



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
(804) 786-2071
Fax (804) 786-1991
Virginia Relay Services
800-828-1120
7-1-1

July 24, 2020

Angela Coleman
Executive Director
Commission on VASAP
701 E. Franklin Street
Suite 1110
Richmond, VA 23219

Re: Proposed Final Ignition Interlock Regulations

Dear Ms. Coleman:

The Commission on VASAP (VASAP) has submitted proposed ignition interlock regulations (24 VAC35-60-10 through 24 VAC35-60-130) for revision and amendment. VASAP's experience gained over the years administering the ignition interlock program has led to various changes that will strengthen and clarify the regulations in several areas. Moreover, many of the proposed changes are necessary to enable the VASAP to stay current with technological advancements with the devices. This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.

With regard to VASAP's proposal, it is my opinion that VASAP has both the statutory authority and implied authority to amend and/or revise the existing regulations governing ignition interlock devices, service facilities, and manufacturers pursuant to the provisions of Va. Code §18.2-270.1 (general authority to promulgate regulations necessary to implement procedures for ignition interlock) and 18.2-270.2 (specific authority and requirements to adopt regulations for installation, maintenance and certification of ignition interlock systems). Because the authority to promulgate regulations pursuant to each of those Code sections is mandatory, such authority, by implication, includes the authority to modify or amend such regulations as have been promulgated thereunder as is necessary to carry out VASAP's duties. Therefore, I believe that VASAP can amend or revise the existing regulations as necessary.

This letter confirms that I have reviewed the proposed regulations and that I believe that the Commission on VASAP has statutory authority pursuant to Virginia Code §§ 2.2-4017, 18.2-270.1 and 18.2-270.2 to revise and amend the regulations as proposed.

Sincerely,

Janet W. Baugh

Janet W. Baugh
Senior Assistant Attorney General