



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: EMILY MCCLELLAN
Regulatory Supervisor
Department of Medical Assistance Services

FROM: ELIZABETH M. GUGGENHEIM
Assistant Attorney General

DATE: June 26, 2020

SUBJECT: Exempt final regulations regarding Home Health Changes Due to Federal Regulatory Change

I have reviewed the final exempt regulations that would allow practitioners other than physicians to order and certify home health services. You have asked the Office of the Attorney General to review the proposed regulations to determine if DMAS has the legal authority to promulgate the amended regulations as final exempt and if it would comport with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority, pursuant to Virginia Code § 2.2-4006(A)(4)(c).

If you have any questions, please feel free to contact me at 786-2071.

cc: Kim F. Piner
Senior Assistant Attorney General