



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

Re: Repeal of Policy and Procedures Manual Regulations (24VAC 35-20)

Dear Ms. Coleman:

At your request, I have reviewed the Commission on Virginia Alcohol Safety Action Programs' (VASAP) posting for the repeal of the Policy and Procedures Manual Regulations (24 VAC 35-20). 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 repeal of 24 VAC 35-20, it is my legal opinion that VASAP has both the statutory authority and implied authority to repeal these existing regulations. Va. Code §18.2-270.1 (general authority to promulgate regulations necessary to implement procedures for ignition interlock), 18.2-270.2 (specific authority and requirements to adopt regulations for installation, maintenance and certification of ignition interlock systems), and Va. Codes §§ 18.2-271.1, 18.2-271.2 (general authority for VASAP to create, manage, supervise and certify local ASAPs to administer ignition interlock) provide this authority.

The authority to enact, amend and repeal regulations regarding administration of ignition interlock would necessarily include the certification and oversight of the local entities that administer the program. Because there is no mandate for VASAP to enact these specific regulations, but rather a permissive inference that allows for the regulations, VASAP is permitted to repeal the existing regulations as it deems necessary.

This letter confirms that I have reviewed the repeal of these regulations and that I believe that the Commission on VASAP has statutory authority pursuant to Virginia Code to repeal the regulations as proposed.

Sincerely,

Janet W. Baugh

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Senior Assistant Attorney General