

February 27, 2009

Karen Remley, M.D., MBA  
State Health Commissioner  
Virginia Department of Health  
109 Governor Street  
Richmond, Virginia 23219

**Re: Review and Approval of Proposed Waterworks Regulations for Submittal to the Board of Health**

Dear Dr. Remley:

After reviewing the Department of Health's proposed regulations for chronically noncompliant waterworks, 12 VAC 5-590, it is my view that the Board of Health has the legal authority to adopt the regulation pursuant to the Code of Virginia §§ 32.1-12, 32.1-167 and 32.1-174.4.

The purpose of this communication is to provide legal advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency or board and this communication should not be construed as a comment for or against the merits of such action.

Sincerely,

Karri B. Atwood  
Assistant Attorney General

cc: J. Wesley Kleene, Ph.D., P.E., Director, VDH ODW  
Robert A.K. Payne, Esq., Director of Legal Affairs, VDH ODW