



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: RENEE WHITE
Regulatory Coordinator
Department of Medical Assistance Services

FROM: REATHA B. KAY
Special Counsel to DMAS

DATE: September 13, 2005

SUBJECT: Proposed Regulations concerning Discontinuing Coverage of Erectile Dysfunction Drugs for Sex Offenders

I have reviewed the attached proposed regulations regarding modifications to the drugs or drug categories which are not covered, to discontinue coverage of erectile dysfunction drugs for sex offenders.

Based on that review, it is this Office's view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. The changes were first made by the promulgation of emergency regulations, and were approved by this Office in a memorandum, dated May 27, 2005.

The authority for the previously promulgated emergency regulation was section 2.2-4011 of the Administrative Process Act, as the Governor determined that the health or safety of the citizens of the Commonwealth could be adversely affected if this change was not made.

Renee White
September 13, 2005
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If you have any questions or need any additional information, please feel free to call me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment