COMMISSION ON VASAP
QUARTERLY BOARD MEETING

Friday, December 12, 2014

Minutes

Attendance:

Commission Members:
Delegate Jackson H. Miller, Chairman
Sheriff Michael L. Wade, Vice Chairman
The Honorable Mary Jane Hall
The Honorable George D. Varoutsos
The Honorable Gino W. Williams
Ms. Pat Eggleston
Ms. Mellie Randall
Mr. James Hatcher Johnson
Mr. Roy-Keith Lloyd
Mr. John Saunders

Absent:
Senator Thomas K. Norment
Senator Richard H. Stuart
Delegate Richard L. Morris
Delegate David J. Toscano

Commission Staff:
Ms. Angela Coleman, Executive Director
Mr. Oscar Brinson, Legal Counsel
Ms. Rosario Carrasquillo
Mr. Richard Foy
Mr. Drew Molloy
Mr. Christopher Morris
Ms. Charlene Motley

ASAP Directors:
Mr. Miles Bobbitt
Mr. Philip Braxton
Mr. Anthony Carmichael
Ms. Victoria Kesler
Mr. Daren Leake
Ms. Deborah Morgan
Ms. Janice Petty
Ms. Cindy Sheffield
Ms. Pam Simmons
Ms. Beth Lipes
Ms. Angela Fortune

Guests:
Mr. Chad Goodwin
Mr. Scott Mason
Mr. Jim Weaver
Ms. Deborah Coffey
Mr. John Honea
Ms. Krystal Hullette
Ms. Lithia Carter
Mr. Bob Battle
Ms. Kristen Hamrick

Time and Place:
The quarterly meeting of the Commission on the Virginia Alcohol Safety Action Program (VASAP) was held on December 12, 2014 at the General Assembly Building 6th Floor Speaker's Conference Room. The meeting was called to order by Delegate Jackson H. Miller, Chairman.

Welcome:
Delegate Miller welcomed and thanked everyone for attending the meeting. He also introduced and welcomed the new director from Peninsula ASAP, Ms. Angela Fortune.

Approval of Minutes:
A motion was made by Mr. John Saunders and properly seconded by Judge Gino Williams to approve the minutes from the September 12, 2014 commission meeting. All were in favor.

Memorial Observance
The Commission on VASAP paused to acknowledge the extraordinary contributions made to Fairfax ASAP by Mr. William Jason Petruzzi. Mr. Petruzzi was a beloved and valued employee of the Fairfax ASAP since graduating from high school in 1996. Despite many physical limitations, Mr. Petruzzi was able to obtain a bachelor's and master's degree. He worked with the ASAP for 19 years, more than half of his life, until he succumbed to complications from an automobile accident on November 26, 2014 at the age of 37. The Commission joined Fairfax ASAP in extending its sympathy to the Petruzzi family. In his honor, the County of Fairfax will lower the county flag on December 19th.

Executive Finance Report:
The executive finance committee report was presented by Mr. Roy-Keith Lloyd. Mr. Lloyd reported that the executive finance committee met on December 5, 2014.

Budget Amendment
Bull Run ASAP
Bull Run ASAP requested a budget amendment of $9,550. Mr. Lloyd stated that the vehicle owned by the ASAP was involved in an accident resulting in the vehicle being declared a total loss. The requested amendment will increase the budget's expenditures in the amount of $9,550, which will allow the ASAP to purchase a replacement vehicle. Mr. Lloyd added that Bull Run ASAP has ample reserve funds to cover the expenditure. The Bull Run ASAP's Policy Board has approved this expenditure. The Executive Finance Committee recommended approval. Judge Williams moved to approve the Bull Run ASAP budget amendment. The motion was properly seconded by Judge Mary Jane Hall. All were in favor.

Southwest Virginia ASAP
Southwest Virginia ASAP requested a budget amendment of $14,000. This request will allow the ASAP to increase the salaries of the Southwest Virginia ASAP staff and hire new personnel. Mr. Lloyd stated that for the past two years, the Southwest Virginia ASAP director has reduced

her salary in order to prevent the ASAP from incurring a deficit. The program has implemented staffing changes and has adequate funds to cover the requested amendment. The Executive Finance Committee recommended approval.

Judge Hall asked if the amount requested by the ASAP was directed to one specific salary. Mr. Lloyd stated the salary increase was mainly directed for the case managers with minimal increase elsewhere. Sheriff Michael L. Wade stated that at the executive finance meeting it was discussed that the staff from Southwest Virginia ASAP had low salaries. Mr. Oscar Brinson added that because staff salaries are so low, a 9% increase was necessary.

Judge Hall moved to approve the Southwest Virginia ASAP budget amendment. The motion was properly seconded by Sheriff Wade. All were in favor.

Legislation

Proposal to Address an Existing Gap in the Statutory Requirement for Ignition Interlock Installation

Mr. Lloyd presented proposed legislation to the commission that addresses an existing gap in the statutory requirement for ignition interlock installation.

The language of the proposed legislation was drafted by the Department of Motor Vehicles (DMV), Attorney General's Office, Delegate Miller, and commission staff. Delegate Miller will be the patron of the proposed legislation.

The proposed legislation is to address two issues. One, there is no authority for persons convicted of driving under the influence (DUI) in the United States District Court to petition a Virginia court for restricted privileges. The current Virginia Code §18.2-271.1(D) only authorizes persons convicted of DUI in another state to petition the general district court in their residence jurisdiction.

Second, there is no statutory authority for either the court or DMV to order the installation of ignition interlock equipment when granting restricted privileges for persons convicted under the law of another state or law of the United States of driving under the influence or maiming resulting from driving under the influence.

Currently, the Code of Virginia (§ 18.2-270.1) requires the court to order the installation of ignition interlock equipment as a condition of restricted driving privileges upon conviction of Va. Code §§ 18.2-51.4 (DUI Maiming) or 18.2-266 (DUI), or a substantially similar ordinance of any county, city or town. Installation of an ignition interlock is also required as a condition of the restoration of driving privileges upon conviction of a second or subsequent offense of §18.2-266 or a substantially similar ordinance of any county, city or town.

In addition, §46.2-391.01 mandates that DMV require the installation of ignition interlock equipment if the court does not order it as required by §18.2-270.1.

Mr. Lloyd explained that currently, if a person licensed in Virginia was arrested on federal property for a DUI, DMV would not be allowed to issue restricted driving privileges nor could

they impose the ignition interlock requirement. Furthermore, the person would not have any driving privileges for the suspension period.

Mr. Lloyd stated that the recommendation to address both issues is to amend §§18.2-271.1 and 46.2-391.01 to include language that authorizes persons convicted of DUI in the United States District Court to petition the general district court in their residence jurisdiction for restricted driving privileges, similar to the authority provided for persons convicted of DUI in another state. The amendment would also require the court and DMV to order ignition interlock installation for DUI convictions under another state law or law of the United States.
Ms. Angela Coleman, Commission on VASAP Executive Director, stated that prior to September 2014, persons convicted of a DUI in federal courts were taking the restricted license order provided by the federal court to DMV. Subsequently, DMV would honor the restricted license order.

The commission along with DMV sought the opinion of the Attorney General's Office, when a local ASAP program in the Northern Virginia area questioned the authority of state general district court judges to issue restricted licenses for persons convicted of DUI in federal courts. Based on the opinion of the Attorney General's Office, DMV will no longer issue restricted licenses that are granted by the federal court; the restricted license order would have to come from a state general district court.

Delegate Miller added that the proposed legislation would be a legislative fix to provide states with the authority to issue restricted licenses to persons convicted on federal property.
Sheriff Wade moved to support the legislation to address the existing gap in the statutory requirement for ignition interlock installation. The motion was properly seconded by Mr. Saunders. Nine were in favor. Ms. Mellie Randall abstained from voting.

Intervention Interview
At its meeting on March 18, 2014, Mr. Randolph Rollins, Drive-to-Work CEO, presented to the commission a pilot program offered to inmates in two correctional facilities in Virginia. Mr. Rollins requested that the commission work with the Drive-to-Work program to conduct driving on suspended license intervention interviews to inmates who have this requirement on their DMV compliance summaries. After extensive review and amid concerns regarding procurement and participation needs, the commission declined to participate with the Drive-to-Work program. Instead, commission staff and directors were instructed to provide the intervention interview at any facility that requested that service.

Mr. Rollins introduced legislation, House Bill 1347, to repeal the §46.2-355.1 of the Code of Virginia. If successful, the requirement for the intervention interview will be eliminated and all related suspensions will be removed for respective offenders.

The suspended operator's license intervention interview is a requirement imposed by DMV. When an individual receives notification of a second conviction for driving while an offender's license, permit or privilege to drive is suspended or revoked, they will be required to report to an ASAP to complete the interview. The ASAP will review all applicable laws with the person attending the interview, provide guidance with respect to budgeting for payment of court fines

and costs, if applicable, and explain the laws and the consequences of future offenses. The offender may be referred to a driver improvement clinic. The cost of the intervention interview is $30.

Sheriff Wade moved for the Commission on VASAP to oppose House Bill 1347. The motion was properly seconded by Judge Hall. Nine were in favor. Ms. Randall abstained from voting. The Executive Finance Committee respectfully requested that Delegate Miller appoint a legislative committee to assist the commission staff in monitoring the legislation discussed in the executive finance committee report and any other legislation which potentially could impact the VASAP. Delegate Miller, Delegate Richard L. Morris, Senator Richard H. Stuart, Ms. Coleman, Mr. Drew Molloy, and Mr. Richard Foy were appointed by Delegate Miller to serve on the 2014-2015 legislative committee.

Executive Director's Report:
Ms. Coleman presented the Executive Director's report.

Holiday Statement
Ms. Coleman presented the 2014 Commission on VASAP holiday statement for distribution to the media outlets, stakeholders, and local ASAP programs. The statement advises people to refrain from drinking and driving this holiday season. Ms. Coleman asked the commission members to distribute it as appropriate.

The statement will also be posted on the Commission on VASAP website and will be sent to the local ASAP programs.

Ms. Coleman added that the commission is very grateful that Sheriff Wade has already distributed the statement to his employees at the Henrico County Sheriff's Office.

Delegate Miller, at 10:30 a.m. advised that he needed to leave the meeting. He turned the meeting over to Sheriff Wade, Vice Chairman.

Alexandria ASAP
In February of 2011, the City of Alexandria relinquished control of the Alexandria ASAP to the Commission on VASAP. The program was returned to the commission with only $39,700 in the bank and minimal resources. The commission was tasked immediately with locating a new office space and hiring staff. Commission staff members have assisted the ASAP with presenting non-compliance reports in court, completing offender intakes, monitoring ignition interlock cases preparing monthly payroll, and completing other miscellaneous tasks. Ms. Coleman stated that it has been a long process. There have been several staffing changes necessitating constant training.

As of December 2014, the Alexandria ASAP is fully operational with a legally constituted, active and engaged policy board. It is fully staffed with a new director hired by the policy board

and new office space in Alexandria near the courthouse. The program's financial resources have increased from $39,000 to over $176,000.

Ms. Coleman stated that on behalf of everyone at the commission office, she is recommending that daily operations of the Alexandria ASAP be returned to the policy board effective January 1, 2015.

It was moved by Judge Williams that daily operations of the Alexandria ASAP be returned to the policy board effective January 1, 2015. The motion was properly seconded by Judge Hall. All were in favor.

Electronic Meeting Participation Guidelines

The commission has allowed commission members to participate in the meetings via conference call in the past. The Freedom of Information Act (FOIA) now requires that public bodies formally adopt a written policy to automatically allow participation by electronic means as permitted by FOIA guidelines. Ms. Coleman recommended that the commission allow automatic approval for individual participation within FOIA guidelines as long as a quorum of the membership is physically assembled in one central location.

It was moved by Ms. Randall to adopt the electronic meeting participation guidelines. The motion was properly seconded by Mr. Saunders. All were in favor.

Certification

The Code of Virginia requires that all ASAPs have to be certified by the commission every three years in order to continue to receive referrals. The current certifications for all the ASAP programs expire on June 30, 2015. Ms. Coleman stated that the certification process has started early so the June 2015 deadline can be met. The commission has completed the onsite reviews for Arlington ASAP, Bull Run ASAP, Dan River ASAP, District Nine ASAP, Fairfax ASAP, James River ASAP, Old Dominion ASAP, Rappahannock Area ASAP, Rockingham/Harrisonburg ASAP, and Southside Virginia ASAP. Action plans are pending, and after the completion of all the ASAP site reviews, the commission will look at the complete findings and vote on each ASAP's certification status at the June 2015 commission meeting. Ms. Coleman added that the commission has identified some issues that may require an executive session discussion.

Interlock Regulations

Over the last several meetings, the commission has briefly discussed the regulatory process as it relates to updating ignition interlock policies. Mr. Richard Foy, Field Services Specialist, has been the lead coordinator in the regulatory process and provided an update to the commission. Mr. Foy stated that the commission initiated the ignition interlock regulatory process early in 2014. The ignition interlock regulations were last updated in 2012. Since that time the commission staff has gained a lot of experience and knowledge from working in the field with various issues and scenarios. Commission staff members have attended training programs in order to stay current, and exchange best practices and information with administrators that are running ignition interlock programs in other states. The National Highway Traffic Safety Administration came out with new model specifications for ignition interlock devices that reflect

the technological advances that have been made in the field over the past decade. All of these developments have led the commission to implement, as well as change, a number of policies and procedures that are reflected in the proposed ignition interlock regulations.

Mr. Foy stated the first stage of the process, which is called the Notice of Intent for Regulatory Action (NOIRA), is completed. Input was received from two of the four current state contracted ignition interlock service providers, and some of their suggestions have been incorporated into the draft for the proposed stage. Input was also provided by Mr. Oscar Brinson, Commission on VASAP legal counsel.

The proposed stage has begun by sending the regulations to the Attorney General's Office, Department of Planning and Budget, and the Governor's Office for review.

Ms. Janet Westbrook, of the Attorney General's Office, reviewed the proposed regulations. Mr. Foy complimented and appreciated the quality of analysis that Ms. Westbrook provided and the quick turnaround time. Based upon some of her suggestions, additional revisions were made to the proposed regulations. The Department of Planning and Budget also finished their review a week before the commission meeting and have issued their economic impact statement which is located in the Virginia Town Hall.

The regulations are now at the Governor's Office. The commission does not have a date of when the Governor's Office will conclude their review. According to the Department of Planning and Budget, the ignition interlock proposed regulations are in line with 111 other proposed regulations from other state agencies waiting for review. Once the Governor's Office has completed its review, the proposed regulations will be published in the Virginia Register of Regulations. During that time, there will be a 60-day public comment period. The commission will be conducting a public hearing for comment.

Mr. Foy thanked Sheriff Wade and Senator Stuart who have agreed to help the commission during the public hearing stage. Mr. Foy added that vendor fees and subcontracting are two areas that will likely come up for discussion during the public comment stage. The commission is in the preliminary stages of reviewing the issues and will provide an update in future commission meetings.

Interlock Monitoring

At the commission meeting in September, there was a discussion on the process for reviewing interlock compliance using the electronic system. Mr. Christopher Morris, Special Programs Coordinator, presented a demonstration using the TREDS system which was developed to provide local programs with a more efficient monitoring process.

Mr. Morris also provided the commission with the ignition interlock summary statistics and the out-of-state summary of ignition interlock fees.

VASAPDA

Ms. Coleman informed the commission that the new VASAPDA President, Ms. Robyn Allen, Piedmont ASAP Director, was not able to attend the commission meeting to give the VASAPDA

report. Unfortunately, she suffered an injury which prevented her from traveling. Ms. Allen asked Ms. Coleman to inform the commission that she is looking forward to working cooperatively with the commission and staff to further the mission of highway safety. At the March 2015 meeting, Ms. Allen will introduce herself and present her vision for the role of the director's association. Lastly, Ms. Allen extended best wishes to everyone for a happy holiday season.

Executive Session

Judge Hall moved that members of the commission convene into executive session under the *Code of Virginia,* pursuant to Section 2.2.3711 and requested the attendance of Mr. Drew Molloy to discuss matters related to personnel issues. The motion was properly seconded by Mr. Saunders. All were in favor.

Return to Open Session:

It was certified that during the closed meeting nothing was discussed other than what was indicated in the opening motion and no votes were taken.

Proposed Meeting Dates:

Ms. Coleman informed the commission that the proposed meeting dates for 2015 have been selected and the dates will remain on Fridays at 10:00 a.m. The meetings will be held in the 6th Floor Speaker's Conference Room in the General Assembly Building.

The dates are as follows:
March 13, 2015
June 5, 2015
September 11, 2015
December 11, 2015

Adjournment:

It was moved by Mr. Saunders to adjourn the Commission on VASAP quarterly meeting. The motion was properly seconded by Ms. Pat Eggleston. All were in favor.

Delegate Jackson H. Miller