services/medicare-wellness-visits.html
22. All USDOJ or Office of Solicitor General documents, pertaining to the elements, mens rea and/or evidentiary standard of a "Pill Mill" and/or "Money Mill".
23. All USDOJ or Office of Solicitor General documents pertaining to physicians who prescribe Food and Drug Administration (FDA) approved medications "off label" and fall under a criminal standard including documents that describe the procedural and substantive safeguards that protect doctors who prescribe off- label FDA medications (i.e. evidentiary standard, reasonable suspicion, preponderance of evidence, clear and convincing evidence, or beyond a reasonable doubt evidence, mens rea, purpose, and knowledge).
24. All USDOJ or Office of Solicitor General documents pertaining to the differences in legal standards and legal elements of medical criminality versus medical malpractice.

25. All USDOJ or Office of Solicitor General documents pertaining to the total amounts of criminal or civil asset forfeiture or restitution obtained by the United States after referral of a healthcare provider from a Blue Cross Blue Shield company.

I request that USDOJ provides information with minimal redactions, as excessive redactions are disfavored as the FOIA's exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then the USDOJ must disclose the entire record; a single record cannot be split into responsive and non-responsive bits. Consequently, the department should produce email attachments Per 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10. I am also requesting a waiver of all search and duplication fees.

I am aware that commercial or financial matters are only "confidential" for the purpose of this exemption if such voluntarily provided information is of a kind that would customarily not be released to the public by the person from whom the information was obtained, or if such required submissions are likely to: impair the government's ability to obtain necessary information in the future; cause substantial harm to the competitive position of the person from whom the information was obtained; or impair the effectiveness of a government program.

My FOIA request is not subject to any confidentiality exemption as my request is intended to protect the interest of both the government and submitters of information. Therefore there is no relevant objection that would satisfy a Exemption b(7) which protects "records or information compiled for law enforcement purposes ... to the extent that the production of such law enforcement records or information (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, (F) could reasonably be expected to endanger the life or physical safety of any individual." I am interested in researching, analyzing, and verifying the utilization of computerized algorithms by USDOJ or its contractors as criminal forensic tools. Therefore, it is important that there is disclosure to the public pertaining to the verification, reliability and credibility of these novel criminal forensic algorithm tools, "red flags", or other indicators of diversion utilized by U.S. Executive Branch, USDOJ or its contractors.

Pursuant to Freedom of Information Act (FOIA), 5 U.S.C. § 552, and 28 C.F.R. Part 16. I am seeking all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in

their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. I am seeking records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.

My FOIA request includes any attachments to these records. No category of material should be omitted from search, collection, and production. Please search all records regarding agency business. USDOJ may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files is subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time. I have a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.

In addition, please note that in conducting a "reasonable search" as required by law, USDOJ must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered USDOJ's prior FOIA practices unreasonable.

In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches. Furthermore, agencies that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians' files. For example, a custodian may have deleted a responsive email from his or her email program, but USDOJ's archiving tools would capture that email under Capstone. Accordingly, I insist that USDOJ use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), Managing Government Records Directive," M-12-18 (Aug. 24, 2012).

I am aware that according to the Presidential Memorandum custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network

drives, in paper format, or in personal email accounts. Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information "only if . . . disclosure would harm an interest protected by an exemption" or "disclosure is prohibited by law." If it is USDOJ's position that any portion of the requested records is exempt from disclosure, I request that USDOJ provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). As USDOJ is aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA." Moreover, the *Vaughn* index "must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information." Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply." In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is USDOJ position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Claims that are non-segregable must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release. USDOJ should institute a preservation hold on information responsive to this request.

This FOIA request is made in good faith and will provide vital information to the public to potentially save the 1.2 million human lives as risk of dying as recently identified by Stanford–Lancet Commission. The FOIA information concerning the "most likely drug seeking patients" in the USDOJ computerized databases will allow U.S. physicians to avoid prescribing controlled substances to patients at high risk of abuse or diversion. The FOIA information as requested in this FOIA request concerning identified "bad actor" physicians, CMS preclusion lists or Healthcare Fraud Preventive Partnership (HFPP) "provider alert lists" would allow the U.S. public and/or patients to avoid physicians who would contribute to the worsening opioid epidemic. Alternatively, the lists of identified patients or physicians may also be incorrect or

erroneous. Information obtained by the FOIA request would allow physicians or patients to contest inaccurate identification within USDOJ's computerized databases. Physicians and patients could seek removal from the USAO "bad actor", CMS preclusion, or HFPP provider alert lists for any erroneous findings of the "Pill Mill Doctor Project" or other collected databases of the USDOJ. Information, evidence, and results obtained pursuant to the FOIA request will be shared with every medical school, every pharmacy school, every nursing school, every podiatry school, every dental school, every medical conference, and through Continuing Medical Education (CME).

This FOIA will provide vital information to the public to save millions of American human lives as risk of dying as recently identified by President Joseph Biden's "State of Union Address", the "Stanford–Lancet Commission on the North American Opioid Crisis", and the bipartisan congressional commission on "Combating Synthetic Opioid Trafficking". The health and safety of millions of Americans compels the need for expedited processing of my FOIA requests by USDOJ pursuant to 5 U.S.C. § 552(a)(6)(E)(vi) and 28 C.F.R. § 16.5(e).

I certify the "compelling need" for expedited processing of my FOIA requests under 5 U.S.C. § 552(a)(6)(E). The common public meaning of "urgency" at the time of § 552(a)(6)(E)(v)(II)'s enactment was "the quality or state of being urgent." The common public meaning of "urgent", in turn, was "requiring or compelling speedy action or attention." In the alternative, 28 C.F.R. § 16.5(e) is the department's expedited processing regulation. 28 C.F.R. § 16.5(e)(ii) repeats the statutory factors. Therefore, as explained above, I am entitled to expedited processing here as well. As permitted by statute, the USDOJ has expanded expedited processing to include requests for records involving the loss of substantial due process rights or matters of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence. Ultimately the FOIA request hopes to obtain information from the USDOJ that will potentially save millions of lives and help instruct U.S. physicians of the proscribed behavior to prevent future physician drug trafficking as well as identify the "most likely drug seeking patients" in whom controlled substance treatments should be avoided.

This FOIA request is made for USDOJ to grant an Expedited Processing on a rolling basis pursuant to 5 U.S.C. § 552(a)(6)(E)(vi) and 28 C.F.R. § 16.5(e). The production of evidence held by USDOJ concerning the possible infringement of the Constitutional rights of

patients and their physicians by the U.S. executive branch, USDOJ, facially threatens the "loss of substantial due process rights" under 28 C.F.R. § 16.5(e)(1)(iii). Additionally, the analysis of the "opioid epidemic" and its subject matter are self-evidently of urgent and intense public interest and concern in which there are possible questions about the government's integrity that affect public confidence under 28 C.F.R. § 16.5(e)(1)(iv).

The legal basis for my FOIA requests include the following legal authorities: *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979). *King v. U.S. Dep't of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987). *Mead Data Central, Inc. v. U.S. Dep't of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977). If I cannot resolve our FOIA request through the USDOJ FOIA Public Liaison, I intend on appealing to the Office of Government Information Services (OGIS), and the Office of Information Policy (OIP).

Since the purpose of my FOIA request is simply to advance the public interest, I accordingly ask USDOJ to waive any fees and charges that would normally be imposed in connection with USDOJ's handling of this request. Thank you for your time and professionalism. If you have any further questions, please feel free to email me at cardiacgaasman@gmail.com or call me anytime on telephone at 267-934-9784.

Very Respectfully,

Neil Anand

Neil Anand

1313 Cheltenham Drive, Bensalem, PA, 19020

cardiacgasman@gmail.com